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Representatives Powell, Merrin

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

A BILL

To amend sections 122.075, 125.831, 131.45, 133.01,	1
133.06, 133.07, 133.18, 135.142, 305.31,	2
306.322, 307.671, 307.672, 307.674, 307.678,	3
307.695, 319.301, 321.03, 321.20, 323.154,	4
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5747.07, 5747.082, 5747.11, 5747.231, 5747.41, 24
5747.51, 5747.52, 5747.55, 5747.98, 5748.08, 25
5748.09, 5751.01, 5751.08, 5751.09, 5751.50, 26
5751.51, and 5753.11; to enact sections 27
5739.091, 5739.092, 5751.40, 5751.41, and 28
5751.42; and to repeal sections 901.13, 29
5705.211, 5727.87, 5733.46, 5739.105, 5747.75, 30
and 5751.23 of the Revised Code to enact the 31
"Tax Code Streamlining and Correction Act" to 32
make technical and corrective changes to the 33
laws governing taxation. 34

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

Section 1. That sections 122.075, 125.831, 131.45, 133.01, 35
133.06, 133.07, 133.18, 135.142, 305.31, 306.322, 307.671, 36
307.672, 307.674, 307.678, 307.695, 319.301, 321.03, 321.20, 37
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5739.09, 5739.21, 5740.02, 5743.05, 5743.08, 5743.33, 5743.65, 50
5745.14, 5747.01, 5747.011, 5747.012, 5747.013, 5747.02, 51
5747.058, 5747.061, 5747.07, 5747.082, 5747.11, 5747.231, 52
5747.41, 5747.51, 5747.52, 5747.55, 5747.98, 5748.08, 5748.09, 53
5751.01, 5751.08, 5751.09, 5751.50, 5751.51, and 5753.11 be 54
amended and sections 5739.091, 5739.092, 5751.40, 5751.41, and 55
5751.42 of the Revised Code be enacted to read as follows: 56

Sec. 122.075. (A) As used in this section: 57

(1) "Alternative fuel" has the same meaning as in section 58
125.831 of the Revised Code. 59

(2) "Biodiesel" means a mono-alkyl ester combustible 60
liquid fuel that is derived from vegetable oils or animal fats, 61
or any combination of those reagents, and that meets American 62
society for testing and materials specification D6751-03a for 63
biodiesel fuel (B100) blend stock distillate fuels. 64

(3) "Diesel fuel" and "gasoline" have the same meanings as 65
in section 5735.01 of the Revised Code. 66

(4) "Ethanol" ~~has the same meaning as in section 5733.46~~ 67
~~of the Revised Code~~means fermentation ethyl alcohol derived from 68
agricultural products, including potatoes, cereal, grains, 69
cheese whey, and sugar beets; forest products; or other 70
renewable resources, including residue and waste generated from 71
the production, processing, and marketing of agricultural 72
products, forest products, and other renewable resources that 73
meet all of the specifications in the American society for 74
testing and materials (ASTM) specification D 4806-88 and is 75
denatured as specified in Parts 20 and 21 of Title 27 of the 76
Code of Federal Regulations. 77

(5) "Blended biodiesel" means diesel fuel containing at least twenty per cent biodiesel by volume.	78 79
(6) "Blended gasoline" means gasoline containing at least eighty-five per cent ethanol by volume.	80 81
(7) "Incremental cost" means either of the following:	82
(a) The difference in cost between blended gasoline and gasoline containing ten per cent or less ethanol at the time that the blended gasoline is purchased;	83 84 85
(b) The difference in cost between blended biodiesel and diesel fuel containing two per cent or less biodiesel at the time that the blended biodiesel is purchased.	86 87 88
(B) For the purpose of improving the air quality in this state, the director of development services shall establish an alternative fuel transportation program under which the director may make grants and loans to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling or distribution facilities and terminals, for the purchase and use of alternative fuel, to pay the cost of fleet conversion, and to pay the costs of educational and promotional materials and activities intended for prospective alternative fuel consumers, fuel marketers, and others in order to increase the availability and use of alternative fuel.	89 90 91 92 93 94 95 96 97 98 99 100
(C) The director, in consultation with the director of agriculture, shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of the alternative fuel transportation program. The rules shall establish at least all of the following:	101 102 103 104 105
(1) An application form and procedures governing the	106

application process for receiving funds under the program; 107

(2) A procedure for prioritizing the award of grants and 108
loans under the program. The procedures shall give preference to 109
all of the following: 110

(a) Publicly accessible refueling facilities; 111

(b) Entities applying to the program that have secured 112
funding from other sources, including, but not limited to, 113
private or federal incentives; 114

(c) Entities that have presented compelling evidence of 115
demand in the market in which the facilities or terminals will 116
be located; 117

(d) Entities that have committed to utilizing purchased or 118
installed facilities or terminals for the greatest number of 119
years; 120

(e) Entities that will be purchasing or installing 121
facilities or terminals for any type of alternative fuel. 122

(3) A requirement that the maximum incentive for the 123
purchase and installation of an alternative fuel refueling or 124
distribution facility or terminal be eighty per cent of the cost 125
of the facility or terminal, except that at least twenty per 126
cent of the total cost of the facility or terminal shall be 127
incurred by the recipient and not compensated for by any other 128
source; 129

(4) A requirement that the maximum incentive for the 130
purchase of alternative fuel be eighty per cent of the cost of 131
the fuel or, in the case of blended biodiesel or blended 132
gasoline, eighty per cent of the incremental cost of the blended 133
biodiesel or blended gasoline; 134

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

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

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

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

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

(A) "Alternative fuel" means any of the following fuels

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

engines of the diesel type. 191

(E) "E85 blend fuel" means fuel containing eighty-five per 192
cent or more ethanol as defined in section ~~5733.46~~ 122.075 of 193
the Revised Code or containing any other percentage of not less 194
than seventy per cent ethanol if the United States department of 195
energy determines, by rule, that the lower percentage is 196
necessary to provide for the requirements of cold start, safety, 197
or vehicle functions, and that meets the American society for 198
testing and materials specification for E85 blend fuel and any 199
other standards that the director of administrative services 200
adopts by rule. 201

(F) "Law enforcement officer" means an officer, agent, or 202
employee of a state agency upon whom, by statute, a duty to 203
conserve the peace or to enforce all or certain laws is imposed 204
and the authority to arrest violators is conferred, within the 205
limits of that statutory duty and authority, but does not 206
include such an officer, agent, or employee if that duty and 207
authority is location specific. 208

(G) (1) "Motor vehicle" means any automobile, car minivan, 209
cargo van, passenger van, sport utility vehicle, or pickup truck 210
with a gross vehicle weight of under twelve thousand pounds. 211

(2) "Motor vehicle" does not include, except for the 212
purposes of division (C) of section 125.832 of the Revised Code, 213
any vehicle described in division (G) (1) of this section that is 214
used by a law enforcement officer and law enforcement agency or 215
any vehicle that is so described and that is equipped with 216
specialized equipment that is not normally found in such a 217
vehicle and that is used to carry out a state agency's specific 218
and specialized duties and responsibilities. 219

(H) "Specialized equipment" does not include standard 220
mobile radios with no capabilities other than voice 221
communication, exterior and interior lights, or roof-mounted 222
caution lights. 223

(I) "State agency" means every organized body, office, 224
board, authority, commission, or agency established by the laws 225
of the state for the exercise of any governmental or quasi- 226
governmental function of state government regardless of the 227
funding source for that entity, other than any state institution 228
of higher education, the office of the governor, lieutenant 229
governor, auditor of state, treasurer of state, secretary of 230
state, or attorney general, the general assembly or any 231
legislative agency, the courts or any judicial agency, or any 232
state retirement system or retirement program established by or 233
referenced in the Revised Code. 234

(J) "State institution of higher education" has the same 235
meaning as in section 3345.011 of the Revised Code. 236

Sec. 131.45. (A) The amount the general assembly 237
appropriates from the general revenue fund each year per pupil 238
for primary and secondary educational purposes shall be not less 239
than the amount it appropriated per pupil for those purposes for 240
the base year, adjusted for changes in prices as measured by the 241
consumer price index (all urban consumers, all items) prepared 242
by the bureau of labor statistics of the United States 243
department of labor. The base year is fiscal year 1999. 244

(B) Appropriations of the ~~proceeds of the sales and use~~ 245
~~tax levied by sections 5739.029 and 5741.024 of the Revised Code~~ 246
~~and of the net~~ proceeds of any state lottery under Section 6 of 247
Article XV of the Ohio Constitution shall be in addition to 248
appropriations made pursuant to this section. 249

(C) For the purposes of this section, appropriations for 250
primary and secondary educational purposes includes amounts 251
appropriated to reimburse school districts for property tax 252
reductions required by law. 253

Sec. 133.01. As used in this chapter, in sections 9.95, 254
9.96, and 2151.655 of the Revised Code, in other sections of the 255
Revised Code that make reference to this chapter unless the 256
context does not permit, and in related proceedings, unless 257
otherwise expressly provided: 258

(A) "Acquisition" as applied to real or personal property 259
includes, among other forms of acquisition, acquisition by 260
exercise of a purchase option, and acquisition of interests in 261
property, including, without limitation, easements and rights- 262
of-way, and leasehold and other lease interests initially 263
extending or extendable for a period of at least sixty months. 264

(B) "Anticipatory securities" means securities, including 265
notes, issued in anticipation of the issuance of other 266
securities. 267

(C) "Board of elections" means the county board of 268
elections of the county in which the subdivision is located. If 269
the subdivision is located in more than one county, "board of 270
elections" means the county board of elections of the county 271
that contains the largest portion of the population of the 272
subdivision or that otherwise has jurisdiction in practice over 273
and customarily handles election matters relating to the 274
subdivision. 275

(D) "Bond retirement fund" means the bond retirement fund 276
provided for in section 5705.09 of the Revised Code, and also 277
means a sinking fund or any other special fund, regardless of 278

the name applied to it, established by or pursuant to law or the 279
proceedings for the payment of debt charges. Provision may be 280
made in the applicable proceedings for the establishment in a 281
bond retirement fund of separate accounts relating to debt 282
charges on particular securities, or on securities payable from 283
the same or common sources, and for the application of moneys in 284
those accounts only to specified debt charges on specified 285
securities or categories of securities. Subject to law and any 286
provisions in the applicable proceedings, moneys in a bond 287
retirement fund or separate account in a bond retirement fund 288
may be transferred to other funds and accounts. 289

(E) "Capitalized interest" means all or a portion of the 290
interest payable on securities from their date to a date stated 291
or provided for in the applicable legislation, which interest is 292
to be paid from the proceeds of the securities. 293

(F) "Chapter 133. securities" means securities authorized 294
by or issued pursuant to or in accordance with this chapter. 295

(G) "County auditor" means the county auditor of the 296
county in which the subdivision is located. If the subdivision 297
is located in more than one county, "county auditor" means the 298
county auditor of the county that contains the highest amount of 299
the tax valuation of the subdivision or that otherwise has 300
jurisdiction in practice over and customarily handles property 301
tax matters relating to the subdivision. In the case of a county 302
that has adopted a charter, "county auditor" means the officer 303
who generally has the duties and functions provided in the 304
Revised Code for a county auditor. 305

(H) "Credit enhancement facilities" means letters of 306
credit, lines of credit, stand-by, contingent, or firm 307
securities purchase agreements, insurance, or surety 308

arrangements, guarantees, and other arrangements that provide 309
for direct or contingent payment of debt charges, for security 310
or additional security in the event of nonpayment or default in 311
respect of securities, or for making payment of debt charges to 312
and at the option and on demand of securities holders or at the 313
option of the issuer or upon certain conditions occurring under 314
put or similar arrangements, or for otherwise supporting the 315
credit or liquidity of the securities, and includes credit, 316
reimbursement, marketing, remarketing, indexing, carrying, 317
interest rate hedge, and subrogation agreements, and other 318
agreements and arrangements for payment and reimbursement of the 319
person providing the credit enhancement facility and the 320
security for that payment and reimbursement. 321

(I) "Current operating expenses" or "current expenses" 322
means the lawful expenditures of a subdivision, except those for 323
permanent improvements and for payments of debt charges of the 324
subdivision. 325

(J) "Debt charges" means the principal, including any 326
mandatory sinking fund deposits and mandatory redemption 327
payments, interest, and any redemption premium, payable on 328
securities as those payments come due and are payable. The use 329
of "debt charges" for this purpose does not imply that any 330
particular securities constitute debt within the meaning of the 331
Ohio Constitution or other laws. 332

(K) "Financing costs" means all costs and expenses 333
relating to the authorization, including any required election, 334
issuance, sale, delivery, authentication, deposit, custody, 335
clearing, registration, transfer, exchange, fractionalization, 336
replacement, payment, and servicing of securities, including, 337
without limitation, costs and expenses for or relating to 338

publication and printing, postage, delivery, preliminary and 339
final official statements, offering circulars, and informational 340
statements, travel and transportation, underwriters, placement 341
agents, investment bankers, paying agents, registrars, 342
authenticating agents, remarketing agents, custodians, clearing 343
agencies or corporations, securities depositories, financial 344
advisory services, certifications, audits, federal or state 345
regulatory agencies, accounting and computation services, legal 346
services and obtaining approving legal opinions and other legal 347
opinions, credit ratings, redemption premiums, and credit 348
enhancement facilities. Financing costs may be paid from any 349
moneys available for the purpose, including, unless otherwise 350
provided in the proceedings, from the proceeds of the securities 351
to which they relate and, as to future financing costs, from the 352
same sources from which debt charges on the securities are paid 353
and as though debt charges. 354

(L) "Fiscal officer" means the following, or, in the case 355
of absence or vacancy in the office, a deputy or assistant 356
authorized by law or charter to act in the place of the named 357
officer, or if there is no such authorization then the deputy or 358
assistant authorized by legislation to act in the place of the 359
named officer for purposes of this chapter, in the case of the 360
following subdivisions: 361

(1) A county, the county auditor; 362

(2) A municipal corporation, the city auditor or village 363
clerk or clerk-treasurer, or the officer who, by virtue of a 364
charter, has the duties and functions provided in the Revised 365
Code for the city auditor or village clerk or clerk-treasurer; 366

(3) A school district, the treasurer of the board of 367
education; 368

(4) A regional water and sewer district, the secretary of the board of trustees;	369 370
(5) A joint township hospital district, the treasurer of the district;	371 372
(6) A joint ambulance district, the clerk of the board of trustees;	373 374
(7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;	375 376
(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;	377 378 379 380 381
(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;	382 383 384
(10) A joint fire district, the clerk of the board of trustees of that district;	385 386
(11) A regional or county library district, the person responsible for the financial affairs of that district;	387 388
(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;	389 390 391
(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;	392 393 394
(14) A fire and ambulance district, the person appointed	395

as fiscal officer under division (B) of section 505.375 of the Revised Code;

(15) A subdivision described in division (MM) ~~(19)~~ (20) of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;

(16) A joint police district, the treasurer of the district;

(17) A lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code;

(18) A regional transportation improvement project, the county auditor designated under section 5595.10 of the Revised Code.

(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.

(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.

(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.

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

(Q) "General obligation" means securities to the payment 424
of debt charges on which the full faith and credit and the 425
general property taxing power, including taxes within the tax 426
limitation if available to the subdivision, of the subdivision 427
are pledged. 428

(R) "Interest" or "interest equivalent" means those 429
payments or portions of payments, however denominated, that 430
constitute or represent consideration for forbearing the 431
collection of money, or for deferring the receipt of payment of 432
money to a future time. 433

(S) "Internal Revenue Code" means the "Internal Revenue 434
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as 435
amended, and includes any laws of the United States providing 436
for application of that code. 437

(T) "Issuer" means any public issuer and any nonprofit 438
corporation authorized to issue securities for or on behalf of 439
any public issuer. 440

(U) "Legislation" means an ordinance or resolution passed 441
by a majority affirmative vote of the then members of the taxing 442
authority unless a different vote is required by charter 443
provisions governing the passage of the particular legislation 444
by the taxing authority. 445

(V) "Mandatory sinking fund redemption requirements" means 446
amounts required by proceedings to be deposited in a bond 447
retirement fund for the purpose of paying in any year or fiscal 448
year by mandatory redemption prior to stated maturity the 449
principal of securities that is due and payable, except for 450
mandatory prior redemption requirements as provided in those 451
proceedings, in a subsequent year or fiscal year. 452

(W) "Mandatory sinking fund requirements" means amounts 453
required by proceedings to be deposited in a year or fiscal year 454
in a bond retirement fund for the purpose of paying the 455
principal of securities that is due and payable in a subsequent 456
year or fiscal year. 457

(X) "Net indebtedness" has the same meaning as in division 458
(A) of section 133.04 of the Revised Code. 459

(Y) "Obligor," in the case of securities or fractionalized 460
interests in public obligations issued by another person the 461
debt charges or their equivalents on which are payable from 462
payments made by a public issuer, means that public issuer. 463

(Z) "One purpose" relating to permanent improvements means 464
any one permanent improvement or group or category of permanent 465
improvements for the same utility, enterprise, system, or 466
project, development or redevelopment project, or for or devoted 467
to the same general purpose, function, or use or for which self- 468
supporting securities, based on the same or different sources of 469
revenues, may be issued or for which special assessments may be 470
levied by a single ordinance or resolution. "One purpose" 471
includes, but is not limited to, in any case any off-street 472
parking facilities relating to another permanent improvement, 473
and: 474

(1) Any number of roads, highways, streets, bridges, 475
sidewalks, and viaducts; 476

(2) Any number of off-street parking facilities; 477

(3) In the case of a county, any number of permanent 478
improvements for courthouse, jail, county offices, and other 479
county buildings, and related facilities; 480

(4) In the case of a school district, any number of 481

facilities and buildings for school district purposes, and 482
related facilities. 483

(AA) "Outstanding," referring to securities, means 484
securities that have been issued, delivered, and paid for, 485
except any of the following: 486

(1) Securities canceled upon surrender, exchange, or 487
transfer, or upon payment or redemption; 488

(2) Securities in replacement of which or in exchange for 489
which other securities have been issued; 490

(3) Securities for the payment, or redemption or purchase 491
for cancellation prior to maturity, of which sufficient moneys 492
or investments, in accordance with the applicable legislation or 493
other proceedings or any applicable law, by mandatory sinking 494
fund redemption requirements, mandatory sinking fund 495
requirements, or otherwise, have been deposited, and credited 496
for the purpose in a bond retirement fund or with a trustee or 497
paying or escrow agent, whether at or prior to their maturity or 498
redemption, and, in the case of securities to be redeemed prior 499
to their stated maturity, notice of redemption has been given or 500
satisfactory arrangements have been made for giving notice of 501
that redemption, or waiver of that notice by or on behalf of the 502
affected security holders has been filed with the subdivision or 503
its agent for the purpose. 504

(BB) "Paying agent" means the one or more banks, trust 505
companies, or other financial institutions or qualified persons, 506
including an appropriate office or officer of the subdivision, 507
designated as a paying agent or place of payment of debt charges 508
on the particular securities. 509

(CC) "Permanent improvement" or "improvement" means any 510

property, asset, or improvement certified by the fiscal officer, 511
which certification is conclusive, as having an estimated life 512
or period of usefulness of five years or more, and includes, but 513
is not limited to, real estate, buildings, and personal property 514
and interests in real estate, buildings, and personal property, 515
equipment, furnishings, and site improvements, and 516
reconstruction, rehabilitation, renovation, installation, 517
improvement, enlargement, and extension of property, assets, or 518
improvements so certified as having an estimated life or period 519
of usefulness of five years or more. The acquisition of all the 520
stock ownership of a corporation is the acquisition of a 521
permanent improvement to the extent that the value of that stock 522
is represented by permanent improvements. A permanent 523
improvement for parking, highway, road, and street purposes 524
includes resurfacing, but does not include ordinary repair. 525

(DD) "Person" has the same meaning as in section 1.59 of 526
the Revised Code and also includes any federal, state, 527
interstate, regional, or local governmental agency, any 528
subdivision, and any combination of those persons. 529

(EE) "Proceedings" means the legislation, certifications, 530
notices, orders, sale proceedings, trust agreement or indenture, 531
mortgage, lease, lease-purchase agreement, assignment, credit 532
enhancement facility agreements, and other agreements, 533
instruments, and documents, as amended and supplemented, and any 534
election proceedings, authorizing, or providing for the terms 535
and conditions applicable to, or providing for the security or 536
sale or award of, public obligations, and includes the 537
provisions set forth or incorporated in those public obligations 538
and proceedings. 539

(FF) "Public issuer" means any of the following that is 540

authorized by law to issue securities or enter into public 541
obligations: 542

(1) The state, including an agency, commission, officer, 543
institution, board, authority, or other instrumentality of the 544
state; 545

(2) A taxing authority, subdivision, district, or other 546
local public or governmental entity, and any combination or 547
consortium, or public division, district, commission, authority, 548
department, board, officer, or institution, thereof; 549

(3) Any other body corporate and politic, or other public 550
entity. 551

(GG) "Public obligations" means both of the following: 552

(1) Securities; 553

(2) Obligations of a public issuer to make payments under 554
installment sale, lease, lease purchase, or similar agreements, 555
which obligations may bear interest or interest equivalent. 556

(HH) "Refund" means to fund and retire outstanding 557
securities, including advance refunding with or without payment 558
or redemption prior to maturity. 559

(II) "Register" means the books kept and maintained by the 560
registrar for registration, exchange, and transfer of registered 561
securities. 562

(JJ) "Registrar" means the person responsible for keeping 563
the register for the particular registered securities, 564
designated by or pursuant to the proceedings. 565

(KK) "Securities" means bonds, notes, certificates of 566
indebtedness, commercial paper, and other instruments in 567

writing, including, unless the context does not admit, 568
anticipatory securities, issued by an issuer to evidence its 569
obligation to repay money borrowed, or to pay interest, by, or 570
to pay at any future time other money obligations of, the issuer 571
of the securities, but not including public obligations 572
described in division (GG)(2) of this section. 573

(LL) "Self-supporting securities" means securities or 574
portions of securities issued for the purpose of paying costs of 575
permanent improvements to the extent that receipts of the 576
subdivision, other than the proceeds of taxes levied by that 577
subdivision, derived from or with respect to the improvements or 578
the operation of the improvements being financed, or the 579
enterprise, system, project, or category of improvements of 580
which the improvements being financed are part, are estimated by 581
the fiscal officer to be sufficient to pay the current expenses 582
of that operation or of those improvements or enterprise, 583
system, project, or categories of improvements and the debt 584
charges payable from those receipts on securities issued for the 585
purpose. Until such time as the improvements or increases in 586
rates and charges have been in operation or effect for a period 587
of at least six months, the receipts therefrom, for purposes of 588
this definition, shall be those estimated by the fiscal officer, 589
except that those receipts may include, without limitation, 590
payments made and to be made to the subdivision under leases or 591
agreements in effect at the time the estimate is made. In the 592
case of an operation, improvements, or enterprise, system, 593
project, or category of improvements without at least a six- 594
month history of receipts, the estimate of receipts by the 595
fiscal officer, other than those to be derived under leases and 596
agreements then in effect, shall be confirmed by the taxing 597
authority. 598

(MM) "Subdivision" means any of the following:	599
(1) A county, including a county that has adopted a	600
charter under Article X, Ohio Constitution;	601
(2) A municipal corporation, including a municipal	602
corporation that has adopted a charter under Article XVIII, Ohio	603
Constitution;	604
(3) A school district;	605
(4) A regional water and sewer district organized under	606
Chapter 6119. of the Revised Code;	607
(5) A joint township hospital district organized under	608
section 513.07 of the Revised Code;	609
(6) A joint ambulance district organized under section	610
505.71 of the Revised Code;	611
(7) A joint recreation district organized under division	612
(C) of section 755.14 of the Revised Code;	613
(8) A detention facility district organized under section	614
2152.41, a district organized under section 2151.65, or a	615
combined district organized under sections 2152.41 and 2151.65	616
of the Revised Code;	617
(9) A township police district organized under section	618
505.48 of the Revised Code;	619
(10) A township;	620
(11) A joint fire district organized under section 505.371	621
of the Revised Code;	622
(12) A county library district created under section	623
3375.19 or a regional library district created under section	624
3375.28 of the Revised Code;	625

- (13) A joint solid waste management district organized 626
under section 343.01 or 343.012 of the Revised Code; 627
- (14) A joint emergency medical services district organized 628
under section 307.052 of the Revised Code; 629
- (15) A fire and ambulance district organized under section 630
505.375 of the Revised Code; 631
- (16) A fire district organized under division (C) of 632
section 505.37 of the Revised Code; 633
- (17) A joint police district organized under section 634
505.482 of the Revised Code; 635
- (18) A lake facilities authority created under Chapter 636
353. of the Revised Code; 637
- (19) A regional transportation improvement project created 638
under Chapter 5595. of the Revised Code; 639
- (20) Any other political subdivision or taxing district or 640
other local public body or agency authorized by this chapter or 641
other laws to issue Chapter 133. securities. 642
- (NN) "Taxing authority" means in the case of the following 643
subdivisions: 644
- (1) A county, a county library district, or a regional 645
library district, the board or boards of county commissioners, 646
or other legislative authority of a county that has adopted a 647
charter under Article X, Ohio Constitution, but with respect to 648
such a library district acting solely as agent for the board of 649
trustees of that district; 650
- (2) A municipal corporation, the legislative authority; 651
- (3) A school district, the board of education; 652

(4) A regional water and sewer district, a joint ambulance 653
district, a joint recreation district, a fire and ambulance 654
district, or a joint fire district, the board of trustees of the 655
district; 656

(5) A joint township hospital district, the joint township 657
hospital board; 658

(6) A detention facility district or a district organized 659
under section 2151.65 of the Revised Code, a combined district 660
organized under sections 2152.41 and 2151.65 of the Revised 661
Code, or a joint emergency medical services district, the joint 662
board of county commissioners; 663

(7) A township, a fire district organized under division 664
(C) of section 505.37 of the Revised Code, or a township police 665
district, the board of township trustees; 666

(8) A joint solid waste management district organized 667
under section 343.01 or 343.012 of the Revised Code, the board 668
of directors of the district; 669

(9) A subdivision described in division (MM) ~~(19)~~ (20) of 670
this section, the legislative or governing body or official; 671

(10) A joint police district, the joint police district 672
board; 673

(11) A lake facilities authority, the board of directors; 674

(12) A regional transportation improvement project, the 675
governing board. 676

(OO) "Tax limitation" means the "ten-mill limitation" as 677
defined in section 5705.02 of the Revised Code without 678
diminution by reason of section 5705.313 of the Revised Code or 679
otherwise, or, in the case of a municipal corporation or county 680

with a different charter limitation on property taxes levied to 681
pay debt charges on unvoted securities, that charter limitation. 682
Those limitations shall be respectively referred to as the "ten- 683
mill limitation" and the "charter tax limitation." 684

(PP) "Tax valuation" means the aggregate of the valuations 685
of property subject to ad valorem property taxation by the 686
subdivision on the real property, personal property, and public 687
utility property tax lists and duplicates most recently 688
certified for collection, and shall be calculated without 689
deductions of the valuations of otherwise taxable property 690
exempt in whole or in part from taxation by reason of exemptions 691
of certain amounts of taxable value under division (C) of 692
section 5709.01, tax reductions under section 323.152 of the 693
Revised Code, or similar laws now or in the future in effect. 694

For purposes of section 133.06 of the Revised Code, "tax 695
valuation" shall not include the valuation of tangible personal 696
property used in business, telephone or telegraph property, 697
interexchange telecommunications company property, or personal 698
property owned or leased by a railroad company and used in 699
railroad operations listed under or described in section 700
5711.22, division (B) or (F) of section 5727.111, or section 701
5727.12 of the Revised Code. 702

(QQ) "Year" means the calendar year. 703

(RR) "Administrative agent," "agent," "commercial paper," 704
"floating rate interest structure," "indexing agent," "interest 705
rate hedge," "interest rate period," "put arrangement," and 706
"remarketing agent" have the same meanings as in section 9.98 of 707
the Revised Code. 708

(SS) "Sales tax supported" means obligations to the 709

payment of debt charges on which an additional sales tax or 710
additional sales taxes have been pledged by the taxing authority 711
of a county pursuant to section 133.081 of the Revised Code. 712

(TT) "Tourism development district revenue supported" 713
means obligations to the payment of debt charges on which 714
tourism development district revenue has been pledged by the 715
taxing authority of a municipal corporation or township under 716
section 133.083 of the Revised Code. 717

Sec. 133.06. (A) A school district shall not incur, 718
without a vote of the electors, net indebtedness that exceeds an 719
amount equal to one-tenth of one per cent of its tax valuation, 720
except as provided in divisions (G) and (H) of this section and 721
in division (D) of section 3313.372 of the Revised Code, or as 722
prescribed in section 3318.052 or 3318.44 of the Revised Code, 723
or as provided in division (J) of this section. 724

(B) Except as provided in divisions (E), (F), and (I) of 725
this section, a school district shall not incur net indebtedness 726
that exceeds an amount equal to nine per cent of its tax 727
valuation. 728

(C) A school district shall not submit to a vote of the 729
electors the question of the issuance of securities in an amount 730
that will make the district's net indebtedness after the 731
issuance of the securities exceed an amount equal to four per 732
cent of its tax valuation, unless the superintendent of public 733
instruction, acting under policies adopted by the state board of 734
education, and the tax commissioner, acting under written 735
policies of the commissioner, consent to the submission. A 736
request for the consents shall be made at least one hundred 737
twenty days prior to the election at which the question is to be 738
submitted. 739

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

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

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

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

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

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

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

(5) Debt incurred under section 3313.374 of the Revised Code; 769
770

(6) Debt incurred pursuant to division (B)(5) of section 3313.37 of the Revised Code to acquire computers and related hardware; 771
772
773

(7) Debt incurred under section 3318.042 of the Revised Code; 774
775

(8) Debt incurred under section 5705.2112 or 5705.2113 of the Revised Code by the fiscal board of a qualifying partnership of which the school district is a participating school district. 776
777
778

(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section. 779
780
781

(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following: 782
783
784

(a) The student population is not being adequately serviced by the existing permanent improvements of the district. 785
786

(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs. 787
788
789
790

(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following: 791
792
793

(a) The history of and a projection of the growth of the tax valuation; 794
795

(b) The projected needs;	796
(c) The estimated cost of permanent improvements proposed	797
to meet such projected needs.	798
(3) The superintendent of public instruction shall certify	799
the district as an approved special needs district if the	800
superintendent finds both of the following:	801
(a) The district does not have available sufficient	802
additional funds from state or federal sources to meet the	803
projected needs.	804
(b) The projection of the potential average growth of tax	805
valuation during the next five years, according to the	806
information certified to the superintendent and any other	807
information the superintendent obtains, indicates a likelihood	808
of potential average growth of tax valuation of the district	809
during the next five years of an average of not less than one	810
and one-half per cent per year. The findings and certification	811
of the superintendent shall be conclusive.	812
(4) An approved special needs district may incur net	813
indebtedness by the issuance of securities in accordance with	814
the provisions of this chapter in an amount that does not exceed	815
an amount equal to the greater of the following:	816
(a) Twelve per cent of the sum of its tax valuation plus	817
an amount that is the product of multiplying that tax valuation	818
by the percentage by which the tax valuation has increased over	819
the tax valuation on the first day of the sixtieth month	820
preceding the month in which its board determines to submit to	821
the electors the question of issuing the proposed securities;	822
(b) Twelve per cent of the sum of its tax valuation plus	823
an amount that is the product of multiplying that tax valuation	824

by the percentage, determined by the superintendent of public 825
instruction, by which that tax valuation is projected to 826
increase during the next ten years. 827

(F) A school district may issue securities for emergency 828
purposes, in a principal amount that does not exceed an amount 829
equal to three per cent of its tax valuation, as provided in 830
this division. 831

(1) A board of education, by resolution, may declare an 832
emergency if it determines both of the following: 833

(a) School buildings or other necessary school facilities 834
in the district have been wholly or partially destroyed, or 835
condemned by a constituted public authority, or that such 836
buildings or facilities are partially constructed, or so 837
constructed or planned as to require additions and improvements 838
to them before the buildings or facilities are usable for their 839
intended purpose, or that corrections to permanent improvements 840
are necessary to remove or prevent health or safety hazards. 841

(b) Existing fiscal and net indebtedness limitations make 842
adequate replacement, additions, or improvements impossible. 843

(2) Upon the declaration of an emergency, the board of 844
education may, by resolution, submit to the electors of the 845
district pursuant to section 133.18 of the Revised Code the 846
question of issuing securities for the purpose of paying the 847
cost, in excess of any insurance or condemnation proceeds 848
received by the district, of permanent improvements to respond 849
to the emergency need. 850

(3) The procedures for the election shall be as provided 851
in section 133.18 of the Revised Code, except that: 852

(a) The form of the ballot shall describe the emergency 853

existing, refer to this division as the authority under which 854
the emergency is declared, and state that the amount of the 855
proposed securities exceeds the limitations prescribed by 856
division (B) of this section; 857

(b) The resolution required by division (B) of section 858
133.18 of the Revised Code shall be certified to the county 859
auditor and the board of elections at least one hundred days 860
prior to the election; 861

(c) The county auditor shall advise and, not later than 862
ninety-five days before the election, confirm that advice by 863
certification to, the board of education of the information 864
required by division (C) of section 133.18 of the Revised Code; 865

(d) The board of education shall then certify its 866
resolution and the information required by division (D) of 867
section 133.18 of the Revised Code to the board of elections not 868
less than ninety days prior to the election. 869

(4) Notwithstanding division (B) of section 133.21 of the 870
Revised Code, the first principal payment of securities issued 871
under this division may be set at any date not later than sixty 872
months after the earliest possible principal payment otherwise 873
provided for in that division. 874

(G) (1) The board of education may contract with an 875
architect, professional engineer, or other person experienced in 876
the design and implementation of energy conservation measures 877
for an analysis and recommendations pertaining to installations, 878
modifications of installations, or remodeling that would 879
significantly reduce energy consumption in buildings owned by 880
the district. The report shall include estimates of all costs of 881
such installations, modifications, or remodeling, including 882

costs of design, engineering, installation, maintenance, 883
repairs, measurement and verification of energy savings, and 884
debt service, forgone residual value of materials or equipment 885
replaced by the energy conservation measure, as defined by the 886
Ohio facilities construction commission, a baseline analysis of 887
actual energy consumption data for the preceding three years 888
with the utility baseline based on only the actual energy 889
consumption data for the preceding twelve months, and estimates 890
of the amounts by which energy consumption and resultant 891
operational and maintenance costs, as defined by the commission, 892
would be reduced. 893

If the board finds after receiving the report that the 894
amount of money the district would spend on such installations, 895
modifications, or remodeling is not likely to exceed the amount 896
of money it would save in energy and resultant operational and 897
maintenance costs over the ensuing fifteen years, the board may 898
submit to the commission a copy of its findings and a request 899
for approval to incur indebtedness to finance the making or 900
modification of installations or the remodeling of buildings for 901
the purpose of significantly reducing energy consumption. 902

The facilities construction commission, in consultation 903
with the auditor of state, may deny a request under division (G) 904
(1) of this section by the board of education of any school 905
district that is in a state of fiscal watch pursuant to division 906
(A) of section 3316.03 of the Revised Code, if it determines 907
that the expenditure of funds is not in the best interest of the 908
school district. 909

No district board of education of a school district that 910
is in a state of fiscal emergency pursuant to division (B) of 911
section 3316.03 of the Revised Code shall submit a request 912

without submitting evidence that the installations, 913
modifications, or remodeling have been approved by the 914
district's financial planning and supervision commission 915
established under section 3316.05 of the Revised Code. 916

No board of education of a school district for which an 917
academic distress commission has been established under section 918
3302.10 of the Revised Code shall submit a request without first 919
receiving approval to incur indebtedness from the district's 920
academic distress commission established under that section, for 921
so long as such commission continues to be required for the 922
district. 923

(2) The board of education may contract with a person 924
experienced in the implementation of student transportation to 925
produce a report that includes an analysis of and 926
recommendations for the use of alternative fuel vehicles by 927
school districts. The report shall include cost estimates 928
detailing the return on investment over the life of the 929
alternative fuel vehicles and environmental impact of 930
alternative fuel vehicles. The report also shall include 931
estimates of all costs associated with alternative fuel 932
transportation, including facility modifications and vehicle 933
purchase costs or conversion costs. 934

If the board finds after receiving the report that the 935
amount of money the district would spend on purchasing 936
alternative fuel vehicles or vehicle conversion is not likely to 937
exceed the amount of money it would save in fuel and resultant 938
operational and maintenance costs over the ensuing five years, 939
the board may submit to the commission a copy of its findings 940
and a request for approval to incur indebtedness to finance the 941
purchase of new alternative fuel vehicles or vehicle conversions 942

for the purpose of reducing fuel costs. 943

The facilities construction commission, in consultation 944
with the auditor of state, may deny a request under division (G) 945
(2) of this section by the board of education of any school 946
district that is in a state of fiscal watch pursuant to division 947
(A) of section 3316.03 of the Revised Code, if it determines 948
that the expenditure of funds is not in the best interest of the 949
school district. 950

No district board of education of a school district that 951
is in a state of fiscal emergency pursuant to division (B) of 952
section 3316.03 of the Revised Code shall submit a request 953
without submitting evidence that the purchase or conversion of 954
alternative fuel vehicles has been approved by the district's 955
financial planning and supervision commission established under 956
section 3316.05 of the Revised Code. 957

No board of education of a school district for which an 958
academic distress commission has been established under section 959
3302.10 of the Revised Code shall submit a request without first 960
receiving approval to incur indebtedness from the district's 961
academic distress commission established under that section, for 962
so long as such commission continues to be required for the 963
district. 964

(3) The facilities construction commission shall approve 965
the board's request provided that the following conditions are 966
satisfied: 967

(a) The commission determines that the board's findings 968
are reasonable. 969

(b) The request for approval is complete. 970

(c) If the request was submitted under division (G) (1) of 971

this section, the installations, modifications, or remodeling 972
are consistent with any project to construct or acquire 973
classroom facilities, or to reconstruct or make additions to 974
existing classroom facilities under sections 3318.01 to 3318.20 975
or sections 3318.40 to 3318.45 of the Revised Code. 976

Upon receipt of the commission's approval, the district 977
may issue securities without a vote of the electors in a 978
principal amount not to exceed nine-tenths of one per cent of 979
its tax valuation for the purpose specified in division (G) (1) 980
or (2) of this section, but the total net indebtedness of the 981
district without a vote of the electors incurred under this and 982
all other sections of the Revised Code, except section 3318.052 983
of the Revised Code, shall not exceed one per cent of the 984
district's tax valuation. 985

(4) (a) So long as any securities issued under division (G) 986
(1) of this section remain outstanding, the board of education 987
shall monitor the energy consumption and resultant operational 988
and maintenance costs of buildings in which installations or 989
modifications have been made or remodeling has been done 990
pursuant to that division. Except as provided in division (G) (4) 991
(b) of this section, the board shall maintain and annually 992
update a report in a form and manner prescribed by the 993
facilities construction commission documenting the reductions in 994
energy consumption and resultant operational and maintenance 995
cost savings attributable to such installations, modifications, 996
or remodeling. The resultant operational and maintenance cost 997
savings shall be certified by the school district treasurer. The 998
report shall be submitted annually to the commission. 999

(b) If the facilities construction commission verifies 1000
that the certified annual reports submitted to the commission by 1001

a board of education under division (G) (4) (a) of this section 1002
fulfill the guarantee required under division (B) of section 1003
3313.372 of the Revised Code for three consecutive years, the 1004
board of education shall no longer be subject to the annual 1005
reporting requirements of division (G) (4) (a) of this section. 1006

(5) So long as any securities issued under division (G) (2) 1007
of this section remain outstanding, the board of education shall 1008
monitor the purchase of new alternative fuel vehicles or vehicle 1009
conversions pursuant to that division. The board shall maintain 1010
and annually update a report in a form and manner prescribed by 1011
the facilities construction commission documenting the purchase 1012
of new alternative fuel vehicles or vehicle conversions, the 1013
associated environmental impact, and return on investment. The 1014
resultant fuel and operational and maintenance cost savings 1015
shall be certified by the school district treasurer. The report 1016
shall be submitted annually to the commission. 1017

(H) With the consent of the superintendent of public 1018
instruction, a school district may incur without a vote of the 1019
electors net indebtedness that exceeds the amounts stated in 1020
divisions (A) and (G) of this section for the purpose of paying 1021
costs of permanent improvements, if and to the extent that both 1022
of the following conditions are satisfied: 1023

(1) The fiscal officer of the school district estimates 1024
that receipts of the school district from payments made under or 1025
pursuant to agreements entered into pursuant to section 725.02, 1026
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 1027
5709.45, 5709.57, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 1028
or 5709.82 of the Revised Code, or distributions under division 1029
(C) of section 5709.43 or division (B) of section 5709.47 of the 1030
Revised Code, or any combination thereof, are, after accounting 1031

for any appropriate coverage requirements, sufficient in time 1032
and amount, and are committed by the proceedings, to pay the 1033
debt charges on the securities issued to evidence that 1034
indebtedness and payable from those receipts, and the taxing 1035
authority of the district confirms the fiscal officer's 1036
estimate, which confirmation is approved by the superintendent 1037
of public instruction; 1038

(2) The fiscal officer of the school district certifies, 1039
and the taxing authority of the district confirms, that the 1040
district, at the time of the certification and confirmation, 1041
reasonably expects to have sufficient revenue available for the 1042
purpose of operating such permanent improvements for their 1043
intended purpose upon acquisition or completion thereof, and the 1044
superintendent of public instruction approves the taxing 1045
authority's confirmation. 1046

The maximum maturity of securities issued under division 1047
(H) of this section shall be the lesser of twenty years or the 1048
maximum maturity calculated under section 133.20 of the Revised 1049
Code. 1050

(I) A school district may incur net indebtedness by the 1051
issuance of securities in accordance with the provisions of this 1052
chapter in excess of the limit specified in division (B) or (C) 1053
of this section when necessary to raise the school district 1054
portion of the basic project cost and any additional funds 1055
necessary to participate in a project under Chapter 3318. of the 1056
Revised Code, including the cost of items designated by the 1057
facilities construction commission as required locally funded 1058
initiatives, the cost of other locally funded initiatives in an 1059
amount that does not exceed fifty per cent of the district's 1060
portion of the basic project cost, and the cost for site 1061

acquisition. The commission shall notify the superintendent of 1062
public instruction whenever a school district will exceed either 1063
limit pursuant to this division. 1064

(J) A school district whose portion of the basic project 1065
cost of its classroom facilities project under sections 3318.01 1066
to 3318.20 of the Revised Code is greater than or equal to one 1067
hundred million dollars may incur without a vote of the electors 1068
net indebtedness in an amount up to two per cent of its tax 1069
valuation through the issuance of general obligation securities 1070
in order to generate all or part of the amount of its portion of 1071
the basic project cost if the controlling board has approved the 1072
facilities construction commission's conditional approval of the 1073
project under section 3318.04 of the Revised Code. The school 1074
district board and the Ohio facilities construction commission 1075
shall include the dedication of the proceeds of such securities 1076
in the agreement entered into under section 3318.08 of the 1077
Revised Code. No state moneys shall be released for a project to 1078
which this section applies until the proceeds of any bonds 1079
issued under this section that are dedicated for the payment of 1080
the school district portion of the project are first deposited 1081
into the school district's project construction fund. 1082

Sec. 133.07. (A) A county shall not incur, without a vote 1083
of the electors, either of the following: 1084

(1) Net indebtedness for all purposes that exceeds an 1085
amount equal to one per cent of its tax valuation; 1086

(2) Net indebtedness for the purpose of paying the 1087
county's share of the cost of the construction, improvement, 1088
maintenance, or repair of state highways that exceeds an amount 1089
equal to one-half of one per cent of its tax valuation. 1090

(B) A county shall not incur total net indebtedness that 1091
exceeds an amount equal to one of the following limitations that 1092
applies to the county: 1093

(1) A county with a valuation not exceeding one hundred 1094
million dollars, three per cent of that tax valuation; 1095

(2) A county with a tax valuation exceeding one hundred 1096
million dollars but not exceeding three hundred million dollars, 1097
three million dollars plus one and one-half per cent of that tax 1098
valuation in excess of one hundred million dollars; 1099

(3) A county with a tax valuation exceeding three hundred 1100
million dollars, six million dollars plus two and one-half per 1101
cent of that tax valuation in excess of three hundred million 1102
dollars. 1103

(C) In calculating the net indebtedness of a county, none 1104
of the following securities shall be considered: 1105

(1) Securities described in section 307.201 of the Revised 1106
Code; 1107

(2) Self-supporting securities issued for any purposes, 1108
including, but not limited to, any of the following general 1109
purposes: 1110

(a) Water systems or facilities; 1111

(b) Sanitary sewerage systems or facilities, or surface 1112
and storm water drainage and sewerage systems or facilities, or 1113
a combination of those systems or facilities; 1114

(c) County or joint county scrap tire collection, storage, 1115
monocell, monofill, or recovery facilities, or any combination 1116
of those facilities; 1117

(d) Off-street parking lots, facilities, or buildings, or 1118
on-street parking facilities, or any combination of off-street 1119
and on-street parking facilities; 1120

(e) Facilities for the care or treatment of the sick or 1121
infirm, and for housing the persons providing that care or 1122
treatment and their families; 1123

(f) Recreational, sports, convention, auditorium, museum, 1124
trade show, and other public attraction facilities; 1125

(g) Facilities for natural resources exploration, 1126
development, recovery, use, and sale; 1127

(h) Correctional and detention facilities and related 1128
rehabilitation facilities. 1129

(3) Securities issued for the purpose of purchasing, 1130
constructing, improving, or extending water or sanitary or 1131
surface and storm water sewerage systems or facilities, or a 1132
combination of those systems or facilities, to the extent that 1133
an agreement entered into with another subdivision requires the 1134
other subdivision to pay to the county amounts equivalent to 1135
debt charges on the securities; 1136

(4) Voted general obligation securities issued for the 1137
purpose of permanent improvements for sanitary sewerage or water 1138
systems or facilities to the extent that the total principal 1139
amount of voted securities outstanding for the purpose does not 1140
exceed an amount equal to two per cent of the county's tax 1141
valuation; 1142

(5) Securities issued for permanent improvements to house 1143
agencies, departments, boards, or commissions of the county or 1144
of any municipal corporation located, in whole or in part, in 1145
the county, to the extent that the revenues, other than revenues 1146

from unvoted county property taxes, derived from leases or other 1147
agreements between the county and those agencies, departments, 1148
boards, commissions, or municipal corporations relating to the 1149
use of the permanent improvements are sufficient to cover the 1150
cost of all operating expenses of the permanent improvements 1151
paid by the county and debt charges on the securities; 1152

(6) Securities issued pursuant to section 133.08 of the 1153
Revised Code; 1154

(7) Securities issued for the purpose of acquiring or 1155
constructing roads, highways, bridges, or viaducts, for the 1156
purpose of acquiring or making other highway permanent 1157
improvements, or for the purpose of procuring and maintaining 1158
computer systems for the office of the clerk of any county- 1159
operated municipal court, for the office of the clerk of the 1160
court of common pleas, or for the office of the clerk of the 1161
probate, juvenile, or domestic relations division of the court 1162
of common pleas to the extent that the legislation authorizing 1163
the issuance of the securities includes a covenant to 1164
appropriate from moneys distributed to the county pursuant to 1165
division (B) of section 2101.162, 2151.541, 2153.081, 2301.031, 1166
or 2303.201 or Chapter 4501., 4503., 4504., or 5735. of the 1167
Revised Code a sufficient amount to cover debt charges on and 1168
financing costs relating to the securities as they become due; 1169

(8) Securities issued for the purpose of acquiring, 1170
constructing, improving, and equipping a county, multicounty, or 1171
multicounty-municipal jail, workhouse, juvenile detention 1172
facility, or correctional facility; 1173

(9) Securities issued for the acquisition, construction, 1174
equipping, or repair of any permanent improvement or any class 1175
or group of permanent improvements enumerated in a resolution 1176

adopted pursuant to division (D) of section 5739.026, or under 1177
division ~~(A)(10)~~ (J) of section 5739.09, of the Revised Code to 1178
the extent that the legislation authorizing the issuance of the 1179
securities includes a covenant to appropriate from moneys 1180
received from the taxes authorized under section 5739.023 and 1181
division (A)(5) of section 5739.026, or under division ~~(A)(10)~~ 1182
(J) of section 5739.09~~7~~ of the Revised Code, respectively, an 1183
amount sufficient to pay debt charges on the securities and 1184
those moneys shall be pledged for that purpose; 1185

(10) Securities issued for county or joint county solid 1186
waste or hazardous waste collection, transfer, or disposal 1187
facilities, or resource recovery and solid or hazardous waste 1188
recycling facilities, or any combination of those facilities; 1189

(11) Securities issued for the acquisition, construction, 1190
and equipping of a port authority educational and cultural 1191
facility under section 307.671 of the Revised Code; 1192

(12) Securities issued for the acquisition, construction, 1193
equipping, and improving of a municipal educational and cultural 1194
facility under division (B)(1) of section 307.672 of the Revised 1195
Code; 1196

(13) Securities issued for energy conservation measures 1197
under section 307.041 of the Revised Code; 1198

(14) Securities issued for the acquisition, construction, 1199
equipping, improving, or repair of a sports facility, including 1200
obligations issued to pay costs of a sports facility under 1201
section 307.673 of the Revised Code; 1202

(15) Securities issued under section 755.17 of the Revised 1203
Code if the legislation authorizing issuance of the securities 1204
includes a covenant to appropriate from revenue received from a 1205

tax authorized under division (A) (5) of section 5739.026 and 1206
section 5741.023 of the Revised Code an amount sufficient to pay 1207
debt charges on the securities, and the board of county 1208
commissioners pledges that revenue for that purpose, pursuant to 1209
section 755.171 of the Revised Code; 1210

(16) Sales tax supported bonds issued pursuant to section 1211
133.081 of the Revised Code for the purpose of acquiring, 1212
constructing, improving, or equipping any permanent improvement 1213
to the extent that the legislation authorizing the issuance of 1214
the sales tax supported bonds pledges county sales taxes to the 1215
payment of debt charges on the sales tax supported bonds and 1216
contains a covenant to appropriate from county sales taxes a 1217
sufficient amount to cover debt charges or the financing costs 1218
related to the sales tax supported bonds as they become due; 1219

(17) Bonds or notes issued under section 133.60 of the 1220
Revised Code if the legislation authorizing issuance of the 1221
bonds or notes includes a covenant to appropriate from revenue 1222
received from a tax authorized under division (A) (9) of section 1223
5739.026 and section 5741.023 of the Revised Code an amount 1224
sufficient to pay the debt charges on the bonds or notes, and 1225
the board of county commissioners pledges that revenue for that 1226
purpose; 1227

(18) Securities issued under section 3707.55 of the 1228
Revised Code for the acquisition of real property by a general 1229
health district; 1230

(19) Securities issued under division (A) (3) of section 1231
3313.37 of the Revised Code for the acquisition of real and 1232
personal property by an educational service center; 1233

(20) Securities issued for the purpose of paying the costs 1234

of acquiring, constructing, reconstructing, renovating, 1235
rehabilitating, expanding, adding to, equipping, furnishing, or 1236
otherwise improving an arena, convention center, or a 1237
combination of an arena and convention center under section 1238
307.695 of the Revised Code; 1239

(21) Securities issued for the purpose of paying project 1240
costs under section 307.678 of the Revised Code; 1241

(22) Securities issued for the purpose of paying project 1242
costs under section 307.679 of the Revised Code. 1243

(D) In calculating the net indebtedness of a county, no 1244
obligation incurred under division (F) of section 339.06 of the 1245
Revised Code shall be considered. 1246

Sec. 133.18. (A) The taxing authority of a subdivision may 1247
by legislation submit to the electors of the subdivision the 1248
question of issuing any general obligation bonds, for one 1249
purpose, that the subdivision has power or authority to issue. 1250

(B) When the taxing authority of a subdivision desires or 1251
is required by law to submit the question of a bond issue to the 1252
electors, it shall pass legislation that does all of the 1253
following: 1254

(1) Declares the necessity and purpose of the bond issue; 1255

(2) States the date of the authorized election at which 1256
the question shall be submitted to the electors; 1257

(3) States the amount, approximate date, estimated net 1258
average rate of interest, and maximum number of years over which 1259
the principal of the bonds may be paid; 1260

(4) Declares the necessity of levying a tax outside the 1261
tax limitation to pay the debt charges on the bonds and any 1262

anticipatory securities. 1263

The estimated net average interest rate shall be 1264
determined by the taxing authority based on, among other 1265
factors, then existing market conditions, and may reflect 1266
adjustments for any anticipated direct payments expected to be 1267
received by the taxing authority from the government of the 1268
United States relating to the bonds and the effect of any 1269
federal tax credits anticipated to be available to owners of all 1270
or a portion of the bonds. The estimated net average rate of 1271
interest, and any statutory or charter limit on interest rates 1272
that may then be in effect and that is subsequently amended, 1273
shall not be a limitation on the actual interest rate or rates 1274
on the securities when issued. 1275

~~(C) (1)~~ (C) The taxing authority shall certify a copy of 1276
the legislation passed under division (B) of this section to the 1277
county auditor. The county auditor shall promptly calculate and 1278
advise and, not later than ninety days before the election, 1279
confirm that advice by certification to, the taxing authority 1280
the estimated average annual property tax levy, expressed in 1281
cents or dollars and cents for each one hundred dollars of tax 1282
valuation and in mills for each one dollar of tax valuation, 1283
that the county auditor estimates to be required throughout the 1284
stated maturity of the bonds to pay the debt charges on the 1285
bonds. In calculating the estimated average annual property tax 1286
levy for this purpose, the county auditor shall assume that the 1287
bonds are issued in one series bearing interest and maturing in 1288
substantially equal principal amounts in each year over the 1289
maximum number of years over which the principal of the bonds 1290
may be paid as stated in that legislation, and that the amount 1291
of the tax valuation of the subdivision for the current year 1292
remains the same throughout the maturity of the bonds ~~, except~~ 1293

~~as otherwise provided in division (C) (2) of this section.~~ If the 1294
tax valuation for the current year is not determined, the county 1295
auditor shall base the calculation on the estimated amount of 1296
the tax valuation submitted by the county auditor to the county 1297
budget commission. If the subdivision is located in more than 1298
one county, the county auditor shall obtain the assistance of 1299
the county auditors of the other counties, and those county 1300
auditors shall provide assistance, in establishing the tax 1301
valuation of the subdivision for purposes of certifying the 1302
estimated average annual property tax levy. 1303

~~(2) When considering the tangible personal property 1304
component of the tax valuation of the subdivision, the county 1305
auditor shall take into account the assessment percentages 1306
prescribed in section 5711.22 of the Revised Code. The tax 1307
commissioner may issue rules, orders, or instructions directing 1308
how the assessment percentages must be utilized. 1309~~

(D) After receiving the county auditor's advice under 1310
division (C) of this section, the taxing authority by 1311
legislation may determine to proceed with submitting the 1312
question of the issue of securities, and shall, not later than 1313
the ninetieth day before the day of the election, file the 1314
following with the board of elections: 1315

(1) Copies of the legislation provided for in divisions 1316
(B) and (D) of this section; 1317

(2) The amount of the estimated average annual property 1318
tax levy, expressed in cents or dollars and cents for each one 1319
hundred dollars of tax valuation and in mills for each one 1320
dollar of tax valuation, as estimated and certified to the 1321
taxing authority by the county auditor. 1322

(E) (1) The board of elections shall prepare the ballots 1323
and make other necessary arrangements for the submission of the 1324
question to the electors of the subdivision. If the subdivision 1325
is located in more than one county, the board shall inform the 1326
boards of elections of the other counties of the filings with 1327
it, and those other boards shall if appropriate make the other 1328
necessary arrangements for the election in their counties. The 1329
election shall be conducted, canvassed, and certified in the 1330
manner provided in Title XXXV of the Revised Code. 1331

(2) The election shall be held at the regular places for 1332
voting in the subdivision. If the electors of only a part of a 1333
precinct are qualified to vote at the election the board of 1334
elections may assign the electors in that part to an adjoining 1335
precinct, including an adjoining precinct in another county if 1336
the board of elections of the other county consents to and 1337
approves the assignment. Each elector so assigned shall be 1338
notified of that fact prior to the election by notice mailed by 1339
the board of elections, in such manner as it determines, prior 1340
to the election. 1341

(3) The board of elections shall publish a notice of the 1342
election once in a newspaper of general circulation in the 1343
subdivision, no later than ten days prior to the election. The 1344
notice shall state all of the following: 1345

- (a) The principal amount of the proposed bond issue; 1346
- (b) The stated purpose for which the bonds are to be 1347
issued; 1348
- (c) The maximum number of years over which the principal 1349
of the bonds may be paid; 1350
- (d) The estimated additional average annual property tax 1351

levy, expressed in cents or dollars and cents for each one 1352
hundred dollars of tax valuation and in mills for each one 1353
dollar of tax valuation, to be levied outside the tax 1354
limitation, as estimated and certified to the taxing authority 1355
by the county auditor; 1356

(e) The first calendar year in which the tax is expected 1357
to be due. 1358

(F) (1) The form of the ballot to be used at the election 1359
shall be substantially either of the following, as applicable: 1360

(a) "Shall bonds be issued by the (name of 1361
subdivision) for the purpose of (purpose of the bond 1362
issue) in the principal amount of (principal amount 1363
of the bond issue), to be repaid annually over a maximum period 1364
of (the maximum number of years over which the 1365
principal of the bonds may be paid) years, and an annual levy of 1366
property taxes be made outside the (as applicable, 1367
"ten-mill" or "...charter tax") limitation, estimated by the 1368
county auditor to average over the repayment period of the bond 1369
issue (number of mills) mills for each one dollar of 1370
tax valuation, which amounts to (rate expressed in 1371
cents or dollars and cents, such as "36 cents" or "\$1.41") for 1372
each one hundred dollars of tax valuation, commencing in 1373
..... (first year the tax will be levied), first due in 1374
calendar year (first calendar year in which the tax 1375
shall be due), to pay the annual debt charges on the bonds, and 1376
to pay debt charges on any notes issued in anticipation of those 1377
bonds? 1378

1379

	For the bond issue
	Against the bond issue

"

(b) In the case of an election held pursuant to 1380
legislation adopted under section 3375.43 or 3375.431 of the 1381
Revised Code: 1382

"Shall bonds be issued for (name of library) 1383
for the purpose of (purpose of the bond issue), in 1384
the principal amount of (amount of the bond issue) by 1385
..... (the name of the subdivision that is to issue the 1386
bonds and levy the tax) as the issuer of the bonds, to be repaid 1387
annually over a maximum period of (the maximum number 1388
of years over which the principal of the bonds may be paid) 1389
years, and an annual levy of property taxes be made outside the 1390
ten-mill limitation, estimated by the county auditor to average 1391
over the repayment period of the bond issue (number 1392
of mills) mills for each one dollar of tax valuation, which 1393
amounts to (rate expressed in cents or dollars and 1394
cents, such as "36 cents" or "\$1.41") for each one hundred 1395
dollars of tax valuation, commencing in (first year 1396
the tax will be levied), first due in calendar year 1397
(first calendar year in which the tax shall be due), to pay the 1398
annual debt charges on the bonds, and to pay debt charges on any 1399
notes issued in anticipation of those bonds? 1400

1401

	For the bond issue
	Against the bond issue

"

(2) The purpose for which the bonds are to be issued shall 1402
be printed in the space indicated, in boldface type. 1403

(G) The board of elections shall promptly certify the 1404
results of the election to the tax commissioner, the county 1405
auditor of each county in which any part of the subdivision is 1406
located, and the fiscal officer of the subdivision. The 1407
election, including the proceedings for and result of the 1408
election, is incontestable other than in a contest filed under 1409
section 3515.09 of the Revised Code in which the plaintiff 1410
prevails. 1411

(H) If a majority of the electors voting upon the question 1412
vote for it, the taxing authority of the subdivision may proceed 1413
under sections 133.21 to 133.33 of the Revised Code with the 1414
issuance of the securities and with the levy and collection of a 1415
property tax outside the tax limitation during the period the 1416
securities are outstanding sufficient in amount to pay the debt 1417
charges on the securities, including debt charges on any 1418
anticipatory securities required to be paid from that tax. If 1419
legislation passed under section 133.22 or 133.23 of the Revised 1420
Code authorizing those securities is filed with the county 1421
auditor on or before the last day of November, the amount of the 1422
voted property tax levy required to pay debt charges or 1423
estimated debt charges on the securities payable in the 1424
following year shall if requested by the taxing authority be 1425
included in the taxes levied for collection in the following 1426
year under section 319.30 of the Revised Code. 1427

(I) (1) If, before any securities authorized at an election 1428
under this section are issued, the net indebtedness of the 1429
subdivision exceeds that applicable to that subdivision or those 1430
securities, then and so long as that is the case none of the 1431

securities may be issued. 1432

(2) No securities authorized at an election under this 1433
section may be initially issued after the first day of the sixth 1434
January following the election, but this period of limitation 1435
shall not run for any time during which any part of the 1436
permanent improvement for which the securities have been 1437
authorized, or the issuing or validity of any part of the 1438
securities issued or to be issued, or the related proceedings, 1439
is involved or questioned before a court or a commission or 1440
other tribunal, administrative agency, or board. 1441

(3) Securities representing a portion of the amount 1442
authorized at an election that are issued within the applicable 1443
limitation on net indebtedness are valid and in no manner 1444
affected by the fact that the balance of the securities 1445
authorized cannot be issued by reason of the net indebtedness 1446
limitation or lapse of time. 1447

(4) Nothing in this division (I) shall be interpreted or 1448
applied to prevent the issuance of securities in an amount to 1449
fund or refund anticipatory securities lawfully issued. 1450

(5) The limitations of divisions (I)(1) and (2) of this 1451
section do not apply to any securities authorized at an election 1452
under this section if at least ten per cent of the principal 1453
amount of the securities, including anticipatory securities, 1454
authorized has theretofore been issued, or if the securities are 1455
to be issued for the purpose of participating in any federally 1456
or state-assisted program. 1457

(6) The certificate of the fiscal officer of the 1458
subdivision is conclusive proof of the facts referred to in this 1459
division. 1460

Sec. 135.142. (A) In addition to the investments 1461
authorized by section 135.14 of the Revised Code, any board of 1462
education, by a two-thirds vote of its members, may authorize 1463
the treasurer of the board of education to invest up to forty 1464
per cent of the interim moneys of the board, available for 1465
investment at any one time, in either of the following: 1466

(1) Commercial paper notes issued by any entity that is 1467
defined in division (D) of section 1705.01 of the Revised Code 1468
and has assets exceeding five hundred million dollars, and to 1469
which notes all of the following apply: 1470

(a) The notes are rated at the time of purchase in the 1471
highest classification established by at least two nationally 1472
recognized standard rating services. 1473

(b) The aggregate value of the notes does not exceed ten 1474
per cent of the aggregate value of the outstanding commercial 1475
paper of the issuing corporation. 1476

(c) The notes mature no later than two hundred seventy 1477
days after purchase. 1478

(d) The investment in commercial paper notes of a single 1479
issuer shall not exceed in the aggregate five per cent of 1480
interim moneys of the board available for investment at the time 1481
of purchase. 1482

(2) Bankers' acceptances of banks that are insured by the 1483
federal deposit insurance corporation and that mature no later 1484
than one hundred eighty days after purchase. 1485

(B) No investment authorized pursuant to division (A) of 1486
this section shall be made, whether or not authorized by a board 1487
of education, unless the treasurer of the board of education has 1488
completed additional training for making the types of 1489

investments authorized pursuant to division (A) of this section. 1490
The type and amount of such training shall be approved and may 1491
be conducted by or provided under the supervision of the 1492
treasurer of state. 1493

(C) The treasurer of the board of education shall prepare 1494
annually and submit to the board of education, the 1495
superintendent of public instruction, and the auditor of state, 1496
on or before the thirty-first day of August, a report listing 1497
each investment made pursuant to division (A) of this section 1498
during the preceding fiscal year, income earned from such 1499
investments, fees and commissions paid pursuant to division (D) 1500
of this section, and any other information required by the 1501
board, the superintendent, and the auditor of state. 1502

(D) A board of education may make appropriations and 1503
expenditures for fees and commissions in connection with 1504
investments made pursuant to division (A) of this section. 1505

(E) (1) In addition to the investments authorized by 1506
section 135.14 of the Revised Code and division (A) of this 1507
section, any board of education that is a party to an agreement 1508
with the treasurer of state pursuant to division (G) of section 1509
135.143 of the Revised Code and that has outstanding obligations 1510
issued under authority of section 133.10 ~~or 133.301~~ of the 1511
Revised Code may authorize the treasurer of the board of 1512
education to invest interim moneys of the board in debt 1513
interests rated in either of the two highest rating 1514
classifications by at least two nationally recognized standard 1515
rating services and issued by entities that are defined in 1516
division (D) of section 1705.01 of the Revised Code. The debt 1517
interests purchased under authority of division (E) of this 1518
section shall mature not later than the latest maturity date of 1519

the outstanding obligations issued under authority of section 1520
133.10 or 133.301 of the Revised Code. 1521

(2) If any of the debt interests acquired under division 1522
(E) (1) of this section ceases to be rated as there required, its 1523
issuer shall notify the treasurer of state of this fact within 1524
twenty-four hours. At any time thereafter the treasurer of state 1525
may require collateralization at the rate of one hundred two per 1526
cent of any remaining obligation of the entity, with securities 1527
authorized for investment under section 135.143 of the Revised 1528
Code. The collateral shall be delivered to and held by a 1529
custodian acceptable to the treasurer of state, marked to market 1530
daily, and any default to be cured within twelve hours. 1531
Unlimited substitution shall be allowed of comparable 1532
securities. 1533

Sec. 305.31. The procedure for submitting to a referendum 1534
a resolution adopted by a board of county commissioners under 1535
division (H) of section 307.695 of the Revised Code that is not 1536
submitted to the electors of the county for their approval or 1537
disapproval; any resolution adopted by a board of county 1538
commissioners pursuant to division (D) (1) of section 307.697, 1539
section 322.02, or 322.06, sections 940.31 and 940.33, division 1540
(B) (1) of section 4301.421, section 4504.02, 5739.021, or 1541
5739.026, division ~~(A) (6) (F)~~, ~~(A) (10) (J)~~, or ~~(M) (U)~~ of section 1542
5739.09, section 5741.021 or 5741.023, or division (C) (1) of 1543
section 5743.024 of the Revised Code; or a rule adopted pursuant 1544
to section 307.79 of the Revised Code shall be as prescribed by 1545
this section. 1546

Except as otherwise provided in this paragraph, when a 1547
petition, signed by ten per cent of the number of electors who 1548
voted for governor at the most recent general election for the 1549

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

after the auditor certifies the sufficiency and validity of the 1582
petition to the board of elections. 1583

No resolution shall go into effect until approved by the 1584
majority of those voting upon it. However, a rule shall take 1585
effect and remain in effect unless and until a majority of the 1586
electors voting on the question of repeal approve the repeal. 1587
Sections 305.31 to 305.41 of the Revised Code do not prevent a 1588
county, after the passage of any resolution or adoption of any 1589
rule, from proceeding at once to give any notice or make any 1590
publication required by the resolution or rule. 1591

The board of county commissioners shall make available to 1592
any person, upon request, a certified copy of any resolution or 1593
rule subject to the procedure for submitting a referendum under 1594
sections 305.31 to 305.42 of the Revised Code beginning on the 1595
date the resolution or rule is adopted by the board. The board 1596
may charge a fee for the cost of copying the resolution or rule. 1597

As used in this section, "certified copy" means a copy 1598
containing a written statement attesting that it is a true and 1599
exact reproduction of the original resolution or rule. 1600

Sec. 306.322. (A) For any regional transit authority that 1601
levies a property tax and that includes in its membership 1602
political subdivisions that are located in a county having a 1603
population of at least four hundred thousand according to the 1604
most recent federal census, the procedures of this section apply 1605
until November 5, 2013, and are in addition to and an 1606
alternative to those established in sections 306.32 and 306.321 1607
of the Revised Code for joining to the regional transit 1608
authority additional counties, municipal corporations, or 1609
townships. 1610

(B) Any municipal corporation or township may adopt a 1611
resolution or ordinance proposing to join a regional transit 1612
authority described in division (A) of this section. In its 1613
resolution or ordinance, the political subdivision may propose 1614
joining the regional transit authority for a limited period of 1615
three years or without a time limit. 1616

(C) The political subdivision proposing to join the 1617
regional transit authority shall submit a copy of its resolution 1618
or ordinance to the legislative authority of each municipal 1619
corporation and the board of trustees of each township 1620
comprising the regional transit authority. Within thirty days of 1621
receiving the resolution or ordinance for inclusion in the 1622
regional transit authority, the legislative authority of each 1623
municipal corporation and the board of trustees of each township 1624
shall consider the question of whether to include the additional 1625
subdivision in the regional transit authority, shall adopt a 1626
resolution or ordinance approving or rejecting the inclusion of 1627
the additional subdivision, and shall present its resolution or 1628
ordinance to the board of trustees of the regional transit 1629
authority. 1630

(D) If a majority of the political subdivisions comprising 1631
the regional transit authority approve the inclusion of the 1632
additional political subdivision, the board of trustees of the 1633
regional transit authority, not later than the tenth day 1634
following the day on which the last ordinance or resolution is 1635
presented, shall notify the subdivision proposing to join the 1636
regional transit authority that it may certify the proposal to 1637
the board of elections for the purpose of having the proposal 1638
placed on the ballot at the next general election or at a 1639
special election conducted on the day of the next primary 1640
election that occurs not less than ninety days after the 1641

resolution or ordinance is certified to the board of elections. 1642

(E) Upon certification of a proposal to the board of 1643
elections pursuant to this section, the board of elections shall 1644
make the necessary arrangements for the submission of the 1645
question to the electors of the territory to be included in the 1646
regional transit authority qualified to vote on the question, 1647
and the election shall be held, canvassed, and certified in the 1648
same manner as regular elections for the election of officers of 1649
the subdivision proposing to join the regional transit 1650
authority, except that, if the resolution proposed the inclusion 1651
without a time limitation the question appearing on the ballot 1652
shall read: 1653

"Shall the territory within the 1654
(Name or names of political subdivisions to be joined) be added 1655
to (Name) regional transit 1656
authority?" and shall a(n) (here insert type of tax 1657
or taxes) at a rate of taxation not to exceed (here insert 1658
maximum tax rate or rates) be levied for all transit purposes?" 1659

If the resolution proposed the inclusion with a three-year 1660
time limitation, the question appearing on the ballot shall 1661
read: 1662

"Shall the territory within the 1663
(Name or names of political subdivisions to be joined) be added 1664
to (Name) regional transit 1665
authority?" for three years and shall a(n) (here 1666
insert type of tax or taxes) at a rate of taxation not to exceed 1667
..... (here insert maximum tax rate or rates) be levied for all 1668
transit purposes for three years?" 1669

(F) If the question is approved by at least a majority of 1670

the electors voting on the question, the addition of the new 1671
territory is effective six months from the date of the 1672
certification of its passage, and the regional transit authority 1673
may extend the levy of the tax against all the taxable property 1674
within the territory that was added. If the question is approved 1675
at a general election or at a special election occurring prior 1676
to the general election but after the fifteenth day of July, the 1677
regional transit authority may amend its budget and resolution 1678
adopted pursuant to section 5705.34 of the Revised Code, and the 1679
levy shall be placed on the current tax list and duplicate and 1680
collected as other taxes are collected from all taxable property 1681
within the territorial boundaries of the regional transit 1682
authority, including the territory within the political 1683
subdivision added as a result of the election. If the budget of 1684
the regional transit authority is amended pursuant to this 1685
paragraph, the county auditor shall prepare and deliver an 1686
amended certificate of estimated resources to reflect the change 1687
in anticipated revenues of the regional transit authority. 1688

(G) If the question is approved by at least a majority of 1689
the electors voting on the question, the board of trustees of 1690
the regional transit authority immediately shall amend the 1691
resolution or ordinance creating the regional transit authority 1692
to include the additional political subdivision. 1693

(H) If the question approved by a majority of the electors 1694
voting on the question added the subdivision for three years, 1695
the territory of the additional municipal corporation or 1696
township in the regional transit authority shall be removed from 1697
the territory of the regional transit authority three years 1698
after the date the territory was added, as determined in the 1699
effective date of the election, and shall no longer be a part of 1700
that authority without any further action by either the 1701

political subdivisions that were included in the authority prior 1702
to submitting the question to the electors or of the political 1703
subdivision added to the authority as a result of the election. 1704
The regional transit authority reduced to its territory as it 1705
existed prior to the inclusion of the additional municipal 1706
corporation or township shall be entitled to levy and collect 1707
any property taxes that it was authorized to levy and collect 1708
prior to the enlargement of its territory and for which 1709
authorization has not expired, as if the enlargement had not 1710
occurred. 1711

Sec. 307.671. (A) As used in this section: 1712

(1) "Bonds" means, as the context requires: general 1713
obligation bonds of the county, or notes in anticipation 1714
thereof, described in division (B) (1) (b) of this section; 1715
revenue bonds of the port authority described in division (B) (2) 1716
(a) of this section; and urban renewal bonds, or notes in 1717
anticipation thereof, of the host municipal corporation 1718
described in division (B) (3) (a) of this section. 1719

(2) "Corporation" means a nonprofit corporation that is 1720
organized under the laws of this state and that includes within 1721
the purposes for which it is incorporated the authorization to 1722
lease and operate facilities such as a port authority 1723
educational and cultural facility. 1724

(3) "Debt service charges" means, for any period or 1725
payable at any time, the principal of and interest and any 1726
premium due on bonds for that period or payable at that time 1727
whether due at maturity or upon mandatory redemption, together 1728
with any required deposits to reserves for the payment of 1729
principal of and interest on such bonds, and includes any 1730
payments required by the port authority to satisfy any of its 1731

obligations arising from any guaranty agreements, reimbursement 1732
agreements, or other credit enhancement agreements described in 1733
division (C) of this section. 1734

(4) "Host municipal corporation" means the municipal 1735
corporation within the boundaries of which the port authority 1736
educational and cultural facility is located. 1737

(5) "Port authority" means a port authority created 1738
pursuant to the authority of section 4582.02 of the Revised Code 1739
by a county and a host municipal corporation. 1740

(6) "Port authority educational and cultural facility" 1741
means a facility located within an urban renewal area that may 1742
consist of a museum, archives, library, hall of fame, center for 1743
contemporary music, or other facilities necessary to provide 1744
programs of an educational and cultural nature, together with 1745
all parking facilities, walkways, and other auxiliary 1746
facilities, real and personal property, property rights, 1747
easements, and interests that may be appropriate for, or used in 1748
connection with, the operation of the facility. 1749

(7) "Urban renewal area" means an area of a host municipal 1750
corporation that the legislative authority of the host municipal 1751
corporation has, at any time, designated as appropriate for an 1752
urban renewal project pursuant to Chapter 725. of the Revised 1753
Code. 1754

(B) The board of county commissioners of a county, a port 1755
authority, and a host municipal corporation may enter into a 1756
cooperative agreement with a corporation, under which: 1757

(1) The board of county commissioners agrees to do all of 1758
the following: 1759

(a) Levy a tax under division ~~(D)~~ (N) of section 5739.09 1760

of the Revised Code exclusively for the purposes described in 1761
divisions (B) (1) (c) and (d) of this section; 1762

(b) Issue general obligation bonds of the county, or notes 1763
in anticipation thereof, pursuant to Chapter 133. of the Revised 1764
Code, for the purpose of acquiring, constructing, and equipping 1765
the port authority educational and cultural facility and 1766
contribute the proceeds from the issuance to the port authority 1767
for such purpose. The cooperative agreement may provide that 1768
such proceeds be deposited with and administered by the trustee 1769
pursuant to the trust agreement provided for in division (C) of 1770
this section. 1771

(c) Following the issuance, sale, and delivery of the port 1772
authority revenue bonds provided for in division (B) (2) (a) of 1773
this section, and prior to the date certain stated in the 1774
cooperative agreement which shall be the date estimated for the 1775
completion of construction of the port authority educational and 1776
cultural facility, pledge and contribute to the port authority 1777
revenue from the tax levied pursuant to division (B) (1) (a) of 1778
this section, together with any investment earnings on that 1779
revenue, to pay a portion of the costs of acquiring, 1780
constructing, and equipping the port authority educational and 1781
cultural facility; 1782

(d) Following such date certain, pledge and contribute to 1783
the corporation all or such portion as provided for in the 1784
cooperative agreement of the revenue from the tax, together with 1785
any investment earnings on that revenue, to pay a portion of the 1786
costs of the corporation of leasing the port authority 1787
educational and cultural facility from the port authority. 1788

(2) The port authority agrees to do all of the following: 1789

(a) Issue revenue bonds of the port authority pursuant to 1790
Chapter 4582. of the Revised Code for the purpose of acquiring, 1791
constructing, and equipping the port authority educational and 1792
cultural facility; 1793

(b) Construct the port authority educational and cultural 1794
facility; 1795

(c) Lease the port authority educational and cultural 1796
facility to the corporation; 1797

(d) To the extent provided for in the cooperative 1798
agreement or the lease to the corporation, authorize the 1799
corporation to administer on behalf of the port authority the 1800
contracts for acquiring, constructing, or equipping a port 1801
authority educational and cultural facility; 1802

(e) Use the revenue derived from the lease of the port 1803
authority educational and cultural facility to the corporation 1804
solely to pay debt service charges on the revenue bonds of the 1805
port authority described in division (B) (2) (a) of this section. 1806

(3) The host municipal corporation agrees to do both of 1807
the following: 1808

(a) Issue urban renewal bonds of the host municipal 1809
corporation, or notes in anticipation thereof, pursuant to 1810
Chapter 725. of the Revised Code for the purpose of acquiring 1811
and constructing the port authority educational and cultural 1812
facility and contribute the proceeds from the issuance to the 1813
port authority for such purpose. The cooperative agreement may 1814
provide that such proceeds be deposited with and administered by 1815
the trustee pursuant to the trust agreement provided for in 1816
division (C) of this section. 1817

(b) To the extent provided for in the cooperative 1818

agreement, contribute to the county, for use by the county to 1819
pay debt service charges on the bonds of the county, or notes in 1820
anticipation thereof, described in division (B) (1) (b) of this 1821
section, any excess urban renewal service payments pledged by 1822
the host municipal corporation to the urban renewal bonds 1823
described in division (B) (3) (a) of this section and not required 1824
on an annual basis to pay debt service charges on the urban 1825
renewal bonds. 1826

(4) The corporation agrees to do all of the following: 1827

(a) Lease the port authority educational and cultural 1828
facility from the port authority; 1829

(b) Operate and maintain the port authority educational 1830
and cultural facility pursuant to the lease; 1831

(c) To the extent provided for in the cooperative 1832
agreement or the lease from the port authority, administer on 1833
behalf of the port authority the contracts for acquiring, 1834
constructing, or equipping a port authority educational and 1835
cultural facility. 1836

(C) The pledges and contributions described in divisions 1837
(B) (1) (c) and (d) of this section and provided for in the 1838
cooperative agreement shall be for the period stated in the 1839
cooperative agreement, but shall not be in excess of the period 1840
necessary to provide for the final retirement of the port 1841
authority revenue bonds provided for in division (B) (2) (a) of 1842
this section and any bonds issued by the port authority to 1843
refund such bonds, and for the satisfaction by the port 1844
authority of any of its obligations arising from any guaranty 1845
agreements, reimbursement agreements, or other credit 1846
enhancement agreements relating to such bonds or to the revenues 1847

pledged to such bonds. The cooperative agreement shall provide 1848
for the termination of the cooperative agreement including the 1849
pledges and contributions described in divisions (B) (1) (c) and 1850
(d) of this section if the port authority revenue bonds provided 1851
for in division (B) (2) (a) of this section have not been issued, 1852
sold, and delivered within two years of the effective date of 1853
the cooperative agreement. 1854

The cooperative agreement shall provide that any revenue 1855
bonds of the port authority shall be secured by a trust 1856
agreement between the port authority and a corporate trustee 1857
that is a trust company or bank having the powers of a trust 1858
company within or outside the state. The county may be a party 1859
to such trust agreement for the purpose of securing the pledge 1860
by the county of its contribution to the corporation pursuant to 1861
division (B) (1) (d) of this section. A tax levied pursuant to 1862
division (B) (1) (a) of this section is not subject to diminution 1863
by initiative or referendum or diminution by statute, unless 1864
provision is made therein for an adequate substitute therefor 1865
reasonably satisfactory to the trustee under the trust agreement 1866
that secures the revenue bonds of the port authority. 1867

(D) A pledge of money by a county under this section shall 1868
not be net indebtedness of the county for purposes of section 1869
133.07 of the Revised Code. 1870

(E) If the terms of the cooperative agreement so provide, 1871
any contract for the acquisition, construction, or equipping of 1872
a port authority educational and cultural facility shall be made 1873
in such manner as is determined by the board of directors of the 1874
port authority, and unless the cooperative agreement provides 1875
otherwise, such a contract is not subject to division (A) of 1876
section 4582.12 of the Revised Code. The port authority may take 1877

the assignment of and assume any contracts for the acquisition, 1878
construction, and equipping of a port authority educational and 1879
cultural facility that previously have been authorized by either 1880
or both the host municipal corporation or the corporation. Such 1881
contracts likewise are not subject to division (A) of section 1882
4582.12 of the Revised Code. 1883

Any contract for the acquisition, construction, or 1884
equipping of a port authority educational and cultural facility 1885
entered into, assigned, or assumed pursuant to this division 1886
shall provide that all laborers and mechanics employed for the 1887
acquisition, construction, or equipping of the port authority 1888
educational and cultural facility shall be paid at the 1889
prevailing rates of wages of laborers and mechanics for the 1890
class of work called for by the port authority educational and 1891
cultural facility, which wages shall be determined in accordance 1892
with the requirements of Chapter 4115. of the Revised Code for 1893
the determination of prevailing wage rates. 1894

Sec. 307.672. (A) As used in this section: 1895

(1) "Bonds" means general obligation bonds, or notes in 1896
anticipation thereof, of the county described in division (B) (1) 1897
(b) of this section, and general obligation bonds, or notes in 1898
anticipation thereof, of the host municipal corporation 1899
described in division (B) (2) (a) of this section. 1900

(2) "Corporation" means a nonprofit corporation that is 1901
organized under the laws of this state and that includes within 1902
the purposes for which it is incorporated the authorization to 1903
lease and operate facilities such as a municipal educational and 1904
cultural facility. 1905

(3) "Debt service charges" means, for any period or 1906

payable at any time, the principal of and interest and any 1907
premium due on bonds for that period or payable at that time 1908
whether due at maturity or upon mandatory redemption, together 1909
with any required deposits to reserves for the payment of 1910
principal of and interest on such bonds. 1911

(4) "Host municipal corporation" means the municipal 1912
corporation within the boundaries of which a municipal 1913
educational and cultural facility is or will be located. 1914

(5) "Municipal educational and cultural facility" means a 1915
facility that may consist of a museum, archives, library, hall 1916
of fame, center for contemporary music, or other facilities 1917
necessary to provide programs of an educational, recreational, 1918
and cultural nature, together with all parking facilities, 1919
walkways, and other auxiliary facilities, real and personal 1920
property, property rights, easements, and interests that may be 1921
appropriate for, or used in connection with, the operation of 1922
the facility. 1923

(B) The legislative authorities of a county and a host 1924
municipal corporation may enter into a cooperative agreement 1925
with a corporation, under which: 1926

(1) The legislative authority of the county agrees to: 1927

(a) Levy a tax under division ~~(E)~~ (O) of section 5739.09 1928
of the Revised Code, for a period not to exceed fifteen years 1929
unless extended under that division for an additional period of 1930
time, to pay the costs of acquiring, constructing, equipping, 1931
and improving a municipal educational and cultural facility, 1932
including the debt service charges on bonds; 1933

(b) Issue bonds of the county pursuant to Chapter 133. of 1934
the Revised Code for the purpose of acquiring, constructing, 1935

equipping, and improving a municipal educational and cultural facility; 1936
1937

(c) Contribute revenue from the tax and the proceeds from 1938
the bonds described in divisions (B) (1) (a) and (b) of this 1939
section to the host municipal corporation for the purpose of 1940
acquiring, constructing, equipping, and improving a municipal 1941
educational and cultural facility; 1942

(2) The host municipal corporation agrees to: 1943

(a) Issue bonds of the host municipal corporation pursuant 1944
to Chapter 133. of the Revised Code for the purpose of 1945
acquiring, constructing, equipping, and improving a municipal 1946
educational and cultural facility; 1947

(b) Acquire, construct, equip, and improve a municipal 1948
educational and cultural facility; 1949

(c) Accept from the county pursuant to the cooperative 1950
agreement the revenues of the tax and the proceeds of the bonds 1951
described in divisions (B) (1) (a) and (b) of this section; 1952

(d) Lease a municipal educational and cultural facility to 1953
the corporation, or contract with the corporation for the 1954
operation and maintenance of the facility; 1955

(e) To the extent provided for in the cooperative 1956
agreement or the lease or contract with the corporation, 1957
authorize the corporation to administer on behalf of the host 1958
municipal corporation the contracts for acquiring, constructing, 1959
equipping, and improving a municipal educational and cultural 1960
facility. 1961

(3) The corporation agrees to: 1962

(a) Either lease the municipal educational and cultural 1963

facility from the host municipal corporation and operate and 1964
maintain the facility pursuant to the lease, or enter into a 1965
contract with the host municipal corporation pursuant to which 1966
the corporation shall operate and maintain the facility on 1967
behalf of the host municipal corporation; 1968

(b) To the extent provided for in the cooperative 1969
agreement or the lease or contract with the host municipal 1970
corporation, administer on behalf of the host municipal 1971
corporation the contracts for acquiring, constructing, 1972
equipping, or improving a municipal educational and cultural 1973
facility. 1974

(C) A tax levied pursuant to division ~~(E)~~(O) of section 1975
5739.09 of the Revised Code, the revenue from which is to be 1976
used to pay debt service charges on bonds described in division 1977
(B) (1) or (2) of this section is not subject to diminution by 1978
initiative or referendum or diminution by statute, unless 1979
provision is made therein for an adequate substitute therefor 1980
reasonably satisfactory to the legislative authorities of the 1981
host municipal corporation and the county. 1982

(D) The legislative authorities of a county and a host 1983
municipal corporation that have entered into a cooperative 1984
agreement with a corporation pursuant to division (B) of this 1985
section may amend that cooperative agreement, with the 1986
participation of the corporation and a port authority as defined 1987
in section 307.674 of the Revised Code, to provide also for a 1988
port authority educational and cultural performing arts facility 1989
in accordance with section 307.674 of the Revised Code. Such an 1990
amendment shall become effective only to the extent that the tax 1991
levied under division ~~(E)~~(O) of section 5739.09 of the Revised 1992
Code is not needed for the duration of the original tax to pay 1993

costs of the municipal educational and cultural facility, 1994
including debt service charges on related bonds, as determined 1995
by the parties to the amendment. The tax may be pledged and paid 1996
by the parties to the amendment for the balance of the duration 1997
of the tax to a port authority educational and cultural 1998
performing arts facility. 1999

Sec. 307.674. (A) As used in this section: 2000

(1) "Bonds" means: 2001

(a) Revenue bonds of the port authority described in 2002
division (B) (2) (a) of this section; 2003

(b) Securities as defined in division (KK) of section 2004
133.01 of the Revised Code issued by the host municipal 2005
corporation, described in division (B) (3) (a) of this section; 2006

(c) Any bonds issued to refund any of those revenue bonds 2007
or securities. 2008

(2) "Corporation" means a nonprofit corporation that is 2009
organized under the laws of this state and that includes within 2010
the purposes for which it is incorporated the authorization to 2011
lease and operate facilities such as a port authority 2012
educational and cultural performing arts facility. 2013

(3) "Cost," as applied to a port authority educational and 2014
cultural performing arts facility, means the cost of acquiring, 2015
constructing, renovating, rehabilitating, equipping, or 2016
improving the facility, or any combination of those purposes, 2017
collectively referred to in this section as "construction," and 2018
the cost of acquisition of all land, rights of way, property 2019
rights, easements, franchise rights, and interests required for 2020
those purposes, the cost of demolishing or removing any 2021
buildings or structures on land so acquired, including the cost 2022

of acquiring any land to which those buildings or structures may 2023
be moved, the cost of public utility and common carrier 2024
relocation or duplication, the cost of all machinery, 2025
furnishings, and equipment, financing charges, interest prior to 2026
and during construction and for not more than three years after 2027
completion of construction, costs arising under guaranty 2028
agreements, reimbursement agreements, or other credit 2029
enhancement agreements relating to bonds, engineering, expenses 2030
of research and development with respect to such facility, legal 2031
expenses, plans, specifications, surveys, studies, estimates of 2032
costs and revenues, other expenses necessary or incident to 2033
determining the feasibility or practicability of acquiring or 2034
constructing the facility, administrative expense, and other 2035
expenses as may be necessary or incident to that acquisition or 2036
construction and the financing of such acquisition or 2037
construction, including, with respect to the revenue bonds of a 2038
port authority, amounts to be paid into any special funds from 2039
the proceeds of those bonds, and repayments to the port 2040
authority, host county, host municipal corporation, or 2041
corporation of any amounts advanced for the foregoing purposes. 2042

(4) "Debt service charges" means, for any period or 2043
payable at any time, the principal of and interest and any 2044
premium due on bonds for that period or payable at that time 2045
whether due at maturity or upon mandatory redemption, together 2046
with any required deposits to reserves for the payment of 2047
principal of and interest on those bonds, and includes any 2048
payments required by the port authority to satisfy any of its 2049
obligations under or arising from any guaranty agreements, 2050
reimbursement agreements, or other credit enhancement agreements 2051
described in division (C) of this section. 2052

(5) "Host county" means the county within the boundaries 2053

of which the port authority educational and cultural performing 2054
arts facility is or will be located. 2055

(6) "Host municipal corporation" means the municipal 2056
corporation within the boundaries of which the port authority 2057
educational and cultural performing arts facility is or will be 2058
located. 2059

(7) "Port authority" means a port authority created 2060
pursuant to section 4582.22 of the Revised Code. 2061

(8) "Port authority educational and cultural performing 2062
arts facility" means a facility that consists of a center for 2063
music or other performing arts, a theater or other facilities to 2064
provide programs of an educational, recreational, or cultural 2065
nature, or any combination of those purposes as determined by 2066
the parties to the cooperative agreement for which provision is 2067
made in division (B) of this section to fulfill the public 2068
educational, recreational, and cultural purposes set forth 2069
therein, together with all parking facilities, walkways, and 2070
other auxiliary facilities, real and personal property, property 2071
rights, easements, and interests that may be appropriate for, or 2072
used in connection with, the operation of the facility. 2073

(B) A host county, a host municipal corporation, and a 2074
port authority may enter into a cooperative agreement with a 2075
corporation under which, as further provided for in that 2076
agreement: 2077

(1) The host county may agree to do any or all of the 2078
following: 2079

(a) Levy and collect a tax under ~~division (E)~~ divisions 2080
(O) and ~~division (F)~~ (P) of section 5739.09 of the Revised Code 2081
for the purposes, and in an amount sufficient for those 2082

purposes, described in divisions (B)(1)(b) and (c) of this 2083
section; 2084

(b) Pay to the port authority all or such portion as 2085
provided for in the cooperative agreement of the revenue from 2086
the tax, together with any investment earnings on that revenue, 2087
to be used to pay a portion of the costs of acquiring, 2088
constructing, renovating, rehabilitating, equipping, or 2089
improving the port authority educational and cultural performing 2090
arts facility; 2091

(c) Pledge and pay to the corporation all or such portion 2092
as provided for in the cooperative agreement of the revenue from 2093
the tax, together with any investment earnings on that revenue, 2094
to be used to pay a portion of the costs to the corporation of 2095
leasing the port authority educational and cultural performing 2096
arts facility from the port authority. 2097

(2) The port authority may agree to do any or all of the 2098
following: 2099

(a) Issue its revenue bonds pursuant to section 4582.48 of 2100
the Revised Code for the purpose of paying all or a portion of 2101
the costs of the port authority educational and cultural 2102
performing arts facility; 2103

(b) Acquire, construct, renovate, rehabilitate, equip, and 2104
improve the port authority educational and cultural performing 2105
arts facility; 2106

(c) Lease the port authority educational and cultural 2107
performing arts facility to the corporation; 2108

(d) To the extent provided for in the cooperative 2109
agreement or the lease to the corporation, authorize the 2110
corporation to administer on behalf of the port authority the 2111

contracts for acquiring, constructing, renovating, 2112
rehabilitating, or equipping the port authority educational and 2113
cultural performing arts facility; 2114

(e) Use the revenue derived from the lease of the port 2115
authority educational and cultural performing arts facility to 2116
the corporation solely to pay debt service charges on revenue 2117
bonds of the port authority issued pursuant to division (B) (2) 2118
(a) of this section and to pay its obligations under or arising 2119
from any guaranty agreements, reimbursement agreements, or other 2120
credit enhancement agreements provided for in this section. 2121

(3) The host municipal corporation may agree to do either 2122
or both of the following: 2123

(a) Issue its bonds for the purpose of paying all or a 2124
portion of the costs of the port authority educational and 2125
cultural performing arts facility, and pay the proceeds from the 2126
issuance to the port authority for that purpose; 2127

(b) Enter into a guaranty agreement, a reimbursement 2128
agreement, or other credit enhancement agreement with the port 2129
authority to provide a guaranty or other credit enhancement of 2130
the port authority revenue bonds referred to in division (B) (2) 2131
(a) of this section pledging taxes, other than ad valorem 2132
property taxes, or other revenues for the purpose of providing 2133
the funds required to satisfy the host municipal corporation's 2134
obligations under that agreement. 2135

The cooperative agreement may provide that the proceeds of 2136
such securities or of such guaranty agreement, reimbursement 2137
agreement, or other credit enhancement agreement be deposited 2138
with and administered by the trustee pursuant to the trust 2139
agreement authorized in division (C) of this section. 2140

(4) The corporation may agree to do any or all of the 2141
following: 2142

(a) Lease the port authority educational and cultural 2143
performing arts facility from the port authority; 2144

(b) Operate and maintain the port authority educational 2145
and cultural performing arts facility pursuant to the lease; 2146

(c) To the extent provided for in the cooperative 2147
agreement or the lease from the port authority, administer on 2148
behalf of the port authority the contracts for acquiring, 2149
constructing, renovating, rehabilitating, or equipping the port 2150
authority educational and cultural performing arts facility. 2151

(C) The pledge and payments referred to in divisions (B) 2152
(1) (b) and (c) of this section and provided for in the 2153
cooperative agreement shall be for the period stated in the 2154
cooperative agreement but shall not extend longer than the 2155
period necessary to provide for the final retirement of the port 2156
authority revenue bonds referred to in division (B) (2) (a) of 2157
this section, and for the satisfaction by the port authority of 2158
any of its obligations under or arising from any guaranty 2159
agreements, reimbursement agreements, or other credit 2160
enhancement agreements relating to those bonds or to the 2161
revenues pledged to them. The cooperative agreement shall 2162
provide for the termination of the cooperative agreement, 2163
including the pledge and payment referred to in division (B) (1) 2164
(c) of this section, if the port authority revenue bonds 2165
referred to in division (B) (2) (a) of this section have not been 2166
issued, sold, and delivered within five years of the effective 2167
date of the cooperative agreement. 2168

The cooperative agreement shall provide that any port 2169

authority revenue bonds shall be secured by a trust agreement 2170
between the port authority and a corporate trustee that is a 2171
trust company or bank having the powers of a trust company 2172
within or outside the state but authorized to exercise trust 2173
powers within the state. The host county may be a party to that 2174
trust agreement for the purpose of better securing the pledge by 2175
the host county of its payment to the corporation pursuant to 2176
division (B) (1) (c) of this section. A tax levied pursuant to 2177
section 5739.09 of the Revised Code for the purposes specified 2178
in division (B) (1) (b) or (c) of this section is not subject to 2179
diminution by initiative or referendum or diminution by statute, 2180
unless provision is made for an adequate substitute reasonably 2181
satisfactory to the trustee under the trust agreement that 2182
secures the port authority revenue bonds. 2183

(D) A pledge of money by a host county under this section 2184
shall not be net indebtedness of the host county for purposes of 2185
section 133.07 of the Revised Code. A guaranty or other credit 2186
enhancement by a host municipal corporation under this section 2187
shall not be net indebtedness of the host municipal corporation 2188
for purposes of section 133.05 of the Revised Code. 2189

(E) If the terms of the cooperative agreement so provide, 2190
any contract for the acquisition, construction, renovation, 2191
rehabilitation, equipping, or improving of a port authority 2192
educational and cultural performing arts facility shall be made 2193
in such manner as is determined by the board of directors of the 2194
port authority, and unless the cooperative agreement provides 2195
otherwise, such a contract is not subject to division ~~(R) (2) (A)~~ 2196
(18) (b) of section 4582.31 of the Revised Code. The port 2197
authority may take the assignment of and assume any contracts 2198
for the acquisition, construction, renovation, rehabilitation, 2199
equipping, or improving of a port authority educational and 2200

cultural performing arts facility that had previously been 2201
authorized by any of the host county, the host municipality, or 2202
the corporation. Such contracts are not subject to division ~~(R)~~ 2203
~~(2)~~ (A) (18) (b) of section 4582.31 of the Revised Code. 2204

Any contract for the acquisition, construction, 2205
renovation, rehabilitation, equipping, or improving of a port 2206
authority educational and cultural performing arts facility 2207
entered into, assigned, or assumed pursuant to this division 2208
shall provide that all laborers and mechanics employed for the 2209
acquisition, construction, renovation, rehabilitation, 2210
equipping, or improving of that facility shall be paid at the 2211
prevailing rates of wages of laborers and mechanics for the 2212
class of work called for by the port authority educational and 2213
cultural performing arts facility, which wages shall be 2214
determined in accordance with the requirements of Chapter 4115. 2215
of the Revised Code for the determination of prevailing wage 2216
rates. 2217

Notwithstanding any provisions to the contrary in section 2218
123.281 of the Revised Code, construction services and general 2219
building services for a port authority educational and cultural 2220
performing arts facility funded completely or in part with money 2221
appropriated by the state to the Ohio facilities construction 2222
commission may be provided by a port authority or a corporation 2223
that occupies, will occupy, or is responsible for that facility, 2224
as determined by the commission. The construction services and 2225
general building services to be provided by the port authority 2226
or the corporation shall be specified in an agreement between 2227
the commission and the port authority or corporation. That 2228
agreement, or any actions taken under it, are not subject to 2229
Chapters 123. or 153. of the Revised Code, but are subject to 2230
Chapter 4115. of the Revised Code. 2231

Sec. 307.678. (A) As used in this section:	2232
(1) "Bureau" means a nonprofit corporation that is	2233
organized under the laws of this state that is, or has among its	2234
functions acting as, a convention and visitors' bureau, and that	2235
currently receives revenue from existing lodging taxes.	2236
(2) "Cooperating parties" means the parties to a	2237
cooperative agreement.	2238
(3) "Cooperative agreement" means an agreement entered	2239
into pursuant to or as contemplated by this section.	2240
(4) "Credit enhancement facilities" has the same meaning	2241
as in section 133.01 of the Revised Code.	2242
(5) "Debt charges" has the same meaning as in section	2243
133.01 of the Revised Code, except that "obligations" shall be	2244
substituted for "securities" wherever "securities" appears in	2245
that section.	2246
(6) "Eligible county" means a county within the boundaries	2247
of which any part of a tourism development district is located.	2248
(7) "Eligible transit authority" means a regional transit	2249
authority created pursuant to section 306.31 of the Revised Code	2250
or a county in which a county transit system is created pursuant	2251
to section 306.01 of the Revised Code, within the boundaries of	2252
which any part of a tourism development district is located.	2253
(8) "Existing lodging taxes" means taxes levied by a board	2254
of county commissioners of an eligible county under division	2255
<u>divisions</u> (A) <u>to (L)</u> of section 5739.09 of the Revised Code.	2256
(9) "Financing costs" means all costs, fees, and expenses	2257
relating to the authorization, including any required election,	2258
issuance, sale, delivery, authentication, deposit, custody,	2259

clearing, registration, transfer, exchange, fractionalization, 2260
replacement, payment, and servicing, of obligations, including, 2261
without limitation, costs and expenses for or relating to 2262
publication and printing, postage, delivery, preliminary and 2263
final official statements, offering circulars, placement 2264
memoranda, and informational statements, travel and 2265
transportation, underwriters, placement agents, investment 2266
bankers, paying agents, registrars, authenticating agents, 2267
remarketing agents, custodians, clearing agencies, companies, or 2268
corporations, securities depositories, issuers, financial 2269
advisory services, certifications, audits, federal or state 2270
regulatory agencies, accounting and computation services, legal 2271
services and obtaining approving legal opinions and other legal 2272
opinions, credit ratings, paying redemption premiums, and credit 2273
enhancement facilities. Financing costs may be paid from any 2274
money available for the purpose, including, unless otherwise 2275
provided in the proceedings, from the proceeds of the 2276
obligations to which they relate and, as to future financing 2277
costs, from the same sources from which debt charges on the 2278
obligations are paid and as though debt charges. 2279

(10) "Host municipal corporation" means a municipal 2280
corporation within the boundaries of which any part of a tourism 2281
development district is located. 2282

(11) "Host school district" means a school district within 2283
the boundaries of which any part of a tourism development 2284
district is located. 2285

(12) "Incremental sales tax growth" has the same meaning 2286
as in section 5739.213 of the Revised Code, except that, in the 2287
case of an eligible county, "incremental sales tax growth" shall 2288
include only the amount of taxes levied under sections 5739.021 2289

and 5739.026 of the Revised Code credited to the county's 2290
general fund. 2291

(13) "Issuer" means a port authority, a new community 2292
authority, or any other issuer, as defined in section 133.01 of 2293
the Revised Code, and any corporation. 2294

(14) "Maintenance and repair costs" means costs and 2295
expenses incurred by a cooperating party from the party's own 2296
revenues for maintaining or repairing a project. 2297

(15) "Net lodging tax proceeds" means the proceeds of an 2298
existing lodging tax that remain after deduction by an eligible 2299
county of the real and actual costs of administering the tax and 2300
any portion of such proceeds required to be returned to a 2301
municipal corporation or township under division (A) ~~(1)~~ of 2302
section 5739.09 of the Revised Code. 2303

(16) "Net tourism development district revenues" means the 2304
tourism development district revenues remaining after deduction 2305
by the host municipal corporation of an amount, not to exceed 2306
one per cent of any admissions tax revenues, prescribed in any 2307
legislation by which, or agreement pursuant to which, tourism 2308
development district revenues are pledged, or agreed to be 2309
pledged or contributed, by an eligible county, an eligible 2310
transit authority, or a host municipal corporation, or any 2311
combination thereof, in accordance with division (B), (E), (F), 2312
or (G) of this section. 2313

(17) "New community authority" means a new community 2314
authority established under section 349.03 of the Revised Code 2315
by an organizational board of commissioners that is or includes 2316
the board of county commissioners of an eligible county or the 2317
legislative authority of a host municipal corporation. 2318

(18) "Obligations" means obligations issued or incurred by 2319
an issuer pursuant to Chapter 133., 349., or 4582. of the 2320
Revised Code, or otherwise, for the purpose of funding or 2321
paying, or reimbursing persons for the funding or payment of, 2322
project costs, and that evidence the issuer's obligation to 2323
repay borrowed money, including interest thereon, or to pay 2324
other money obligations of the issuer at any future time, 2325
including, without limitation, bonds, notes, anticipatory 2326
securities as defined in section 133.01 of the Revised Code, 2327
certificates of indebtedness, commercial paper, or installment 2328
sale, lease, lease-purchase, or similar agreements. 2329
"Obligations" does not include credit enhancement facilities. 2330

(19) "Person" includes an individual, corporation, limited 2331
liability company, business trust, estate, trust, partnership, 2332
association, eligible county, eligible transit authority, host 2333
municipal corporation, port authority, new community authority, 2334
and any other political subdivision of the state. 2335

(20) "Port authority" means a port authority created under 2336
Chapter 4582. of the Revised Code. 2337

(21) "Project" means acquiring, constructing, 2338
reconstructing, rehabilitating, remodeling, renovating, 2339
enlarging, equipping, furnishing, or otherwise improving a 2340
tourism facility or any component or element thereof. 2341

(22) "Project cost" means the cost of acquiring, 2342
constructing, reconstructing, rehabilitating, remodeling, 2343
renovating, enlarging, equipping, financing, refinancing, 2344
furnishing, or otherwise improving a project, including, without 2345
limitation, financing costs; the cost of architectural, 2346
engineering, and other professional services, designs, plans, 2347
specifications, surveys, and estimates of costs; financing or 2348

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

(23) "Taxing authority" means the board of county 2368
commissioners of an eligible county, the legislative authority, 2369
as that term is defined in section 5739.01 of the Revised Code, 2370
of an eligible transit authority, or the legislative authority 2371
of a host municipal corporation. 2372

(24) "Tourism development district" means an area 2373
designated by a host municipal corporation under section 715.014 2374
of the Revised Code. 2375

(25) "Tourism development district revenues" means money 2376
received or receivable by a host municipal corporation from 2377
incremental sales tax growth pursuant to section 5739.213 of the 2378

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

(26) "Tourism facility" means any permanent improvement, 2399
as defined in section 133.01 of the Revised Code, located in a 2400
tourism development district. 2401

(B) The board of county commissioners of an eligible 2402
county, an eligible transit authority, a host municipal 2403
corporation, the board of education of a host school district, a 2404
port authority, a bureau, a new community authority, and any 2405
other person, or any combination thereof, may enter into a 2406
cooperative agreement for any purpose authorized under this 2407
section and under which any of the following apply: 2408

(1) The board of county commissioners of the eligible 2409
county and the bureau agree to make available to a cooperating 2410
party or any other person net lodging tax proceeds, not to 2411
exceed five hundred thousand dollars each year, to fund or pay, 2412
or to reimburse other persons for funding or payment of, project 2413
costs or debt charges on obligations. 2414

(2) The board of county commissioners of the eligible 2415
county agrees, for the purpose of funding or paying or 2416
supporting, or for reimbursing other persons for funding or 2417
payment of, project costs, including debt charges on 2418
obligations, may do either of the following: 2419

(a) Make available to a cooperating party or other person 2420
an amount equal to incremental sales tax growth or all or a 2421
portion of the county's tourism development district revenues; 2422

(b) Provide, from receipts of a tax levied by the county 2423
under division ~~(A)~~ ~~(11)~~ (K) of section 5739.09 of the Revised 2424
Code, credit enhancement facilities in connection with the 2425
funding or payment of project costs, including debt charges on 2426
obligations, or any portion or combination thereof. 2427

(3) The taxing authority of an eligible transit authority 2428
agrees to make available to a cooperating party or any other 2429
person an amount equal to incremental sales tax growth or all or 2430
a portion of the transit authority's tourism development 2431
district revenues. 2432

(4) The host municipal corporation agrees to make 2433
available credit enhancement facilities or net tourism 2434
development district revenues, or any portion or combination 2435
thereof, to fund, pay, or support, or to reimburse other persons 2436
for funding or payment of, project costs, including debt charges 2437

on obligations, or maintenance and repair costs, or both. Any 2438
agreement to use net tourism development district revenues to 2439
pay or reimburse other persons for payment of maintenance and 2440
repair costs shall be subject to authorization by any 2441
cooperating party providing such funding to the host municipal 2442
corporation and to annual appropriation for such purpose by the 2443
legislative authority of the host municipal corporation and 2444
shall be subordinate to any covenant made to or by an issuer in 2445
connection with the issuance of obligations or credit 2446
enhancement facilities to pay project costs. 2447

(5) The cooperating parties agree, subject to any 2448
conditions or limitations provided in the cooperative agreement, 2449
to any of the following: 2450

(a) The conveyance, grant, or transfer to a cooperating 2451
party or any other person of ownership of, property interests 2452
in, and rights to use real or personal property to create a 2453
tourism facility or with respect to a tourism facility as the 2454
facility exists at the time of the agreement or as it may be 2455
improved by a project; 2456

(b) The respective responsibilities of each cooperating 2457
party for the management, operation, maintenance, repair, and 2458
replacement of a tourism facility, including any project 2459
undertaken with respect to the facility, which may include 2460
authorization for a cooperating party to contract with any other 2461
person for any such purpose; 2462

(c) The respective responsibilities of each cooperating 2463
party for the development and financing of a project, including, 2464
without limitation, the cooperating party or parties that shall 2465
be responsible for contracting for the development of a project 2466
and administering contracts entered into by the party or parties 2467

for that purpose; 2468

(d) The respective responsibilities of each cooperating 2469
party to provide money, credit enhancement facilities, or both, 2470
whether by issuing obligations or otherwise, for the funding, 2471
payment, financing, or refinancing, or reimbursement to a 2472
cooperating party or other person for the funding, payment, 2473
financing, or refinancing, of project costs; 2474

(e) The respective responsibilities of each cooperating 2475
party to provide money, credit enhancement facilities, or other 2476
security for the payment of debt charges on obligations or to 2477
fund or replenish reserves or otherwise provide for the payment 2478
of maintenance and repair costs. 2479

(C) Any conveyance, grant, or transfer of ownership of, 2480
property interests in, or rights to use a tourism development 2481
facility or project, including any project undertaken with 2482
respect to an existing tourism facility, that is contemplated by 2483
a cooperative agreement may be made or entered into by a 2484
cooperating party, in such manner and upon such terms as the 2485
cooperating parties may agree, without regard to ownership of 2486
the tourism facility or project, notwithstanding any other 2487
provision of law that may otherwise apply, including, without 2488
limitation, any requirement for notice, competitive bidding or 2489
selection, or the provision of security. 2490

(D) The board of county commissioners may amend any 2491
previously adopted resolution providing for the levy of an 2492
existing lodging tax to permit the use of any portion of the net 2493
lodging tax proceeds from such tax as provided in this section 2494
if and to the extent such use is not inconsistent with a 2495
cooperative agreement. A host municipal corporation may amend 2496
any previously passed ordinance providing for the levy of 2497

lodging taxes under section 5739.08 or 5739.09 of the Revised 2498
Code to permit the use of any portion of such lodging taxes as 2499
provided in this section. 2500

(E) (1) Notwithstanding any other provision of law: 2501

(a) The board of county commissioners of an eligible 2502
county may provide, from receipts of a tax levied by the county 2503
under division ~~(A) (11)~~ (K) of section 5739.09 of the Revised 2504
Code, credit enhancement facilities in connection with any 2505
project, including, without limitation, for the provision of any 2506
infrastructure necessary to support a tourism facility. 2507

(b) The board of county commissioners of an eligible 2508
county and a bureau may agree to make available to any person, 2509
on such terms and conditions as the board and the bureau may 2510
determine and agree, net lodging tax proceeds. 2511

(c) The board of county commissioners of an eligible 2512
county may agree to make available to any person, on such terms 2513
and conditions as the board may determine and agree, incremental 2514
sales tax growth and all or a portion of the county's tourism 2515
development district revenues. 2516

(2) Any amount made available under division (E) (1) (b) or 2517
(c) of this section shall be used to fund or pay, or to 2518
reimburse other persons for funding or payment of, project 2519
costs, including, without limitation, the payment of debt 2520
charges on obligations, the provision of credit enhancement 2521
facilities and the funding, and funding and replenishing 2522
reserves for that purpose or, subject to annual appropriation, 2523
to pay, or reimburse other persons for payment of, repair and 2524
maintenance costs. 2525

(3) The board of county commissioners, the bureau, or 2526

both, may pledge net lodging tax proceeds, and the board of 2527
county commissioners may pledge incremental sales tax growth and 2528
any tourism development district revenues, or any part or 2529
portion or combination thereof, to the payment of debt charges 2530
on obligations and the funding, or to fund or replenish reserves 2531
for that purpose; provided that, the total amount of net lodging 2532
tax proceeds made available for such use each year shall not 2533
exceed five hundred thousand dollars. 2534

The lien of any such pledge shall be effective against all 2535
persons when it is made, without the requirement for the filing 2536
of any notice, and any such net lodging tax proceeds, 2537
incremental sales tax growth, and tourism development district 2538
revenues, or any part or portion or combination thereof, so 2539
pledged and required to pay debt charges on obligations, to 2540
provide any credit enhancement facilities or to fund, or to fund 2541
or replenish reserves, or any combination thereof, shall be paid 2542
by the county or bureau at the times, in the amounts, and to 2543
such payee, including, without limitation, a corporate trustee 2544
or paying agent, to which the board of county commissioners and 2545
bureau agree with respect to net lodging tax proceeds and to 2546
which the board of county commissioners agree with respect to 2547
incremental sales tax growth or tourism development district 2548
revenues. 2549

(F) Notwithstanding any other provision of law, a host 2550
municipal corporation may agree to make available to any person, 2551
on such terms and conditions to which it may determine and 2552
agree, and any person may use, net tourism development district 2553
revenues, or any part or portion thereof, to fund or pay, or to 2554
reimburse other persons for funding or payment of, project 2555
costs, including, without limitation, the payment of debt 2556
charges on obligations and the funding, and funding and 2557

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

(G) Notwithstanding any other provision of law, an 2573
eligible transit authority may agree to make available, on such 2574
terms and conditions to which it may determine and agree, to any 2575
person, and any person may use, incremental sales tax growth and 2576
tourism development district revenues, or any part or portion or 2577
combination thereof, to fund or pay, or to reimburse other 2578
persons for funding or payment of, project costs, including, 2579
without limitation, the payment of debt charges on obligations 2580
and the funding and replenishing of reserves for that purpose, 2581
or, subject to annual appropriation, to pay, or to reimburse any 2582
other person for payment of, maintenance and repair costs, and 2583
the eligible transit authority may pledge incremental sales tax 2584
growth and tourism development district revenues, or any part or 2585
portion or combination thereof, to the payment of debt charges 2586
on obligations and the funding and replenishing of reserves for 2587
that purpose. The lien of any such pledge shall be effective 2588

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

(H) Except as provided herein with respect to agreements 2598
for the payment or reimbursement of maintenance and repair 2599
costs, if the term of an agreement made pursuant to division 2600
(B), (E), (F), or (G) of this section extends beyond the end of 2601
the fiscal year of the eligible county, eligible transit 2602
authority, or host municipal corporation in which it is made, 2603
the agreement shall be subject to section 5705.44 of the Revised 2604
Code, and subject to the certification required by that section, 2605
the amount due under any such agreement in each succeeding 2606
fiscal year shall be included in the annual appropriation 2607
measure of the eligible county, eligible transit authority, or 2608
host municipal corporation for each such fiscal year as a fixed 2609
charge. The obligation of an eligible county, eligible transit 2610
authority, or host municipal corporation, and of each official 2611
thereof, to include the amount required to be paid in any such 2612
fiscal year in its annual appropriation measure as a fixed 2613
charge and to make such payments from and to the extent of the 2614
amounts so pledged, or agreed to be contributed or pledged, 2615
shall be a duty specially enjoined by law and resulting from an 2616
office, trust, or station under section 2731.01 of the Revised 2617
Code, enforceable by writ of mandamus. 2618

(I) (1) Each tourism facility and project constitutes a 2619

"port authority facility" within the meaning of division (D) of 2620
section 4582.01 and division (E) of section 4582.21 of the 2621
Revised Code, and a port authority may issue obligations under 2622
Chapter 4582. of the Revised Code, subject only to the 2623
procedures and requirements applicable to its issuance of 2624
revenue bonds as provided in division (A) (4) of section 4582.06 2625
of the Revised Code or of port authority revenue bonds as 2626
provided in division (A) (8) of section 4582.31 of the Revised 2627
Code. For the purpose of issuing any such obligations, any net 2628
lodging tax proceeds, net tourism development district revenues, 2629
amounts provided pursuant to any credit enhancement facilities, 2630
and revenue from any other tax pledged, assigned, or otherwise 2631
obligated to be contributed to the payment of the obligations 2632
shall be treated as revenues of the port authority for the 2633
purposes of division (A) (4) of section 4582.06 of the Revised 2634
Code and revenues, as defined in section 4582.21 of the Revised 2635
Code. Any obligations issued under division (I) (1) of this 2636
section shall be considered revenue bonds issued under division 2637
(A) (4) of section 4582.06 of the Revised Code or port authority 2638
revenue bonds issued under division (A) (8) of section 4582.31 2639
and section 4582.48 of the Revised Code for all purposes. In 2640
addition to all other powers available to a port authority under 2641
this section or under Chapter 4582. of the Revised Code with 2642
respect to the issuance of or provision for the security for 2643
payment of debt charges on obligations, and with respect to any 2644
tourism facility or project, the port authority may take any of 2645
the actions contemplated by Chapter 4582. of the Revised Code, 2646
including, without limitation, any actions contemplated by 2647
section 4582.06, 4582.31, or 4582.47 of the Revised Code. 2648
Obligations issued by a port authority pursuant to division (I) 2649
(1) of this section shall be special obligations of the port 2650
authority and do not constitute bonded indebtedness, a general 2651

obligation, debt, or a pledge of the full faith and credit of 2652
the state, the port authority, or any other political 2653
subdivision of the state. 2654

(2) Each tourism facility and project constitutes 2655
"community facilities" within the meaning of division (I) of 2656
section 349.01 of the Revised Code, and a new community 2657
authority may issue obligations pursuant to Chapter 349. of the 2658
Revised Code subject only to the procedures and requirements 2659
applicable to its issuance of bonds or notes as used in and 2660
pursuant to section 349.08 of the Revised Code. For the purpose 2661
of issuing any such obligations, net lodging tax proceeds, net 2662
tourism development district revenues, and revenue from any 2663
other tax pledged, assigned, or otherwise obligated to be 2664
contributed to the payment of the obligations shall be treated 2665
as an income source, as defined in section 349.01 of the Revised 2666
Code. Any obligations issued under division (I)(2) of this 2667
section shall be considered bonds issued under section 349.08 of 2668
the Revised Code. In addition to all other powers available to a 2669
new community authority under division (I)(2) of this section or 2670
under Chapter 349. of the Revised Code with respect to the 2671
issuance of or provision for the security for payment of debt 2672
charges on obligations, and with respect to any tourism facility 2673
or project, the new community authority may take any of the 2674
actions contemplated by Chapter 349. of the Revised Code. 2675
Obligations issued by a new community authority pursuant to 2676
division (I)(2) of this section shall be special obligations of 2677
the new community authority and do not constitute bonded 2678
indebtedness, a general obligation, debt, or a pledge of the 2679
full faith and credit of the state, the new community authority, 2680
or any other political subdivision of the state. 2681

(J) Each project for which funding or payment of project 2682

costs is provided, in whole or in part, by the issuance of 2683
obligations secured by a pledge of net lodging tax proceeds or 2684
net tourism development district revenues, or both, and any 2685
agreement to provide credit enhancement facilities or to fund or 2686
pay, and the funding or payment of, such project costs and any 2687
maintenance and repair costs of the project from net lodging 2688
taxes and net tourism development district revenues, are hereby 2689
determined, regardless of the ownership, leasing, or use of the 2690
project by any person, to constitute implementing and 2691
participating in the development of sites and facilities within 2692
the meaning of Section 2p of Article VIII, Ohio Constitution, 2693
including division (D) (3) of that section, and any such 2694
obligations are hereby determined to be issued, and any such 2695
credit enhancement facilities and agreements to fund or pay, and 2696
funding and payment of, project costs and any maintenance and 2697
repair costs of the project, are determined to be made, under 2698
authority of Section 2p of Article VIII, Ohio Constitution, for 2699
and in furtherance of site and facility development purposes 2700
within the meaning of division (E) of that section, pursuant to 2701
provision made by law for the procedure for incurring and 2702
issuing obligations, separately or in combination with other 2703
obligations, and refunding, retiring, and evidencing 2704
obligations, and pursuant to division (F) of Section 2p of 2705
Article VIII, Ohio Constitution, such that provision for the 2706
payment of debt charges on the obligations, credit enhancement 2707
facilities, or both, the purposes and uses to which and the 2708
manner in which the proceeds of those obligations or credit 2709
enhancement facilities or money from other sources are to be or 2710
may be applied, and other implementation of those development 2711
purposes as referred to in this section, including the manner 2712
determined by an issuer to participate for those purposes, are 2713
not subject to Sections 4 and 6 of Article VIII, Ohio 2714

Constitution. 2715

No obligations may be issued under this section to fund or 2716
pay maintenance and repair costs. 2717

(K) No obligations may be issued under this section unless 2718
the issuer's fiscal officer determines that the net lodging tax 2719
proceeds, net tourism development district revenues, or both, 2720
pledged, assigned, or otherwise obligated to be contributed to 2721
the payment of debt charges on such obligations and all other 2722
obligations issued, outstanding and payable therefrom, are 2723
expected to be sufficient to pay all debt charges on all such 2724
obligations except to any extent that such debt charges are to 2725
be paid from proceeds of obligations or refunding obligations 2726
deposited or to be deposited into a pledged fund or account, 2727
including any reserve fund or account, or investment earnings 2728
thereon. 2729

(L) (1) A board of county commissioners shall not repeal, 2730
rescind, or reduce the levy of an existing lodging tax or the 2731
source of any other revenue to the extent revenue from that tax 2732
or source is pledged to the payment of debt charges on 2733
obligations, and any such lodging tax or other revenue source 2734
shall not be subject to repeal, rescission, or reduction by 2735
initiative, referendum, or subsequent enactment of legislation 2736
by the general assembly, so long as there remain outstanding any 2737
obligations as to which the payment of debt charges is secured 2738
by a pledge of the existing lodging tax or other revenue source. 2739

(2) The legislative authority of a host municipal 2740
corporation shall not repeal, rescind, or reduce the levy of any 2741
tax the proceeds of which constitute tourism development 2742
district revenues if its proceeds are pledged to the payment of 2743
debt charges on obligations, and any such tax shall not be 2744

subject to repeal, rescission, or reduction by initiative, 2745
referendum, or subsequent enactment of legislation by the 2746
general assembly, so long as there remain outstanding any 2747
obligations as to which the payment of debt charges is secured 2748
by a pledge of those net tourism development district revenues. 2749

(3) A transit authority shall not repeal, rescind, or 2750
reduce the levy of any tax the proceeds of which are pledged to 2751
the payment of debt charges on obligations, and any such tax 2752
shall not be subject to repeal, rescission, or reduction by 2753
initiative, referendum, or subsequent enactment of legislation 2754
by the general assembly, so long as there remain outstanding any 2755
obligations as to which the payment of debt charges is secured 2756
by the pledge of such tax proceeds. 2757

(M) A pledge, assignment, or other agreement to contribute 2758
net lodging tax proceeds or other revenues or credit enhancement 2759
facilities made by an eligible county under division (B) or (E) 2760
of this section; a pledge, assignment, or other agreement to 2761
contribute net tourism development district revenues or credit 2762
enhancement facilities made by a host municipality under 2763
division (B) or (F) of this section; and a pledge, assignment, 2764
or other agreement made by an eligible county or eligible 2765
transit authority or agreement to contribute revenue from taxes 2766
that constitute tourism development district revenues under 2767
division (B), (E), or (G) of this section, do not constitute 2768
bonded indebtedness, or indebtedness for the purposes of Chapter 2769
133. of the Revised Code, of an eligible county, eligible 2770
transit authority, or host municipal corporation. 2771

(N) The authority provided by this section is supplemental 2772
to, and is not intended to limit in any way, any legal authority 2773
that a cooperating party or any other person may have under any 2774

other provision of law. 2775

Sec. 307.695. (A) As used in this section: 2776

(1) "Arena" means any structure designed and constructed 2777
for the purpose of providing a venue for public entertainment 2778
and recreation by the presentation of concerts, sporting and 2779
athletic events, and other events and exhibitions, including 2780
facilities intended to house or provide a site for one or more 2781
athletic or sports teams or activities, spectator facilities, 2782
parking facilities, walkways, and auxiliary facilities, real and 2783
personal property, property rights, easements, leasehold 2784
estates, and interests that may be appropriate for, or used in 2785
connection with, the operation of the arena. 2786

(2) "Convention center" means any structure expressly 2787
designed and constructed for the purposes of presenting 2788
conventions, public meetings, and exhibitions and includes 2789
parking facilities that serve the center and any personal 2790
property used in connection with any such structure or 2791
facilities. 2792

(3) "Eligible county" means a county having a population 2793
of at least four hundred thousand but not more than eight 2794
hundred thousand according to the 2000 federal decennial census 2795
and that directly borders the geographic boundaries of another 2796
state. 2797

(4) "Entity" means a nonprofit corporation, a municipal 2798
corporation, a port authority created under Chapter 4582. of the 2799
Revised Code, or a convention facilities authority created under 2800
Chapter 351. of the Revised Code. 2801

(5) "Lodging taxes" means excise taxes levied under 2802
division (A) ~~(1)~~, ~~(A) (2) (B)~~, or ~~(C)~~ (M) of section 5739.09 of the 2803

Revised Code and the revenues arising therefrom. 2804

(6) "Nonprofit corporation" means a nonprofit corporation 2805
that is organized under the laws of this state and that includes 2806
within the purposes for which it is incorporated the 2807
authorization to lease and operate facilities such as a 2808
convention center or an arena or a combination of an arena and 2809
convention center. 2810

(7) "Project" means acquiring, constructing, 2811
reconstructing, renovating, rehabilitating, expanding, adding 2812
to, equipping, furnishing or otherwise improving an arena, a 2813
convention center, or a combination of an arena and convention 2814
center. For purposes of this section, a project is a permanent 2815
improvement for one purpose under Chapter 133. of the Revised 2816
Code. 2817

(8) "Project revenues" means money received by a county 2818
with a population greater than four hundred thousand wherein the 2819
population of the largest city comprises more than one-third of 2820
that county's population, other than money from taxes or from 2821
the proceeds of securities secured by taxes, in connection with, 2822
derived from, related to, or resulting from a project, 2823
including, but not limited to, rentals and other payments 2824
received under a lease or agreement with respect to the project, 2825
ticket charges or surcharges for admission to events at a 2826
project, charges or surcharges for parking for events at a 2827
project, charges for the use of a project or any portion of a 2828
project, including suites and seating rights, the sale of naming 2829
rights for the project or a portion of the project, unexpended 2830
proceeds of any county revenue bonds issued for the project, and 2831
any income and profit from the investment of the proceeds of any 2832
such revenue bonds or any project revenues. 2833

(9) "Chapter 133. securities," "debt charges," "general 2834
obligation," "legislation," "one purpose," "outstanding," 2835
"permanent improvement," "person," and "securities" have the 2836
meanings given to those terms in section 133.01 of the Revised 2837
Code. 2838

(B) A board of county commissioners may enter into an 2839
agreement with a convention and visitors' bureau operating in 2840
the county under which: 2841

(1) The bureau agrees to construct and equip a convention 2842
center in the county and to pledge and contribute from the tax 2843
revenues received by it under division (A) of section 5739.09 of 2844
the Revised Code, not more than such portion thereof that it is 2845
authorized to pledge and contribute for the purpose described in 2846
division (C) of this section; and 2847

(2) The board agrees to levy a tax under division ~~(C)~~ (M) 2848
of section 5739.09 of the Revised Code and pledge and contribute 2849
the revenues therefrom for the purpose described in division (C) 2850
of this section. 2851

(C) The purpose of the pledges and contributions described 2852
in divisions (B)(1) and (2) of this section is payment of 2853
principal, interest, and premium, if any, on bonds and notes 2854
issued by or for the benefit of the bureau to finance the 2855
construction and equipping of a convention center. The pledges 2856
and contributions provided for in the agreement shall be for the 2857
period stated in the agreement. Revenues determined from time to 2858
time by the board to be needed to cover the real and actual 2859
costs of administering the tax imposed ~~by~~ under division ~~(C)~~ (M) 2860
of section 5739.09 of the Revised Code may not be pledged or 2861
contributed. The agreement shall provide that any such bonds and 2862
notes shall be secured by a trust agreement between the bureau 2863

or other issuer acting for the benefit of the bureau and a 2864
corporate trustee that is a trust company or bank having the 2865
powers of a trust company within or without the state, and the 2866
trust agreement shall pledge or assign to the retirement of the 2867
bonds or notes, all moneys paid by the county under this 2868
section. A tax the revenues from which are pledged under an 2869
agreement entered into by a board of county commissioners under 2870
this section shall not be subject to diminution by initiative or 2871
referendum, or diminution by statute, unless provision is made 2872
therein for an adequate substitute therefor reasonably 2873
satisfactory to the trustee under the trust agreement that 2874
secures the bonds and notes. 2875

(D) A pledge of money by a county under division (B) of 2876
this section shall not be indebtedness of the county for 2877
purposes of Chapter 133. of the Revised Code. 2878

(E) If the terms of the agreement so provide, the board of 2879
county commissioners may acquire and lease real property to the 2880
convention bureau as the site of the convention center. The 2881
lease shall be on such terms as are set forth in the agreement. 2882
The purchase and lease are not subject to the limitations of 2883
sections 307.02 and 307.09 of the Revised Code. 2884

(F) In addition to the authority granted to a board of 2885
county commissioners under divisions (B) to (E) of this section, 2886
a board of county commissioners in a county with a population of 2887
one million two hundred thousand or more, or a county with a 2888
population greater than four hundred thousand wherein the 2889
population of the largest city comprises more than one-third of 2890
that county's population, may purchase, for cash or by 2891
installment payments, enter into lease-purchase agreements for, 2892
lease with an option to purchase, lease, construct, enlarge, 2893

improve, rebuild, equip, or furnish a convention center. 2894

(G) The board of county commissioners of a county with a 2895
population greater than four hundred thousand wherein the 2896
population of the largest city comprises more than one-third of 2897
that county's population may undertake, finance, operate, and 2898
maintain a project. The board may lease a project to an entity 2899
on terms that the board determines to be in the best interest of 2900
the county and in furtherance of the public purpose of the 2901
project; the lease may be for a term of thirty-five years or 2902
less and may provide for an option of the entity to renew the 2903
lease for a term of thirty-five years or less. The board may 2904
enter into an agreement with an entity with respect to a project 2905
on terms that the board determines to be in the best interest of 2906
the county and in furtherance of the public purpose of the 2907
project. To the extent provided for in an agreement or a lease 2908
with an entity, the board may authorize the entity to administer 2909
on behalf of the board any contracts for the project. The board 2910
may enter into an agreement providing for the sale to a person 2911
of naming rights to a project or portion of a project, for a 2912
period, for consideration, and on other terms and conditions 2913
that the board determines to be in the best interest of the 2914
county and in furtherance of the public purpose of the project. 2915
The board may enter into an agreement with a person owning or 2916
operating a professional athletic or sports team providing for 2917
the use by that person of a project or portion of a project for 2918
that team's offices, training, practices, and home games for a 2919
period, for consideration, and on other terms and conditions 2920
that the board determines to be in the best interest of the 2921
county and in furtherance of the public purpose of the project. 2922
The board may establish ticket charges or surcharges for 2923
admission to events at a project, charges or surcharges for 2924

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

(H) Notwithstanding any contrary provision in Chapter 2934
5739. of the Revised Code, after adopting a resolution declaring 2935
it to be in the best interest of the county to undertake a 2936
project as described in division (G) of this section, the board 2937
of county commissioners of an eligible county may adopt a 2938
resolution enacting or increasing any lodging taxes within the 2939
limits specified in Chapter 5739. of the Revised Code with 2940
respect to those lodging taxes and amending any prior resolution 2941
under which any of its lodging taxes have been imposed in order 2942
to provide that those taxes, after deducting the real and actual 2943
costs of administering the taxes and any portion of the taxes 2944
returned to any municipal corporation or township as provided in 2945
division (A) ~~(1)~~ of section 5739.09 of the Revised Code, shall be 2946
used by the board for the purposes of undertaking, financing, 2947
operating, and maintaining the project, including paying debt 2948
charges on any securities issued by the board under division (I) 2949
of this section, or to make contributions to the convention and 2950
visitors' bureau operating within the county, or to promote, 2951
advertise, and market the region in which the county is located, 2952
all as the board may determine and make appropriations for from 2953
time to time, subject to the terms of any pledge to the payment 2954
of debt charges on outstanding general obligation securities or 2955

special obligation securities authorized under division (I) of 2956
this section. A resolution adopted under division (H) of this 2957
section shall be adopted not earlier than January 15, 2007, and 2958
not later than January 15, 2008. 2959

A resolution adopted under division (H) of this section 2960
may direct the board of elections to submit the question of 2961
enacting or increasing lodging taxes, as the case may be, to the 2962
electors of the county at a special election held on the date 2963
specified by the board in the resolution, provided that the 2964
election occurs not less than ninety days after a certified copy 2965
of the resolution is transmitted to the board of elections and 2966
no later than January 15, 2008. A resolution submitted to the 2967
electors under this division shall not go into effect unless it 2968
is approved by a majority of those voting upon it. A resolution 2969
adopted under division (H) of this section that is not submitted 2970
to the electors of the county for their approval or disapproval 2971
is subject to a referendum as provided in sections 305.31 to 2972
305.41 of the Revised Code. 2973

A resolution adopted under division (H) of this section 2974
takes effect upon its adoption, unless the resolution is 2975
submitted to the electors of the county for their approval or 2976
disapproval, in which case the resolution takes effect on the 2977
date the board of county commissioners receives notification 2978
from the board of elections of the affirmative vote. Lodging 2979
taxes received after the effective date of the resolution may be 2980
used for the purposes described in division (H) of this section, 2981
except that lodging taxes that have been pledged to the payment 2982
of debt charges on any bonds or notes issued by or for the 2983
benefit of a convention and visitors' bureau under division (C) 2984
of this section shall be used exclusively for that purpose until 2985
such time as the bonds or notes are no longer outstanding under 2986

the trust agreement securing those bonds or notes. 2987

(I) (1) The board of county commissioners of a county with 2988
a population greater than four hundred thousand wherein the 2989
population of the largest city comprises more than one-third of 2990
that county's population may issue the following securities of 2991
the county for the purpose of paying costs of the project, 2992
refunding any outstanding county securities issued for that 2993
purpose, refunding any outstanding bonds or notes issued by or 2994
for the benefit of the bureau under division (C) of this 2995
section, or for any combination of those purposes: 2996

(a) General obligation securities issued under Chapter 2997
133. of the Revised Code. The resolution authorizing these 2998
securities may include covenants to appropriate annually from 2999
lawfully available lodging taxes, and to continue to levy and 3000
collect those lodging taxes in, amounts necessary to meet the 3001
debt charges on those securities. 3002

(b) Special obligation securities issued under Chapter 3003
133. of the Revised Code that are secured only by lawfully 3004
available lodging taxes and any other taxes and revenues pledged 3005
to pay the debt charges on those securities, except ad valorem 3006
property taxes. The resolution authorizing those securities 3007
shall include a pledge of and covenants to appropriate annually 3008
from lawfully available lodging taxes and any other taxes and 3009
revenues pledged for such purpose, and to continue to collect 3010
any of those revenues pledged for such purpose and to levy and 3011
collect those lodging taxes and any other taxes pledged for such 3012
purpose, in amounts necessary to meet the debt charges on those 3013
securities. The pledge is valid and binding from the time the 3014
pledge is made, and the lodging taxes so pledged and thereafter 3015
received by the county are immediately subject to the lien of 3016

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

(c) Revenue securities authorized under section 133.08 of 3028
the Revised Code and issued under Chapter 133. of the Revised 3029
Code that are secured only by lawfully available project 3030
revenues pledged to pay the debt charges on those securities. 3031

(2) The securities described in division (I)(1) of this 3032
section are subject to Chapter 133. of the Revised Code. 3033

(3) Section 133.34 of the Revised Code, except for 3034
division (A) of that section, applies to the issuance of any 3035
refunding securities authorized under this division. In lieu of 3036
division (A) of section 133.34 of the Revised Code, the board of 3037
county commissioners shall establish the maturity date or dates, 3038
the interest payable on, and other terms of refunding securities 3039
as it considers necessary or appropriate for their issuance, 3040
provided that the final maturity of refunding securities shall 3041
not exceed by more than ten years the final maturity of any 3042
bonds refunded by refunding securities. 3043

(4) The board may not repeal, rescind, or reduce all or 3044
any portion of any lodging taxes pledged to the payment of debt 3045
charges on any outstanding special obligation securities 3046

authorized under this division, and no portion of any lodging 3047
taxes that is pledged, or that the board has covenanted to levy, 3048
collect, and appropriate annually to pay debt charges on any 3049
outstanding securities authorized under this division is subject 3050
to repeal, rescission, or reduction by the electorate of the 3051
county. 3052

Sec. 319.301. (A) The reductions required by division (D) 3053
of this section do not apply to any of the following: 3054

(1) Taxes levied at whatever rate is required to produce a 3055
specified amount of tax money, including a tax levied under 3056
section 5705.199, ~~5705.211~~, or 5748.09 of the Revised Code, or 3057
an amount to pay debt charges; 3058

(2) Taxes levied within the one per cent limitation 3059
imposed by Section 2 of Article XII, Ohio Constitution; 3060

(3) Taxes provided for by the charter of a municipal 3061
corporation. 3062

(B) As used in this section: 3063

(1) "Real property" includes real property owned by a 3064
railroad. 3065

(2) "Carryover property" means all real property on the 3066
current year's tax list except: 3067

(a) Land and improvements that were not taxed by the 3068
district in both the preceding year and the current year; 3069

(b) Land and improvements that were not in the same class 3070
in both the preceding year and the current year. 3071

(3) "Effective tax rate" means with respect to each class 3072
of property: 3073

(a) The sum of the total taxes that would have been 3074
charged and payable for current expenses against real property 3075
in that class if each of the district's taxes were reduced for 3076
the current year under division (D) (1) of this section without 3077
regard to the application of division (E) (3) of this section 3078
divided by 3079

(b) The taxable value of all real property in that class. 3080

(4) "Taxes charged and payable" means the taxes charged 3081
and payable prior to any reduction required by section 319.302 3082
of the Revised Code. 3083

(C) The tax commissioner shall make the determinations 3084
required by this section each year, without regard to whether a 3085
taxing district has territory in a county to which section 3086
5715.24 of the Revised Code applies for that year. Separate 3087
determinations shall be made for each of the two classes 3088
established pursuant to section 5713.041 of the Revised Code. 3089

(D) With respect to each tax authorized to be levied by 3090
each taxing district, the tax commissioner, annually, shall do 3091
both of the following: 3092

(1) Determine by what percentage, if any, the sums levied 3093
by such tax against the carryover property in each class would 3094
have to be reduced for the tax to levy the same number of 3095
dollars against such property in that class in the current year 3096
as were charged against such property by such tax in the 3097
preceding year subsequent to the reduction made under this 3098
section but before the reduction made under section 319.302 of 3099
the Revised Code. In the case of a tax levied for the first time 3100
that is not a renewal of an existing tax, the commissioner shall 3101
determine by what percentage the sums that would otherwise be 3102

levied by such tax against carryover property in each class 3103
would have to be reduced to equal the amount that would have 3104
been levied if the full rate thereof had been imposed against 3105
the total taxable value of such property in the preceding tax 3106
year. A tax or portion of a tax that is designated a replacement 3107
levy under section 5705.192 of the Revised Code is not a renewal 3108
of an existing tax for purposes of this division. 3109

(2) Certify each percentage determined in division (D) (1) 3110
of this section, as adjusted under division (E) of this section, 3111
and the class of property to which that percentage applies to 3112
the auditor of each county in which the district has territory. 3113
The auditor, after complying with section 319.30 of the Revised 3114
Code, shall reduce the sum to be levied by such tax against each 3115
parcel of real property in the district by the percentage so 3116
certified for its class. Certification shall be made by the 3117
first day of September except in the case of a tax levied for 3118
the first time, in which case certification shall be made within 3119
fifteen days of the date the county auditor submits the 3120
information necessary to make the required determination. 3121

(E) (1) As used in division (E) (2) of this section, "pre- 3122
1982 joint vocational taxes" means, with respect to a class of 3123
property, the difference between the following amounts: 3124

(a) The taxes charged and payable in tax year 1981 against 3125
the property in that class for the current expenses of the joint 3126
vocational school district of which the school district is a 3127
part after making all reductions under this section; 3128

(b) ~~The following percentage~~ Two-tenths of one per cent of 3129
the taxable value of all real property in that class; 3130

~~(i) In 1987, five one hundredths of one per cent;~~ 3131

~~(ii) In 1988, one tenth of one per cent;~~ 3132
~~(iii) In 1989, fifteen one hundredths of one per cent;~~ 3133
~~(iv) In 1990 and each subsequent year, two tenths of one~~ 3134
~~per cent.~~ 3135

If the amount in division (E) (1) (b) of this section 3136
exceeds the amount in division (E) (1) (a) of this section, the 3137
pre-1982 joint vocational taxes shall be zero. 3138

As used in divisions (E) (2) and (3) of this section, 3139
"taxes charged and payable" has the same meaning as in division 3140
(B) (4) of this section and excludes any tax charged and payable 3141
in 1985 or thereafter under sections 5705.194 to 5705.197 or 3142
section 5705.199, 5705.213, 5705.219, or 5748.09 of the Revised 3143
Code. 3144

(2) If in the case of a school district other than a joint 3145
vocational or cooperative education school district any 3146
percentage required to be used in division (D) (2) of this 3147
section for either class of property could cause the total taxes 3148
charged and payable for current expenses to be less than two per 3149
cent of the taxable value of all real property in that class 3150
that is subject to taxation by the district, the commissioner 3151
shall determine what percentages would cause the district's 3152
total taxes charged and payable for current expenses against 3153
that class, after all reductions that would otherwise be made 3154
under this section, to equal, when combined with the pre-1982 3155
joint vocational taxes against that class, the lesser of the 3156
following: 3157

(a) The sum of the rates at which those taxes are 3158
authorized to be levied; 3159

(b) Two per cent of the taxable value of the property in 3160

that class. The auditor shall use such percentages in making the 3161
reduction required by this section for that class. 3162

(3) ~~(a)~~ If in the case of a joint vocational school 3163
district any percentage required to be used in division (D) (2) 3164
of this section for either class of property could cause the 3165
total taxes charged and payable for current expenses for that 3166
class to be less than ~~the designated amount~~ two-tenths of one per 3167
cent of the taxable value of that class, the commissioner shall 3168
determine what percentages would cause the district's total 3169
taxes charged and payable for current expenses for that class, 3170
after all reductions that would otherwise be made under this 3171
section, to equal ~~the designated~~ that amount. The auditor shall 3172
use such percentages in making the reductions required by this 3173
section for that class. 3174

~~(b) As used in division (E) (3) (a) of this section, the~~ 3175
~~designated amount shall equal the taxable value of all real~~ 3176
~~property in the class that is subject to taxation by the~~ 3177
~~district times the lesser of the following:~~ 3178

~~(i) Two-tenths of one per cent;~~ 3179

~~(ii) The district's effective rate plus the following~~ 3180
~~percentage for the year indicated:~~ 3181

3182

1

2

A ~~WHEN COMPUTING THE~~
~~TAXES CHARGES FOR~~

~~ADD THE FOLLOWING~~
~~PERCENTAGE:~~

B 1987

~~0.025%~~

C	1988	0.05%
D	1989	0.075%
E	1990	0.1%
F	1991	0.125%
G	1992	0.15%
H	1993	0.175%
I	1994 and thereafter	0.2%

(F) No reduction shall be made under this section in the 3183
rate at which any tax is levied. 3184

(G) The commissioner may order a county auditor to furnish 3185
any information the commissioner needs to make the 3186
determinations required under division (D) or (E) of this 3187
section, and the auditor shall supply the information in the 3188
form and by the date specified in the order. If the auditor 3189
fails to comply with an order issued under this division, except 3190
for good cause as determined by the commissioner, the 3191
commissioner shall withhold from such county or taxing district 3192
therein fifty per cent of state revenues to local governments 3193
pursuant to section 5747.50 of the Revised Code or shall direct 3194
the department of education to withhold therefrom fifty per cent 3195
of state revenues to school districts pursuant to Chapter 3317. 3196
of the Revised Code. The commissioner shall withhold the 3197
distribution of such revenues until the county auditor has 3198
complied with this division, and the department shall withhold 3199
the distribution of such revenues until the commissioner has 3200
notified the department that the county auditor has complied 3201

with this division. 3202

(H) If the commissioner is unable to certify a tax 3203
reduction factor for either class of property in a taxing 3204
district located in more than one county by the last day of 3205
November because information required under division (G) of this 3206
section is unavailable, the commissioner may compute and certify 3207
an estimated tax reduction factor for that district for that 3208
class. The estimated factor shall be based upon an estimate of 3209
the unavailable information. Upon receipt of the actual 3210
information for a taxing district that received an estimated tax 3211
reduction factor, the commissioner shall compute the actual tax 3212
reduction factor and use that factor to compute the taxes that 3213
should have been charged and payable against each parcel of 3214
property for the year for which the estimated reduction factor 3215
was used. The amount by which the estimated factor resulted in 3216
an overpayment or underpayment in taxes on any parcel shall be 3217
added to or subtracted from the amount due on that parcel in the 3218
ensuing tax year. 3219

A percentage or a tax reduction factor determined or 3220
computed by the commissioner under this section shall be used 3221
solely for the purpose of reducing the sums to be levied by the 3222
tax to which it applies for the year for which it was determined 3223
or computed. It shall not be used in making any tax computations 3224
for any ensuing tax year. 3225

(I) In making the determinations under division (D) (1) of 3226
this section, the tax commissioner shall take account of changes 3227
in the taxable value of carryover property resulting from 3228
complaints filed under section 5715.19 of the Revised Code for 3229
determinations made for the tax year in which such changes are 3230
reported to the commissioner. Such changes shall be reported to 3231

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

Sec. 321.03. At the request of the county treasurer, a 3241
board of county commissioners may enter into a contract with any 3242
financial institution under which the financial institution, in 3243
accordance with the terms of the contract, receives at a post 3244
office box any type of payment or fee owed or payable to the 3245
county, opens the mail delivered to that box, processes the 3246
checks and other payments received in such mail and deposits 3247
them into the treasurer's account, and provides the county 3248
treasurer daily receipt information with respect to such 3249
payments. The contract may provide for the financial institution 3250
to receive at the post office box those payments and fees 3251
specifically named in the contract or all payments and fees 3252
payable to the county, including, but not limited to, utility, 3253
sewer, water, refuse collection, waste disposal, and airport 3254
fees, but in any case excluding taxes. The contract shall not be 3255
entered into unless: 3256

(A) There is attached to the contract a certification by 3257
the auditor of state that the financial institution and the 3258
treasurer have given assurances satisfactory to the auditor of 3259
state that the records of the financial institution, to the 3260
extent that they relate to payments covered by the contract, 3261
shall be subject to examination by the auditor of state to the 3262

same extent as if the services that the financial institution 3263
has agreed to perform were being performed by the treasurer. 3264

(B) The contract is awarded in accordance with sections 3265
307.86 to 307.92 of the Revised Code. 3266

(C) The treasurer's surety bond includes within its 3267
coverage any loss that might occur as the result of the 3268
contract. 3269

(D) The provisions of the contract do not conflict with 3270
accounting and reporting requirements prescribed by the auditor 3271
of state. 3272

Sec. 321.20. On the first day of each month in each year, 3273
the county treasurer shall deposit with the county auditor all 3274
warrants ~~he the treasurer has redeemed~~ redeemed and take the 3275
auditor's receipt for them. 3276

Sec. 323.154. The county auditor shall approve or deny an 3277
application for reduction under section 323.152 of the Revised 3278
Code and shall so notify the applicant ~~not later than the first~~ 3279
~~Monday in October~~ within thirty days after the application is 3280
approved or denied. Notification shall be provided on a form 3281
prescribed by the tax commissioner. If the application is 3282
approved, upon issuance of the notification the county auditor 3283
shall record the amount of reduction in taxes in the appropriate 3284
column on the general tax list and duplicate of real and public 3285
utility property and on the manufactured home tax list. If the 3286
application is denied, the notification shall inform the 3287
applicant of the reasons for the denial. 3288

If an applicant believes that the application for 3289
reduction has been improperly denied or that the reduction is 3290
for less than that to which the applicant is entitled, the 3291

applicant may file an appeal with the county board of revision 3292
not later than ~~the date of closing of the collection for the~~ 3293
~~first half of real and public utility property taxes or~~ 3294
~~manufactured home taxes~~ sixty days after the notification was 3295
issued under this section. The appeal shall be treated in the 3296
same manner as a complaint relating to the valuation or 3297
assessment of real property under Chapter 5715. of the Revised 3298
Code. 3299

Sec. 351.01. As used in this chapter: 3300

(A) "Convention facilities authority" means a body 3301
corporate and politic created pursuant to section 351.02 of the 3302
Revised Code. 3303

(B) "Governmental agency" means a department, division, or 3304
other unit of the state government or of a municipal 3305
corporation, county, township, or other political subdivision of 3306
the state; any state university or college, as defined in 3307
section 3345.12 of the Revised Code, community college, state 3308
community college, university branch, or technical college; any 3309
other public corporation or agency having the power to acquire, 3310
construct, or operate facilities; the United States or any 3311
agency thereof; and any agency, commission, or authority 3312
established pursuant to an interstate compact or agreement. 3313

(C) "Person" means any individual, firm, partnership, 3314
association, or corporation, or any combination of them. 3315

(D) "Facility" or "facilities" means any convention, 3316
entertainment, or sports facility, or combination of them, 3317
located within the territory of the convention facilities 3318
authority, together with all hotels, parking facilities, 3319
walkways, and other auxiliary facilities, real and personal 3320

property, property rights, easements and interests that may be 3321
appropriate for, or used in connection with, the operation of 3322
the facility. 3323

(E) "Cost" means the cost of acquisition of all land, 3324
rights-of-way, property rights, easements, franchise rights, and 3325
interests required for such acquisition; the cost of demolishing 3326
or removing any buildings or structures on land so acquired, 3327
including the cost of acquiring any lands to which such 3328
buildings or structures may be moved; the cost of acquiring or 3329
constructing and equipping a principal office of the convention 3330
facilities authority; the cost of diverting highways, 3331
interchange of highways, access roads to private property, 3332
including the cost of land or easements for such access roads; 3333
the cost of public utility and common carrier relocation or 3334
duplication; the cost of all machinery, furnishings, and 3335
equipment; financing charges; interest prior to and during 3336
construction and for no more than eighteen months after 3337
completion of construction; expenses of research and development 3338
with respect to facilities; legal expenses; expenses of 3339
obtaining plans, specifications, engineering surveys, studies, 3340
and estimates of cost and revenues; working capital; expenses 3341
necessary or incident to determining the feasibility or 3342
practicability of acquiring or constructing such facility; 3343
administrative expense; and such other expenses as may be 3344
necessary or incident to the acquisition or construction of the 3345
facility, the financing of such acquisition or construction, 3346
including the amount authorized in the resolution of the 3347
convention facilities authority providing for the issuance of 3348
convention facilities authority revenue bonds to be paid into 3349
any special funds from the proceeds of such bonds, the cost of 3350
issuing the bonds, and the financing of the placing of such 3351

facility in operation. Any obligation, cost, or expense incurred 3352
by any governmental agency or person for surveys, borings, 3353
preparation of plans and specifications, and other engineering 3354
services, or any other cost described above, in connection with 3355
the acquisition or construction of a facility may be regarded as 3356
part of the cost of such facility and may be reimbursed out of 3357
the proceeds of convention facilities authority revenue bonds as 3358
authorized by this chapter. 3359

(F) "Owner" includes a person having any title or interest 3360
in any property, rights, easements, or interests authorized to 3361
be acquired by Chapter 351. of the Revised Code. 3362

(G) "Revenues" means all rentals and other charges 3363
received by the convention facilities authority for the use or 3364
services of any facility, the sale of any merchandise, or the 3365
operation of any concessions; any gift or grant received with 3366
respect to any facility, any moneys received with respect to the 3367
lease, sublease, sale, including installment sale or conditional 3368
sale, or other disposition of a facility or part thereof; moneys 3369
received in repayment of and for interest on any loans made by 3370
the authority to a person or governmental agency, whether from 3371
the United States or any department, administration, or agency 3372
thereof, or otherwise; proceeds of convention facilities 3373
authority revenue bonds to the extent the use thereof for 3374
payment of principal or of premium, if any, or interest on the 3375
bonds is authorized by the authority; proceeds from any 3376
insurance, appropriation, or guaranty pertaining to a facility 3377
or property mortgaged to secure bonds or pertaining to the 3378
financing of the facility; income and profit from the investment 3379
of the proceeds of convention facilities authority revenue bonds 3380
or of any revenues; contributions of the proceeds of a tax 3381
levied pursuant to division ~~(A) (3)~~ (C) of section 5739.09 of the 3382

Revised Code; and moneys transmitted to the authority pursuant 3383
to division (B) of section 5739.211 and division (B) of section 3384
5741.031 of the Revised Code. 3385

(H) "Public roads" includes all public highways, roads, 3386
and streets in the state, whether maintained by the state, 3387
county, city, township, or other political subdivision. 3388

(I) "Construction," unless the context indicates a 3389
different meaning or intent, includes, but is not limited to, 3390
reconstruction, enlargement, improvement, or providing fixtures, 3391
furnishings, and equipment. 3392

(J) "Convention facilities authority revenue bonds" or 3393
"revenue bonds," unless the context indicates a different 3394
meaning or intent, includes convention facilities authority 3395
revenue notes, convention facilities authority revenue renewal 3396
notes, and convention facilities authority revenue refunding 3397
bonds. 3398

(K) "Convention facilities authority tax anticipation 3399
bonds" or "tax anticipation bonds," unless the context indicates 3400
a different meaning, includes convention facilities authority 3401
tax anticipation bonds, tax anticipation notes, tax anticipation 3402
renewal notes, and tax anticipation refunding bonds. 3403

(L) "Bonds and notes" means convention facilities 3404
authority revenue bonds and convention facilities authority tax 3405
anticipation bonds. 3406

(M) "Territory of the authority" means all of the area of 3407
the county creating the convention facilities authority. 3408

(N) "Excise taxes" means any of the taxes levied pursuant 3409
to division (B) or (C) of section 351.021 of the Revised Code. 3410
"Excise taxes" does not include taxes levied pursuant to section 3411

4301.424, 5743.026, or 5743.324 of the Revised Code. 3412

(O) "Transaction" means the charge by a hotel for each 3413
occupancy by transient guests of a room or suite of rooms used 3414
in a hotel as a single unit for any period of twenty-four hours 3415
or less. 3416

(P) "Hotel" and "transient guests" have the same meanings 3417
as in section 5739.01 of the Revised Code. 3418

(Q) "Sports facility" means a facility intended to house 3419
major league professional athletic teams. 3420

(R) "Constructing" or "construction" includes providing 3421
fixtures, furnishings, and equipment. 3422

Sec. 351.03. (A) Except as provided in division ~~(A) (3)~~ (C) 3423
of section 5739.09 or in section 5739.026 of the Revised Code, 3424
no county creating a convention facilities authority may 3425
appropriate and expend public funds to finance or subsidize the 3426
operation of the authority. 3427

(B) Subject to making due provisions for payment and 3428
performance of its obligations, a convention facilities 3429
authority may be dissolved by the county creating it. In such 3430
event the properties of the authority shall be transferred to 3431
the county creating it, and the county may thereupon appropriate 3432
and expend public funds to finance or subsidize the operation of 3433
such facilities. 3434

Sec. 351.141. A convention facilities authority that 3435
levies any of the excise taxes authorized by division (B) or (C) 3436
of section 351.021 of the Revised Code or that receives 3437
contributions pursuant to division ~~(A) (3)~~ (C) of section 5739.09 3438
of the Revised Code, by resolution may anticipate the proceeds 3439
of the levy and issue convention facilities authority tax 3440

anticipation bonds, and notes anticipating the proceeds or the 3441
bonds, in the principal amount that, in the opinion of the 3442
authority, are necessary for the purpose of paying the cost of 3443
one or more facilities or parts of one or more facilities, and 3444
as able, with the interest on them, be paid over the term of the 3445
issue, or in the case of notes anticipating bonds over the term 3446
of the bonds, by the estimated amount of the excise taxes or 3447
contributions anticipated thereby. The excise taxes or 3448
contributions are determined by the general assembly to satisfy 3449
any applicable requirement of Section 11 of Article XII, Ohio 3450
Constitution. An authority, at any time, may issue renewal tax 3451
anticipation notes, issue tax anticipation bonds to pay such 3452
notes, and, whenever it considers refunding expedient, refund 3453
any tax anticipation bonds by the issuance of tax anticipation 3454
refunding bonds whether the bonds to be refunded have or have 3455
not matured, and issue tax anticipation bonds partly to refund 3456
bonds then outstanding and partly for any other authorized 3457
purpose. The refunding bonds shall be sold and the proceeds 3458
needed for such purpose applied in the manner provided in the 3459
bond proceedings to the purchase, redemption, or payment of the 3460
bonds to be refunded. 3461

Every issue of outstanding tax anticipation bonds shall be 3462
payable out of the proceeds of the excise taxes or contributions 3463
anticipated and other revenues of the authority that are pledged 3464
for such payment. The pledge shall be valid and binding from the 3465
time the pledge is made, and the anticipated excise taxes, 3466
contributions, and revenues so pledged and thereafter received 3467
by the authority immediately shall be subject to the lien of 3468
that pledge without any physical delivery of those excise taxes, 3469
contributions, and revenues or further act. The lien of any 3470
pledge is valid and binding as against all parties having claims 3471

of any kind in tort, contract, or otherwise against the 3472
authority, whether or not such parties have notice of the lien. 3473
Neither the resolution nor any trust agreement by which a pledge 3474
is created need be filed or recorded except in the authority's 3475
records. 3476

Whether or not the bonds or notes are of such form and 3477
character as to be negotiable instruments under Title XIII of 3478
the Revised Code, the bonds or notes shall have all the 3479
qualities and incidents of negotiable instruments, subject only 3480
to their provisions for registration, if any. 3481

The tax anticipation bonds shall bear such date or dates, 3482
and shall mature at such time or times, in the case of any such 3483
notes or any renewals of such notes not exceeding twenty years 3484
from the date of issue of such original notes and in the case of 3485
any such bonds or any refunding bonds not exceeding forty years 3486
from the date of the original issue of notes or bonds for the 3487
purpose, and shall be executed in the manner that the resolution 3488
authorizing the bonds may provide. The tax anticipation bonds 3489
shall bear interest at such rates, or at variable rate or rates 3490
changing from time to time, in accordance with provisions 3491
provided in the authorizing resolution, be in such denominations 3492
and form, either coupon or registered, carry such registration 3493
privileges, be payable in such medium of payment and at such 3494
place or places, and be subject to such terms of redemption, as 3495
the authority may authorize or provide. The tax anticipation 3496
bonds may be sold at public or private sale, and at, or at not 3497
less than the price or prices as the authority determines. If 3498
any officer whose signature or a facsimile of whose signature 3499
appears on any bonds or coupons ceases to be such officer before 3500
delivery of the bonds, the signature or facsimile shall 3501
nevertheless be sufficient for all purposes as if the officer 3502

had remained in office until delivery of the bonds, and in case 3503
the seal of the authority has been changed after a facsimile has 3504
been imprinted on the bonds, the facsimile seal will continue to 3505
be sufficient for all purposes. 3506

Any resolution or resolutions authorizing any tax 3507
anticipation bonds or any issue of tax anticipation bonds may 3508
contain provisions, subject to any agreements with bondholders 3509
as may then exist, which provisions shall be a part of the 3510
contract with the holders of the bonds, as to the pledging of 3511
any or all of the authority's anticipated excise taxes, 3512
contributions, and revenues to secure the payment of the bonds 3513
or of any issue of the bonds; the use and disposition of 3514
revenues of the authority; the crediting of the proceeds of the 3515
sale of bonds to and among the funds referred to or provided for 3516
in the resolution; limitations on the purpose to which the 3517
proceeds of sale of the bonds may be applied and the pledging of 3518
portions of such proceeds to secure the payment of the bonds or 3519
of any issue of the bonds; as to notes issued in anticipation of 3520
the issuance of bonds, the agreement of the authority to do all 3521
things necessary for the authorization, issuance, and sale of 3522
such bonds in such amounts as may be necessary for the timely 3523
retirement of such notes; limitations on the issuance of 3524
additional bonds; the terms upon which additional bonds may be 3525
issued and secured; the refunding of outstanding bonds; the 3526
procedure, if any, by which the terms of any contract with 3527
bondholders may be amended, the amount of bonds the holders of 3528
which must consent thereto, and the manner in which such consent 3529
may be given; securing any bonds by a trust agreement in 3530
accordance with section 351.16 of the Revised Code; any other 3531
matters, of like or different character, that in any way affect 3532
the security or protection of the bonds. The excise taxes 3533

anticipated by the bonds, including bonds anticipated by notes, 3534
shall not be subject to diminution by initiative or referendum 3535
or by law while the bonds or notes remain outstanding in 3536
accordance with their terms, unless provision is made by law or 3537
by the authority for an adequate substitute therefor reasonably 3538
satisfactory to the trustee, if a trust agreement secures the 3539
bonds. 3540

Neither the members of the board of directors of the 3541
authority nor any person executing the bonds shall be liable 3542
personally on the bonds or be subject to any personal liability 3543
or accountability by reason of the issuance thereof. 3544

Sec. 718.01. Any term used in this chapter that is not 3545
otherwise defined in this chapter has the same meaning as when 3546
used in a comparable context in laws of the United States 3547
relating to federal income taxation or in Title LVII of the 3548
Revised Code, unless a different meaning is clearly required. 3549
Except as provided in section 718.81 of the Revised Code, if a 3550
term used in this chapter that is not otherwise defined in this 3551
chapter is used in a comparable context in both the laws of the 3552
United States relating to federal income tax and in Title LVII 3553
of the Revised Code and the use is not consistent, then the use 3554
of the term in the laws of the United States relating to federal 3555
income tax shall control over the use of the term in Title LVII 3556
of the Revised Code. 3557

Except as otherwise provided in section 718.81 of the 3558
Revised Code, as used in this chapter: 3559

(A) (1) "Municipal taxable income" means the following: 3560

(a) For a person other than an individual, income 3561
apportioned or sitused to the municipal corporation under 3562

section 718.02 of the Revised Code, as applicable, reduced by 3563
any pre-2017 net operating loss carryforward available to the 3564
person for the municipal corporation. 3565

(b) (i) For an individual who is a resident of a municipal 3566
corporation other than a qualified municipal corporation, income 3567
reduced by exempt income to the extent otherwise included in 3568
income, then reduced as provided in division (A) (2) of this 3569
section, and further reduced by any pre-2017 net operating loss 3570
carryforward available to the individual for the municipal 3571
corporation. 3572

(ii) For an individual who is a resident of a qualified 3573
municipal corporation, Ohio adjusted gross income reduced by 3574
income exempted, and increased by deductions excluded, by the 3575
qualified municipal corporation from the qualified municipal 3576
corporation's tax. If a qualified municipal corporation, on or 3577
before December 31, 2013, exempts income earned by individuals 3578
who are not residents of the qualified municipal corporation and 3579
net profit of persons that are not wholly located within the 3580
qualified municipal corporation, such individual or person shall 3581
have no municipal taxable income for the purposes of the tax 3582
levied by the qualified municipal corporation and may be 3583
exempted by the qualified municipal corporation from the 3584
requirements of section 718.03 of the Revised Code. 3585

(c) For an individual who is a nonresident of a municipal 3586
corporation, income reduced by exempt income to the extent 3587
otherwise included in income and then, as applicable, 3588
apportioned or situated to the municipal corporation under 3589
section 718.02 of the Revised Code, then reduced as provided in 3590
division (A) (2) of this section, and further reduced by any pre- 3591
2017 net operating loss carryforward available to the individual 3592

for the municipal corporation. 3593

(2) In computing the municipal taxable income of a 3594
taxpayer who is an individual, the taxpayer may subtract, as 3595
provided in division (A) (1) (b) (i) or (c) of this section, the 3596
amount of the individual's employee business expenses reported 3597
on the individual's form 2106 that the individual deducted for 3598
federal income tax purposes for the taxable year, subject to the 3599
limitation imposed by section 67 of the Internal Revenue Code. 3600
For the municipal corporation in which the taxpayer is a 3601
resident, the taxpayer may deduct all such expenses allowed for 3602
federal income tax purposes. For a municipal corporation in 3603
which the taxpayer is not a resident, the taxpayer may deduct 3604
such expenses only to the extent the expenses are related to the 3605
taxpayer's performance of personal services in that nonresident 3606
municipal corporation. 3607

(B) "Income" means the following: 3608

(1) (a) For residents, all income, salaries, qualifying 3609
wages, commissions, and other compensation from whatever source 3610
earned or received by the resident, including the resident's 3611
distributive share of the net profit of pass-through entities 3612
owned directly or indirectly by the resident and any net profit 3613
of the resident, except as provided in division (D) (5) of this 3614
section. 3615

(b) For the purposes of division (B) (1) (a) of this 3616
section: 3617

(i) Any net operating loss of the resident incurred in the 3618
taxable year and the resident's distributive share of any net 3619
operating loss generated in the same taxable year and 3620
attributable to the resident's ownership interest in a pass- 3621

through entity shall be allowed as a deduction, for that taxable 3622
year and the following five taxable years, against any other net 3623
profit of the resident or the resident's distributive share of 3624
any net profit attributable to the resident's ownership interest 3625
in a pass-through entity until fully utilized, subject to 3626
division (B)(1)(d) of this section; 3627

(ii) The resident's distributive share of the net profit 3628
of each pass-through entity owned directly or indirectly by the 3629
resident shall be calculated without regard to any net operating 3630
loss that is carried forward by that entity from a prior taxable 3631
year and applied to reduce the entity's net profit for the 3632
current taxable year. 3633

(c) Division (B)(1)(b) of this section does not apply with 3634
respect to any net profit or net operating loss attributable to 3635
an ownership interest in an S corporation unless shareholders' 3636
distributive shares of net profits from S corporations are 3637
subject to tax in the municipal corporation as provided in 3638
division (C)(14)(b) or (c) of this section. 3639

(d) Any amount of a net operating loss used to reduce a 3640
taxpayer's net profit for a taxable year shall reduce the amount 3641
of net operating loss that may be carried forward to any 3642
subsequent year for use by that taxpayer. In no event shall the 3643
cumulative deductions for all taxable years with respect to a 3644
taxpayer's net operating loss exceed the original amount of that 3645
net operating loss available to that taxpayer. 3646

(2) In the case of nonresidents, all income, salaries, 3647
qualifying wages, commissions, and other compensation from 3648
whatever source earned or received by the nonresident for work 3649
done, services performed or rendered, or activities conducted in 3650
the municipal corporation, including any net profit of the 3651

nonresident, but excluding the nonresident's distributive share 3652
of the net profit or loss of only pass-through entities owned 3653
directly or indirectly by the nonresident. 3654

(3) For taxpayers that are not individuals, net profit of 3655
the taxpayer; 3656

(4) Lottery, sweepstakes, gambling and sports winnings, 3657
winnings from games of chance, and prizes and awards. If the 3658
taxpayer is a professional gambler for federal income tax 3659
purposes, the taxpayer may deduct related wagering losses and 3660
expenses to the extent authorized under the Internal Revenue 3661
Code and claimed against such winnings. 3662

(C) "Exempt income" means all of the following: 3663

(1) The military pay or allowances of members of the armed 3664
forces of the United States or members of their reserve 3665
components, including the national guard of any state; 3666

(2) (a) Except as provided in division (C) (2) (b) of this 3667
section, intangible income; 3668

(b) A municipal corporation that taxed any type of 3669
intangible income on March 29, 1988, pursuant to Section 3 of 3670
S.B. 238 of the 116th general assembly, may continue to tax that 3671
type of income if a majority of the electors of the municipal 3672
corporation voting on the question of whether to permit the 3673
taxation of that type of intangible income after 1988 voted in 3674
favor thereof at an election held on November 8, 1988. 3675

(3) Social security benefits, railroad retirement 3676
benefits, unemployment compensation, pensions, retirement 3677
benefit payments, payments from annuities, and similar payments 3678
made to an employee or to the beneficiary of an employee under a 3679
retirement program or plan, disability payments received from 3680

private industry or local, state, or federal governments or from 3681
charitable, religious or educational organizations, and the 3682
proceeds of sickness, accident, or liability insurance policies. 3683
As used in division (C) (3) of this section, "unemployment 3684
compensation" does not include supplemental unemployment 3685
compensation described in section 3402(o) (2) of the Internal 3686
Revenue Code. 3687

(4) The income of religious, fraternal, charitable, 3688
scientific, literary, or educational institutions to the extent 3689
such income is derived from tax-exempt real estate, tax-exempt 3690
tangible or intangible property, or tax-exempt activities. 3691

(5) Compensation paid under section 3501.28 or 3501.36 of 3692
the Revised Code to a person serving as a precinct election 3693
official to the extent that such compensation does not exceed 3694
one thousand dollars for the taxable year. Such compensation in 3695
excess of one thousand dollars for the taxable year may be 3696
subject to taxation by a municipal corporation. A municipal 3697
corporation shall not require the payer of such compensation to 3698
withhold any tax from that compensation. 3699

(6) Dues, contributions, and similar payments received by 3700
charitable, religious, educational, or literary organizations or 3701
labor unions, lodges, and similar organizations; 3702

(7) Alimony and child support received; 3703

(8) Compensation for personal injuries or for damages to 3704
property from insurance proceeds or otherwise, excluding 3705
compensation paid for lost salaries or wages or compensation 3706
from punitive damages; 3707

(9) Income of a public utility when that public utility is 3708
subject to the tax levied under section 5727.24 or 5727.30 of 3709

the Revised Code. Division (C) (9) of this section does not apply 3710
for purposes of Chapter 5745. of the Revised Code. 3711

(10) Gains from involuntary conversions, interest on 3712
federal obligations, items of income subject to a tax levied by 3713
the state and that a municipal corporation is specifically 3714
prohibited by law from taxing, and income of a decedent's estate 3715
during the period of administration except such income from the 3716
operation of a trade or business; 3717

(11) Compensation or allowances excluded from federal 3718
gross income under section 107 of the Internal Revenue Code; 3719

(12) Employee compensation that is not qualifying wages as 3720
defined in division (R) of this section; 3721

(13) Compensation paid to a person employed within the 3722
boundaries of a United States air force base under the 3723
jurisdiction of the United States air force that is used for the 3724
housing of members of the United States air force and is a 3725
center for air force operations, unless the person is subject to 3726
taxation because of residence or domicile. If the compensation 3727
is subject to taxation because of residence or domicile, tax on 3728
such income shall be payable only to the municipal corporation 3729
of residence or domicile. 3730

(14) (a) Except as provided in division (C) (14) (b) or (c) 3731
of this section, an S corporation shareholder's distributive 3732
share of net profits of the S corporation, other than any part 3733
of the distributive share of net profits that represents wages 3734
as defined in section 3121(a) of the Internal Revenue Code or 3735
net earnings from self-employment as defined in section 1402(a) 3736
of the Internal Revenue Code. 3737

(b) If, pursuant to division (H) of former section 718.01 3738

of the Revised Code as it existed before March 11, 2004, a 3739
majority of the electors of a municipal corporation voted in 3740
favor of the question at an election held on November 4, 2003, 3741
the municipal corporation may continue after 2002 to tax an S 3742
corporation shareholder's distributive share of net profits of 3743
an S corporation. 3744

(c) If, on December 6, 2002, a municipal corporation was 3745
imposing, assessing, and collecting a tax on an S corporation 3746
shareholder's distributive share of net profits of the S 3747
corporation to the extent the distributive share would be 3748
allocated or apportioned to this state under divisions (B) (1) 3749
and (2) of section 5733.05 of the Revised Code if the S 3750
corporation were a corporation subject to taxes imposed under 3751
Chapter 5733. of the Revised Code, the municipal corporation may 3752
continue to impose the tax on such distributive shares to the 3753
extent such shares would be so allocated or apportioned to this 3754
state only until December 31, 2004, unless a majority of the 3755
electors of the municipal corporation voting on the question of 3756
continuing to tax such shares after that date voted in favor of 3757
that question at an election held November 2, 2004. If a 3758
majority of those electors voted in favor of the question, the 3759
municipal corporation may continue after December 31, 2004, to 3760
impose the tax on such distributive shares only to the extent 3761
such shares would be so allocated or apportioned to this state. 3762

(d) A municipal corporation shall be deemed to have 3763
elected to tax S corporation shareholders' distributive shares 3764
of net profits of the S corporation in the hands of the 3765
shareholders if a majority of the electors of a municipal 3766
corporation voted in favor of a question at an election held 3767
under division (C) (14) (b) or (c) of this section. The municipal 3768
corporation shall specify by resolution or ordinance that the 3769

tax applies to the distributive share of a shareholder of an S 3770
corporation in the hands of the shareholder of the S 3771
corporation. 3772

(15) To the extent authorized under a resolution or 3773
ordinance adopted by a municipal corporation before January 1, 3774
2016, all or a portion of the income of individuals or a class 3775
of individuals under eighteen years of age. 3776

(16) (a) Except as provided in divisions (C) (16) (b), (c), 3777
and (d) of this section, qualifying wages described in division 3778
(B) (1) or (E) of section 718.011 of the Revised Code to the 3779
extent the qualifying wages are not subject to withholding for 3780
the municipal corporation under either of those divisions. 3781

(b) The exemption provided in division (C) (16) (a) of this 3782
section does not apply with respect to the municipal corporation 3783
in which the employee resided at the time the employee earned 3784
the qualifying wages. 3785

(c) The exemption provided in division (C) (16) (a) of this 3786
section does not apply to qualifying wages that an employer 3787
elects to withhold under division (D) (2) of section 718.011 of 3788
the Revised Code. 3789

(d) The exemption provided in division (C) (16) (a) of this 3790
section does not apply to qualifying wages if both of the 3791
following conditions apply: 3792

(i) For qualifying wages described in division (B) (1) of 3793
section 718.011 of the Revised Code, the employee's employer 3794
withholds and remits tax on the qualifying wages to the 3795
municipal corporation in which the employee's principal place of 3796
work is situated, or, for qualifying wages described in division 3797
(E) of section 718.011 of the Revised Code, the employee's 3798

employer withholds and remits tax on the qualifying wages to the 3799
municipal corporation in which the employer's fixed location is 3800
located; 3801

(ii) The employee receives a refund of the tax described 3802
in division (C) (16) (d) (i) of this section on the basis of the 3803
employee not performing services in that municipal corporation. 3804

(17) (a) Except as provided in division (C) (17) (b) or (c) 3805
of this section, compensation that is not qualifying wages paid 3806
to a nonresident individual for personal services performed in 3807
the municipal corporation on not more than twenty days in a 3808
taxable year. 3809

(b) The exemption provided in division (C) (17) (a) of this 3810
section does not apply under either of the following 3811
circumstances: 3812

(i) The individual's base of operation is located in the 3813
municipal corporation. 3814

(ii) The individual is a professional athlete, 3815
professional entertainer, or public figure, and the compensation 3816
is paid for the performance of services in the individual's 3817
capacity as a professional athlete, professional entertainer, or 3818
public figure. For purposes of division (C) (17) (b) (ii) of this 3819
section, "professional athlete," "professional entertainer," and 3820
"public figure" have the same meanings as in section 718.011 of 3821
the Revised Code. 3822

(c) Compensation to which division (C) (17) of this section 3823
applies shall be treated as earned or received at the 3824
individual's base of operation. If the individual does not have 3825
a base of operation, the compensation shall be treated as earned 3826
or received where the individual is domiciled. 3827

(d) For purposes of division (C) (17) of this section, 3828
"base of operation" means the location where an individual owns 3829
or rents an office, storefront, or similar facility to which the 3830
individual regularly reports and at which the individual 3831
regularly performs personal services for compensation. 3832

(18) Compensation paid to a person for personal services 3833
performed for a political subdivision on property owned by the 3834
political subdivision, regardless of whether the compensation is 3835
received by an employee of the subdivision or another person 3836
performing services for the subdivision under a contract with 3837
the subdivision, if the property on which services are performed 3838
is annexed to a municipal corporation pursuant to section 3839
709.023 of the Revised Code on or after March 27, 2013, unless 3840
the person is subject to such taxation because of residence. If 3841
the compensation is subject to taxation because of residence, 3842
municipal income tax shall be payable only to the municipal 3843
corporation of residence. 3844

(19) In the case of a tax administered, collected, and 3845
enforced by a municipal corporation pursuant to an agreement 3846
with the board of directors of a joint economic development 3847
district under section 715.72 of the Revised Code, the net 3848
profits of a business, and the income of the employees of that 3849
business, exempted from the tax under division (Q) of that 3850
section. 3851

(20) All of the following: 3852

(a) Income derived from disaster work conducted in this 3853
state by an out-of-state disaster business during a disaster 3854
response period pursuant to a qualifying solicitation received 3855
by the business; 3856

(b) Income of a qualifying employee described in division 3857
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 3858
such income is derived from disaster work conducted in this 3859
state by the employee during a disaster response period pursuant 3860
to a qualifying solicitation received by the employee's 3861
employer; 3862

(c) Income of a qualifying employee described in division 3863
(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 3864
such income is derived from disaster work conducted in this 3865
state by the employee during a disaster response period on 3866
critical infrastructure owned or used by the employee's 3867
employer. 3868

(21) Income the taxation of which is prohibited by the 3869
constitution or laws of the United States. 3870

Any item of income that is exempt income of a pass-through 3871
entity under division (C) of this section is exempt income of 3872
each owner of the pass-through entity to the extent of that 3873
owner's distributive or proportionate share of that item of the 3874
entity's income. 3875

(D) (1) "Net profit" for a person who is an individual 3876
means the individual's net profit required to be reported on 3877
schedule C, schedule E, or schedule F reduced by any net 3878
operating loss carried forward. For the purposes of division (D) 3879
(1) of this section, the net operating loss carried forward 3880
shall be calculated and deducted in the same manner as provided 3881
in division (D) (3) of this section. 3882

(2) "Net profit" for a person other than an individual 3883
means adjusted federal taxable income reduced by any net 3884
operating loss incurred by the person in a taxable year 3885

beginning on or after January 1, 2017, subject to the 3886
limitations of division (D) (3) of this section. 3887

(3) (a) The amount of such net operating loss shall be 3888
deducted from net profit to the extent necessary to reduce 3889
municipal taxable income to zero, with any remaining unused 3890
portion of the net operating loss carried forward to not more 3891
than five consecutive taxable years following the taxable year 3892
in which the loss was incurred, but in no case for more years 3893
than necessary for the deduction to be fully utilized. 3894

(b) No person shall use the deduction allowed by division 3895
(D) (3) of this section to offset qualifying wages. 3896

(c) (i) For taxable years beginning in 2018, 2019, 2020, 3897
2021, or 2022, a person may not deduct, for purposes of an 3898
income tax levied by a municipal corporation that levies an 3899
income tax before January 1, 2016, more than fifty per cent of 3900
the amount of the deduction otherwise allowed by division (D) (3) 3901
of this section. 3902

(ii) For taxable years beginning in 2023 or thereafter, a 3903
person may deduct, for purposes of an income tax levied by a 3904
municipal corporation that levies an income tax before January 3905
1, 2016, the full amount allowed by division (D) (3) of this 3906
section without regard to the limitation of division (D) (3) (b) 3907
(i) of this section. 3908

(d) Any pre-2017 net operating loss carryforward deduction 3909
that is available may be utilized before a taxpayer may deduct 3910
any amount pursuant to division (D) (3) of this section. 3911

(e) Nothing in division (D) (3) (c) (i) of this section 3912
precludes a person from carrying forward, for use with respect 3913
to any return filed for a taxable year beginning after 2018, any 3914

amount of net operating loss that was not fully utilized by 3915
operation of division (D) (3) (c) (i) of this section. To the 3916
extent that an amount of net operating loss that was not fully 3917
utilized in one or more taxable years by operation of division 3918
(D) (3) (c) (i) of this section is carried forward for use with 3919
respect to a return filed for a taxable year beginning in 2019, 3920
2020, 2021, or 2022, the limitation described in division (D) (3) 3921
(c) (i) of this section shall apply to the amount carried 3922
forward. 3923

(4) For the purposes of this chapter, and notwithstanding 3924
division (D) (2) of this section, net profit of a disregarded 3925
entity shall not be taxable as against that disregarded entity, 3926
but shall instead be included in the net profit of the owner of 3927
the disregarded entity. 3928

(5) For the purposes of this chapter, and notwithstanding 3929
any other provision of this chapter, the net profit of a 3930
publicly traded partnership that makes the election described in 3931
division (D) (5) of this section shall be taxed as if the 3932
partnership were a C corporation, and shall not be treated as 3933
the net profit or income of any owner of the partnership. 3934

A publicly traded partnership that is treated as a 3935
partnership for federal income tax purposes and that is subject 3936
to tax on its net profits in one or more municipal corporations 3937
in this state may elect to be treated as a C corporation for 3938
municipal income tax purposes. The publicly traded partnership 3939
shall make the election in every municipal corporation in which 3940
the partnership is subject to taxation on its net profits. The 3941
election shall be made on the annual tax return filed in each 3942
such municipal corporation. The publicly traded partnership 3943
shall not be required to file the election with any municipal 3944

corporation in which the partnership is not subject to taxation 3945
on its net profits, but division (D) (5) of this section applies 3946
to all municipal corporations in which an individual owner of 3947
the partnership resides. 3948

(E) "Adjusted federal taxable income," for a person 3949
required to file as a C corporation, or for a person that has 3950
elected to be taxed as a C corporation under division (D) (5) of 3951
this section, means a C corporation's federal taxable income 3952
before net operating losses and special deductions as determined 3953
under the Internal Revenue Code, adjusted as follows: 3954

(1) Deduct intangible income to the extent included in 3955
federal taxable income. The deduction shall be allowed 3956
regardless of whether the intangible income relates to assets 3957
used in a trade or business or assets held for the production of 3958
income. 3959

(2) Add an amount equal to five per cent of intangible 3960
income deducted under division (E) (1) of this section, but 3961
excluding that portion of intangible income directly related to 3962
the sale, exchange, or other disposition of property described 3963
in section 1221 of the Internal Revenue Code; 3964

(3) Add any losses allowed as a deduction in the 3965
computation of federal taxable income if the losses directly 3966
relate to the sale, exchange, or other disposition of an asset 3967
described in section 1221 or 1231 of the Internal Revenue Code; 3968

(4) (a) Except as provided in division (E) (4) (b) of this 3969
section, deduct income and gain included in federal taxable 3970
income to the extent the income and gain directly relate to the 3971
sale, exchange, or other disposition of an asset described in 3972
section 1221 or 1231 of the Internal Revenue Code; 3973

(b) Division (E) (4) (a) of this section does not apply to 3974
the extent the income or gain is income or gain described in 3975
section 1245 or 1250 of the Internal Revenue Code. 3976

(5) Add taxes on or measured by net income allowed as a 3977
deduction in the computation of federal taxable income; 3978

(6) In the case of a real estate investment trust or 3979
regulated investment company, add all amounts with respect to 3980
dividends to, distributions to, or amounts set aside for or 3981
credited to the benefit of investors and allowed as a deduction 3982
in the computation of federal taxable income; 3983

(7) Deduct, to the extent not otherwise deducted or 3984
excluded in computing federal taxable income, any income derived 3985
from a transfer agreement or from the enterprise transferred 3986
under that agreement under section 4313.02 of the Revised Code; 3987

(8) Deduct exempt income to the extent not otherwise 3988
deducted or excluded in computing adjusted federal taxable 3989
income. 3990

(9) Deduct any net profit of a pass-through entity owned 3991
directly or indirectly by the taxpayer and included in the 3992
taxpayer's federal taxable income unless an affiliated group of 3993
corporations includes that net profit in the group's federal 3994
taxable income in accordance with division (E) (3) (b) of section 3995
718.06 of the Revised Code. 3996

(10) Add any loss incurred by a pass-through entity owned 3997
directly or indirectly by the taxpayer and included in the 3998
taxpayer's federal taxable income unless an affiliated group of 3999
corporations includes that loss in the group's federal taxable 4000
income in accordance with division (E) (3) (b) of section 718.06 4001
of the Revised Code. 4002

If the taxpayer is not a C corporation, is not a 4003
disregarded entity that has made the election described in 4004
division (L) (2) of this section, is not a publicly traded 4005
partnership that has made the election described in division (D) 4006
(5) of this section, and is not an individual, the taxpayer 4007
shall compute adjusted federal taxable income under this section 4008
as if the taxpayer were a C corporation, except guaranteed 4009
payments and other similar amounts paid or accrued to a partner, 4010
former partner, shareholder, former shareholder, member, or 4011
former member shall not be allowed as a deductible expense 4012
unless such payments are in consideration for the use of capital 4013
and treated as payment of interest under section 469 of the 4014
Internal Revenue Code or United States treasury regulations. 4015
Amounts paid or accrued to a qualified self-employed retirement 4016
plan with respect to a partner, former partner, shareholder, 4017
former shareholder, member, or former member of the taxpayer, 4018
amounts paid or accrued to or for health insurance for a 4019
partner, former partner, shareholder, former shareholder, 4020
member, or former member, and amounts paid or accrued to or for 4021
life insurance for a partner, former partner, shareholder, 4022
former shareholder, member, or former member shall not be 4023
allowed as a deduction. 4024

Nothing in division (E) of this section shall be construed 4025
as allowing the taxpayer to add or deduct any amount more than 4026
once or shall be construed as allowing any taxpayer to deduct 4027
any amount paid to or accrued for purposes of federal self- 4028
employment tax. 4029

(F) "Schedule C" means internal revenue service schedule C 4030
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4031
Code. 4032

(G) "Schedule E" means internal revenue service schedule E 4033
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4034
Code. 4035

(H) "Schedule F" means internal revenue service schedule F 4036
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4037
Code. 4038

(I) "Internal Revenue Code" has the same meaning as in 4039
section 5747.01 of the Revised Code. 4040

(J) "Resident" means an individual who is domiciled in the 4041
municipal corporation as determined under section 718.012 of the 4042
Revised Code. 4043

(K) "Nonresident" means an individual that is not a 4044
resident. 4045

(L) (1) "Taxpayer" means a person subject to a tax levied 4046
on income by a municipal corporation in accordance with this 4047
chapter. "Taxpayer" does not include a grantor trust or, except 4048
as provided in division (L) (2) (a) of this section, a disregarded 4049
entity. 4050

(2) (a) A single member limited liability company that is a 4051
disregarded entity for federal tax purposes may be a separate 4052
taxpayer from its single member in all Ohio municipal 4053
corporations in which it either filed as a separate taxpayer or 4054
did not file for its taxable year ending in 2003, if all of the 4055
following conditions are met: 4056

(i) The limited liability company's single member is also 4057
a limited liability company. 4058

(ii) The limited liability company and its single member 4059
were formed and doing business in one or more Ohio municipal 4060

corporations for at least five years before January 1, 2004. 4061

(iii) Not later than December 31, 2004, the limited 4062
liability company and its single member each made an election to 4063
be treated as a separate taxpayer under division (L) of this 4064
section as this section existed on December 31, 2004. 4065

(iv) The limited liability company was not formed for the 4066
purpose of evading or reducing Ohio municipal corporation income 4067
tax liability of the limited liability company or its single 4068
member. 4069

(v) The Ohio municipal corporation that was the primary 4070
place of business of the sole member of the limited liability 4071
company consented to the election. 4072

(b) For purposes of division (L) (2) (a) (v) of this section, 4073
a municipal corporation was the primary place of business of a 4074
limited liability company if, for the limited liability 4075
company's taxable year ending in 2003, its income tax liability 4076
was greater in that municipal corporation than in any other 4077
municipal corporation in Ohio, and that tax liability to that 4078
municipal corporation for its taxable year ending in 2003 was at 4079
least four hundred thousand dollars. 4080

(M) "Person" includes individuals, firms, companies, joint 4081
stock companies, business trusts, estates, trusts, partnerships, 4082
limited liability partnerships, limited liability companies, 4083
associations, C corporations, S corporations, governmental 4084
entities, and any other entity. 4085

(N) "Pass-through entity" means a partnership not treated 4086
as an association taxable as a C corporation for federal income 4087
tax purposes, a limited liability company not treated as an 4088
association taxable as a C corporation for federal income tax 4089

purposes, an S corporation, or any other class of entity from 4090
which the income or profits of the entity are given pass-through 4091
treatment for federal income tax purposes. "Pass-through entity" 4092
does not include a trust, estate, grantor of a grantor trust, or 4093
disregarded entity. 4094

(O) "S corporation" means a person that has made an 4095
election under subchapter S of Chapter 1 of Subtitle A of the 4096
Internal Revenue Code for its taxable year. 4097

(P) "Single member limited liability company" means a 4098
limited liability company that has one direct member. 4099

(Q) "Limited liability company" means a limited liability 4100
company formed under Chapter 1705. of the Revised Code or under 4101
the laws of another state. 4102

(R) "Qualifying wages" means wages, as defined in section 4103
3121(a) of the Internal Revenue Code, without regard to any wage 4104
limitations, adjusted as follows: 4105

(1) Deduct the following amounts: 4106

(a) Any amount included in wages if the amount constitutes 4107
compensation attributable to a plan or program described in 4108
section 125 of the Internal Revenue Code. 4109

(b) Any amount included in wages if the amount constitutes 4110
payment on account of a disability related to sickness or an 4111
accident paid by a party unrelated to the employer, agent of an 4112
employer, or other payer. 4113

(c) Any amount attributable to a nonqualified deferred 4114
compensation plan or program described in section 3121(v) (2) (C) 4115
of the Internal Revenue Code if the compensation is included in 4116
wages and the municipal corporation has, by resolution or 4117

ordinance adopted before January 1, 2016, exempted the amount 4118
from withholding and tax. 4119

(d) Any amount included in wages if the amount arises from 4120
the sale, exchange, or other disposition of a stock option, the 4121
exercise of a stock option, or the sale, exchange, or other 4122
disposition of stock purchased under a stock option and the 4123
municipal corporation has, by resolution or ordinance adopted 4124
before January 1, 2016, exempted the amount from withholding and 4125
tax. 4126

(e) Any amount included in wages that is exempt income. 4127

(2) Add the following amounts: 4128

(a) Any amount not included in wages solely because the 4129
employee was employed by the employer before April 1, 1986. 4130

(b) Any amount not included in wages because the amount 4131
arises from the sale, exchange, or other disposition of a stock 4132
option, the exercise of a stock option, or the sale, exchange, 4133
or other disposition of stock purchased under a stock option and 4134
the municipal corporation has not, by resolution or ordinance, 4135
exempted the amount from withholding and tax adopted before 4136
January 1, 2016. Division (R)(2)(b) of this section applies only 4137
to those amounts constituting ordinary income. 4138

(c) Any amount not included in wages if the amount is an 4139
amount described in section 401(k), 403(b), or 457 of the 4140
Internal Revenue Code. Division (R)(2)(c) of this section 4141
applies only to employee contributions and employee deferrals. 4142

(d) Any amount that is supplemental unemployment 4143
compensation benefits described in section 3402(o)(2) of the 4144
Internal Revenue Code and not included in wages. 4145

(e) Any amount received that is treated as self-employment 4146
income for federal tax purposes in accordance with section 4147
1402(a) (8) of the Internal Revenue Code. 4148

(f) Any amount not included in wages if all of the 4149
following apply: 4150

(i) For the taxable year the amount is employee 4151
compensation that is earned outside of the United States and 4152
that either is included in the taxpayer's gross income for 4153
federal income tax purposes or would have been included in the 4154
taxpayer's gross income for such purposes if the taxpayer did 4155
not elect to exclude the income under section 911 of the 4156
Internal Revenue Code; 4157

(ii) For no preceding taxable year did the amount 4158
constitute wages as defined in section 3121(a) of the Internal 4159
Revenue Code; 4160

(iii) For no succeeding taxable year will the amount 4161
constitute wages; and 4162

(iv) For any taxable year the amount has not otherwise 4163
been added to wages pursuant to either division (R) (2) of this 4164
section or section 718.03 of the Revised Code, as that section 4165
existed before the effective date of H.B. 5 of the 130th general 4166
assembly, March 23, 2015. 4167

(S) "Intangible income" means income of any of the 4168
following types: income yield, interest, capital gains, 4169
dividends, or other income arising from the ownership, sale, 4170
exchange, or other disposition of intangible property including, 4171
but not limited to, investments, deposits, money, or credits as 4172
those terms are defined in Chapter 5701. of the Revised Code, 4173
and patents, copyrights, trademarks, tradenames, investments in 4174

real estate investment trusts, investments in regulated 4175
investment companies, and appreciation on deferred compensation. 4176
"Intangible income" does not include prizes, awards, or other 4177
income associated with any lottery winnings, gambling winnings, 4178
or other similar games of chance. 4179

(T) "Taxable year" means the corresponding tax reporting 4180
period as prescribed for the taxpayer under the Internal Revenue 4181
Code. 4182

(U) "Tax administrator" means the individual charged with 4183
direct responsibility for administration of an income tax levied 4184
by a municipal corporation in accordance with this chapter, and 4185
also includes the following: 4186

(1) A municipal corporation acting as the agent of another 4187
municipal corporation; 4188

(2) A person retained by a municipal corporation to 4189
administer a tax levied by the municipal corporation, but only 4190
if the municipal corporation does not compensate the person in 4191
whole or in part on a contingency basis; 4192

(3) The central collection agency or the regional income 4193
tax agency or their successors in interest, or another entity 4194
organized to perform functions similar to those performed by the 4195
central collection agency and the regional income tax agency. 4196

"Tax administrator" does not include the tax commissioner. 4197

(V) "Employer" means a person that is an employer for 4198
federal income tax purposes. 4199

(W) "Employee" means an individual who is an employee for 4200
federal income tax purposes. 4201

(X) "Other payer" means any person, other than an 4202

individual's employer or the employer's agent, that pays an 4203
individual any amount included in the federal gross income of 4204
the individual. "Other payer" includes casino operators and 4205
video lottery terminal sales agents. 4206

(Y) "Calendar quarter" means the three-month period ending 4207
on the last day of March, June, September, or December. 4208

(Z) "Form 2106" means internal revenue service form 2106 4209
filed by a taxpayer pursuant to the Internal Revenue Code. 4210

(AA) "Municipal corporation" includes a joint economic 4211
development district or joint economic development zone that 4212
levies an income tax under section 715.691, 715.70, 715.71, or 4213
715.72 of the Revised Code. 4214

(BB) "Disregarded entity" means a single member limited 4215
liability company, a qualifying subchapter S subsidiary, or 4216
another entity if the company, subsidiary, or entity is a 4217
disregarded entity for federal income tax purposes. 4218

(CC) "Generic form" means an electronic or paper form that 4219
is not prescribed by a particular municipal corporation and that 4220
is designed for reporting taxes withheld by an employer, agent 4221
of an employer, or other payer, estimated municipal income 4222
taxes, or annual municipal income tax liability or for filing a 4223
refund claim. 4224

(DD) "Tax return preparer" means any individual described 4225
in section 7701(a)(36) of the Internal Revenue Code and 26 4226
C.F.R. 301.7701-15. 4227

(EE) "Ohio business gateway" means the online computer 4228
network system, created under section 125.30 of the Revised 4229
Code, that allows persons to electronically file business reply 4230
forms with state agencies and includes any successor electronic 4231

filing and payment system. 4232

(FF) "Local board of tax review" and "board of tax review" 4233
mean the entity created under section 718.11 of the Revised 4234
Code. 4235

(GG) "Net operating loss" means a loss incurred by a 4236
person in the operation of a trade or business. "Net operating 4237
loss" does not include unutilized losses resulting from basis 4238
limitations, at-risk limitations, or passive activity loss 4239
limitations. 4240

(HH) "Casino operator" and "casino facility" have the same 4241
meanings as in section 3772.01 of the Revised Code. 4242

(II) "Video lottery terminal" has the same meaning as in 4243
section 3770.21 of the Revised Code. 4244

(JJ) "Video lottery terminal sales agent" means a lottery 4245
sales agent licensed under Chapter 3770. of the Revised Code to 4246
conduct video lottery terminals on behalf of the state pursuant 4247
to section 3770.21 of the Revised Code. 4248

(KK) "Postal service" means the United States postal 4249
service. 4250

(LL) "Certified mail," "express mail," "United States 4251
mail," "postal service," and similar terms include any delivery 4252
service authorized pursuant to section 5703.056 of the Revised 4253
Code. 4254

(MM) "Postmark date," "date of postmark," and similar 4255
terms include the date recorded and marked in the manner 4256
described in division (B) (3) of section 5703.056 of the Revised 4257
Code. 4258

(NN) "Related member" means a person that, with respect to 4259

the taxpayer during all or any portion of the taxable year, is 4260
either a related entity, a component member as defined in 4261
section 1563(b) of the Internal Revenue Code, or a person to or 4262
from whom there is attribution of stock ownership in accordance 4263
with section 1563(e) of the Internal Revenue Code except, for 4264
purposes of determining whether a person is a related member 4265
under this division, "twenty per cent" shall be substituted for 4266
"5 percent" wherever "5 percent" appears in section 1563(e) of 4267
the Internal Revenue Code. 4268

(00) "Related entity" means any of the following: 4269

(1) An individual stockholder, or a member of the 4270
stockholder's family enumerated in section 318 of the Internal 4271
Revenue Code, if the stockholder and the members of the 4272
stockholder's family own directly, indirectly, beneficially, or 4273
constructively, in the aggregate, at least fifty per cent of the 4274
value of the taxpayer's outstanding stock; 4275

(2) A stockholder, or a stockholder's partnership, estate, 4276
trust, or corporation, if the stockholder and the stockholder's 4277
partnerships, estates, trusts, or corporations own directly, 4278
indirectly, beneficially, or constructively, in the aggregate, 4279
at least fifty per cent of the value of the taxpayer's 4280
outstanding stock; 4281

(3) A corporation, or a party related to the corporation 4282
in a manner that would require an attribution of stock from the 4283
corporation to the party or from the party to the corporation 4284
under division (00) (4) of this section, provided the taxpayer 4285
owns directly, indirectly, beneficially, or constructively, at 4286
least fifty per cent of the value of the corporation's 4287
outstanding stock; 4288

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

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

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

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

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

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

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

(TT) "Small employer" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue;

reimbursements; any type of payment from a governmental unit, 4349
including grants and other allocations; and any other similar 4350
receipts reported for federal income tax purposes or under 4351
generally accepted accounting principles. "Small employer" does 4352
not include the federal government; any state government, 4353
including any state agency or instrumentality; any political 4354
subdivision; or any entity treated as a government for financial 4355
accounting and reporting purposes. 4356

(UU) "Audit" means the examination of a person or the 4357
inspection of the books, records, memoranda, or accounts of a 4358
person for the purpose of determining liability for a municipal 4359
income tax. 4360

(VV) "Publicly traded partnership" means any partnership, 4361
an interest in which is regularly traded on an established 4362
securities market. A "publicly traded partnership" may have any 4363
number of partners. 4364

(WW) "Tax commissioner" means the tax commissioner 4365
appointed under section 121.03 of the Revised Code. 4366

(XX) "Out-of-state disaster business," "qualifying 4367
solicitation," "qualifying employee," "disaster work," "critical 4368
infrastructure," and "disaster response period" have the same 4369
meanings as in section 5703.94 of the Revised Code. 4370

(YY) "Pension" means a retirement benefit plan, regardless 4371
of whether the plan satisfies the qualifications described under 4372
section 401(a) of the Internal Revenue Code, including amounts 4373
that are taxable under the "Federal Insurance Contributions 4374
Act," Chapter 21 of the Internal Revenue Code, excluding 4375
employee contributions and elective deferrals, and regardless of 4376
whether such amounts are paid in the same taxable year in which 4377

the amounts are included in the employee's wages, as defined by 4378
section 3121(a) of the Internal Revenue Code. 4379

(ZZ) "Retirement benefit plan" means an arrangement 4380
whereby an entity provides benefits to individuals either on or 4381
after their termination of service because of retirement or 4382
disability. "Retirement benefit plan" does not include wage 4383
continuation payments, severance payments, or payments made for 4384
accrued personal or vacation time. 4385

Sec. 718.021. (A) As used in this section: 4386

(1) "Nonqualified deferred compensation plan" means a 4387
compensation plan described in section 3121(v) (2) (C) of the 4388
Internal Revenue Code. 4389

(2) (a) Except as provided in division (A) (2) (b) of this 4390
section, "qualifying loss" means the excess, if any, of the 4391
total amount of compensation the payment of which is deferred 4392
pursuant to a nonqualified deferred compensation plan over the 4393
total amount of income the taxpayer has recognized for federal 4394
income tax purposes for all taxable years on a cumulative basis 4395
as compensation with respect to the taxpayer's receipt of money 4396
and property attributable to distributions in connection with 4397
the nonqualified deferred compensation plan. 4398

(b) If, for one or more taxable years, the taxpayer has 4399
not paid to one or more municipal corporations income tax 4400
imposed on the entire amount of compensation the payment of 4401
which is deferred pursuant to a nonqualified deferred 4402
compensation plan, then the "qualifying loss" is the product of 4403
the amount resulting from the calculation described in division 4404
(A) (2) (a) of this section computed without regard to division 4405
(A) (2) (b) of this section and a fraction the numerator of which 4406

is the portion of such compensation on which the taxpayer has 4407
paid income tax to one or more municipal corporations and the 4408
denominator of which is the total amount of compensation the 4409
payment of which is deferred pursuant to a nonqualified deferred 4410
compensation plan. 4411

(c) With respect to a nonqualified deferred compensation 4412
plan, the taxpayer sustains a qualifying loss only in the 4413
taxable year in which the taxpayer receives the final 4414
distribution of money and property pursuant to that nonqualified 4415
deferred compensation plan. 4416

(3) "Qualifying tax rate" means the applicable tax rate 4417
for the taxable year for ~~the~~ which the taxpayer paid income tax 4418
to a municipal corporation with respect to any portion of the 4419
total amount of compensation the payment of which is deferred 4420
pursuant to a nonqualified deferred compensation plan. If 4421
different tax rates applied for different taxable years, then 4422
the "qualifying tax rate" is a weighted average of those 4423
different tax rates. The weighted average shall be based upon 4424
the tax paid to the municipal corporation each year with respect 4425
to the nonqualified deferred compensation plan. 4426

(B) (1) Except as provided in division (D) of this section, 4427
a refundable credit shall be allowed against the income tax 4428
imposed by a municipal corporation for each qualifying loss 4429
sustained by a taxpayer during the taxable year. The amount of 4430
the credit shall be equal to the product of the qualifying loss 4431
and the qualifying tax rate. 4432

(2) A taxpayer shall claim the credit allowed under this 4433
section from each municipal corporation to which the taxpayer 4434
paid municipal income tax with respect to the nonqualified 4435
deferred compensation plan in one or more taxable years. 4436

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

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

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

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

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

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

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the

nonqualified deferred compensation. 4466

Sec. 929.01. As used in this chapter: 4467

(A) "Agricultural production" means commercial 4468
aquaculture, algaculture meaning the farming of algae, 4469
apiculture, animal husbandry, or poultry husbandry; the 4470
production for a commercial purpose of timber, field crops, 4471
tobacco, fruits, vegetables, nursery stock, ornamental shrubs, 4472
ornamental trees, flowers, or sod; the growth of timber for a 4473
noncommercial purpose if the land on which the timber is grown 4474
is contiguous to or part of a parcel of land under common 4475
ownership that is otherwise devoted exclusively to agricultural 4476
use; or any combination of such husbandry, production, or 4477
growth; and includes the processing, drying, storage, and 4478
marketing of agricultural products when those activities are 4479
conducted in conjunction with such husbandry, production, or 4480
growth. 4481

"Agricultural production" includes conservation practices, 4482
provided that the tracts, lots, or parcels of land or portions 4483
thereof that are used for conservation practices comprise not 4484
more than twenty-five per cent of tracts, lots, or parcels of 4485
land that are otherwise devoted exclusively to agricultural use 4486
and for which an application is filed under section 929.02 of 4487
the Revised Code. 4488

(B) "Withdrawal from an agricultural district" includes 4489
the explicit removal of land from an agricultural district, 4490
conversion of land in an agricultural district to use for 4491
purposes other than agricultural production, and withdrawal of 4492
land from a land retirement or conservation program to use for 4493
purposes other than agricultural production. Withdrawal from an 4494
agricultural district does not include land described in 4495

division (A) ~~(4)~~ (3) of section 5713.30 of the Revised Code. 4496

(C) "Conservation practice" has the same meaning as in 4497
section 5713.30 of the Revised Code. 4498

Sec. 1545.041. (A) Any township park district created 4499
pursuant to section 511.18 of the Revised Code that includes 4500
park land located outside the township in which the park 4501
district was established may be converted under the procedures 4502
provided in this section into a park district to be operated and 4503
maintained as provided for in this chapter, provided that there 4504
is no existing park district created under section 1545.04 of 4505
the Revised Code in the county in which the township park 4506
district is located. The proposed park district shall include 4507
within its boundary all townships and municipal corporations in 4508
which lands owned by the township park district seeking 4509
conversion are located, and may include any other townships and 4510
municipal corporations in the county in which the township park 4511
district is located. 4512

(B) Conversion of a township park district into a park 4513
district operated and maintained under this chapter shall be 4514
initiated by a resolution adopted by the board of park 4515
commissioners of the park district. Any resolution initiating a 4516
conversion shall include the following: 4517

(1) The name of the township park district seeking 4518
conversion; 4519

(2) The name of the proposed park district; 4520

(3) An accurate description of the territory to be 4521
included in the proposed district; 4522

(4) An accurate map or plat of the proposed park district. 4523
The resolution may also include a proposed tax levy for the 4524

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

(C) Upon adoption of the resolution provided for in 4534
division (B) of this section, the board of park commissioners of 4535
the township park district seeking conversion under this section 4536
shall certify the resolution to the board of elections of the 4537
county in which the park district is located no later than four 4538
p.m. of the seventy-fifth day before the day of the election at 4539
which the question will be voted upon. Upon certification of the 4540
resolution to the board, the board of elections shall make the 4541
necessary arrangements to submit the question of conversion of 4542
the township park into a park district operated and maintained 4543
under Chapter 1545. of the Revised Code, to the electors 4544
qualified to vote at the next primary or general election who 4545
reside in the territory of the proposed park district. The 4546
question shall provide for a tax levy if such a levy is 4547
specified in the resolution. 4548

(D) The ballot submitted to the electors as provided in 4549
division (C) of this section shall contain the following 4550
language: 4551

"Shall the (name of the township park 4552
district seeking conversion) be converted into a park district 4553
to be operated and maintained under Chapter 1545. of the Revised 4554

Code under the name of (name of proposed park 4555
district), which park district shall include the following 4556
townships and municipal corporations: 4557

(Name townships and municipal corporations) 4558

Approval of the proposed conversion will result in the 4559
termination of all existing tax levies voted for the benefit of 4560
..... (name of the township park district sought to be 4561
converted) and in the levy of a new tax for the operation and 4562
maintenance of (name of proposed park district) 4563
at a rate not exceeding (number of mills) mills for 4564
each one dollar of valuation, which is (rate expressed 4565
in dollars and cents) for each one hundred dollars of valuation, 4566
for (number of years the millage is to be imposed) years, 4567
commencing on the (year) tax duplicate. 4568

4569

	For the proposed conversion	"
	Against the proposed conversion	

(E) If the proposed conversion is approved by at least a 4570
majority of the electors voting on the proposal, the township 4571
park district that seeks conversion shall become a park district 4572
subject to Chapter 1545. of the Revised Code effective the first 4573
day of January following approval by the voters. The park 4574
district shall have the name specified in the resolution, and 4575
effective the first day of January following approval by the 4576
voters, the following shall occur: 4577

(1) The indebtedness of the former township park district 4578
shall be assumed by the new park district; 4579

(2) All rights, assets, properties, and other interests of 4580
the former township park district shall become vested in the new 4581
park district, including the rights to any tax revenues 4582
previously vested in the former township park district; 4583
provided, that all tax levies in excess of the ten mill 4584
limitation approved for the benefit of the former township park 4585
district shall be removed from the tax lists after the February 4586
settlement next succeeding the conversion. Any tax levy approved 4587
in connection with the conversion shall be certified as provided 4588
in section 5705.25 of the Revised Code. 4589

(3) The members of the board of park commissioners of the 4590
former township park district shall be the members ~~of the~~ 4591
~~members~~ of the board of park commissioners of the new park 4592
district, with all the same powers and duties as if appointed 4593
under section 1545.05 of the Revised Code. The term of each such 4594
commissioner shall expire on the first day of January of the 4595
year following the year in which his term would have expired 4596
under section 511.19 of the Revised Code. Thereafter, 4597
commissioners shall be appointed pursuant to section 1545.05 of 4598
the Revised Code. 4599

Sec. 1545.21. The board of park commissioners, by 4600
resolution, may submit to the electors of the park district the 4601
question of levying taxes for the use of the district. The 4602
resolution shall declare the necessity of levying such taxes, 4603
shall specify the purpose for which such taxes shall be used, 4604
the annual rate proposed, and the number of consecutive years 4605
the rate shall be levied. Such resolution shall be forthwith 4606
certified to the board of elections in each county in which any 4607
part of such district is located, not later than the ninetieth 4608
day before the day of the election, and the question of the levy 4609
of taxes as provided in such resolution shall be submitted to 4610

the electors of the district at a special election to be held on 4611
whichever of the following occurs first: 4612

(A) The day of the next general election; 4613

(B) The first Tuesday after the first Monday in May in any 4614
calendar year, except that if a presidential primary election is 4615
held in that calendar year, then the day of that election. ~~The~~ 4616

The ballot shall set forth the purpose for which the taxes 4617
shall be levied, the annual rate of levy, and the number of 4618
years of such levy. If the tax is to be placed on the current 4619
tax list, the form of the ballot shall state that the tax will 4620
be levied in the current tax year and shall indicate the first 4621
calendar year the tax will be due. If the resolution of the 4622
board of park commissioners provides that an existing levy will 4623
be canceled upon the passage of the new levy, the ballot may 4624
include a statement that: "an existing levy of ... mills 4625
(stating the original levy millage), having ... years remaining, 4626
will be canceled and replaced upon the passage of this levy." In 4627
such case, the ballot may refer to the new levy as a 4628
"replacement levy" if the new millage does not exceed the 4629
original millage of the levy being canceled or as a "replacement 4630
and additional levy" if the new millage exceeds the original 4631
millage of the levy being canceled. If a majority of the 4632
electors voting upon the question of such levy vote in favor 4633
thereof, such taxes shall be levied and shall be in addition to 4634
the taxes authorized by section 1545.20 of the Revised Code, and 4635
all other taxes authorized by law. The rate submitted to the 4636
electors at any one time shall not exceed two mills annually 4637
upon each dollar of valuation unless the purpose of the levy 4638
includes providing operating revenues for one of Ohio's major 4639
metropolitan zoos, as defined in section 4503.74 of the Revised 4640

Code, in which case the rate shall not exceed three mills 4641
annually upon each dollar of valuation. When a tax levy has been 4642
authorized as provided in this section or in section 1545.041 of 4643
the Revised Code, the board of park commissioners may issue 4644
bonds pursuant to section 133.24 of the Revised Code in 4645
anticipation of the collection of such levy, provided that such 4646
bonds shall be issued only for the purpose of acquiring and 4647
improving lands. Such levy, when collected, shall be applied in 4648
payment of the bonds so issued and the interest thereon. The 4649
amount of bonds so issued and outstanding at any time shall not 4650
exceed one per cent of the total tax valuation in such district. 4651
Such bonds shall bear interest at a rate not to exceed the rate 4652
determined as provided in section 9.95 of the Revised Code. 4653

Sec. 1711.15. In any county in which there is a duly 4654
organized county agricultural society, the board of county 4655
commissioners or the county agricultural society itself may 4656
purchase or lease, for a term of not less than twenty years, 4657
real estate on which to hold fairs under the management and 4658
control of the county agricultural society, and may erect 4659
suitable buildings on the real estate and otherwise improve it. 4660

In counties in which there is a county agricultural 4661
society that has purchased, or leased for a term of not less 4662
than twenty years, real estate as a site on which to hold fairs, 4663
or if the title to the site is vested in fee in the county, the 4664
board of county commissioners may erect or repair buildings or 4665
otherwise improve the site and pay the rental of it, or 4666
contribute to or pay any other form of indebtedness of the 4667
society, if the director of agriculture has certified to the 4668
board that the county agricultural society is complying with all 4669
laws and rules governing the operation of county agricultural 4670
societies. The board may appropriate from the county's general 4671

fund or permanent improvement fund, and may appropriate revenue 4672
from a tax levied under division ~~(L)~~(T) of section 5739.09 of 4673
the Revised Code, any amount that it considers necessary for any 4674
of those purposes, provided that an appropriation of revenue 4675
from that tax may be expended only for the purposes provided in 4676
the resolution levying that tax. 4677

Sec. 1711.16. When the control and management of a 4678
fairground is in a county agricultural society, and the board of 4679
county commissioners has appropriated an amount for the aid of 4680
the society as provided in section 1711.15 of the Revised Code, 4681
the society, with the consent of the board, may contract for the 4682
erection or repair of buildings or otherwise improve the 4683
fairground, to the extent that the payment for the improvement 4684
is provided by the board. 4685

When the appropriation is made by the board, the county 4686
auditor shall place the proceeds in a special fund, designated 4687
the "county agricultural society fund," indicating the purpose 4688
for which it is available, provided that an appropriation of 4689
revenue from a tax levied by the board under division ~~(L)~~(T) of 4690
section 5739.09 of the Revised Code may be expended only for the 4691
purposes provided in the resolution levying that tax. On 4692
application of the treasurer of the society, the auditor shall 4693
issue an order for the amount of the appropriation to the 4694
treasurer of the society, if the society has secured the 4695
certificate required under section 1711.05 of the Revised Code, 4696
on the treasurer's filing with the auditor a bond in double the 4697
amount collected, with good and sufficient sureties approved by 4698
the auditor, conditioned for the satisfactory paying over and 4699
accounting of the funds for the purposes for which they were 4700
provided. The funds shall remain in the special fund in which 4701
they are placed by the auditor until they are applied for by the 4702

treasurer of the society and the bond is given, or until they 4703
are expended by the board for the purposes for which the fund 4704
was created. If the society ceases to exist or releases the fund 4705
as not required for the purposes for which the fund was created, 4706
the board may by resolution transfer the fund to the general 4707
fund of the county. 4708

Sec. 3316.03. (A) The existence of a fiscal watch shall be 4709
declared by the auditor of state. The auditor of state may make 4710
a determination on the auditor of state's initiative, or upon 4711
receipt of a written request for such a determination, which may 4712
be filed by the governor, the superintendent of public 4713
instruction, or a majority of the members of the board of 4714
education of the school district. 4715

(1) The auditor of state shall declare a school district 4716
to be in a state of fiscal watch if the auditor of state 4717
determines that both of the following conditions are satisfied 4718
with respect to the school district: 4719

(a) An operating deficit has been certified for the 4720
current fiscal year by the auditor of state, and the certified 4721
operating deficit exceeds eight per cent of the school 4722
district's general fund revenue for the preceding fiscal year; 4723

(b) A majority of the voting electors have not voted in 4724
favor of levying a tax under section 5705.194, 5705.199, or 4725
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4726
state expects will raise enough additional revenue in the next 4727
succeeding fiscal year that division (A)(1)(a) of this section 4728
will not apply to the district in such next succeeding fiscal 4729
year. 4730

(2) The auditor of state shall declare a school district 4731

to be in a state of fiscal watch if the auditor of state 4732
determines that the school district has outstanding securities 4733
issued under division (A) (4) of section 3316.06 of the Revised 4734
Code, and its financial planning and supervision commission has 4735
been terminated under section 3316.16 of the Revised Code. 4736

(3) The auditor of state shall declare a school district 4737
to be in a state of fiscal watch if both of the following 4738
conditions are satisfied: 4739

(a) The superintendent of public instruction has reported 4740
to the auditor of state that the superintendent has declared the 4741
district under section 3316.031 of the Revised Code to be under 4742
a fiscal caution, has found that the district has not acted 4743
reasonably to eliminate or correct practices or conditions that 4744
prompted the declaration, and has determined the declaration of 4745
a state of fiscal watch necessary to prevent further fiscal 4746
decline; 4747

(b) The auditor of state determines that the decision of 4748
the superintendent is reasonable. 4749

If the auditor of state determines that the decision of 4750
the superintendent is not reasonable, the auditor of state shall 4751
provide the superintendent with a written explanation of that 4752
determination. 4753

(4) The auditor of state may declare a school district to 4754
be in a state of fiscal watch if all of the following conditions 4755
are satisfied: 4756

(a) An operating deficit has been certified for the 4757
current fiscal year by the auditor of state, and the certified 4758
operating deficit exceeds two per cent, but does not exceed 4759
eight per cent, of the school district's general fund revenue 4760

for the preceding fiscal year; 4761

(b) A majority of the voting electors have not voted in 4762
favor of levying a tax under section 5705.194, 5705.199, or 4763
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4764
state expects will raise enough additional revenue in the next 4765
succeeding fiscal year that division (A) (4) (a) of this section 4766
will not apply to the district in the next succeeding fiscal 4767
year; 4768

(c) The auditor of state determines that there is no 4769
reasonable cause for the deficit or that the declaration of 4770
fiscal watch is necessary to prevent further fiscal decline in 4771
the district. 4772

(B) (1) The auditor of state shall issue an order declaring 4773
a school district to be in a state of fiscal emergency if the 4774
auditor of state determines that both of the following 4775
conditions are satisfied with respect to the school district: 4776

(a) An operating deficit has been certified for the 4777
current fiscal year by the auditor of state, and the certified 4778
operating deficit exceeds fifteen per cent of the school 4779
district's general fund revenue for the preceding fiscal year. 4780
~~In determining the amount of an operating deficit under division~~ 4781
~~(B) (1) (a) of this section, the auditor of state shall credit~~ 4782
~~toward the amount of that deficit only the amount that may be~~ 4783
~~borrowed from the spending reserve balance as determined under~~ 4784
~~section 133.301 and division (F) of section 5705.29 of the~~ 4785
~~Revised Code.~~ 4786

(b) A majority of the voting electors have not voted in 4787
favor of levying a tax under section 5705.194, 5705.199, or 4788
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4789

state expects will raise enough additional revenue in the next 4790
succeeding fiscal year that division (B) (1) (a) of this section 4791
will not apply to the district in such next succeeding fiscal 4792
year. 4793

(2) The auditor of state shall issue an order declaring a 4794
school district to be in a state of fiscal emergency if the 4795
school district board fails, pursuant to section 3316.04 of the 4796
Revised Code, to submit a plan acceptable to the state 4797
superintendent of public instruction within one hundred twenty 4798
days of the auditor of state's declaration under division (A) of 4799
this section or an updated plan when one is required by division 4800
(C) of section 3316.04 of the Revised Code; 4801

(3) The auditor of state shall issue an order declaring a 4802
school district to be in a state of fiscal emergency if both of 4803
the following conditions are satisfied: 4804

(a) The superintendent of public instruction has reported 4805
to the auditor of state that the district is not materially 4806
complying with the provisions of an original or updated plan as 4807
approved by the state superintendent under section 3316.04 of 4808
the Revised Code, and that the state superintendent has 4809
determined the declaration of a state of fiscal emergency 4810
necessary to prevent further fiscal decline; 4811

(b) The auditor of state finds that the determination of 4812
the superintendent is reasonable. 4813

If the auditor of state determines that the decision of 4814
the superintendent is not reasonable, the auditor of state shall 4815
provide the superintendent a written explanation of that 4816
determination. 4817

(4) The auditor of state shall issue an order declaring a 4818

school district to be in a state of fiscal emergency if a 4819
declaration of fiscal emergency is required by division (D) of 4820
section 3316.04 of the Revised Code. 4821

(5) The auditor of state may issue an order declaring a 4822
school district to be in a state of fiscal emergency if all of 4823
the following conditions are satisfied: 4824

(a) An operating deficit has been certified for the 4825
current fiscal year by the auditor of state, and the certified 4826
operating deficit exceeds ten per cent, but does not exceed 4827
fifteen per cent, of the school district's general fund revenue 4828
for the preceding fiscal year; 4829

(b) A majority of the voting electors have not voted in 4830
favor of levying a tax under section 5705.194, 5705.199, or 4831
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4832
state expects will raise enough additional revenue in the next 4833
succeeding fiscal year that division (B)(5)(a) of this section 4834
will not apply to the district in the next succeeding fiscal 4835
year; 4836

(c) The auditor of state determines that a declaration of 4837
fiscal emergency is necessary to correct the district's fiscal 4838
problems and to prevent further fiscal decline. 4839

(C) In making the determinations under this section, the 4840
auditor of state may use financial reports required under 4841
section 117.43 of the Revised Code; tax budgets, certificates of 4842
estimated resources and amendments thereof, annual appropriating 4843
measures and spending plans, and any other documents or 4844
information prepared pursuant to Chapter 5705. of the Revised 4845
Code; and any other documents, records, or information available 4846
to the auditor of state that indicate the conditions described 4847

in divisions (A) and (B) of this section. 4848

(D) The auditor of state shall certify the action taken 4849
under division (A) or (B) of this section to the board of 4850
education of the school district, the director of budget and 4851
management, the mayor or county auditor who could be required to 4852
act pursuant to division (B) (1) of section 3316.05 of the 4853
Revised Code, and to the superintendent of public instruction. 4854

(E) A determination by the auditor of state under this 4855
section that a fiscal emergency condition does not exist is 4856
final and conclusive and not appealable. A determination by the 4857
auditor of state under this section that a fiscal emergency 4858
exists is final, except that the board of education of the 4859
school district affected by such a determination may appeal the 4860
determination of the existence of a fiscal emergency condition 4861
to the court of appeals having territorial jurisdiction over the 4862
school district. The appeal shall be heard expeditiously by the 4863
court of appeals and for good cause shown shall take precedence 4864
over all other civil matters except earlier matters of the same 4865
character. Notice of such appeal must be filed with the auditor 4866
of state and such court within thirty days after certification 4867
by the auditor of state to the board of education of the school 4868
district provided for in division (D) of this section. In such 4869
appeal, determinations of the auditor of state shall be presumed 4870
to be valid and the board of education shall have the burden of 4871
proving, by clear and convincing evidence, that each of the 4872
determinations made by the auditor of state as to the existence 4873
of a fiscal emergency condition under this section was in error. 4874
If the board of education fails, upon presentation of its case, 4875
to prove by clear and convincing evidence that each such 4876
determination by the auditor of state was in error, the court 4877
shall dismiss the appeal. The board of education and the auditor 4878

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

Sec. 3316.06. (A) Within one hundred twenty days after the 4895
first meeting of a school district financial planning and 4896
supervision commission, the commission shall adopt a financial 4897
recovery plan regarding the school district for which the 4898
commission was created. During the formulation of the plan, the 4899
commission shall seek appropriate input from the school district 4900
board and from the community. This plan shall contain the 4901
following: 4902

(1) Actions to be taken to: 4903

(a) Eliminate all fiscal emergency conditions declared to 4904
exist pursuant to division (B) of section 3316.03 of the Revised 4905
Code; 4906

(b) Satisfy any judgments, past-due accounts payable, and 4907
all past-due and payable payroll and fringe benefits; 4908

(c) Eliminate the deficits in all deficit funds, except 4909
that any prior year deficits in the capital and maintenance fund 4910
established pursuant to section 3315.18 of the Revised Code 4911
shall be forgiven; 4912

(d) Restore to special funds any moneys from such funds 4913
that were used for purposes not within the purposes of such 4914
funds, or borrowed from such funds by the purchase of debt 4915
obligations of the school district with the moneys of such 4916
funds, or missing from the special funds and not accounted for, 4917
if any; 4918

(e) Balance the budget, avoid future deficits in any 4919
funds, and maintain on a current basis payments of payroll, 4920
fringe benefits, and all accounts; 4921

(f) Avoid any fiscal emergency condition in the future; 4922

(g) Restore the ability of the school district to market 4923
long-term general obligation bonds under provisions of law 4924
applicable to school districts generally. 4925

(2) The management structure that will enable the school 4926
district to take the actions enumerated in division (A) (1) of 4927
this section. The plan shall specify the level of fiscal and 4928
management control that the commission will exercise within the 4929
school district during the period of fiscal emergency, and shall 4930
enumerate respectively, the powers and duties of the commission 4931
and the powers and duties of the school board during that 4932
period. The commission may elect to assume any of the powers and 4933
duties of the school board it considers necessary, including all 4934
powers related to personnel, curriculum, and legal issues in 4935
order to successfully implement the actions described in 4936
division (A) (1) of this section. 4937

(3) The target dates for the commencement, progress upon, 4938
and completion of the actions enumerated in division (A) (1) of 4939
this section and a reasonable period of time expected to be 4940
required to implement the plan. The commission shall prepare a 4941
reasonable time schedule for progress toward and achievement of 4942
the requirements for the plan, and the plan shall be consistent 4943
with that time schedule. 4944

(4) The amount and purpose of any issue of debt 4945
obligations that will be issued, together with assurances that 4946
any such debt obligations that will be issued will not exceed 4947
debt limits supported by appropriate certifications by the 4948
fiscal officer of the school district and the county auditor. 4949
~~Debt obligations issued pursuant to section 133.301 of the~~ 4950
~~Revised Code shall include assurances that such debt shall be in~~ 4951
~~an amount not to exceed the amount certified under division (B)~~ 4952
~~of such section.~~ If the commission considers it necessary in 4953
order to maintain or improve educational opportunities of pupils 4954
in the school district, the plan may include a proposal to 4955
restructure or refinance outstanding debt obligations incurred 4956
by the board under section 3313.483 of the Revised Code 4957
contingent upon the approval, during the period of the fiscal 4958
emergency, by district voters of a tax levied under section 4959
718.09, 718.10, 5705.194, 5705.21, 5748.02, 5748.08, or 5748.09 4960
of the Revised Code that is not a renewal or replacement levy, 4961
or a levy under section 5705.199 of the Revised Code, and that 4962
will provide new operating revenue. Notwithstanding any 4963
provision of Chapter 133. or sections 3313.483 to 3313.4810 of 4964
the Revised Code, following the required approval of the 4965
district voters and with the approval of the commission, the 4966
school district may issue securities to evidence the 4967
restructuring or refinancing. Those securities may extend the 4968

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

(5) An evaluation of the feasibility of entering into 4983
shared services agreements with other political subdivisions for 4984
the joint exercise of any power, performance of any function, or 4985
rendering of any service, if so authorized by statute. 4986

(B) Any financial recovery plan may be amended subsequent 4987
to its adoption. Each financial recovery plan shall be updated 4988
annually. 4989

(C) Each school district financial planning and 4990
supervision commission shall submit the financial recovery plan 4991
it adopts or updates under this section to the state 4992
superintendent of public instruction for approval immediately 4993
following its adoption or updating. The state superintendent 4994
shall evaluate the plan and either approve or disapprove it 4995
within thirty calendar days from the date of its submission. If 4996
the plan is disapproved, the state superintendent shall 4997
recommend modifications that will render it acceptable. No 4998

financial planning and supervision commission shall implement a 4999
financial recovery plan that is adopted or updated on or after 5000
April 10, 2001, unless the state superintendent has approved it. 5001

Sec. 3317.01. As used in this section, "school district," 5002
unless otherwise specified, means any city, local, exempted 5003
village, joint vocational, or cooperative education school 5004
district and any educational service center. 5005

This chapter shall be administered by the state board of 5006
education. The superintendent of public instruction shall 5007
calculate the amounts payable to each school district and shall 5008
certify the amounts payable to each eligible district to the 5009
treasurer of the district as provided by this chapter. ~~As soon~~ 5010
~~as possible after such amounts are calculated, the~~ 5011
~~superintendent shall certify to the treasurer of each school~~ 5012
~~district the district's adjusted charge off increase, as defined~~ 5013
~~in section 5705.211 of the Revised Code.~~ Certification of moneys 5014
pursuant to this section shall include the amounts payable to 5015
each school building, at a frequency determined by the 5016
superintendent, for each subgroup of students, as defined in 5017
section 3317.40 of the Revised Code, receiving services, 5018
provided for by state funding, from the district or school. No 5019
moneys shall be distributed pursuant to this chapter without the 5020
approval of the controlling board. 5021

The state board of education shall, in accordance with 5022
appropriations made by the general assembly, meet the financial 5023
obligations of this chapter. 5024

Moneys distributed to school districts pursuant to this 5025
chapter shall be calculated based on the annual enrollment 5026
calculated from the three reports required under sections 5027
3317.03 and 3317.036 of the Revised Code and paid on a fiscal 5028

year basis, beginning with the first day of July and extending 5029
through the thirtieth day of June. In any given fiscal year, 5030
prior to school districts submitting the first report required 5031
under section 3317.03 of the Revised Code, enrollment for the 5032
districts shall be calculated based on the third report 5033
submitted by the districts for the previous fiscal year. The 5034
moneys appropriated for each fiscal year shall be distributed 5035
periodically to each school district unless otherwise provided 5036
for. The state board, in June of each year, shall submit to the 5037
controlling board the state board's year-end distributions 5038
pursuant to this chapter. 5039

Except as otherwise provided, payments under this chapter 5040
shall be made only to those school districts in which: 5041

(A) The school district, except for any educational 5042
service center and any joint vocational or cooperative education 5043
school district, levies for current operating expenses at least 5044
twenty mills. Levies for joint vocational or cooperative 5045
education school districts or county school financing districts, 5046
limited to or to the extent apportioned to current expenses, 5047
shall be included in this qualification requirement. School 5048
district income tax levies under Chapter 5748. of the Revised 5049
Code, limited to or to the extent apportioned to current 5050
operating expenses, shall be included in this qualification 5051
requirement to the extent determined by the tax commissioner 5052
under division (C) of section 3317.021 of the Revised Code. 5053

(B) The school year next preceding the fiscal year for 5054
which such payments are authorized meets the requirement of 5055
section 3313.48 of the Revised Code, with regard to the minimum 5056
number of hours school must be open for instruction with pupils 5057
in attendance, for individualized parent-teacher conference and 5058

reporting periods, and for professional meetings of teachers. 5059

A school district shall not be considered to have failed 5060
to comply with this division because schools were open for 5061
instruction but either twelfth grade students were excused from 5062
attendance for up to the equivalent of three school days or only 5063
a portion of the kindergarten students were in attendance for up 5064
to the equivalent of three school days in order to allow for the 5065
gradual orientation to school of such students. 5066

A board of education or governing board of an educational 5067
service center which has not conformed with other law and the 5068
rules pursuant thereto, shall not participate in the 5069
distribution of funds authorized by this chapter, except for 5070
good and sufficient reason established to the satisfaction of 5071
the state board of education and the state controlling board. 5072

All funds allocated to school districts under this 5073
chapter, except those specifically allocated for other purposes, 5074
shall be used to pay current operating expenses only. 5075

Sec. 4301.20. This chapter and Chapter 4303. of the 5076
Revised Code do not prevent the following: 5077

(A) The storage of intoxicating liquor in bonded 5078
warehouses, established in accordance with the acts of congress 5079
and under the regulation of the United States, located in this 5080
state, or the transportation of intoxicating liquor to or from 5081
bonded warehouses of the United States wherever located; 5082

(B) A bona fide resident of this state who is the owner of 5083
a warehouse receipt from obtaining or transporting to the 5084
resident's residence for the resident's own consumption and not 5085
for resale spirituous liquor stored in a government bonded 5086
warehouse in this state or in another state prior to December 5087

1933, subject to such terms as are prescribed by the division of 5088
liquor control; 5089

(C) The manufacture of cider from fruit for the purpose of 5090
making vinegar, and nonintoxicating cider and fruit juices for 5091
use and sale; 5092

(D) A licensed physician or dentist from administering or 5093
dispensing intoxicating liquor or alcohol to a patient in good 5094
faith in the actual course of the practice of the physician's or 5095
dentist's profession; 5096

(E) The sale of alcohol to physicians, dentists, 5097
druggists, veterinary surgeons, manufacturers, hospitals, 5098
infirmaries, or medical or educational institutions using the 5099
alcohol for medicinal, mechanical, chemical, or scientific 5100
purposes; 5101

(F) The sale, gift, or keeping for sale by druggists and 5102
others of any of the medicinal preparations manufactured in 5103
accordance with the formulas prescribed by the United States 5104
Pharmacopoeia and National Formulary, patent or proprietary 5105
preparations, and other bona fide medicinal and technical 5106
preparations, which contain no more alcohol than is necessary to 5107
hold the medicinal agents in solution and to preserve the same, 5108
which are manufactured and sold as medicine and not as 5109
beverages, are unfit for use for beverage purposes, and the sale 5110
of which does not require the payment of a United States liquor 5111
dealer's tax; 5112

(G) The manufacture and sale of tinctures or of toilet, 5113
medicinal, and antiseptic preparations and solutions not 5114
intended for internal human use nor to be sold as beverages, and 5115
which are unfit for beverage purposes, if upon the outside of 5116

each bottle, box, or package of which there is printed in the 5117
English language, conspicuously and legibly, the quantity by 5118
volume of alcohol in the preparation or solution; 5119

(H) The manufacture and keeping for sale of the food 5120
products known as flavoring extracts when manufactured and sold 5121
for cooking, culinary, or flavoring purposes, and which are 5122
unfit for use for beverage purposes; 5123

(I) The lawful sale of wood alcohol or of ethyl alcohol 5124
for external use when combined with other substances as to make 5125
it unfit for internal use; 5126

(J) The manufacture, sale, and transport of ethanol or 5127
ethyl alcohol for use as fuel. As used in this division, 5128
"ethanol" has the same meaning as in section ~~5733.46~~ 122.075 of 5129
the Revised Code. 5130

(K) The purchase and importation into this state or the 5131
purchase at wholesale from A or B permit holders in this state 5132
of beer and intoxicating liquor for use in manufacturing 5133
processes of nonbeverage food products under terms prescribed by 5134
the division, provided that the terms prescribed by the division 5135
shall not increase the cost of the beer or intoxicating liquor 5136
to any person, firm, or corporation purchasing and importing it 5137
into this state or purchasing it from an A or B permit holder 5138
for that use; 5139

(L) Any resident of this state or any member of the armed 5140
forces of the United States, who has attained the age of twenty- 5141
one years, from bringing into this state, for personal use and 5142
not for resale, not more than one liter of spirituous liquor, 5143
four and one-half liters of wine, or two hundred eighty-eight 5144
ounces of beer in any thirty-day period, and the same is free of 5145

any tax consent fee when the resident or member of the armed 5146
forces physically possesses and accompanies the spirituous 5147
liquor, wine, or beer on returning from a foreign country, 5148
another state, or an insular possession of the United States; 5149

(M) Persons, at least twenty-one years of age, who collect 5150
ceramic commemorative bottles containing spirituous liquor that 5151
have unbroken federal tax stamps on them from selling or trading 5152
the bottles to other collectors. The bottles shall originally 5153
have been purchased at retail from the division, legally 5154
imported under division (L) of this section, or legally imported 5155
pursuant to a supplier registration issued by the division. The 5156
sales shall be for the purpose of exchanging a ceramic 5157
commemorative bottle between private collectors and shall not be 5158
for the purpose of selling the spirituous liquor for personal 5159
consumption. The sale or exchange authorized by this division 5160
shall not occur on the premises of any permit holder, shall not 5161
be made in connection with the business of any permit holder, 5162
and shall not be made in connection with any mercantile 5163
business. 5164

(N) The sale of beer or intoxicating liquor without a 5165
liquor permit at a private residence, not more than five times 5166
per calendar year at a residence address, at an event that has 5167
the following characteristics: 5168

(1) The event is for a charitable, benevolent, or 5169
political purpose, but shall not include any event the proceeds 5170
of which are for the profit or gain of any individual; 5171

(2) The event has in attendance not more than fifty 5172
people; 5173

(3) The event shall be for a period not to exceed twelve 5174

hours; 5175

(4) The sale of beer and intoxicating liquor at the event 5176
shall not take place between two-thirty a.m. and five-thirty 5177
a.m.; 5178

(5) No person under twenty-one years of age shall purchase 5179
or consume beer or intoxicating liquor at the event and no beer 5180
or intoxicating liquor shall be sold to any person under twenty- 5181
one years of age at the event; and 5182

(6) No person at the event shall sell or furnish beer or 5183
intoxicating liquor to an intoxicated person. 5184

(0) The possession or consumption of beer or intoxicating 5185
liquor by a person who is under twenty-one years of age and who 5186
is a student at an accredited college or university, provided 5187
that both of the following apply: 5188

(1) The person is required to taste and expectorate the 5189
beer or intoxicating liquor for a culinary, food service, or 5190
hospitality course. 5191

(2) The person is under the direct supervision of the 5192
instructor of the culinary, food service, or hospitality course. 5193

Sec. 4582.024. After a port authority has been created, 5194
any municipal corporation, township, or county, acting by 5195
ordinance, resolution of the township trustees, or resolution of 5196
the county commissioners, respectively, which is contiguous to 5197
such port authority, or to any municipal corporation, township, 5198
or county which proposes to join such port authority at the same 5199
time and is contiguous to such port authority, or any county 5200
within which such port authority is situated, may join such port 5201
authority and thereupon the jurisdiction and territory of such 5202
port authority shall include such municipal corporation, county, 5203

or township. If more than one such political subdivision is to 5204
be joined to the port authority at the same time, then each such 5205
ordinance or resolution shall designate the political 5206
subdivisions which are to be so joined. Any territory or 5207
municipal corporation not included in a port authority and which 5208
is annexed to a municipal corporation included within the 5209
jurisdiction and territory of a port authority shall, on such 5210
annexation and without further proceedings, be annexed to and be 5211
included in the jurisdiction and territory of such port 5212
authority. Before such political subdivision or subdivisions are 5213
joined to a port authority, other than by annexation to a 5214
municipality, the political subdivision or subdivisions 5215
theretofore comprising such port authority shall agree upon the 5216
terms and conditions pursuant to which such political 5217
subdivision or subdivisions are to be joined. For all purposes 5218
of sections 4582.01 to 4582.20, inclusive, of the Revised Code, 5219
such political subdivision or subdivisions shall be considered 5220
to have participated in the creation of such port authority, 5221
except that the initial term of any director of the port 5222
authority appointed by such a political subdivision shall be 5223
four years. After each ordinance or resolution proposing joinder 5224
to the port authority has become effective and the terms and 5225
conditions of joinder have been agreed to, the board of 5226
directors of the port authority shall by resolution either 5227
accept or reject such joinder. Such joinder shall be effective 5228
on adoption of the resolution accepting such joinder, unless the 5229
port authority to which a political subdivision or subdivisions 5230
including a county within which such port authority is located, 5231
are to be joined has authority under section 4582.14 of the 5232
Revised Code to levy a tax on property within its jurisdiction, 5233
then such joinder shall not be effective until approved by the 5234
affirmative vote of a majority of the electors voting on the 5235

question of such joinder. If more than one political subdivision 5236
is to be joined to the port authority, then the electors of such 5237
subdivision shall vote as a district and the majority 5238
affirmative vote shall be determined by the vote cast in such 5239
district as a whole. Such election shall be called by the board 5240
of directors of the port authority and shall be held, canvassed, 5241
and certified in the manner provided for the submission of tax 5242
levies under section 5705.191 of the Revised Code except that 5243
the question appearing on the ballot shall read: 5244

"Shall 5245
(name or names of political subdivisions to be joined) 5246
be joined to (name) port authority and the 5247
~~(name)~~ 5248
existing tax levy (levies) of such port authority (aggregating) 5249
..... mill per dollar of valuation be authorized to be 5250
levied against properties within 5251
....." 5252
(name or names of political subdivisions to be joined) 5253

If the question is approved such joinder shall be immediately effective 5254
and the port authority shall be authorized to extend the levy of such tax 5255
against all the taxable property within the political subdivision or 5256
political subdivisions which have been joined. If such question is 5257
approved at a general election then the port authority may amend its 5258
budget and resolution adopted pursuant to section 5705.34 of the Revised 5259
Code and such levy shall be placed on the current tax list and duplicate 5260
and collected as other taxes are collected from all taxable property 5261
within the port authority including the political subdivision or political 5262

subdivisions joined as a result of such election. 5263

Sec. 4582.26. After a port authority has been created, any 5264
municipal corporation, township, county, or other political 5265
subdivision, acting by ordinance or resolution, which is 5266
contiguous to any municipal corporation, township, county, or 5267
other political subdivision which participated in the creation 5268
of such port authority or to any municipal corporation, 5269
township, county, or other political subdivision which proposes 5270
to join the port authority at the same time and is contiguous to 5271
any municipal corporation, township, county, or other political 5272
subdivision which participated in the creation of such port 5273
authority, may join such port authority, and thereupon the 5274
jurisdiction and territory of the port authority includes the 5275
municipal corporation, county, township, or other political 5276
subdivision so joining. If more than one such political 5277
subdivision is to be joined to the port authority at the same 5278
time, then each such ordinance or resolution shall designate the 5279
political subdivisions which are to be so joined. Any territory 5280
or municipal corporation not included in a port authority and 5281
which is annexed to a municipal corporation included within the 5282
jurisdiction and territory of a port authority shall, on such 5283
annexation and without further proceedings, be annexed to and be 5284
included in the jurisdiction and territory of the port 5285
authority. Before such political subdivision or subdivisions are 5286
joined to a port authority, other than by annexation to a 5287
municipal corporation, the political subdivision or subdivisions 5288
thereof comprising such port authority shall agree upon the 5289
terms and conditions pursuant to which such political 5290
subdivision or subdivisions are to be joined. For all purposes 5291
of sections 4582.21 to 4582.59 of the Revised Code, such 5292
political subdivision or subdivisions shall be considered to 5293

have participated in the creation of such port authority, except 5294
that the initial term of any director of the port authority 5295
appointed by such a political subdivision shall be four years. 5296
After each ordinance or resolution proposing joinder to the port 5297
authority has become effective and the terms and conditions of 5298
joinder have been agreed to, the board of directors of the port 5299
authority shall by resolution either accept or reject such 5300
joinder. Such joinder shall be effective upon adoption of the 5301
resolution accepting such joinder, unless the port authority to 5302
which a political subdivision or subdivisions, including a 5303
county within which such port authority is located, are to be 5304
joined, has authority under section 4582.40 of the Revised Code 5305
to levy a tax on property within its jurisdiction, then such 5306
joinder shall not be effective until approved by the affirmative 5307
vote of a majority of the electors voting on the question of the 5308
joinder. If more than one political subdivision is to be joined 5309
to the port authority, then the electors of such subdivisions 5310
shall vote as a district and the majority affirmative vote shall 5311
be determined by the vote cast in such district as a whole. The 5312
election shall be called by the board of directors of the port 5313
authority and shall be held, canvassed, and certified in the 5314
manner provided for the submission of tax levies under section 5315
5705.191 of the Revised Code except that the question appearing 5316
on the ballot shall read: 5317

"Shall 5318

(Name or names of political subdivisions to be joined) 5319

..... 5320

~~be joined)~~ 5321

be joined to (Name) port authority 5322

(Name) 5323

and the existing tax levy (levies) of such port authority 5324

(aggregating) mill per dollar of valuation 5325

be authorized to be levied against properties within 5326

.....?" 5327

(Name or names of political subdivisions to be joined) 5328

If the question is approved the joinder becomes immediately effective and 5329

the port authority is authorized to extend the levy of such tax against 5330

all the taxable property within the political subdivision or political 5331

subdivisions which have been joined. If such question is approved at a 5332

general election, then the port authority may amend its budget and 5333

resolution adopted pursuant to section 5705.34 of the Revised Code and 5334

such levy shall be placed on the current tax list and duplicate and 5335

collected as other taxes are collected from all taxable property within 5336

the port authority including the political subdivision or political 5337

subdivisions joined as a result of the election. 5338

Sec. 4582.56. (A) As used in this section: 5339

(1) "Eligible county" means a county whose territory 5340

includes a part of Lake Erie the shoreline of which represents 5341

at least fifty per cent of the linear length of the county's 5342

border with other counties of this state. 5343

(2) "Lakeshore improvement project" means construction of 5344

a port authority facility within one mile of the Lake Erie 5345

shoreline in an eligible county. 5346

(3) "Construction" includes acquisition, alteration, 5347

construction, creation, development, enlargement, equipment, 5348

improvement, installation, reconstruction, remodeling, 5349

renovation, or any combination thereof. 5350

(B) The board of directors of a port authority may enter 5351
into an agreement with the board of county commissioners of an 5352
eligible county that created the port authority providing for 5353
all of the following, and any other terms mutually agreeable to 5354
the boards: 5355

(1) The board of county commissioners levies an excise tax 5356
under division ~~(M)~~ (U) of section 5739.09 of the Revised Code 5357
and pledges all the revenue from the tax to the port authority 5358
for the purpose of financing lakeshore improvement projects 5359
including the payment of debt charges on any securities issued 5360
under division (C) of this section. 5361

(2) The port authority constructs or finances the 5362
construction of lakeshore improvements and pays the costs of 5363
such projects with revenue from the tax pledged under the 5364
agreement. Such construction or financing is an authorized 5365
purpose for the purposes of division (B) of section 4582.21 of 5366
the Revised Code. 5367

(3) The port authority may not enter into any contract or 5368
other obligation regarding a lakeshore improvement project 5369
before obtaining the approval for the project by the board of 5370
county commissioners by a resolution of the board. 5371

(C) The board of directors of a port authority that enters 5372
into an agreement under this section may issue port authority 5373
special obligation bonds, and notes anticipating the proceeds of 5374
the bonds, in the principal amount that, in the opinion of the 5375
board, are necessary for the purpose of paying the costs of one 5376
or more lakeshore improvement projects or parts of one or more 5377
projects and interest on the bonds payable over the term of the 5378

issue. The board may refund any special obligation bonds by the 5379
issuance of special obligation refunding bonds regardless of 5380
whether the bonds to be refunded have or have not matured. The 5381
refunding bonds shall be sold, and the proceeds needed for such 5382
purpose applied, in the manner provided in the bond proceedings. 5383

Every issue of special obligation bonds issued under this 5384
section shall be payable from the revenue from the tax levied 5385
under division ~~(M)~~ (U) of section 5739.09 of the Revised Code 5386
and pledged for such payment under the agreement. The pledge 5387
shall be valid and binding from the time the pledge is made, and 5388
the revenue so pledged and received by the port authority shall 5389
be subject to the lien of the pledge without any physical 5390
delivery of the revenue or any further act. The lien of any 5391
pledge is valid and binding as against all parties having claims 5392
of any kind in tort, contract, or otherwise against the port 5393
authority, whether or not such parties have notice of the lien. 5394
Neither the resolution nor any trust agreement by which a pledge 5395
is created need be filed or recorded except in the port 5396
authority's records. 5397

Whether or not the bonds are of such form and character as 5398
to be negotiable instruments under Title XIII of the Revised 5399
Code, the bonds shall have all the qualities and incidents of 5400
negotiable instruments, subject only to their provisions for 5401
registration, if any. 5402

Bonds issued under this section shall bear such date or 5403
dates, and shall mature at such time or times not exceeding 5404
thirty years from the date of issue of the original bonds and 5405
shall be executed in the manner that the resolution authorizing 5406
the bonds may provide. The bonds shall bear interest at such 5407
rates, or at variable rate or rates changing from time to time, 5408

in accordance with provisions provided in the authorizing 5409
resolution, shall be in such denominations and form, either 5410
coupon or registered, shall carry such registration privileges, 5411
shall be payable in such medium of payment and at such place or 5412
places, and be subject to such terms of redemption, as the board 5413
of directors of the port authority may authorize or provide. The 5414
bonds may be sold at public or private sale, and at, or at not 5415
less than, the price or prices as the board determines. If any 5416
officer whose signature or a facsimile of whose signature 5417
appears on any bonds or coupons ceases to be such officer before 5418
delivery of the bonds, the signature or facsimile shall 5419
nevertheless be sufficient for all purposes as if the officer 5420
had remained in office until delivery of the bonds, and in case 5421
the seal of the authority has been changed after a facsimile has 5422
been imprinted on the bonds, the facsimile seal will continue to 5423
be sufficient for all purposes. 5424

Any resolution authorizing bonds under this section may 5425
contain provisions governing the use and disposition of revenue 5426
pledged under the agreement under division (B) of this section; 5427
the crediting of the proceeds of the sale of the bonds to and 5428
among the funds referred to or provided for in the resolution; 5429
limitations on the purpose to which the proceeds of sale of the 5430
bonds may be applied and the pledging of portions of such 5431
proceeds to secure payment of the bonds; the issuance of notes 5432
in anticipation of the issuance of bonds; the terms upon which 5433
additional bonds may be issued and secured; the refunding of 5434
outstanding bonds; the procedure, if any, by which the terms of 5435
any contract with bondholders may be amended, the amount of 5436
bonds the holders of which must consent thereto, and the manner 5437
in which such consent may be given; securing any bonds by a 5438
trust agreement in accordance with division (D) of this section; 5439

and any other matters that may affect the security or protection 5440
of the bonds. The taxes anticipated by the bonds are not subject 5441
to diminution by initiative or referendum or by law while the 5442
bonds or notes remain outstanding in accordance with their 5443
terms, unless provision is made by law or by the board of county 5444
commissioners and board of directors of the port authority for 5445
an adequate substitute therefor reasonably satisfactory to the 5446
trustee, if a trust agreement secures the bonds. 5447

Neither the members of the board of directors of the port 5448
authority nor any person executing the bonds shall be liable 5449
personally on the bonds or be subject to any personal liability 5450
or accountability by reason of the issuance. 5451

(D) In the discretion of the board of directors, the bonds 5452
issued under this section may be secured by a trust agreement 5453
between the board of directors on behalf of the port authority 5454
and a corporate trustee, which may be any trust company or bank 5455
having powers of a trust company, within or outside the state. 5456

The trust agreement may provide for the pledge or 5457
assignment of the tax revenue to be received under the agreement 5458
entered into under division (B) of this section, but shall not 5459
pledge the general credit or other taxing power of the county or 5460
the general credit or taxing power of the port authority. The 5461
trust agreement or the resolution providing for the issuance of 5462
the bonds may set forth the rights and remedies of the 5463
bondholders and trustee, and may contain other provisions for 5464
protecting and enforcing their rights and remedies that are 5465
determined in the discretion of the board of directors to be 5466
reasonable and proper. 5467

Sec. 5701.08. As used in Title LVII of the Revised Code: 5468

(A) Personal property is "used" within the meaning of 5469
"used in business" when employed or utilized in connection with 5470
ordinary or special operations, when acquired or held as means 5471
or instruments for carrying on the business, when kept and 5472
maintained as a part of a plant capable of operation, whether 5473
actually in operation or not, or when stored or kept on hand as 5474
material, parts, products, or merchandise. Machinery and 5475
equipment classifiable upon completion as personal property 5476
while under construction or installation to become part of a new 5477
or existing plant or other facility is not considered to be 5478
"used" by the owner of such plant or other facility within the 5479
meaning of "used in business" until such machinery and equipment 5480
is installed and in operation or capable of operation in the 5481
business for which acquired. Agricultural products in storage in 5482
a grain elevator, a warehouse, or a place of storage which 5483
products are subject to control of the United States government 5484
and are to be shipped on order of the United States government 5485
are not used in business in this state. 5486

(B) Merchandise or agricultural products shipped from 5487
outside this state and held in this state in a warehouse or a 5488
place of storage without further manufacturing or processing and 5489
for storage only and for shipment outside this state are not 5490
used in business in this state. Such property qualifies for this 5491
exception if division (B) (1) or (2) of this section applies: 5492

(1) During any period that a person owns such property in 5493
this state: 5494

(a) The property is to be shipped from a warehouse or 5495
place of storage in this state to the owner of the property or 5496
persons other than customers at locations outside this state for 5497
use, processing, or sale; or 5498

(b) The property is located in public or private 5499
warehousing facilities in this state which are not subject to 5500
the control of or under the supervision of the owner of the 5501
property or manned by its employees and from which the property 5502
is to be shipped to any person, including a customer, outside 5503
this state. 5504

(2) During the first twenty-four calendar months that a 5505
person first owns such property in this state, the property is 5506
held in a warehouse or place of storage in this state located 5507
within one mile of the closest boundary of an airport, and is 5508
shipped to any person, including a customer, outside this state. 5509

For the purposes of division (B) (2) of this section, 5510
"airport" means any airport, as defined in division (C) of 5511
section 4561.01 of the Revised Code, which is approved by the 5512
department of transportation under section 4561.11 of the 5513
Revised Code to be used for commercial purposes, is regularly 5514
served by only one air carrier authorized to do so under 14 5515
C.F.R., and is not a public airport as defined in 49 U.S.C. 5516
Appx. 2202(a) (17) as existing ~~on the effective date of this~~ 5517
~~amendment~~ July 26, 1991. 5518

(3) For property that may meet the condition for the 5519
exception provided in division (B) (2) of this section, if it is 5520
not known at the conclusion of a reporting period whether the 5521
property yet qualifies for such exception, the owner of such 5522
property shall return it for taxation. If it is later determined 5523
that the returned property does so qualify, the owner may apply 5524
for a final assessment and refund on the property as provided in 5525
section 5711.26 of the Revised Code. 5526

(C) Leased property used by the lessee exclusively for 5527
agricultural purposes and new or used machinery and equipment 5528

and accessories therefor that are designed and built for 5529
agricultural use and owned by a merchant as defined in section 5530
5711.15 of the Revised Code are not considered to be "used" 5531
within the meaning of "used in business." 5532

(D) Moneys, deposits, investments, accounts receivable, 5533
and prepaid items, and other taxable intangibles are "used" when 5534
they or the avails thereof are being applied, or are intended to 5535
be applied, in the conduct of the business, whether in this 5536
state or elsewhere. 5537

(E) "Business" includes all enterprises, except 5538
agriculture, conducted for gain, profit, or income and extends 5539
to personal service occupations. 5540

Sec. 5701.12. (A) The effective date to which this section 5541
refers is March 27, 2013, the effective date of this section as 5542
enacted by H.B. 510 of the 129th general assembly. 5543

(B) Any reference in Title LVII to "consolidated reports 5544
of condition and income" or "call report" means the consolidated 5545
reports of condition and income as those reports existed on the 5546
effective date. 5547

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 5548
the FR Y-9 financial statements as those financial statements 5549
existed on the effective date. 5550

(D) This section does not apply to any reference in Title 5551
LVII of the Revised Code to "consolidated reports of condition 5552
and income," "call report," "FR Y-9," or "Y-9" as of a date 5553
certain specifying the day, month, and year. 5554

Sec. 5703.04. The tax commissioner shall have the 5555
following powers, duties, privileges, and immunities of the 5556
department of taxation: 5557

(A) All powers whatsoever of an inquisitorial nature as 5558
provided by law, including, the right to inspect books, 5559
accounts, records, and memorandums, to examine persons under 5560
oath, to issue orders or subpoenas for the production of books, 5561
accounts, papers, records, documents, and testimony, to take 5562
depositions, to apply to a court for attachment proceedings as 5563
for contempt, to approve vouchers for the fees of officers and 5564
witnesses, and to administer oaths; provided that the powers 5565
referred to in this division of this section shall be exercised 5566
by the board of tax appeals or by the tax commissioner only in 5567
connection with the performance of the duties respectively 5568
assigned to each under sections 5703.01 to 5703.09, 5703.14, and 5569
5703.15 of the Revised Code; 5570

(B) Appoint agents and prescribe their powers and duties 5571
as provided by section 5703.17 of the Revised Code; 5572

(C) Confer and meet with officers of other states and 5573
officers of the United States on any matters pertaining to their 5574
respective official duties as provided by law; 5575

(D) The immunity provided by section 5703.38 of the 5576
Revised Code; 5577

(E) The rights of action provided by section 5703.39 of 5578
the Revised Code; 5579

(F) The duties and powers mentioned in section 5703.41 of 5580
the Revised Code. 5581

Sec. 5703.211. (A) The tax commissioner shall adopt rules 5582
under Chapter 119. of the Revised Code that, except as otherwise 5583
provided in division (B) of this section, require that any 5584
search of any of the databases of the department of taxation be 5585
tracked so that administrators of the database or investigators 5586

can identify each account holder who conducted a search of the 5587
database. 5588

(B) The rules adopted under division (A) of this section 5589
shall not require the tracking of any search of any of the 5590
databases of the department conducted by an account holder in 5591
any of the following circumstances: 5592

(1) The search occurs as a result of research performed 5593
for official agency purposes, routine office procedures, or 5594
incidental contact with the information, unless the search is 5595
specifically directed toward a ~~specifically~~ specifically named 5596
individual or a group of specifically named individuals. 5597

(2) The search is for information about an individual, and 5598
it is performed as a result of a request by that individual for 5599
information about that individual. 5600

Sec. 5703.54. (A) A taxpayer aggrieved by an action or 5601
omission of an officer or employee of the department of taxation 5602
may bring an action for damages in the court of claims pursuant 5603
to Chapter ~~2734.~~ 2743. of the Revised Code, if all of the 5604
following apply: 5605

(1) In the action or omission the officer or employee 5606
frivolously disregards a provision of Chapter 5711., 5733., 5607
5739., 5741., or 5747. of the Revised Code or a rule of the tax 5608
commissioner adopted under authority of one of those chapters; 5609

(2) The action or omission occurred with respect to an 5610
audit or assessment and the review and collection proceedings 5611
connected with the audit or assessment; 5612

(3) The officer or employee did not act manifestly outside 5613
the scope of the officer's or employee's office or employment 5614
and did not act with malicious purpose, in bad faith, or in a 5615

wanton or reckless manner. 5616

(B) In any action brought under division (A) of this 5617
section, upon a finding of liability on the part of the state, 5618
the state shall be liable to the taxpayer in an amount equal to 5619
the sum of the following: 5620

(1) Compensatory damages sustained by the taxpayer as a 5621
result of the action or omission by the department's officer or 5622
employee; 5623

(2) Reasonable costs of litigation and attorneys fees 5624
sustained by the taxpayer. 5625

(C) In the awarding of damages under division (B) of this 5626
section, the court shall take into account the negligent actions 5627
or omissions, if any, on the part of the taxpayer that 5628
contributed to the damages, but shall not be bound by the 5629
provisions of sections 2315.32 to 2315.36 of the Revised Code. 5630

(D) Whenever it appears to the court that a taxpayer's 5631
conduct in the proceedings brought under division (A) of this 5632
section is frivolous, the court may impose a penalty against the 5633
taxpayer in an amount not to exceed ten thousand dollars which 5634
shall be paid to the general revenue fund of the state. 5635

(E) (1) Division (A) of this section does not apply to 5636
advisory opinions or other informational functions of an officer 5637
or employee of the department. 5638

(2) Division (A) of this section does not authorize a 5639
taxpayer to bring an action for damages based on an action or 5640
omission of a county auditor or an employee of a county auditor. 5641

(F) As used in this section, "frivolous" means that the 5642
conduct of the commissioner, or of the taxpayer or the 5643

taxpayer's counsel of record satisfies either of the following: 5644

(1) It obviously serves merely to harass or maliciously 5645
injure the state or its employees or officers if referring to 5646
the conduct of a taxpayer, or to harass or maliciously injure 5647
the taxpayer if referring to the conduct of the tax 5648
commissioner; 5649

(2) It is not warranted under existing law and cannot be 5650
supported by a good faith argument for an extension, 5651
modification, or reversal of existing law. 5652

Sec. 5703.94. (A) As used in this section: 5653

(1) "Declared disaster" means an event for which a 5654
disaster declaration has been issued. 5655

(2) "Disaster declaration" means a declaration issued by 5656
the president of the United States or the governor of this state 5657
that an emergency exists. 5658

(3) "Disaster response period" means the period that 5659
begins on the tenth day preceding the day on which a disaster 5660
declaration is issued through the sixtieth day following the day 5661
that the disaster declaration expires or is rescinded. 5662

(4) "Disaster work" means both of the following: 5663

(a) Repairing, renovating, installing, or constructing 5664
critical infrastructure damaged or destroyed by the declared 5665
disaster, or other business activities related to that critical 5666
infrastructure; 5667

(b) Activities conducted in preparation for any activity 5668
described in division (A) (4) (a) of this section. 5669

(5) "Critical infrastructure" means property and equipment 5670

owned or used by a qualifying owner or user to provide service 5671
to more than one customer, including related support facilities 5672
such as buildings, offices, power lines, cable lines, poles, 5673
communication lines, and structures. 5674

(6) "Qualifying owner or user" means a public utility, 5675
commercial mobile radio service provider, cable service 5676
provider, or video service provider. 5677

(7) "Public utility" has the same meaning as in section 5678
4905.02 of the Revised Code, without regard to the exclusions 5679
from that definition prescribed in divisions (A)(1) to (5) of 5680
that section. 5681

(8) "Commercial mobile radio service provider" means a 5682
person providing commercial mobile service as defined in 47 5683
U.S.C. 332(d). 5684

(9) "Cable service provider" and "video service provider" 5685
have the same meanings as in section 1332.21 of the Revised 5686
Code. 5687

(10) "Out-of-state disaster business" means a person that 5688
does all of the following or to which apply all of the 5689
following: 5690

(a) Receives a qualifying solicitation; 5691

(b) Conducts disaster work in this state during a disaster 5692
response period; 5693

(c) Is not subject to taxation under Chapter 5747. or 5694
5751. of the Revised Code on any basis other than such disaster 5695
work during the calendar year preceding the year in which the 5696
disaster response period begins or is subject to such taxation 5697
during that year solely because the person is a related member 5698

of another person. 5699

(11) "Out-of-state employee" means an individual who 5700
performs no work in this state, except disaster work during a 5701
disaster response period, from the first day of the preceding 5702
calendar year to the date on which the disaster response period 5703
begins. 5704

(12) "Related member" has the same meaning as in section 5705
5733.042 of the Revised Code without regard to division (B) of 5706
that section. 5707

(13) "Qualifying solicitation" means a written 5708
solicitation or request from the state, a county, municipal 5709
corporation, or township, or a qualifying user or owner of 5710
critical infrastructure soliciting or requesting the assistance 5711
of a person to perform disaster work in this state. 5712

(14) "Qualifying employee" means one of the following: 5713

(a) An out-of-state employee performing disaster work in 5714
this state during a disaster response period whose employer 5715
receives a qualifying solicitation to perform such work; 5716

(b) An out-of-state employee performing disaster work in 5717
this state on critical infrastructure owned or used by the 5718
employee's employer during a disaster response period, provided 5719
that employer is a qualifying user or owner. 5720

(B) An out-of-state disaster business or qualifying 5721
employee shall qualify for all of the following, as applicable: 5722

(1) The exemption authorized in division (C) (20) of 5723
section 718.01, the exemption authorized in division (C) (10) of 5724
section 5741.02, the deduction authorized in division (A) ~~(33)~~ 5725
(30) of section 5747.01, and the exclusion authorized in 5726

division (F) (2) (11) of section 5751.01 of the Revised Code; 5727

(2) An exemption from any requirement to file a document 5728
or application with or to remit a fee to the secretary of state 5729
as a condition precedent to engaging in business in this state, 5730
in accordance with section 1701.041 of the Revised Code; 5731

(3) An exemption from the requirements of Chapters 4121., 5732
4123., and 4141. of the Revised Code, in accordance with 5733
division (A) (2) of section 4123.01 and section 4141.42 of the 5734
Revised Code; 5735

(4) An exemption from the requirement to obtain a state or 5736
local occupational license or other authorization, in accordance 5737
with section 4799.04 of the Revised Code. 5738

(C) (1) Upon the request of the tax commissioner, an out- 5739
of-state disaster business shall provide the following 5740
information to the commissioner: 5741

(a) The name of the out-of-state disaster business and the 5742
address of its principal place of business; 5743

(b) The business' federal tax identification number; 5744

(c) A copy of the qualifying solicitation received by the 5745
business; 5746

(d) The dates that the out-of-state disaster business and 5747
each of the business' out-of-state employees performing disaster 5748
work in this state during a disaster response period began 5749
performing disaster work in this state during that period; 5750

(e) The name and social security number of each of the 5751
out-of-state disaster business' out-of-state employees 5752
performing disaster work in this state during a disaster 5753
response period; 5754

(f) The name of any person of which the out-of-state 5755
disaster business is a related member, provided that person is 5756
subject to taxation under Chapter 5747. or 5751. of the Revised 5757
Code during the calendar year preceding the year in which the 5758
disaster response period begins; 5759

(g) Any other information required by the tax 5760
commissioner. 5761

(2) Upon the request of the tax commissioner, the employer 5762
of a qualifying employee shall provide the following information 5763
to the commissioner: 5764

(a) The employer's name and the address of its principal 5765
place of business; 5766

(b) The employer's federal tax identification number; 5767

(c) For the employer of a qualifying employee described in 5768
division (A)(14)(a) of this section, a copy of the qualifying 5769
solicitation received by the employer; 5770

(d) The date each of the employer's out-of-state employees 5771
performing disaster work in this state during a disaster 5772
response period began performing disaster work in this state 5773
during that period; 5774

(e) The name and social security number of each of the 5775
employer's out-of-state employees performing disaster work in 5776
this state during a disaster response period; 5777

(f) Any other information required by the tax 5778
commissioner. 5779

(3) If the commissioner makes a request under division (C) 5780
(1) or (2) of this section, the out-of-state disaster business 5781
or employer shall submit information described in that division 5782

to the commissioner not later than thirty days from the date the 5783
disaster response period terminates or thirty days after the 5784
business or employer receives the request, whichever is later. 5785

(D) The department of taxation may adopt rules necessary 5786
to administer this section. 5787

Sec. 5703.95. (A) As used in this section, "tax 5788
expenditure" has the same meaning as in section 5703.48 of the 5789
Revised Code. 5790

(B) There is hereby created the tax expenditure review 5791
committee, consisting of seven members, composed of the 5792
following: 5793

(1) Three members of the house of representatives 5794
appointed by the speaker of the house of representatives in 5795
consultation with the minority leader of the house of 5796
representatives. Members described in division (B)(1) of this 5797
section shall not all be members of the same party and should be 5798
members of the house of representatives committee that deals 5799
primarily with tax legislation; 5800

(2) Three members of the senate appointed by the president 5801
of the senate in consultation with the minority leader of the 5802
senate. Members described in division (B)(2) of this section 5803
shall not all be members of the same party and should be members 5804
of the senate committee that deals primarily with tax 5805
legislation; 5806

(3) The tax commissioner or the tax commissioner's 5807
designee. The member described in division (B)(3) of this 5808
section shall be a nonvoting member. 5809

The speaker of the house of representatives and the 5810
president of the senate shall make initial appointments to the 5811

committee not later than thirty days ~~following the effective~~ 5812
~~date of the enactment of this section~~ after March 21, 2017. 5813

Thereafter, the terms of the office for appointed members shall 5814
be the same as the term of each general assembly. Members may be 5815
reappointed, provided the member continues to meet all other 5816
eligibility requirements. Vacancies shall be filled in the 5817
manner provided for original appointments. Any member appointed 5818
to fill a vacancy before the expiration of the term for which 5819
the predecessor was appointed shall hold office as a member for 5820
the remainder of that term. Appointed members of the committee 5821
serve at the pleasure of the member's appointing authority and 5822
may be removed only by the appointing authority. 5823

(C) The tax expenditure review committee shall hold its 5824
first meeting within ninety days after ~~the effective date of the~~ 5825
~~enactment of this section~~ March 21, 2017. At the first meeting, 5826
the members shall elect a chairperson, who shall be one of the 5827
members described in division (B) (1) or (2) of this section. 5828
Thereafter, the committee shall meet at least once during the 5829
first year of each fiscal biennium to review existing tax 5830
expenditures pursuant to division (D) of this section, provided 5831
the committee shall hold, for any such expenditure, at least one 5832
meeting at which a person may present to the committee evidence 5833
or testimony related to that expenditure. Any person may submit 5834
to the chairperson a request that the committee meet to accept 5835
evidence or testimony on a tax expenditure. The committee is a 5836
public body for the purposes of section 121.22 of the Revised 5837
Code. 5838

The chairperson of the committee shall serve until the 5839
thirty-first day of December of each even-numbered year. 5840
Thereafter, members shall elect a new chairperson. If the 5841
preceding chairperson was a member described in division (B) (1) 5842

of this section, the new chairperson shall be a member described 5843
in division (B) (2) of this section. If the preceding chairperson 5844
was a member described in division (B) (2) of this section, the 5845
new chairperson shall be a member described in division (B) (1) 5846
of this section. 5847

A vacancy on the committee does not impair the right of 5848
the other members to exercise all the functions of the 5849
committee. The presence of a majority of the voting members of 5850
the committee constitutes a quorum for the conduct of business 5851
of the committee. The concurrence of at least a majority of the 5852
voting members of the committee is necessary for any action to 5853
be taken by the committee. 5854

Upon the committee's request, the department of taxation, 5855
development services agency, office of budget and management, or 5856
other state agency shall provide any information in its 5857
possession that the committee requires to perform its duties. 5858

The staff of the legislative service commission shall 5859
assist the committee as directed by the committee. 5860

(D) The committee shall establish a schedule for review 5861
for each tax expenditure so that each expenditure is reviewed at 5862
least once every eight years. The schedule may provide for the 5863
review of each tax expenditure in the order the expenditures 5864
were enacted or modified, beginning with the least recently 5865
enacted or modified tax expenditure. Alternatively, the review 5866
schedule may group tax expenditures by the individuals or 5867
industries benefiting from the expenditures, the objectives of 5868
each expenditure, or the policy rationale of each expenditure. 5869
In its review, the committee shall make recommendations as to 5870
whether each tax expenditure should be continued without 5871
modification, modified, scheduled for further review at a future 5872

date to consider repealing the expenditure, or repealed 5873
outright. For each expenditure reviewed, the committee may 5874
recommend accountability standards for the future review of the 5875
expenditure. The committee may consider, when reviewing a tax 5876
expenditure, any of the relevant factors described in division 5877
(E) of this section. 5878

(E) In conducting reviews pursuant to division (D) of this 5879
section, the committee may consider the following factors: 5880

(1) The number and classes of persons, organizations, 5881
businesses, or types of industries that would receive the direct 5882
benefit or consequences of the tax expenditure; 5883

(2) The fiscal impact of the tax expenditure on state and 5884
local taxing authorities, including any past fiscal effects and 5885
expected future fiscal impacts of the tax expenditure in the 5886
following eight-year period; 5887

(3) Public policy objectives that might support the tax 5888
expenditure. In researching such objectives, the committee may 5889
consider the expenditure's legislative history, the tax 5890
expenditure's sponsor's intent in proposing the tax expenditure, 5891
or the extent to which the tax expenditure encourages or would 5892
encourage business growth or relocation into the state, promotes 5893
or would promote growth or retention of high-wage jobs in the 5894
state, or aids or would aid community stabilization. 5895

(4) Whether the tax expenditure successfully accomplishes 5896
any of the objectives identified in division (E) (3) of this 5897
section; 5898

(5) Whether the objectives identified in division (E) (3) 5899
of this section would or could have been accomplished 5900
successfully in the absence of the tax expenditure or with less 5901

cost to the state or local governments; 5902

(6) Whether the objectives identified in division (E) (3) 5903
of this section could have been accomplished successfully 5904
through a program that requires legislative appropriations for 5905
funding; 5906

(7) The extent to which the tax expenditure may provide 5907
unintended benefits to an individual, organization, or industry 5908
other than those the general assembly or sponsor intended or 5909
creates an unfair competitive advantage for its recipient with 5910
respect to other businesses in the state; 5911

(8) The extent to which terminating the tax expenditure 5912
may have negative effects on taxpayers that currently benefit 5913
from the tax expenditure; 5914

(9) The extent to which terminating the tax expenditure 5915
may have negative or positive effects on the state's employment 5916
and economy; 5917

(10) The feasibility of modifying the tax expenditure to 5918
provide for adjustment or recapture of the proceeds of the tax 5919
expenditure if the objectives of the tax expenditure are not 5920
fulfilled by the recipient of the tax expenditure. 5921

(F) The committee shall prepare a report of its 5922
determinations under division (D) of this section and, not later 5923
than the first day of July of each even-numbered year, submit a 5924
copy of the report to the governor, the speaker of the house of 5925
representatives, the president of the senate, the minority 5926
leader of the house of representatives, and the minority leader 5927
of the senate. The first report shall be submitted either in ~~the~~ 5928
~~year of the effective date of this section or in the first even-~~ 5929
~~numbered year thereafter~~ 2017 or 2018. If the committee 5930

maintains a web site, the committee shall cause a copy of the 5931
report to be posted on the web site in a form enabling access to 5932
the report by the public within thirty days after the report is 5933
submitted under this division. If the committee does not 5934
maintain a web site, the committee shall request that the 5935
president of the senate and the speaker of the house of 5936
representatives cause the report to be posted on the web site of 5937
the general assembly. 5938

(G) Any bill introduced in the house of representatives or 5939
the senate that proposes to enact or modify one or more tax 5940
expenditures should include a statement explaining the 5941
objectives of the tax expenditure or its modification and the 5942
sponsor's intent in proposing the tax expenditure or its 5943
modification. 5944

Sec. 5705.03. (A) The taxing authority of each subdivision 5945
may levy taxes annually, subject to the limitations of sections 5946
5705.01 to 5705.47 of the Revised Code, on the real and personal 5947
property within the subdivision for the purpose of paying the 5948
current operating expenses of the subdivision and acquiring or 5949
constructing permanent improvements. The taxing authority of 5950
each subdivision and taxing unit shall, subject to the 5951
limitations of such sections, levy such taxes annually as are 5952
necessary to pay the interest and sinking fund on and retire at 5953
maturity the bonds, notes, and certificates of indebtedness of 5954
such subdivision and taxing unit, including levies in 5955
anticipation of which the subdivision or taxing unit has 5956
incurred indebtedness. 5957

(B) (1) When a taxing authority determines that it is 5958
necessary to levy a tax outside the ten-mill limitation for any 5959
purpose authorized by the Revised Code, the taxing authority 5960

shall certify to the county auditor a resolution or ordinance 5961
requesting that the county auditor certify to the taxing 5962
authority the total current tax valuation of the subdivision, 5963
and the number of mills required to generate a specified amount 5964
of revenue, or the dollar amount of revenue that would be 5965
generated by a specified number of mills. The resolution or 5966
ordinance shall state all of the following: 5967

(a) The purpose of the tax; 5968

(b) Whether the tax is an additional levy, a renewal or a 5969
replacement of an existing tax, or a renewal or replacement of 5970
an existing tax with an increase or a decrease; 5971

(c) The section of the Revised Code authorizing submission 5972
of the question of the tax; 5973

(d) The term of years of the tax or if the tax is for a 5974
continuing period of time; 5975

(e) That the tax is to be levied upon the entire territory 5976
of the subdivision or, if authorized by the Revised Code, a 5977
description of the portion of the territory of the subdivision 5978
in which the tax is to be levied; 5979

(f) The date of the election at which the question of the 5980
tax shall appear on the ballot; 5981

(g) That the ballot measure shall be submitted to the 5982
entire territory of the subdivision or, if authorized by the 5983
Revised Code, a description of the portion of the territory of 5984
the subdivision to which the ballot measure shall be submitted; 5985

(h) The tax year in which the tax will first be levied and 5986
the calendar year in which the tax will first be collected; 5987

(i) Each such county in which the subdivision has 5988

territory. 5989

If a subdivision is located in more than one county, the 5990
county auditor shall obtain from the county auditor of each 5991
other county in which the subdivision is located the current tax 5992
valuation for the portion of the subdivision in that county. The 5993
county auditor shall issue the certification to the taxing 5994
authority within ten days after receiving the taxing authority's 5995
resolution or ordinance requesting it. 5996

~~(2) When considering the tangible personal property 5997
component of the tax valuation of the subdivision, the county 5998
auditor shall take into account the assessment percentages 5999
prescribed in section 5711.22 of the Revised Code. The tax 6000
commissioner may issue rules, orders, or instructions directing 6001
how the assessment percentages must be utilized. 6002~~

~~(3)~~ Upon receiving the certification from the county 6003
auditor, the taxing authority may adopt a resolution or 6004
ordinance stating the rate of the tax levy, expressed in mills 6005
for each one dollar in tax valuation as estimated by the county 6006
auditor, and that the taxing authority will proceed with the 6007
submission of the question of the tax to electors. The taxing 6008
authority shall certify this resolution or ordinance, a copy of 6009
the county auditor's certification, and the resolution or 6010
ordinance the taxing authority adopted under division (B)(1) of 6011
this section to the proper county board of elections in the 6012
manner and within the time prescribed by the section of the 6013
Revised Code governing submission of the question. The county 6014
board of elections shall not submit the question of the tax to 6015
electors unless a copy of the county auditor's certification 6016
accompanies the resolutions or ordinances the taxing authority 6017
certifies to the board. Before requesting a taxing authority to 6018

submit a tax levy, any agency or authority authorized to make 6019
that request shall first request the certification from the 6020
county auditor provided under this section. 6021

~~(4)~~ (3) This division is supplemental to, and not in 6022
derogation of, any similar requirement governing the 6023
certification by the county auditor of the tax valuation of a 6024
subdivision or necessary tax rates for the purposes of the 6025
submission of the question of a tax in excess of the ten-mill 6026
limitation, including sections 133.18 and 5705.195 of the 6027
Revised Code. 6028

(C) All taxes levied on property shall be extended on the 6029
tax list and duplicate by the county auditor of the county in 6030
which the property is located, and shall be collected by the 6031
county treasurer of such county in the same manner and under the 6032
same laws and rules as are prescribed for the assessment and 6033
collection of county taxes. The proceeds of any tax levied by or 6034
for any subdivision when received by its fiscal officer shall be 6035
deposited in its treasury to the credit of the appropriate fund. 6036

Sec. 5705.13. (A) A taxing authority of a subdivision, by 6037
resolution or ordinance, may establish reserve balance accounts 6038
to accumulate currently available resources for the following 6039
purposes: 6040

(1) To stabilize subdivision budgets against cyclical 6041
changes in revenues and expenditures; 6042

(2) Except as otherwise provided by this section, to 6043
provide for the payment of claims and deductibles under an 6044
individual or joint self-insurance program for the subdivision, 6045
if the subdivision is permitted by law to establish such a 6046
program; 6047

(3) To provide for the payment of claims, assessments, and deductibles under a self-insurance program, individual retrospective ratings plan, group rating plan, group retrospective rating plan, medical only program, deductible plan, or large deductible plan for workers' compensation.

The ordinance or resolution establishing a reserve balance account shall state the purpose for which the account is established, the fund in which the account is to be established, and the total amount of money to be reserved in the account.

Not more than one reserve balance account may be established for each of the purposes permitted under divisions (A) (2) and (3) of this section. Money to the credit of a reserve balance account may be expended only for the purpose for which the account was established.

A reserve balance account established for the purpose described in division (A) (1) of this section may be established in the general fund or in one or more special funds for operating purposes of the subdivision. The amount of money to be reserved in such an account in any fiscal year shall not exceed five per cent of the revenue credited in the preceding fiscal year to the fund in which the account is established, or, in the case of a reserve balance account of a county or of a township, the greater of that amount or one-sixth of the expenditures during the preceding fiscal year from the fund in which the account is established. Subject to division ~~(G)~~ (F) of section 5705.29 of the Revised Code, any reserve balance in an account established under division (A) (1) of this section shall not be considered part of the unencumbered balance or revenue of the subdivision under division (A) of section 5705.35 or division (A) (1) of section 5705.36 of the Revised Code.

At any time, a taxing authority of a subdivision, by 6078
resolution or ordinance, may reduce or eliminate the reserve 6079
balance in a reserve balance account established for the purpose 6080
described in division (A) (1) of this section. 6081

A reserve balance account established for the purpose 6082
described in division (A) (2) or (3) of this section shall be 6083
established in the general fund of the subdivision or by the 6084
establishment of a separate internal service fund established to 6085
account for the operation of an individual or joint self- 6086
insurance program described in division (A) (2) of this section 6087
or a workers' compensation program or plan described in division 6088
(A) (3) of this section, and shall be based on sound actuarial 6089
principles. The total amount of money in a reserve balance 6090
account for self-insurance may be expressed in dollars or as the 6091
amount determined to represent an adequate reserve according to 6092
sound actuarial principles. 6093

A taxing authority of a subdivision, by resolution or 6094
ordinance, may rescind a reserve balance account established 6095
under this division. If a reserve balance account is rescinded, 6096
money that has accumulated in the account shall be transferred 6097
to the fund or funds from which the money originally was 6098
transferred. 6099

(B) A taxing authority of a subdivision, by resolution or 6100
ordinance, may establish a special revenue fund for the purpose 6101
of accumulating resources for the payment of accumulated sick 6102
leave and vacation leave, and for payments in lieu of taking 6103
compensatory time off, upon the termination of employment or the 6104
retirement of officers and employees of the subdivision. The 6105
special revenue fund may also accumulate resources for payment 6106
of salaries during any fiscal year when the number of pay 6107

periods exceeds the usual and customary number of pay periods. 6108
Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the 6109
Revised Code, the taxing authority, by resolution or ordinance, 6110
may transfer money to the special revenue fund from any other 6111
fund of the subdivision from which such payments may lawfully be 6112
made. The taxing authority, by resolution or ordinance, may 6113
rescind a special revenue fund established under this division. 6114
If a special revenue fund is rescinded, money that has 6115
accumulated in the fund shall be transferred to the fund or 6116
funds from which the money originally was transferred. 6117

(C) A taxing authority of a subdivision, by resolution or 6118
ordinance, may establish a capital projects fund for the purpose 6119
of accumulating resources for the acquisition, construction, or 6120
improvement of fixed assets of the subdivision. For the purposes 6121
of this section, "fixed assets" includes motor vehicles. More 6122
than one capital projects fund may be established and may exist 6123
at any time. The ordinance or resolution shall identify the 6124
source of the money to be used to acquire, construct, or improve 6125
the fixed assets identified in the resolution or ordinance, the 6126
amount of money to be accumulated for that purpose, the period 6127
of time over which that amount is to be accumulated, and the 6128
fixed assets that the taxing authority intends to acquire, 6129
construct, or improve with the money to be accumulated in the 6130
fund. 6131

A taxing authority of a subdivision shall not accumulate 6132
money in a capital projects fund for more than ten years after 6133
the resolution or ordinance establishing the fund is adopted. If 6134
the subdivision has not entered into a contract for the 6135
acquisition, construction, or improvement of fixed assets for 6136
which money was accumulated in such a fund before the end of 6137
that ten-year period, the fiscal officer of the subdivision 6138

shall transfer all money in the fund to the fund or funds from 6139
which that money originally was transferred or the fund that 6140
originally was intended to receive the money. 6141

A taxing authority of a subdivision, by resolution or 6142
ordinance, may rescind a capital projects fund. If a capital 6143
projects fund is rescinded, money that has accumulated in the 6144
fund shall be transferred to the fund or funds from which the 6145
money originally was transferred. 6146

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of 6147
the Revised Code, the taxing authority of a subdivision, by 6148
resolution or ordinance, may transfer money to the capital 6149
projects fund from any other fund of the subdivision that may 6150
lawfully be used for the purpose of acquiring, constructing, or 6151
improving the fixed assets identified in the resolution or 6152
ordinance. 6153

Sec. 5705.19. This section does not apply to school 6154
districts, county school financing districts, or lake facilities 6155
authorities. 6156

The taxing authority of any subdivision at any time and in 6157
any year, by vote of two-thirds of all the members of the taxing 6158
authority, may declare by resolution and certify the resolution 6159
to the board of elections not less than ninety days before the 6160
election upon which it will be voted that the amount of taxes 6161
that may be raised within the ten-mill limitation will be 6162
insufficient to provide for the necessary requirements of the 6163
subdivision and that it is necessary to levy a tax in excess of 6164
that limitation for any of the following purposes: 6165

(A) For current expenses of the subdivision, except that 6166
the total levy for current expenses of a detention facility 6167

district or district organized under section 2151.65 of the 6168
Revised Code shall not exceed two mills and that the total levy 6169
for current expenses of a combined district organized under 6170
sections 2151.65 and 2152.41 of the Revised Code shall not 6171
exceed four mills; 6172

(B) For the payment of debt charges on certain described 6173
bonds, notes, or certificates of indebtedness of the subdivision 6174
issued subsequent to January 1, 1925; 6175

(C) For the debt charges on all bonds, notes, and 6176
certificates of indebtedness issued and authorized to be issued 6177
prior to January 1, 1925; 6178

(D) For a public library of, or supported by, the 6179
subdivision under whatever law organized or authorized to be 6180
supported; 6181

(E) For a municipal university, not to exceed two mills 6182
over the limitation of one mill prescribed in section 3349.13 of 6183
the Revised Code; 6184

(F) For the construction or acquisition of any specific 6185
permanent improvement or class of improvements that the taxing 6186
authority of the subdivision may include in a single bond issue; 6187

(G) For the general construction, reconstruction, 6188
resurfacing, and repair of streets, roads, and bridges in 6189
municipal corporations, counties, or townships; 6190

(H) For parks and recreational purposes; 6191

(I) For providing and maintaining fire apparatus, 6192
mechanical resuscitators, underwater rescue and recovery 6193
equipment, or other fire equipment and appliances, buildings and 6194
sites therefor, or sources of water supply and materials 6195

therefor, for the establishment and maintenance of lines of 6196
fire-alarm communications, for the payment of firefighting 6197
companies or permanent, part-time, or volunteer firefighting, 6198
emergency medical service, administrative, or communications 6199
personnel to operate the same, including the payment of any 6200
employer contributions required for such personnel under section 6201
145.48 or 742.34 of the Revised Code, for the purchase of 6202
ambulance equipment, for the provision of ambulance, paramedic, 6203
or other emergency medical services operated by a fire 6204
department or firefighting company, or for the payment of other 6205
related costs; 6206

(J) For providing and maintaining motor vehicles, 6207
communications, other equipment, buildings, and sites for such 6208
buildings used directly in the operation of a police department, 6209
for the payment of salaries of permanent or part-time police, 6210
communications, or administrative personnel to operate the same, 6211
including the payment of any employer contributions required for 6212
such personnel under section 145.48 or 742.33 of the Revised 6213
Code, for the payment of the costs incurred by townships as a 6214
result of contracts made with other political subdivisions in 6215
order to obtain police protection, for the provision of 6216
ambulance or emergency medical services operated by a police 6217
department, or for the payment of other related costs; 6218

(K) For the maintenance and operation of a county home or 6219
detention facility; 6220

(L) For community developmental disabilities programs and 6221
services pursuant to Chapter 5126. of the Revised Code, except 6222
that such levies shall be subject to the procedures and 6223
requirements of section 5705.222 of the Revised Code; 6224

(M) For regional planning; 6225

(N) For a county's share of the cost of maintaining and 6226
operating schools, district detention facilities, forestry 6227
camps, or other facilities, or any combination thereof, 6228
established under section 2151.65 or 2152.41 of the Revised Code 6229
or both of those sections; 6230

(O) For providing for flood defense, providing and 6231
maintaining a flood wall or pumps, and other purposes to prevent 6232
floods; 6233

(P) For maintaining and operating sewage disposal plants 6234
and facilities; 6235

(Q) For the purpose of purchasing, acquiring, 6236
constructing, enlarging, improving, equipping, repairing, 6237
maintaining, or operating, or any combination of the foregoing, 6238
a county transit system pursuant to sections 306.01 to 306.13 of 6239
the Revised Code, or of making any payment to a board of county 6240
commissioners operating a transit system or a county transit 6241
board pursuant to section 306.06 of the Revised Code; 6242

(R) For the subdivision's share of the cost of acquiring 6243
or constructing any schools, forestry camps, detention 6244
facilities, or other facilities, or any combination thereof, 6245
under section 2151.65 or 2152.41 of the Revised Code or both of 6246
those sections; 6247

(S) For the prevention, control, and abatement of air 6248
pollution; 6249

(T) For maintaining and operating cemeteries; 6250

(U) For providing ambulance service, emergency medical 6251
service, or both; 6252

(V) For providing for the collection and disposal of 6253

garbage or refuse, including yard waste; 6254

(W) For the payment of the police officer employers' 6255
contribution or the firefighter employers' contribution required 6256
under sections 742.33 and 742.34 of the Revised Code; 6257

(X) For the construction and maintenance of a drainage 6258
improvement pursuant to section 6131.52 of the Revised Code; 6259

(Y) For providing or maintaining senior citizens services 6260
or facilities as authorized by section 307.694, 307.85, 505.70, 6261
or 505.706 or division (EE) of section 717.01 of the Revised 6262
Code; 6263

(Z) For the provision and maintenance of zoological park 6264
services and facilities as authorized under section 307.76 of 6265
the Revised Code; 6266

(AA) For the maintenance and operation of a free public 6267
museum of art, science, or history; 6268

(BB) For the establishment and operation of a 9-1-1 6269
system, as defined in section 128.01 of the Revised Code; 6270

(CC) For the purpose of acquiring, rehabilitating, or 6271
developing rail property or rail service. As used in this 6272
division, "rail property" and "rail service" have the same 6273
meanings as in section 4981.01 of the Revised Code. This 6274
division applies only to a county, township, or municipal 6275
corporation. 6276

(DD) For the purpose of acquiring property for, 6277
constructing, operating, and maintaining community centers as 6278
provided for in section 755.16 of the Revised Code; 6279

(EE) For the creation and operation of an office or joint 6280
office of economic development, for any economic development 6281

purpose of the office, and to otherwise provide for the 6282
establishment and operation of a program of economic development 6283
pursuant to sections 307.07 and 307.64 of the Revised Code, or 6284
to the extent that the expenses of a county land reutilization 6285
corporation organized under Chapter 1724. of the Revised Code 6286
are found by the board of county commissioners to constitute the 6287
promotion of economic development, for the payment of such 6288
operations and expenses; 6289

(FF) For the purpose of acquiring, establishing, 6290
constructing, improving, equipping, maintaining, or operating, 6291
or any combination of the foregoing, a township airport, landing 6292
field, or other air navigation facility pursuant to section 6293
505.15 of the Revised Code; 6294

(GG) For the payment of costs incurred by a township as a 6295
result of a contract made with a county pursuant to section 6296
505.263 of the Revised Code in order to pay all or any part of 6297
the cost of constructing, maintaining, repairing, or operating a 6298
water supply improvement; 6299

(HH) For a board of township trustees to acquire, other 6300
than by appropriation, an ownership interest in land, water, or 6301
wetlands, or to restore or maintain land, water, or wetlands in 6302
which the board has an ownership interest, not for purposes of 6303
recreation, but for the purposes of protecting and preserving 6304
the natural, scenic, open, or wooded condition of the land, 6305
water, or wetlands against modification or encroachment 6306
resulting from occupation, development, or other use, which may 6307
be styled as protecting or preserving "greenspace" in the 6308
resolution, notice of election, or ballot form. Except as 6309
otherwise provided in this division, land is not acquired for 6310
purposes of recreation, even if the land is used for 6311

recreational purposes, so long as no building, structure, or 6312
fixture used for recreational purposes is permanently attached 6313
or affixed to the land. Except as otherwise provided in this 6314
division, land that previously has been acquired in a township 6315
for these greenspace purposes may subsequently be used for 6316
recreational purposes if the board of township trustees adopts a 6317
resolution approving that use and no building, structure, or 6318
fixture used for recreational purposes is permanently attached 6319
or affixed to the land. The authorization to use greenspace land 6320
for recreational use does not apply to land located in a 6321
township that had a population, at the time it passed its first 6322
greenspace levy, of more than thirty-eight thousand within a 6323
county that had a population, at that time, of at least eight 6324
hundred sixty thousand. 6325

(II) For the support by a county of a crime victim 6326
assistance program that is provided and maintained by a county 6327
agency or a private, nonprofit corporation or association under 6328
section 307.62 of the Revised Code; 6329

(JJ) For any or all of the purposes set forth in divisions 6330
(I) and (J) of this section. This division applies only to a 6331
municipal corporation or a township. 6332

(KK) For a countywide public safety communications system 6333
under section 307.63 of the Revised Code. This division applies 6334
only to counties. 6335

(LL) For the support by a county of criminal justice 6336
services under section 307.45 of the Revised Code; 6337

(MM) For the purpose of maintaining and operating a jail 6338
or other detention facility as defined in section 2921.01 of the 6339
Revised Code; 6340

(NN) For purchasing, maintaining, or improving, or any 6341
combination of the foregoing, real estate on which to hold, and 6342
the operating expenses of, agricultural fairs operated by a 6343
county agricultural society or independent agricultural society 6344
under Chapter 1711. of the Revised Code. This division applies 6345
only to a county. 6346

(OO) For constructing, rehabilitating, repairing, or 6347
maintaining sidewalks, walkways, trails, bicycle pathways, or 6348
similar improvements, or acquiring ownership interests in land 6349
necessary for the foregoing improvements; 6350

(PP) For both of the purposes set forth in divisions (G) 6351
and (OO) of this section. 6352

(QQ) For both of the purposes set forth in divisions (H) 6353
and (HH) of this section. This division applies only to a 6354
township. 6355

(RR) For the legislative authority of a municipal 6356
corporation, board of county commissioners of a county, or board 6357
of township trustees of a township to acquire agricultural 6358
easements, as defined in section 5301.67 of the Revised Code, 6359
and to supervise and enforce the easements. 6360

(SS) For both of the purposes set forth in divisions (BB) 6361
and (KK) of this section. This division applies only to a 6362
county. 6363

(TT) For the maintenance and operation of a facility that 6364
is organized in whole or in part to promote the sciences and 6365
natural history under section 307.761 of the Revised Code. 6366

(UU) For the creation and operation of a county land 6367
reutilization corporation and for any programs or activities of 6368
the corporation found by the board of directors of the 6369

corporation to be consistent with the purposes for which the 6370
corporation is organized; 6371

(VV) For construction and maintenance of improvements and 6372
expenses of soil and water conservation district programs under 6373
Chapter 940. of the Revised Code; 6374

(WW) For the OSU extension fund created under section 6375
3335.35 of the Revised Code for the purposes prescribed under 6376
section 3335.36 of the Revised Code for the benefit of the 6377
citizens of a county. This division applies only to a county. 6378

(XX) For a municipal corporation that withdraws or 6379
proposes by resolution to withdraw from a regional transit 6380
authority under section 306.55 of the Revised Code to provide 6381
transportation services for the movement of persons within, 6382
from, or to the municipal corporation; 6383

(YY) For any combination of the purposes specified in 6384
divisions (NN), (VV), and (WW) of this section. This division 6385
applies only to a county. 6386

(ZZ) For any combination of the following purposes: the 6387
acquisition, construction, improvement, or maintenance of 6388
buildings, equipment, and supplies for police, firefighting, or 6389
emergency medical services; the construction, reconstruction, 6390
resurfacing, or repair of streets, roads, and bridges; or for 6391
general infrastructure projects. This division applies only to a 6392
township or municipal corporation. 6393

(AAA) For any combination of the purposes specified in 6394
divisions (G), (K), (N), (O), (P), (X), (BB), and (MM) of this 6395
section, for the acquisition, construction or maintenance of 6396
county facilities, or for the acquisition of or improvements to 6397
land. This division applies only to a county. 6398

The resolution shall be confined to the purpose or 6399
purposes described in one division of this section, to which the 6400
revenue derived therefrom shall be applied. The existence in any 6401
other division of this section of authority to levy a tax for 6402
any part or all of the same purpose or purposes does not 6403
preclude the use of such revenues for any part of the purpose or 6404
purposes of the division under which the resolution is adopted. 6405

The resolution shall specify the amount of the increase in 6406
rate that it is necessary to levy, the purpose of that increase 6407
in rate, and the number of years during which the increase in 6408
rate shall be in effect, which may or may not include a levy 6409
upon the duplicate of the current year. The number of years may 6410
be any number not exceeding five, except as follows: 6411

(1) When the additional rate is for the payment of debt 6412
charges, the increased rate shall be for the life of the 6413
indebtedness. 6414

(2) When the additional rate is for any of the following, 6415
the increased rate shall be for a continuing period of time: 6416

(a) For the current expenses for a detention facility 6417
district, a district organized under section 2151.65 of the 6418
Revised Code, or a combined district organized under sections 6419
2151.65 and 2152.41 of the Revised Code; 6420

(b) For providing a county's share of the cost of 6421
maintaining and operating schools, district detention 6422
facilities, forestry camps, or other facilities, or any 6423
combination thereof, established under section 2151.65 or 6424
2152.41 of the Revised Code or under both of those sections. 6425

(3) When the additional rate is for either of the 6426
following, the increased rate may be for a continuing period of 6427

time: 6428

(a) For the purposes set forth in division (I), (J), (U), 6429
or (KK) of this section; 6430

(b) For the maintenance and operation of a joint 6431
recreation district. 6432

(4) When the increase is for the purpose or purposes set 6433
forth in division (D), (G), (H), (T), (Z), (CC), or (PP) of this 6434
section, the tax levy may be for any specified number of years 6435
or for a continuing period of time, as set forth in the 6436
resolution. 6437

(5) When the increase is for the purpose set forth in 6438
division (ZZ) or (AAA) of this section, the tax levy may be for 6439
any number of years not exceeding ten. 6440

A levy for one of the purposes set forth in division (G), 6441
(I), (J), or (U) of this section may be reduced pursuant to 6442
section 5705.261 or 5705.31 of the Revised Code. A levy for one 6443
of the purposes set forth in division (G), (I), (J), or (U) of 6444
this section may also be terminated or permanently reduced by 6445
the taxing authority if it adopts a resolution stating that the 6446
continuance of the levy is unnecessary and the levy shall be 6447
terminated or that the millage is excessive and the levy shall 6448
be decreased by a designated amount. 6449

A resolution of a detention facility district, a district 6450
organized under section 2151.65 of the Revised Code, or a 6451
combined district organized under both sections 2151.65 and 6452
2152.41 of the Revised Code may include both current expenses 6453
and other purposes, provided that the resolution shall apportion 6454
the annual rate of levy between the current expenses and the 6455
other purpose or purposes. The apportionment need not be the 6456

same for each year of the levy, but the respective portions of 6457
the rate actually levied each year for the current expenses and 6458
the other purpose or purposes shall be limited by the 6459
apportionment. 6460

Whenever a board of county commissioners, acting either as 6461
the taxing authority of its county or as the taxing authority of 6462
a sewer district or subdistrict created under Chapter 6117. of 6463
the Revised Code, by resolution declares it necessary to levy a 6464
tax in excess of the ten-mill limitation for the purpose of 6465
constructing, improving, or extending sewage disposal plants or 6466
sewage systems, the tax may be in effect for any number of years 6467
not exceeding twenty, and the proceeds of the tax, 6468
notwithstanding the general provisions of this section, may be 6469
used to pay debt charges on any obligations issued and 6470
outstanding on behalf of the subdivision for the purposes 6471
enumerated in this paragraph, provided that any such obligations 6472
have been specifically described in the resolution. 6473

A resolution adopted by the legislative authority of a 6474
municipal corporation that is for the purpose in division (XX) 6475
of this section may be combined with the purpose provided in 6476
section 306.55 of the Revised Code, by vote of two-thirds of all 6477
members of the legislative authority. The legislative authority 6478
may certify the resolution to the board of elections as a 6479
combined question. The question appearing on the ballot shall be 6480
as provided in section 5705.252 of the Revised Code. 6481

A levy for the purpose set forth in division (BB) of this 6482
section may be imposed in all or a portion of the territory of a 6483
subdivision. If the 9-1-1 system to be established and operated 6484
with levy funds excludes territory located within the 6485
subdivision, the resolution adopted under this section, or a 6486

resolution proposing to renew such a levy that was imposed in 6487
all of the territory of the subdivision, may describe the area 6488
served or to be served by the system and specify that the 6489
proposed tax would be imposed only in the areas receiving or to 6490
receive the service. Upon passage of such a resolution, the 6491
board of elections shall submit the question of the tax levy 6492
only to those electors residing in the area or areas in which 6493
the tax would be imposed. If the 9-1-1 system would serve the 6494
entire subdivision, the resolution shall not exclude territory 6495
from the tax levy. 6496

The resolution shall go into immediate effect upon its 6497
passage, and no publication of the resolution is necessary other 6498
than that provided for in the notice of election. 6499

When the electors of a subdivision or, in the case of a 6500
qualifying library levy for the support of a library association 6501
or private corporation, the electors of the association library 6502
district or, in the case of a 9-1-1 system levy serving only a 6503
portion of the territory of a subdivision, the electors of the 6504
portion of the subdivision in which the levy would be imposed 6505
have approved a tax levy under this section, the taxing 6506
authority of the subdivision may anticipate a fraction of the 6507
proceeds of the levy and issue anticipation notes in accordance 6508
with section 5705.191 or 5705.193 of the Revised Code. 6509

Sec. 5705.195. Within five days after the resolution is 6510
certified to the county auditor as provided by section 5705.194 6511
of the Revised Code, the auditor shall calculate and certify to 6512
the taxing authority the annual levy, expressed in dollars and 6513
cents for each one hundred dollars of valuation as well as in 6514
mills for each one dollar of valuation, throughout the life of 6515
the levy which will be required to produce the annual amount set 6516

forth in the resolution assuming that the amount of the tax list 6517
of such subdivision remains throughout the life of the levy the 6518
same as the amount of the tax list for the current year, and if 6519
this is not determined, the estimated amount submitted by the 6520
auditor to the county budget commission. ~~When considering the~~ 6521
~~tangible personal property component of the tax valuation of the~~ 6522
~~subdivision, the county auditor shall take into account the~~ 6523
~~assessment percentages prescribed in section 5711.22 of the~~ 6524
~~Revised Code. The tax commissioner may issue rules, orders, or~~ 6525
~~instructions directing how the assessment percentages must be~~ 6526
~~utilized.~~ 6527

Upon receiving the certification from the county auditor, 6528
if the taxing authority desires to proceed with the submission 6529
of the question it shall, not less than ninety days before the 6530
day of such election, certify its resolution, together with the 6531
amount of the average tax levy, expressed in dollars and cents 6532
for each one hundred dollars of valuation as well as in mills 6533
for each one dollar of valuation, estimated by the auditor, and 6534
the number of years the levy is to run to the board of elections 6535
of the county which shall prepare the ballots and make other 6536
necessary arrangements for the submission of the question to the 6537
voters of the subdivision. 6538

Sec. 5705.213. (A) (1) The board of education of any school 6539
district, at any time and by a vote of two-thirds of all of its 6540
members, may declare by resolution that the amount of taxes that 6541
may be raised within the ten-mill limitation will be 6542
insufficient to provide an adequate amount for the present and 6543
future requirements of the school district and that it is 6544
necessary to levy a tax in excess of that limitation for current 6545
expenses. The resolution also shall state that the question of 6546
the additional tax shall be submitted to the electors of the 6547

school district at a special election. The resolution shall 6548
specify, for each year the levy is in effect, the amount of 6549
money that the levy is proposed to raise, which may, for years 6550
after the first year the levy is made, be expressed in terms of 6551
a dollar or percentage increase over the prior year's amount. 6552
The resolution also shall specify that the purpose of the levy 6553
is for current expenses, the number of years during which the 6554
tax shall be in effect which may be for any number of years not 6555
exceeding ten, and the year in which the tax first is proposed 6556
to be levied. The resolution shall specify the date of holding 6557
the special election, which shall not be earlier than ninety- 6558
five days after the adoption and certification of the resolution 6559
to the county auditor and not earlier than ninety days after 6560
certification to the board of elections. The date of the 6561
election shall be consistent with the requirements of section 6562
3501.01 of the Revised Code. 6563

(2) The board of education, by a vote of two-thirds of all 6564
of its members, may adopt a resolution proposing to renew a tax 6565
levied under division (A) (1) of this section. Such a resolution 6566
shall provide for levying a tax and specify all of the 6567
following: 6568

(a) That the tax shall be called and designated on the 6569
ballot as a renewal levy; 6570

(b) The amount of the renewal tax, which shall be no more 6571
than the amount of tax levied during the last year the tax being 6572
renewed is authorized to be in effect; 6573

(c) The number of years, not to exceed ten, that the 6574
renewal tax will be levied, or that it will be levied for a 6575
continuing period of time; 6576

(d) That the purpose of the renewal levy is for current 6577
expenses; 6578

(e) Subject to the certification and notification 6579
requirements of section 5705.251 of the Revised Code, that the 6580
question of the renewal levy shall be submitted to the electors 6581
of the school district at the general election held during the 6582
last year the tax being renewed may be extended on the real and 6583
public utility property tax list and duplicate or at a special 6584
election held during the ensuing year. 6585

(3) A resolution adopted under division (A)(1) or (2) of 6586
this section shall go into immediate effect upon its adoption 6587
and no publication of the resolution is necessary other than 6588
that provided for in the notice of election. Immediately after 6589
its adoption, a copy of the resolution shall be certified to the 6590
county auditor of the proper county, who shall, within five 6591
days, calculate and certify to the board of education the 6592
estimated levy, for the first year, and for each subsequent year 6593
for which the tax is proposed to be in effect. The estimates 6594
shall be made both in mills for each dollar of valuation, and in 6595
dollars and cents for each one hundred dollars of valuation. In 6596
making the estimates, the auditor shall assume that the amount 6597
of the tax list remains throughout the life of the levy, the 6598
same as the tax list for the current year. If the tax list for 6599
the current year is not determined, the auditor shall base the 6600
auditor's estimates on the estimated amount of the tax list for 6601
the current year as submitted to the county budget commission. 6602

If the board desires to proceed with the submission of the 6603
question, it shall certify its resolution, with the estimated 6604
tax levy expressed in mills and dollars and cents per hundred 6605
dollars of valuation for each year that the tax is proposed to 6606

be in effect, to the board of elections of the proper county in 6607
the manner provided by division (A) of section 5705.251 of the 6608
Revised Code. Section 5705.251 of the Revised Code shall govern 6609
the arrangements for the submission of the question and other 6610
matters concerning the election to which that section refers. 6611
The election shall be held on the date specified in the 6612
resolution. If a majority of the electors voting on the question 6613
so submitted in an election vote in favor of the tax, and if the 6614
tax is authorized to be levied for the current year, the board 6615
of education immediately may make the additional levy necessary 6616
to raise the amount specified in the resolution or a lesser 6617
amount for the purpose stated in the resolution. 6618

(4) The submission of questions to the electors under this 6619
section is subject to the limitation on the number of election 6620
dates established by section 5705.214 of the Revised Code. 6621

(B) Notwithstanding ~~sections~~ section 133.30 ~~and 133.301~~ of 6622
the Revised Code, after the approval of a tax to be levied in 6623
the current or the succeeding year and prior to the time when 6624
the first tax collection from that levy can be made, the board 6625
of education may anticipate a fraction of the proceeds of the 6626
levy and issue anticipation notes in an amount not to exceed 6627
fifty per cent of the total estimated proceeds of the levy to be 6628
collected during the first year of the levy. The notes shall be 6629
sold as provided in Chapter 133. of the Revised Code. If 6630
anticipation notes are issued, they shall mature serially and in 6631
substantially equal amounts during each year over a period not 6632
to exceed five years; and the amount necessary to pay the 6633
interest and principal as the anticipation notes mature shall be 6634
deemed appropriated for those purposes from the levy, and 6635
appropriations from the levy by the board of education shall be 6636
limited each fiscal year to the balance available in excess of 6637

that amount. 6638

If the auditor of state has certified a deficit pursuant 6639
to section 3313.483 of the Revised Code, the notes authorized 6640
under this section may be sold in accordance with Chapter 133. 6641
of the Revised Code, except that the board may sell the notes 6642
after providing a reasonable opportunity for competitive 6643
bidding. 6644

Sec. 5705.252. (A) If the legislative authority of a 6645
municipal corporation adopts a resolution for the purposes 6646
provided in section 306.55 of the Revised Code and division (XX) 6647
of section 5705.19 of the Revised Code and certifies the 6648
resolution to the board of elections as a combined question, the 6649
question appearing on the ballot shall read: 6650

"Shall the territory within the (name of municipal 6651
corporation) be withdrawn from (name of regional transit 6652
authority) and shall an additional tax be levied for the benefit 6653
of (name of municipal corporation) for the purpose 6654
of providing transportation services for the movement of persons 6655
within, from, or to the (name of municipal corporation) 6656
at a rate not exceeding mills for each one dollar of 6657
valuation, which amounts to (rate expressed in dollars 6658
and cents) for each one hundred dollars of valuation, for 6659
(number of years the levy is to run)?" 6660

(B) If the board of trustees of a township adopts a 6661
resolution for the purposes provided in sections 306.55 and 6662
5705.72 of the Revised Code and certifies the resolution to the 6663
board of elections as a combined question, the question 6664
appearing on the ballot in the unincorporated area of the 6665
township shall read: 6666

"Shall the territory within the unincorporated area of 6667
..... (name of township) be withdrawn from (name of 6668
regional transit authority) and shall an additional tax be 6669
levied for the benefit of the unincorporated area of 6670
(name of township) for the purpose of providing transportation 6671
services for the movement of persons within, from, or to the 6672
unincorporated area of (name of township) at a rate not 6673
exceeding mills for each one dollar of valuation, which 6674
amounts to (rate expressed in dollars and cents) for each 6675
one hundred dollars of valuation, for (number of years 6676
the levy is to run)?" 6677

Sec. 5705.29. This section does not apply to a subdivision 6678
or taxing unit for which the county budget commission has waived 6679
the requirement to adopt a tax budget pursuant to section 6680
5705.281 of the Revised Code. The tax budget shall present the 6681
following information in such detail as is prescribed by the 6682
auditor of state: 6683

(A) (1) A statement of the necessary current operating 6684
expenses for the ensuing fiscal year for each department and 6685
division of the subdivision, classified as to personal services 6686
and other expenses, and the fund from which such expenditures 6687
are to be made. Except in the case of a school district, this 6688
estimate may include a contingent expense not designated for any 6689
particular purpose, and not to exceed three per cent of the 6690
total amount of appropriations for current expenses. In the case 6691
of a school district, this estimate may include a contingent 6692
expense not designated for any particular purpose and not to 6693
exceed thirteen per cent of the total amount of appropriations 6694
for current expenses. 6695

(2) A statement of the expenditures for the ensuing fiscal 6696

year necessary for permanent improvements, exclusive of any 6697
expense to be paid from bond issues, classified as to the 6698
improvements contemplated by the subdivision and the fund from 6699
which such expenditures are to be made; 6700

(3) The amounts required for the payment of final 6701
judgments; 6702

(4) A statement of expenditures for the ensuing fiscal 6703
year necessary for any purpose for which a special levy is 6704
authorized, and the fund from which such expenditures are to be 6705
made; 6706

(5) Comparative statements, so far as possible, in 6707
parallel columns of corresponding items of expenditures for the 6708
current fiscal year and the two preceding fiscal years. 6709

(B) (1) An estimate of receipts from other sources than the 6710
general property tax during the ensuing fiscal year, which shall 6711
include an estimate of unencumbered balances at the end of the 6712
current fiscal year, and the funds to which such estimated 6713
receipts are credited; 6714

(2) The amount each fund requires from the general 6715
property tax, which shall be the difference between the 6716
contemplated expenditure from the fund and the estimated 6717
receipts, as provided in this section. The section of the 6718
Revised Code under which the tax is authorized shall be set 6719
forth. 6720

(3) Comparative statements, so far as possible, in 6721
parallel columns of taxes and other revenues for the current 6722
fiscal year and the two preceding fiscal years. 6723

(C) (1) The amount required for debt charges; 6724

(2) The estimated receipts from sources other than the tax 6725
levy for payment of such debt charges, including the proceeds of 6726
refunding bonds to be issued to refund bonds maturing in the 6727
next succeeding fiscal year; 6728

(3) The net amount for which a tax levy shall be made, 6729
classified as to bonds authorized and issued prior to January 1, 6730
1922, and those authorized and issued subsequent to such date, 6731
and as to what portion of the levy will be within and what in 6732
excess of the ten-mill limitation. 6733

(D) An estimate of amounts from taxes authorized to be 6734
levied in excess of the ten-mill limitation on the tax rate, and 6735
the fund to which such amounts will be credited, together with 6736
the sections of the Revised Code under which each such tax is 6737
exempted from all limitations on the tax rate. 6738

(E) (1) A board of education may include in its budget for 6739
the fiscal year in which a levy proposed under section 5705.194, 6740
5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy 6741
proposed under section 5748.09, or the original levy under 6742
section 5705.212 of the Revised Code is first extended on the 6743
tax list and duplicate an estimate of expenditures to be known 6744
as a voluntary contingency reserve balance, which shall not be 6745
greater than twenty-five per cent of the total amount of the 6746
levy estimated to be available for appropriation in such year. 6747

(2) A board of education may include in its budget for the 6748
fiscal year following the year in which a levy proposed under 6749
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 6750
property tax levy proposed under section 5748.09, or the 6751
original levy under section 5705.212 of the Revised Code is 6752
first extended on the tax list and duplicate an estimate of 6753
expenditures to be known as a voluntary contingency reserve 6754

balance, which shall not be greater than twenty per cent of the 6755
amount of the levy estimated to be available for appropriation 6756
in such year. 6757

(3) Except as provided in division (E) (4) of this section, 6758
the full amount of any reserve balance the board includes in its 6759
budget shall be retained by the county auditor and county 6760
treasurer out of the first semiannual settlement of taxes until 6761
the beginning of the next succeeding fiscal year, and thereupon, 6762
with the depository interest apportioned thereto, it shall be 6763
turned over to the board of education, to be used for the 6764
purposes of such fiscal year. 6765

(4) A board of education, by a two-thirds vote of all 6766
members of the board, may appropriate any amount withheld as a 6767
voluntary contingency reserve balance during the fiscal year for 6768
any lawful purpose, provided that prior to such appropriation 6769
the board of education has authorized the expenditure of all 6770
amounts appropriated for contingencies under section 5705.40 of 6771
the Revised Code. Upon request by the board of education, the 6772
county auditor shall draw a warrant on the district's account in 6773
the county treasury payable to the district in the amount 6774
requested. 6775

~~(F) (1) A board of education may include a spending reserve 6776~~
~~in its budget for fiscal years ending on or before June 30, 6777~~
~~2002. The spending reserve shall consist of an estimate of 6778~~
~~expenditures not to exceed the district's spending reserve 6779~~
~~balance. A district's spending reserve balance is the amount by 6780~~
~~which the designated percentage of the district's estimated 6781~~
~~personal property taxes to be settled during the calendar year 6782~~
~~in which the fiscal year ends exceeds the estimated amount of 6783~~
~~personal property taxes to be so settled and received by the 6784~~

~~district during that fiscal year. Moneys from a spending reserve~~ 6785
~~shall be appropriated in accordance with section 133.301 of the~~ 6786
~~Revised Code.~~ 6787

~~(2) For the purposes of computing a school district's~~ 6788
~~spending reserve balance for a fiscal year, the designated~~ 6789
~~percentage shall be as follows:~~ 6790

~~(C)~~ Except as otherwise provided in this division, the 6791
county budget commission shall not reduce the taxing authority 6792
of a subdivision as a result of the creation of a reserve 6793
balance account. Except as otherwise provided in this division, 6794
the county budget commission shall not consider the amount in a 6795
reserve balance account of a township, county, or municipal 6796
corporation as an unencumbered balance or as revenue for the 6797
purposes of division (E) (3) or (4) of section 5747.51 of the 6798
Revised Code. The county budget commission may require 6799
documentation of the reasonableness of the reserve balance held 6800
in any reserve balance account. The commission shall consider 6801
any amount in a reserve balance account that it determines to be 6802
unreasonable as unencumbered and as revenue for the purposes of 6803
section 5747.51 of the Revised Code and may take such amounts 6804
into consideration when determining whether to reduce the taxing 6805
authority of a subdivision. 6806

Sec. 5705.315. With respect to annexations granted on or 6807
~~after the effective date of this section March 27, 2002,~~ and 6808
during any tax year or years within which any territory annexed 6809
to a municipal corporation is part of a township, the minimum 6810
levy for the municipal corporation and township under section 6811
5705.31 of the Revised Code shall not be diminished, except that 6812
in the annexed territory and only during those tax year or 6813
years, and in order to preserve the minimum levies of 6814

overlapping subdivisions under section 5705.31 of the Revised 6815
Code so that the full amount of taxes within the ten-mill 6816
limitation may be levied to the extent possible, the minimum 6817
levy of the municipal corporation or township shall be the 6818
lowest of the following amounts: 6819

(A) An amount that when added to the minimum levies of the 6820
other overlapping subdivisions equals ten mills; 6821

(B) An amount equal to the minimum levy of the municipal 6822
corporation or township, provided the total minimum levy does 6823
not exceed ten mills. 6824

The municipal corporation and the township may enter into 6825
an agreement to determine the municipal corporation's and the 6826
township's minimum levy under this section. If it cannot be 6827
determined what minimum levy is available to each and no 6828
agreement has been entered into by the municipal corporation and 6829
township, the municipal corporation and township shall each 6830
receive one-half of the millage available for use within the 6831
portion of the territory annexed to the municipal corporation 6832
that remains part of the township. 6833

Sec. 5705.34. When the budget commission has completed its 6834
work with respect to a tax budget or other information required 6835
to be provided under section 5705.281 of the Revised Code, it 6836
shall certify its action to the taxing authority, together with 6837
an estimate by the county auditor of the rate of each tax 6838
necessary to be levied by the taxing authority within its 6839
subdivision, taxing unit, or, in the case of a qualifying 6840
library levy, within the library district or association library 6841
district, and what part thereof is in excess of, and what part 6842
within, the ten-mill tax limitation. The certification shall 6843
also indicate the date on which each tax levied by the taxing 6844

authority will expire. 6845

If a taxing authority levies a tax for a fixed sum of 6846
money or to pay debt charges for the tax year for which the tax 6847
budget is prepared, and a payment on account of that tax is 6848
payable to the taxing authority for the tax year under section 6849
5709.92 or 5709.93~~7~~ of the Revised Code, the county auditor, 6850
when estimating the rate at which the tax shall be levied in the 6851
current year, shall estimate the rate necessary to raise the 6852
required sum less the estimated amount of any such payments made 6853
for the tax year to a taxing unit for fixed-sum levies under 6854
those sections. The estimated rate shall be the rate of the levy 6855
that the budget commission certifies with its action under this 6856
section. 6857

Each taxing authority, by ordinance or resolution, shall 6858
authorize the necessary tax levies and certify them to the 6859
county auditor before the first day of October in each year, or 6860
at such later date as is approved by the tax commissioner, 6861
except that the certification by the legislative authority of 6862
the city of Cincinnati or by a board of education shall be made 6863
by the first day of April or at such later date as is approved 6864
by the commissioner, and except that a township board of park 6865
commissioners that is appointed by the board of township 6866
trustees and oversees a township park district that contains 6867
only unincorporated territory shall authorize only those taxes 6868
approved by, and only at the rate approved by, the board of 6869
township trustees as required by division (C) of section 511.27 6870
of the Revised Code. If the levying of a tax to be placed on the 6871
duplicate of the current year is approved by electors under 6872
sections 5705.01 to 5705.47 of the Revised Code; if the rate of 6873
a school district tax is increased due to the repeal of a school 6874
district income tax and property tax rate reduction at an 6875

election held pursuant to section 5748.04 of the Revised Code; 6876
or if refunding bonds to refund all or a part of the principal 6877
of bonds payable from a tax levy for the ensuing fiscal year are 6878
issued or sold and in the process of delivery, the budget 6879
commission shall reconsider and revise its action on the budget 6880
of the subdivision or school library district for whose benefit 6881
the tax is to be levied after the returns of such election are 6882
fully canvassed, or after the issuance or sale of such refunding 6883
bonds is certified to it. 6884

Sec. 5705.35. (A) The certification of the budget 6885
commission to the taxing authority of each subdivision or taxing 6886
unit, as set forth in section 5705.34 of the Revised Code, shall 6887
show the various funds of such subdivisions other than funds to 6888
be created by transfer and shall be filed by the county budget 6889
commission with such taxing authority on or before the first day 6890
of March in the case of school districts and the city of 6891
Cincinnati and on or before the first day of September in each 6892
year in the case of all other taxing authorities. There shall be 6893
set forth on the credit side of each fund the estimated 6894
unencumbered balances and receipts, and if a tax is to be levied 6895
for such fund, the estimated revenue to be derived therefrom, 6896
the rate of the levy, and what portion thereof is within, and 6897
what in excess of, the ten-mill tax limitation, and on the debit 6898
side, the total appropriations that may be made therefrom. 6899
Subject to division ~~(G)~~ (F) of section 5705.29 of the Revised 6900
Code, any reserve balance in an account established under 6901
section 5705.13 of the Revised Code for the purpose described in 6902
division (A)(1) of that section, and the principal of a 6903
nonexpendable trust fund established under section 5705.131 of 6904
the Revised Code and any additions to principal arising from 6905
sources other than the reinvestment of investment earnings 6906

arising from that fund, are not unencumbered balances for the 6907
purposes of this section. The balance in a reserve balance 6908
account established under section 5705.132 of the Revised Code 6909
is not an unencumbered balance for the purposes of this 6910
division. 6911

There shall be attached to the certification a summary, 6912
which shall be known as the "official certificate of estimated 6913
resources," that shall state the total estimated resources of 6914
each fund of the subdivision that are available for 6915
appropriation in the fiscal year, other than funds to be created 6916
by transfer, and a statement of the amount of the total tax 6917
duplicate of the school district to be used in the collection of 6918
taxes for the following calendar year. Before the end of the 6919
fiscal year, the taxing authority of each subdivision and other 6920
taxing unit shall revise its tax budget, if one was adopted, so 6921
that the total contemplated expenditures from any fund during 6922
the ensuing fiscal year will not exceed the total appropriations 6923
that may be made from such fund, as determined by the budget 6924
commission in its certification; and such revised budget shall 6925
be the basis of the annual appropriation measure. 6926

~~(B) (1) Except as otherwise provided in division (B) (2) of~~ 6927
~~this section, revenues~~ Revenue from real property taxes 6928
scheduled to be settled on or before the tenth day of August and 6929
the fifteenth day of February of a fiscal year under divisions 6930
(A) and (C) of section 321.24 of the Revised Code, ~~and revenue~~ 6931
~~from taxes levied on personal property used in business~~ 6932
~~scheduled to be settled on or before the thirty first day of~~ 6933
~~October and the thirtieth day of June of a fiscal year under~~ 6934
~~divisions (B) and (D) of section 321.24 of the Revised Code~~ 6935
shall not be available for appropriation by a board of education 6936
prior to the fiscal year in which such latest scheduled 6937

settlement date occurs, except that moneys advanced to the treasurer of a board of education under division (A) (2) (b) of section 321.34 of the Revised Code shall be available for appropriation in the fiscal year in which they are paid to the treasurer under such section. If the date for any settlement of taxes is extended under division (E) of section 321.24 of the Revised Code, the latest date set forth in divisions (A) to (D) of that section shall be used to determine in which fiscal year the revenues are first available for appropriation.

~~(2) Revenues available for appropriation by a school district during a fiscal year may include amounts borrowed in that fiscal year under section 133.301 of the Revised Code in anticipation of the collection of taxes that are to be included in the settlements made under divisions (C) and (D) of section 321.24 of the Revised Code in the ensuing fiscal year.~~

Sec. 5705.36. (A) (1) On or about the first day of each fiscal year, the fiscal officer of each subdivision and other taxing unit shall certify to the county auditor the total amount from all sources available for expenditures from each fund set up in the tax budget or, if adoption of a tax budget was waived under section 5705.281 of the Revised Code, from each fund created by or on behalf of the taxing authority. The amount certified shall include any unencumbered balances that existed at the end of the preceding year, excluding any of the following:

(a) Subject to division ~~(G)~~ (F) of section 5705.29 of the Revised Code, any reserve balance in an account established under section 5705.13 of the Revised Code for the purpose described in division (A) (1) of that section;

(b) The principal of a nonexpendable trust fund

established under section 5705.131 of the Revised Code and any 6968
additions to principal arising from sources other than the 6969
reinvestment of investment earnings arising from that fund; 6970

(c) The balance in a reserve balance account established 6971
under section 5705.132 of the Revised Code. 6972

A school district's certification shall separately show 6973
the amount of any notes and unpaid and outstanding expenses on 6974
the preceding thirtieth day of June that are to be paid from 6975
property taxes that are to be settled during the current fiscal 6976
year under divisions (C) and (D) of section 321.24 of the 6977
Revised Code, ~~and the amount of any spending reserve available~~ 6978
~~for appropriation during the current fiscal year under section~~ 6979
~~133.301 of the Revised Code.~~ The budget commission, taking into 6980
consideration the balances and revenues to be derived from 6981
taxation and other sources, shall revise its estimate of the 6982
amounts that will be credited to each fund from such sources, 6983
and shall certify to the taxing authority of each subdivision an 6984
amended official certificate of estimated resources. 6985

(2) Subject to divisions (A) (3) and (4) of this section, 6986
upon a determination by the fiscal officer of a subdivision that 6987
the revenue to be collected by the subdivision will be greater 6988
or less than the amount included in an official certificate, the 6989
fiscal officer may certify the amount of the deficiency or 6990
excess to the commission, and if the commission determines that 6991
the fiscal officer's certification is reasonable, the commission 6992
shall certify an amended official certificate reflecting the 6993
deficiency or excess. 6994

(3) Upon a determination by the fiscal officer of a 6995
subdivision that the revenue to be collected by the subdivision 6996
will be greater than the amount included in an official 6997

certificate and the legislative authority intends to appropriate 6998
and expend the excess revenue, the fiscal officer shall certify 6999
the amount of the excess to the commission, and if the 7000
commission determines that the fiscal officer's certification is 7001
reasonable, the commission shall certify an amended official 7002
certificate reflecting the excess. 7003

(4) Upon a determination by the fiscal officer of a 7004
subdivision that the revenue to be collected by the subdivision 7005
will be less than the amount included in an official certificate 7006
and that the amount of the deficiency will reduce available 7007
resources below the level of current appropriations, the fiscal 7008
officer shall certify the amount of the deficiency to the 7009
commission, and the commission shall certify an amended 7010
certificate reflecting the deficiency. 7011

(5) The total appropriations made during the fiscal year 7012
from any fund shall not exceed the amount set forth as available 7013
for expenditure from such fund in the official certificate of 7014
estimated resources, or any amendment thereof, certified prior 7015
to the making of the appropriation or supplemental 7016
appropriation. 7017

(B) At the time of settlement of taxes against which notes 7018
have been issued under ~~section 133.301~~ or division (D) of 7019
section 133.10 of the Revised Code and at the time a tax 7020
duplicate is delivered pursuant to section 319.28 or 319.29 of 7021
the Revised Code, the county auditor shall determine whether the 7022
total amount to be distributed to each school district from such 7023
settlement or duplicate, when combined with the amounts to be 7024
distributed from any subsequent settlement, will increase or 7025
decrease the amount available for appropriation during the 7026
current fiscal year from any fund. The county auditor shall 7027

certify this finding to the budget commission, which shall 7028
certify an amended official certificate reflecting the finding 7029
or certify to the school district that no amended certificate 7030
needs to be issued. 7031

Sec. 5705.49. Wherever in the Revised Code the taxing 7032
~~authorities authority~~ of any subdivision, ~~as defined in section~~ 7033
~~5705.01 of the Revised Code, are~~ is authorized to levy taxes on 7034
the taxable property within a subdivision, or, in the case of a 7035
qualifying library levy, within a library district or 7036
association library district, such authority shall extend only 7037
to the levy of taxes on the taxable real and public utility 7038
property listed on general tax lists and duplicates provided for 7039
by section 319.28 of the Revised Code. Where the amount of 7040
indebtedness of any subdivision is limited by law with reference 7041
to the tax valuation or aggregate value of the property on the 7042
tax list and duplicate of such subdivision, such limitation 7043
shall be measured by the property listed on such general tax 7044
lists and duplicates in such subdivision. 7045

Sec. 5709.201. (A) Except as provided in divisions (C) (4) 7046
(a) and (c) of section 5709.22 and division (F) of section 7047
5709.25 of the Revised Code, a certificate issued under section 7048
5709.21, 5709.31, 5709.46, or 6111.31 of the Revised Code that 7049
was valid and in effect on ~~the effective date of this section~~ 7050
June 26, 2003, shall continue in effect subject to the law as it 7051
existed before that ~~effective~~ date. Division (C) (4) (b) of 7052
section 5709.22 of the Revised Code does not apply to any 7053
certificate issued by the tax commissioner before July 1, 2003. 7054

(B) Any applications pending on ~~the effective date of this~~ 7055
~~section~~ June 26, 2003, for which a certificate had not been 7056
issued on or before that ~~effective~~ date under section 6111.31 of 7057

the Revised Code shall be transferred to the tax commissioner 7058
for further administering. Sections 5709.20 to 5709.27 of the 7059
Revised Code apply to such pending applications, excluding the 7060
requirement of section 5709.212 of the Revised Code that 7061
applicants must pay the fee. 7062

(C) For applications pending on ~~the effective date of this~~ 7063
~~section June 26, 2003,~~ division (D) of section 5709.25 of the 7064
Revised Code allowing the commissioner to assess any additional 7065
tax notwithstanding any other time limitations imposed by law on 7066
the denied portion of the applicant's claim applies only to tax 7067
periods that would otherwise be open to assessment on that 7068
~~effective date.~~ 7069

Sec. 5709.43. (A) A municipal corporation that grants a 7070
tax exemption under section 5709.40 of the Revised Code shall 7071
establish a municipal public improvement tax increment 7072
equivalent fund into which shall be deposited service payments 7073
in lieu of taxes distributed to the municipal corporation under 7074
section 5709.42 of the Revised Code. If the legislative 7075
authority of the municipal corporation has adopted an ordinance 7076
under division (C) of section 5709.40 of the Revised Code, the 7077
municipal corporation shall establish at least one account in 7078
that fund with respect to ordinances adopted under division (B) 7079
of that section, and one account with respect to each incentive 7080
district created in an ordinance adopted under division (C) of 7081
that section. If an ordinance adopted under division (C) of 7082
section 5709.40 of the Revised Code also authorizes the use of 7083
service payments for housing renovations within the district, 7084
the municipal corporation shall establish separate accounts for 7085
the service payments designated for public infrastructure 7086
improvements and for the service payments authorized for the 7087
purpose of housing renovations. Money in an account of the 7088

municipal public improvement tax increment equivalent fund shall 7089
be used to finance the public infrastructure improvements 7090
designated in, or the housing renovations authorized by, the 7091
ordinance with respect to which the account is established; in 7092
the case of an account established with respect to an ordinance 7093
adopted under division (C) of that section, money in the account 7094
shall be used to finance the public infrastructure improvements 7095
designated, or the housing renovations authorized, for each 7096
incentive district created in the ordinance. Money in an account 7097
shall not be used to finance or support housing renovations that 7098
take place after the incentive district has expired. The 7099
municipal corporation also may deposit into any of those 7100
accounts municipal income tax revenue that has been designated 7101
by ordinance to finance the public infrastructure improvements 7102
and housing renovations. 7103

(B) A municipal corporation may establish an urban 7104
redevelopment tax increment equivalent fund, by resolution or 7105
ordinance of its legislative authority, into which shall be 7106
deposited service payments in lieu of taxes distributed to the 7107
municipal corporation by the county treasurer as provided in 7108
section 5709.42 of the Revised Code for improvements exempt from 7109
taxation pursuant to an ordinance adopted under section 5709.41 7110
of the Revised Code. Moneys deposited in the urban redevelopment 7111
tax increment equivalent fund shall be used for such purposes as 7112
are authorized in the resolution or ordinance establishing the 7113
fund. The municipal corporation also may deposit into the urban 7114
redevelopment tax increment equivalent fund municipal income tax 7115
revenue that has been dedicated to fund any of the purposes for 7116
which the fund is established. 7117

(C) (1) (a) A municipal corporation may distribute money in 7118
the municipal public improvement tax increment equivalent fund 7119

or the urban redevelopment tax increment equivalent fund to any 7120
school district in which the exempt property is located, in an 7121
amount not to exceed the amount of real property taxes that such 7122
school district would have received from the improvement if it 7123
were not exempt from taxation, or use money in either or both 7124
funds to finance specific public improvements benefiting the 7125
school district. The resolution or ordinance establishing the 7126
fund shall set forth the percentage of such maximum amount that 7127
will be distributed to any affected school district or used to 7128
finance specific public improvements benefiting the school 7129
district. 7130

(b) A municipal corporation also may distribute money in 7131
the municipal public improvement tax increment equivalent fund 7132
or the urban redevelopment tax increment equivalent fund as 7133
follows: 7134

(i) To a board of county commissioners, in the amount that 7135
is owed to the board pursuant to division (E) of section 5709.40 7136
of the Revised Code; 7137

(ii) To a county in accordance with section 5709.913 of 7138
the Revised Code. 7139

(2) Money from an account in a municipal public 7140
improvement tax increment equivalent fund or from an urban 7141
redevelopment tax increment equivalent fund may be distributed 7142
under division (C)(1)(b) of this section, regardless of the date 7143
a resolution or an ordinance was adopted under section 5709.40 7144
or 5709.41 of the Revised Code that prompted the establishment 7145
of the account or the establishment of the urban redevelopment 7146
tax increment equivalent fund, even if the resolution or 7147
ordinance was adopted prior to ~~the effective date of this~~ 7148
~~amendment~~ March 30, 2006. 7149

(D) Any incidental surplus remaining in the municipal 7150
public improvement tax increment equivalent fund or an account 7151
of that fund, or in the urban redevelopment tax increment 7152
equivalent fund, upon dissolution of the account or fund shall 7153
be transferred to the general fund of the municipal corporation. 7154

Sec. 5709.48. (A) As used in this section: 7155

(1) "Regional transportation improvement project" has the 7156
same meaning as in section 5595.01 of the Revised Code. 7157

(2) "Improvements" means the increase in the assessed 7158
value of any real property that would first appear on the tax 7159
list and duplicate of real and public utility property after the 7160
effective date of the resolution adopted under this section were 7161
it not for the exemption granted by that resolution. 7162

(B) For the purposes described in division (A) of section 7163
5595.06 of the Revised Code, the governing board of a regional 7164
transportation improvement project that was undertaken pursuant 7165
to section 5595.02 of the Revised Code before ~~the effective date~~ 7166
~~of the amendment of this section by S.B. 8 of the 132nd general~~ 7167
~~assembly March 23, 2018,~~ may, by resolution, create a 7168
transportation financing district and declare improvements to 7169
parcels within the district to be a public purpose and exempt 7170
from taxation. 7171

(C) A transportation financing district may include 7172
territory in more than one county as long as each such county is 7173
a participant in the regional transportation improvement project 7174
funded by the district. A district shall not include parcels 7175
used primarily for residential purposes. A district shall not 7176
include any parcel that is currently exempt from taxation under 7177
this section or section 5709.40, 5709.41, 5709.45, 5709.73, or 7178

5709.77 of the Revised Code. The governing board may designate 7179
parcels within the boundaries of a district that are not to be 7180
included in the district. The governing board may designate 7181
noncontiguous parcels located outside the boundaries of the 7182
district that are to be included in the district. 7183

The governing board may adopt more than one resolution 7184
under division (B) of this section. A single such resolution may 7185
create more than one transportation financing district. 7186

(D) A resolution creating a transportation financing 7187
district shall specify all of the following: 7188

(1) A description of the territory included in the 7189
district; 7190

(2) The county treasurer's permanent parcel number 7191
associated with each parcel included in the district; 7192

(3) The percentage of improvements to be exempted from 7193
taxation and the duration of the exemption, which shall not 7194
exceed the remaining number of years the cooperative agreement 7195
for the regional transportation improvement district, described 7196
under section 5595.03 of the Revised Code, is in effect; 7197

(4) A plan for the district that describes the principal 7198
purposes and goals to be served by the district and explains how 7199
the use of service payments provided for by section 5709.49 of 7200
the Revised Code will economically benefit owners of property 7201
within the district. 7202

(E) (1) Except as otherwise provided in divisions (E) (2) 7203
and (3) of this section, the governing board, before adopting a 7204
resolution under division (B) of this section, shall notify and 7205
obtain the approval of each subdivision and taxing unit that 7206
levies a property tax within the territory of the proposed 7207

transportation financing district. A subdivision or taxing 7208
unit's approval or disapproval of the proposed district shall be 7209
in the form of an ordinance or resolution. The governing board 7210
may negotiate an agreement with a subdivision or taxing unit 7211
providing for compensation equal in value to a percentage of the 7212
amount of taxes exempted or some other mutually agreeable 7213
compensation. 7214

(2) A subdivision or taxing unit may adopt an ordinance or 7215
resolution waiving its right to approve or receive notice of 7216
transportation financing districts proposed under this section. 7217
If a subdivision or taxing unit has adopted such an ordinance or 7218
resolution, the terms of that ordinance or resolution supersede 7219
the requirements of division (E)(1) of this section. The 7220
governing board may negotiate an agreement with a subdivision or 7221
taxing unit providing for some mutually agreeable compensation 7222
in exchange for the subdivision or taxing unit adopting such an 7223
ordinance or resolution. If a subdivision or taxing unit has 7224
adopted such an ordinance or resolution, it shall certify a copy 7225
to the governing board. If the subdivision or taxing unit 7226
rescinds such an ordinance or resolution, it shall certify 7227
notice of the rescission to the governing board. 7228

(3) The governing board need not obtain the approval of a 7229
subdivision or taxing unit if the governing board agrees to 7230
compensate that subdivision or unit for the full amount of taxes 7231
exempted under the resolution creating the district. 7232

(F) After complying with division (E) of this section, the 7233
governing board shall notify and obtain the approval of every 7234
real property owner whose property is included in the proposed 7235
transportation financing district. 7236

(G) (1) Upon adopting a resolution creating a 7237

transportation financing district, the governing board shall 7238
send a copy of the resolution and documentation sufficient to 7239
prove that the requirements of divisions (E) and (F) of this 7240
section have been met to the director of development services. 7241
The director shall evaluate the resolution and documentation to 7242
determine if the governing board has fully complied with the 7243
requirements of this section. If the director approves the 7244
resolution, the director shall send notice of approval to the 7245
governing board. If the director does not approve the 7246
resolution, the director shall send a notice of denial to the 7247
governing board that includes the reason or reasons for the 7248
denial. If the director does not make a determination within 7249
ninety days after receiving a resolution under this section, the 7250
director is deemed to have approved the resolution. No 7251
resolution creating a transportation financing district is 7252
effective without actual or constructive approval by the 7253
director under this section. 7254

(2) An exemption from taxation granted under this section 7255
commences with the tax year specified in the resolution so long 7256
as the year specified in the resolution commences after the 7257
effective date of the resolution. If the resolution specifies a 7258
year commencing before the effective date of the resolution or 7259
specifies no year whatsoever, the exemption commences with the 7260
tax year in which an exempted improvement first appears on the 7261
tax list and that commences after the effective date of the 7262
resolution. 7263

(3) Except as otherwise provided in this division, the 7264
exemption ends on the date specified in the resolution as the 7265
date the improvement ceases to be a public purpose or the 7266
regional transportation improvement project funded by the 7267
service payments dissolves under section 5595.13 of the Revised 7268

Code, whichever occurs first. Exemptions shall be claimed and 7269
allowed in the same manner as in the case of other real property 7270
exemptions. If an exemption status changes during a year, the 7271
procedure for the apportionment of the taxes for that year is 7272
the same as in the case of other changes in tax exemption status 7273
during the year. 7274

(H) The resolution creating a transportation financing 7275
district may be amended at any time by majority vote of the 7276
governing board and with the approval of the director of 7277
development services obtained in the same manner as approval of 7278
the original resolution. 7279

Sec. 5709.53. (A) A solar, wind, or hydrothermal energy 7280
system on which construction or installation is completed during 7281
the period from ~~the effective date of this section~~ August 14, 7282
1979, through December 31, 1985, that meets the guidelines 7283
established under division (B) of section 1551.20 of the Revised 7284
Code is exempt from real property taxation. 7285

(B) Any fixture or other real property included in an 7286
energy facility with an aggregate nameplate capacity of two 7287
hundred fifty kilowatts or less is exempt from taxation if 7288
construction or installation is completed on or after January 1, 7289
2010. 7290

As used in division (B) of this section, "energy facility" 7291
and "nameplate capacity" have the same meanings as in section 7292
5727.01 of the Revised Code. 7293

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 7294
the Revised Code: 7295

(A) "Enterprise zone" or "zone" means any of the 7296
following: 7297

(1) An area with a single continuous boundary designated 7298
in the manner set forth in section 5709.62 or 5709.63 of the 7299
Revised Code and certified by the director of development as 7300
having a population of at least four thousand according to the 7301
best and most recent data available to the director and having 7302
at least two of the following characteristics: 7303

(a) It is located in a municipal corporation defined by 7304
the United States office of management and budget as a principal 7305
city of a metropolitan statistical area; 7306

(b) It is located in a county designated as being in the 7307
"Appalachian region" under the "Appalachian Regional Development 7308
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 7309

(c) Its average rate of unemployment, during the most 7310
recent twelve-month period for which data are available, is 7311
equal to at least one hundred twenty-five per cent of the 7312
average rate of unemployment for the state of Ohio for the same 7313
period; 7314

(d) There is a prevalence of commercial or industrial 7315
structures in the area that are vacant or demolished, or are 7316
vacant and the taxes charged thereon are delinquent, and 7317
certification of the area as an enterprise zone would likely 7318
result in the reduction of the rate of vacant or demolished 7319
structures or the rate of tax delinquency in the area; 7320

(e) The population of all census tracts in the area, 7321
according to the federal census of 2000, decreased by at least 7322
ten per cent between the years 1980 and 2000; 7323

(f) At least fifty-one per cent of the residents of the 7324
area have incomes of less than eighty per cent of the median 7325
income of residents of the municipal corporation or municipal 7326

corporations in which the area is located, as determined in the 7327
same manner specified under section 119(b) of the "Housing and 7328
Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 7329
5318, as amended; 7330

(g) The area contains structures previously used for 7331
industrial purposes, but currently not so used due to age, 7332
obsolescence, deterioration, relocation of the former occupant's 7333
operations, or cessation of operations resulting from 7334
unfavorable economic conditions either generally or in a 7335
specific economic sector; 7336

(h) It is located within one or more adjacent city, local, 7337
or exempted village school districts, the income-weighted tax 7338
capacity of each of which is less than seventy per cent of the 7339
average of the income-weighted tax capacity of all city, local, 7340
or exempted village school districts in the state according to 7341
the most recent data available to the director from the 7342
department of taxation. 7343

The director of development shall adopt rules in 7344
accordance with Chapter 119. of the Revised Code establishing 7345
conditions constituting the characteristics described in 7346
divisions (A) (1) (d), (g), and (h) of this section. 7347

If an area could not be certified as an enterprise zone 7348
unless it satisfied division (A) (1) (g) of this section, the 7349
legislative authority may enter into agreements in that zone 7350
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 7351
only if such agreements result in the development of the 7352
facilities described in that division, the parcel of land on 7353
which such facilities are situated, or adjacent parcels. The 7354
director of development annually shall review all agreements in 7355
such zones to determine whether the agreements have resulted in 7356

such development; if the director determines that the agreements 7357
have not resulted in such development, the director immediately 7358
shall revoke certification of the zone and notify the 7359
legislative authority of such revocation. Any agreements entered 7360
into prior to revocation under this paragraph shall continue in 7361
effect for the period provided in the agreement. 7362

(2) An area with a single continuous boundary designated 7363
in the manner set forth in section 5709.63 of the Revised Code 7364
and certified by the director of development as having all of 7365
the following characteristics: 7366

(a) Being located within a county that contains a 7367
population of three hundred thousand or less; 7368

(b) Having a population of at least one thousand according 7369
to the best and most recent data available to the director; 7370

(c) Having at least two of the characteristics described 7371
in divisions (A)(1)(b) to (h) of this section. 7372

(3) An area with a single continuous boundary designated 7373
in the manner set forth under division (A)(1) of section 7374
5709.632 of the Revised Code and certified by the director of 7375
development as having a population of at least four thousand, or 7376
under division (A)(2) of that section and certified as having a 7377
population of at least one thousand, according to the best and 7378
most recent data available to the director. 7379

(B) "Enterprise" means any form of business organization 7380
including, but not limited to, any partnership, sole 7381
proprietorship, or corporation, including an S corporation as 7382
defined in section 1361 of the Internal Revenue Code and any 7383
corporation that is majority ~~work-owned~~ worker-owned either 7384
directly through the ownership of stock or indirectly through 7385

participation in an employee stock ownership plan. 7386

(C) "Facility" means an enterprise's place of business in 7387
a zone, including land, buildings, machinery, equipment, and 7388
other materials, except inventory, used in business. "Facility" 7389
includes land, buildings, machinery, production and station 7390
equipment, other equipment, and other materials, except 7391
inventory, used in business to generate electricity, provided 7392
that, for purposes of sections 5709.61 to 5709.69 of the Revised 7393
Code, the value of the property at such a facility shall be 7394
reduced by the value, if any, that is not apportioned under 7395
section 5727.15 of the Revised Code to the taxing district in 7396
which the facility is physically located. In the case of such a 7397
facility that is physically located in two adjacent taxing 7398
districts, the property located in each taxing district 7399
constitutes a separate facility. 7400

"Facility" does not include any portion of an enterprise's 7401
place of business used primarily for making retail sales unless 7402
the place of business is located in an impacted city as defined 7403
in section 1728.01 of the Revised Code or the board of education 7404
of the city, local, or exempted village school district within 7405
the territory of which the place of business is located adopts a 7406
resolution waiving the exclusion of retail facilities under 7407
section 5709.634 of the Revised Code. 7408

(D) "Vacant facility" means a facility that has been 7409
vacant for at least ninety days immediately preceding the date 7410
on which an agreement is entered into under section 5709.62 or 7411
5709.63 of the Revised Code. 7412

(E) "Expand" means to make expenditures to add land, 7413
buildings, machinery, equipment, or other materials, except 7414
inventory, to a facility that equal at least ten per cent of the 7415

market value of the facility prior to such expenditures, as 7416
determined for the purposes of local property taxation. 7417

(F) "Renovate" means to make expenditures to alter or 7418
repair a facility that equal at least fifty per cent of the 7419
market value of the facility prior to such expenditures, as 7420
determined for the purposes of local property taxation. 7421

(G) "Occupy" means to make expenditures to alter or repair 7422
a vacant facility equal to at least twenty per cent of the 7423
market value of the facility prior to such expenditures, as 7424
determined for the purposes of local property taxation. 7425

(H) "Project site" means all or any part of a facility 7426
that is newly constructed, expanded, renovated, or occupied by 7427
an enterprise. 7428

(I) "Project" means any undertaking by an enterprise to 7429
establish a facility or to improve a project site by expansion, 7430
renovation, or occupancy. 7431

(J) "Position" means the position of one full-time 7432
employee performing a particular set of tasks and duties. 7433

(K) "Full-time employee" means an individual who is 7434
employed for consideration by an enterprise for at least thirty- 7435
five hours a week, or who renders any other standard of service 7436
generally accepted by custom or specified by contract as full- 7437
time employment. 7438

(L) "New employee" means a full-time employee first 7439
employed by an enterprise at a facility that is a project site 7440
after the enterprise enters an agreement under section 5709.62 7441
or 5709.63 of the Revised Code. "New employee" does not include 7442
an employee if, immediately prior to being employed by the 7443
enterprise, the employee was employed by an enterprise that is a 7444

related member or predecessor enterprise of that enterprise. 7445

(M) "Unemployed person" means any person who is totally 7446
unemployed in this state, as that term is defined in division 7447
(M) of section 4141.01 of the Revised Code, for at least ten 7448
consecutive weeks immediately preceding that person's employment 7449
at a facility that is a project site, or who is so unemployed 7450
for at least twenty-six of the fifty-two weeks immediately 7451
preceding that person's employment at such a facility. 7452

(N) "JTPA eligible employee" means any individual who is 7453
eligible for employment or training under the "Job Training 7454
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 7455
amended. 7456

(O) "First used in business" means that the property 7457
referred to has not been used in business in this state by the 7458
enterprise that owns it, or by an enterprise that is a related 7459
member or predecessor enterprise of such an enterprise, other 7460
than as inventory, prior to being used in business at a facility 7461
as the result of a project. 7462

(P) "Training program" means any noncredit training 7463
program or course of study that is offered by any state college 7464
or university; university branch district; community college; 7465
technical college; nonprofit college or university certified 7466
under section 1713.02 of the Revised Code; school district; 7467
joint vocational school district; school registered and 7468
authorized to offer programs under section 3332.05 of the 7469
Revised Code; an entity administering any federal, state, or 7470
local adult education and training program; or any enterprise; 7471
and that meets all of the following requirements: 7472

(1) It is approved by the director of development; 7473

(2) It is established or operated to satisfy the need of a 7474
particular industry or enterprise for skilled or semi-skilled 7475
employees; 7476

(3) An individual is required to complete the course or 7477
program before filling a position at a project site. 7478

(Q) "Development" means to engage in the process of 7479
clearing and grading land, making, installing, or constructing 7480
water distribution systems, sewers, sewage collection systems, 7481
steam, gas, and electric lines, roads, curbs, gutters, 7482
sidewalks, storm drainage facilities, and construction of other 7483
facilities or buildings equal to at least fifty per cent of the 7484
market value of the facility prior to the expenditures, as 7485
determined for the purposes of local property taxation. 7486

(R) "Large manufacturing facility" means a single Ohio 7487
facility that employed an average of at least one thousand 7488
individuals during the five calendar years preceding an 7489
agreement authorized under division (C) (3) of section 5709.62 or 7490
division (B) (2) of section 5709.63 of the Revised Code. For 7491
purposes of this division, both of the following apply: 7492

(1) A single Ohio manufacturing facility employed an 7493
average of at least one thousand individuals during the five 7494
calendar years preceding entering into such an agreement if one- 7495
fifth of the sum of the number of employees employed on the 7496
highest employment day during each of the five calendar years 7497
equals or exceeds one thousand. 7498

(2) The highest employment day is the day or days during a 7499
calendar year on which the number of employees employed at a 7500
single Ohio manufacturing facility was greater than on any other 7501
day during the calendar year. 7502

(S) "Business cycle" means the cycle of business activity 7503
usually regarded as passing through alternating stages of 7504
prosperity and depression. 7505

(T) "Making retail sales" means the effecting of point-of- 7506
final-purchase transactions at a facility open to the consuming 7507
public, wherein one party is obligated to pay the price and the 7508
other party is obligated to provide a service or to transfer 7509
title to or possession of the item sold. 7510

(U) "Environmentally contaminated" means that hazardous 7511
substances exist at a facility under conditions that have caused 7512
or would cause the facility to be identified as contaminated by 7513
the state or federal environmental protection agency. These may 7514
include facilities located at sites identified in the master 7515
sites list or similar database maintained by the state 7516
environmental protection agency if the sites have been 7517
investigated by the agency and found to be contaminated. 7518

(V) "Remediate" means to make expenditures to clean up an 7519
environmentally contaminated facility so that it is no longer 7520
environmentally contaminated that equal at least ten per cent of 7521
the real property market value of the facility prior to such 7522
expenditures as determined for the purposes of property 7523
taxation. 7524

(W) "Related member" has the same meaning as defined in 7525
section 5733.042 of the Revised Code without regard to division 7526
(B) of that section, except that it is used with respect to an 7527
enterprise rather than a taxpayer. 7528

(X) "Predecessor enterprise" means an enterprise from 7529
which the assets or equity of another enterprise has been 7530
transferred, which transfer resulted in the full or partial 7531

nonrecognition of gain or loss, or resulted in a carryover 7532
basis, both as determined by rule adopted by the tax 7533
commissioner. 7534

(Y) "Successor enterprise" means an enterprise to which 7535
the assets or equity of another enterprise has been transferred, 7536
which transfer resulted in the full or partial nonrecognition of 7537
gain or loss, or resulted in a carryover basis, both as 7538
determined by rule adopted by the tax commissioner. 7539

Sec. 5709.80. (A) The board of county commissioners of a 7540
county that receives service payments in lieu of taxes under 7541
section 5709.79 of the Revised Code shall establish a 7542
redevelopment tax equivalent fund into which those payments 7543
shall be deposited. Separate accounts shall be established in 7544
the fund for each resolution adopted by the board of county 7545
commissioners under section 5709.78 of the Revised Code. If the 7546
board of county commissioners has adopted a resolution under 7547
division (B) of that section, the county shall establish an 7548
account for each incentive district created in that resolution. 7549
If a resolution adopted under division (B) of section 5709.78 of 7550
the Revised Code also authorizes the use of service payments for 7551
housing renovations within the incentive district, the county 7552
shall establish separate accounts for the service payments 7553
designated for public infrastructure improvements and for the 7554
service payments authorized for the purpose of housing 7555
renovations. 7556

(B) Moneys deposited into each account of the fund shall 7557
be used by the county to pay the cost of constructing or 7558
repairing the public infrastructure improvements designated in, 7559
or the housing renovations authorized by, the resolution, or for 7560
each incentive district for which the account is established, to 7561

pay the interest on and principal of bonds or notes issued under 7562
division (B) of section 307.082 or division (A) of section 7563
5709.81 of the Revised Code, or for the purposes pledged under 7564
division (B) of section 5709.81 of the Revised Code. Money in an 7565
account shall not be used to finance or support housing 7566
renovations that take place after the incentive district has 7567
expired. 7568

(C) (1) (a) The board of county commissioners may distribute 7569
money in an account to any school district in which the exempt 7570
property is located in an amount not to exceed the amount of 7571
real property taxes that such school district would have 7572
received from the improvement if it were not exempt from 7573
taxation. The resolution under which an account is established 7574
shall set forth the percentage of such maximum amount that will 7575
be distributed to any affected school district. 7576

(b) A board of county commissioners also may distribute 7577
money in such an account as follows: 7578

(i) To a board of township trustees or legislative 7579
authority of a municipal corporation, as applicable, in the 7580
amount that is owed to the board of township trustees or 7581
legislative authority pursuant to division (D) of section 7582
5709.78 of the Revised Code; 7583

(ii) To a township in accordance with section 5709.914 of 7584
the Revised Code. 7585

(2) Money from an account in the redevelopment tax 7586
equivalent fund may be distributed under division (C) (1) (b) of 7587
this section, regardless of the date a resolution was adopted 7588
under section 5709.78 of the Revised Code that prompted the 7589
establishment of the account, even if the resolution was adopted 7590

~~prior to the effective date of this amendment March 30, 2006.~~

(D) An account dissolves upon fulfillment of the purposes for which money in the account may be used. An incidental surplus remaining in an account upon its dissolution shall be transferred to the general fund of the county.

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

(1) In the case of a municipal corporation eligible to designate a zone under section 5709.62 or 5709.632 of the Revised Code, the chief executive officer or that officer's designee; a member of the legislative authority of the municipal corporation, appointed by the president of the legislative authority or, if the chief executive officer of the municipal corporation is the president, appointed by the president pro tempore of the legislative authority; the county auditor or the county auditor's designee; the chief financial officer of the municipal corporation or that officer's designee; an individual appointed by the board of education of each city, local, exempted village, and joint vocational school district to which the instrument granting the exemption applies; and two members of the public appointed by the chief executive officer of the municipal corporation with the concurrence of the legislative authority. At least four members of the council shall be residents of the municipal corporation, and at least one of the two public members appointed by the chief executive officer

shall be a minority. As used in division (A) (1) of this section, 7621
a "minority" is an individual who is African-American, Hispanic, 7622
or Native American. 7623

(2) In the case of a county or a municipal corporation 7624
that is not eligible to designate a zone under section 5709.62 7625
or 5709.632 of the Revised Code, three members appointed by the 7626
board of county commissioners; two members from each municipal 7627
corporation to which the instrument granting the tax exemption 7628
applies, appointed by the chief executive officer with the 7629
concurrence of the legislative authority of the respective 7630
municipal corporations; two members of each township to which 7631
the instrument granting the tax exemption applies, appointed by 7632
the board of township trustees of the respective townships; the 7633
county auditor or the county auditor's designee; and an 7634
individual appointed by the board of education of each city, 7635
local, exempted village, and joint vocational school district to 7636
which the instrument granting the tax exemption applies. At 7637
least two members of the council shall be residents of the 7638
municipal corporations or townships to which the instrument 7639
granting the tax exemption applies. 7640

(3) In the case of a township in which improvements are 7641
declared a public purpose under section 5709.73 of the Revised 7642
Code, the board of township trustees; the county auditor or the 7643
county auditor's designee; and an individual appointed by the 7644
board of education of each city, local, exempted village, and 7645
joint vocational school district to which the instrument 7646
granting the exemption applies. 7647

(B) The county auditor or the county auditor's designee 7648
shall serve as the chairperson of the council. The council shall 7649
meet at the call of the chairperson. At the first meeting of the 7650

council, the council shall select a vice-chairperson. Attendance 7651
by a majority of the members of the council constitutes a quorum 7652
to conduct the business of the council. 7653

(C) (1) Annually, the tax incentive review council shall 7654
review all agreements granting exemptions from property taxation 7655
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 7656
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 7657
performance or audit reports required to be submitted pursuant 7658
to those agreements. The review shall include agreements 7659
granting such exemptions that were entered into prior to July 7660
22, 1994, that continue to be in force and applicable to the 7661
current year's property taxes. 7662

With respect to each agreement, other than an agreement 7663
entered into under section 5709.28 of the Revised Code, the 7664
council shall determine whether the owner of the exempted 7665
property has complied with the agreement, and may take into 7666
consideration any fluctuations in the business cycle unique to 7667
the owner's business. 7668

With respect to an agreement entered into under section 7669
5709.28 of the Revised Code, the council shall consist of the 7670
members described in division (A) (2) of this section and shall 7671
determine whether the agreement complies with the requirements 7672
of section 5709.28 of the Revised Code and whether a withdrawal, 7673
removal, or conversion of land from an agricultural security 7674
area established under Chapter 931. of the Revised Code has 7675
occurred in a manner that makes the exempted property no longer 7676
eligible for the exemption. 7677

On the basis of the determinations, on or before the first 7678
day of September of each year, the council shall submit to the 7679
legislative authority written recommendations for continuation, 7680

modification, or cancellation of each agreement. 7681

(2) Annually, the tax incentive review council shall 7682
review all exemptions from property taxation resulting from the 7683
declaration of public purpose improvements pursuant to section 7684
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 7685
Code. The review shall include such exemptions that were granted 7686
prior to July 22, 1994, that continue to be in force and 7687
applicable to the current year's property taxes. With respect to 7688
each improvement for which an exemption is granted, the council 7689
shall determine the increase in the true value of parcels of 7690
real property on which improvements have been undertaken as a 7691
result of the exemption; the value of improvements exempted from 7692
taxation as a result of the exemption; and the number of new 7693
employees or employees retained on the site of the improvement 7694
as a result of the exemption. 7695

Upon the request of a tax incentive review council, the 7696
county auditor, the housing officer appointed pursuant to 7697
section 3735.66 of the Revised Code, the owner of a new or 7698
remodeled structure or improvement, and the legislative 7699
authority of the county, township, or municipal corporation 7700
granting the exemption shall supply the council with any 7701
information reasonably necessary for the council to make the 7702
determinations required under division (C) of this section, 7703
including returns or reports filed pursuant to sections 5711.02, 7704
5711.13, and 5727.08 of the Revised Code. 7705

(D) Annually, the tax incentive review council shall 7706
review the compliance of each recipient of a tax exemption under 7707
Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 7708
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 7709
Revised Code with the nondiscriminatory hiring policies 7710

developed by the county, township, or municipal corporation 7711
under section 5709.832 of the Revised Code. Upon the request of 7712
the council, the recipient shall provide the council any 7713
information necessary to perform its review. On the basis of its 7714
review, the council may submit to the legislative authority 7715
written recommendations for enhancing compliance with the 7716
nondiscriminatory hiring policies. 7717

(E) A legislative authority that receives from a tax 7718
incentive review council written recommendations under division 7719
(C) (1) or (D) of this section shall, within sixty days after 7720
receipt, hold a meeting and vote to accept, reject, or modify 7721
all or any portion of the recommendations. 7722

(F) A tax incentive review council may request from the 7723
recipient of a tax exemption under Chapter 725. or 1728. or 7724
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 7725
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 7726
information reasonably necessary for the council to perform its 7727
review under this section. The request shall be in writing and 7728
shall be sent to the recipient by certified mail. Within ten 7729
days after receipt of the request, the recipient shall provide 7730
to the council the information requested. 7731

Sec. 5709.93. (A) As used in this section: 7732

(1) "Taxes charged and payable" means taxes charged and 7733
payable after the reduction required by section 319.301 of the 7734
Revised Code but before the reductions required by sections 7735
319.302 and 323.152 of the Revised Code. 7736

(2) "Threshold per cent" means two per cent for fiscal 7737
year 2016; and, for fiscal year 2017 and thereafter, the sum of 7738
the prior year's threshold per cent plus two percentage points. 7739

(3) "Public library" means a county, municipal, school 7740
district, or township public library that receives the proceeds 7741
of a tax levied under section 5705.23 of the Revised Code. 7742

(4) "Local taxing unit" means a subdivision or taxing 7743
unit, as defined in section 5705.01 of the Revised Code, a park 7744
district created under Chapter 1545. of the Revised Code, or a 7745
township park district established under section 511.23 of the 7746
Revised Code, but excludes school districts and joint vocational 7747
school districts. 7748

(5) "Municipal current expense allocation" means the sum 7749
of the payments received by a municipal corporation in calendar 7750
year 2014 for current expense levy losses under division (A)(1) 7751
(e)(ii) of section 5727.86 and division (A)(1)(c)(ii) of section 7752
5751.22 of the Revised Code as they existed at that time. 7753

(6) "Current expense allocation" means the sum of the 7754
payments received by a local taxing unit or public library in 7755
calendar year 2014 for current expense levy losses under 7756
division (A)(1) of section 5727.86 and divisions (A)(1) and (2) 7757
of section 5751.22 of the Revised Code as they existed at that 7758
time, less any reduction required under division (B)(2) of this 7759
section. 7760

(7) "TPP inside millage debt levy loss" means payments 7761
made to local taxing units in calendar year 2014 under division 7762
(A)(3) of section 5751.22 of the Revised Code as that section 7763
existed at that time. 7764

(8) "S.B. 3 inside millage debt levy loss" means payments 7765
made to local taxing units in calendar year 2014 under section 7766
(A)(4) of section 5727.86 of the Revised Code as that section 7767
existed at that time. 7768

(9) "Qualifying levy" means a levy for which payment was 7769
made in calendar year 2014 under division (A) (1) of section 7770
5727.86 and divisions (A) (1) and (2) of section 5751.22 of the 7771
Revised Code as they existed at that time. 7772

(10) "Total resources," in the case of county mental 7773
health and disability related functions, means the sum of the 7774
amounts in divisions (A) (10) (a) and (b) of this section less any 7775
reduction required under division (B) (1) of this section. 7776

(a) The sum of the payments received by the county for 7777
mental health and developmental disability related functions in 7778
calendar year 2014 under division (A) (1) of section 5727.86 and 7779
division (A) (1) of section 5751.22 of the Revised Code as they 7780
existed at that time; 7781

(b) With respect to taxes levied by the county for mental 7782
health and developmental disability related purposes, the taxes 7783
charged and payable for such purposes against all property on 7784
the tax list of real and public utility property for tax year 7785
2014. 7786

(11) "Total resources," in the case of county senior 7787
services related functions, means the sum of the amounts in 7788
divisions (A) (11) (a) and (b) of this section less any reduction 7789
required under division (B) (1) of this section. 7790

(a) The sum of the payments received by the county for 7791
senior services related functions in calendar year 2014 under 7792
division (A) (1) of section 5727.86 and division (A) (1) of 7793
section 5751.22 of the Revised Code as they existed at that 7794
time; 7795

(b) With respect to taxes levied by the county for senior 7796
services related purposes, the taxes charged and payable for 7797

such purposes against all property on the tax list of real and 7798
public utility property for tax year 2014. 7799

(12) "Total resources," in the case of county children's 7800
services related functions, means the sum of the amounts in 7801
divisions (A) (12) (a) and (b) of this section less any reduction 7802
required under division (B) (1) of this section. 7803

(a) The sum of the payments received by the county for 7804
children's services related functions in calendar year 2014 7805
under division (A) (1) of section 5727.86 and division (A) (1) of 7806
section 5751.22 of the Revised Code as they existed at that 7807
time; 7808

(b) With respect to taxes levied by the county for 7809
children's services related purposes, the taxes charged and 7810
payable for such purposes against all property on the tax list 7811
of real and public utility property for tax year 2014. 7812

(13) "Total resources," in the case of county public 7813
health related functions, means the sum of the amounts in 7814
divisions (A) (13) (a) and (b) of this section less any reduction 7815
required under division (B) (1) of this section. 7816

(a) The sum of the payments received by the county for 7817
public health related functions in calendar year 2014 under 7818
division (A) (1) of section 5727.86 and division (A) (1) of 7819
section 5751.22 of the Revised Code as they existed at that 7820
time; 7821

(b) With respect to taxes levied by the county for public 7822
health related purposes, the taxes charged and payable for such 7823
purposes against all property on the tax list of real and public 7824
utility property for tax year 2014. 7825

(14) "Total resources," in the case of all county 7826

functions not included in divisions (A) (10) to (13) of this 7827
section, means the sum of the amounts in divisions (A) (14) (a) to 7828
(e) of this section less any reduction required under division 7829
(B) (1) or (2) of this section. 7830

(a) The sum of the payments received by the county for all 7831
other purposes in calendar year 2014 under division (A) (1) of 7832
section 5727.86 and division (A) (1) of section 5751.22 of the 7833
Revised Code as they existed at that time; 7834

(b) The county's percentage share of county undivided 7835
local government fund allocations as certified to the tax 7836
commissioner for calendar year 2015 by the county auditor under 7837
division (J) of section 5747.51 of the Revised Code or division 7838
(F) of section 5747.53 of the Revised Code multiplied by the 7839
total amount actually distributed in calendar year 2014 from the 7840
county undivided local government fund; 7841

(c) With respect to taxes levied by the county for all 7842
other purposes, the taxes charged and payable for such purposes 7843
against all property on the tax list of real and public utility 7844
property for tax year 2014, excluding taxes charged and payable 7845
for the purpose of paying debt charges; 7846

(d) The sum of the amounts distributed to the county in 7847
calendar year 2014 for the taxes levied pursuant to sections 7848
5739.021 and 5741.021 of the Revised Code; 7849

(e) The sum of amounts distributed to the county from the 7850
gross casino revenue county fund from July 2014 through April 7851
2015. 7852

(15) "Total resources," in the case of a municipal 7853
corporation, means the sum of the amounts in divisions (A) (15) 7854
(a) to (h) of this section less any reduction required under 7855

division (B) (1) or (2) of this section. 7856

(a) The sum of the payments received by the municipal 7857
corporation in calendar year 2014 for current expense levy 7858
losses under division (A) (1) of section 5727.86 and division (A) 7859
(1) of section 5751.22 of the Revised Code as they existed at 7860
that time; 7861

(b) The municipal corporation's percentage share of county 7862
undivided local government fund allocations as certified to the 7863
tax commissioner for calendar year 2015 by the county auditor 7864
under division (J) of section 5747.51 of the Revised Code or 7865
division (F) of section 5747.53 of the Revised Code multiplied 7866
by the total amount actually distributed in calendar year 2014 7867
from the county undivided local government fund; 7868

(c) The sum of the amounts distributed to the municipal 7869
corporation in calendar year 2014 pursuant to section 5747.50 of 7870
the Revised Code; 7871

(d) With respect to taxes levied by the municipal 7872
corporation, the taxes charged and payable against all property 7873
on the tax list of real and public utility property for 7874
municipal current expenses for tax year 2014; 7875

(e) The amount of admissions tax collected by the 7876
municipal corporation in calendar year 2013, or if such 7877
information has not yet been reported to the tax commissioner, 7878
in the most recent year before 2013 for which the municipal 7879
corporation has reported data to the commissioner; 7880

(f) The amount of income taxes collected by the municipal 7881
corporation in calendar year 2013 as certified to the tax 7882
commissioner under section 5747.50 of the Revised Code in 2013, 7883
or if such information has not yet been reported to the 7884

commissioner, in the most recent year before 2014 for which the 7885
municipal corporation has reported such data to the 7886
commissioner; 7887

(g) The sum of the amounts distributed to the municipal 7888
corporation from the gross casino revenue host city fund from 7889
July 2014 through April 2015; 7890

(h) The sum of the amounts distributed to the municipal 7891
corporation from the gross casino revenue county fund from July 7892
2014 through April 2015. 7893

(16) "Total resources," in the case of a township, means 7894
the sum of the amounts in divisions (A) (16) (a) to (c) of this 7895
section less any reduction required under division (B) (1) or (2) 7896
of this section. 7897

(a) The sum of the payments received by the township in 7898
calendar year 2014 pursuant to division (A) (1) of section 7899
5727.86 of the Revised Code and division (A) (1) of section 7900
5751.22 of the Revised Code as they existed at that time, 7901
excluding payments received for debt purposes; 7902

(b) The township's percentage share of county undivided 7903
local government fund allocations as certified to the tax 7904
commissioner for calendar year 2015 by the county auditor under 7905
division (J) of section 5747.51 of the Revised Code or division 7906
(F) of section 5747.53 of the Revised Code multiplied by the 7907
total amount actually distributed in calendar year 2014 from the 7908
county undivided local government fund; 7909

(c) With respect to taxes levied by the township, the 7910
taxes charged and payable against all property on the tax list 7911
of real and public utility property for tax year 2014 excluding 7912
taxes charged and payable for the purpose of paying debt charges 7913

or from levies imposed under section 5705.23 of the Revised Code. 7914
7915

(17) "Total resources," in the case of a local taxing unit 7916
that is not a county, municipal corporation, township, or public 7917
library means the sum of the amounts in divisions (A) (17) (a) to 7918
(e) of this section less any reduction required under division 7919
(B) (1) of this section. 7920

(a) The sum of the payments received by the local taxing 7921
unit in calendar year 2014 pursuant to division (A) (1) of 7922
section 5727.86 of the Revised Code and division (A) (1) of 7923
section 5751.22 of the Revised Code as they existed at that 7924
time; 7925

(b) The local taxing unit's percentage share of county 7926
undivided local government fund allocations as certified to the 7927
tax commissioner for calendar year 2015 by the county auditor 7928
under division (J) of section 5747.51 of the Revised Code or 7929
division (F) of section 5747.53 of the Revised Code multiplied 7930
by the total amount actually distributed in calendar year 2014 7931
from the county undivided local government fund; 7932

(c) With respect to taxes levied by the local taxing unit, 7933
the taxes charged and payable against all property on the tax 7934
list of real and public utility property for tax year 2014 7935
excluding taxes charged and payable for the purpose of paying 7936
debt charges or from a levy imposed under section 5705.23 of the 7937
Revised Code; 7938

(d) The amount received from the tax commissioner during 7939
calendar year 2014 for sales or use taxes authorized under 7940
sections 5739.023 and 5741.022 of the Revised Code; 7941

(e) For institutions of higher education receiving tax 7942

revenue from a local levy, as identified in section 3358.02 of 7943
the Revised Code, the final state share of instruction 7944
allocation for fiscal year 2014 as calculated by the chancellor 7945
of higher education and reported to the state controlling board. 7946

(18) "Total resources," in the case of a county, municipal 7947
corporation, school district, or township public library that 7948
receives the proceeds of a tax levied under section 5705.23 of 7949
the Revised Code, means the sum of the amounts in divisions (A) 7950
(18) (a) to (d) of this section less any reduction required under 7951
division (B) (1) of this section. 7952

(a) The sum of the payments received by the county, 7953
municipal corporation, school district, or township public 7954
library in calendar year 2014 pursuant to sections 5727.86 and 7955
5751.22 of the Revised Code, as they existed at that time, for 7956
fixed-rate levy losses attributable to a tax levied under 7957
section 5705.23 of the Revised Code for the benefit of the 7958
public library; 7959

(b) The public library's percentage share of county 7960
undivided local government fund allocations as certified to the 7961
tax commissioner for calendar year 2015 by the county auditor 7962
under division (J) of section 5747.51 of the Revised Code or 7963
division (F) of section 5747.53 of the Revised Code multiplied 7964
by the total amount actually distributed in calendar year 2014 7965
from the county undivided local government fund; 7966

(c) With respect to a tax levied pursuant to section 7967
5705.23 of the Revised Code for the benefit of the public 7968
library, the amount of such tax that is charged and payable 7969
against all property on the tax list of real and public utility 7970
property for tax year 2014 excluding any tax that is charged and 7971
payable for the purpose of paying debt charges; 7972

(d) The sum of the amounts distributed to the library 7973
district from the county public library fund in calendar year 7974
2014, as reported to the tax commissioner by the county auditor. 7975

(19) "Municipal current expense property tax levies" means 7976
all property tax levies of a municipality, except those with the 7977
following levy names: library; airport resurfacing; bond or any 7978
levy name including the word "bond"; capital improvement or any 7979
levy name including the word "capital"; debt or any levy name 7980
including the word "debt"; equipment or any levy name including 7981
the word "equipment," unless the levy is for combined operating 7982
and equipment; employee termination fund; fire pension or any 7983
levy containing the word "pension," including police pensions; 7984
fireman's fund or any practically similar name; sinking fund; 7985
road improvements or any levy containing the word "road"; fire 7986
truck or apparatus; flood or any levy containing the word 7987
"flood"; conservancy district; county health; note retirement; 7988
sewage, or any levy containing the words "sewage" or "sewer"; 7989
park improvement; parkland acquisition; storm drain; street or 7990
any levy name containing the word "street"; lighting, or any 7991
levy name containing the word "lighting"; and water. 7992

(20) "Operating fixed-rate levy loss" means, in the case 7993
of local taxing units other than municipal corporations, fixed- 7994
rate levy losses of levies imposed for purposes other than 7995
paying debt charges or, in the case of municipal corporations, 7996
fixed-rate levy losses of municipal current expense property tax 7997
levies. 7998

~~(22)~~ (21) (a) "Qualifying municipal corporation" means a 7999
municipal corporation in the territory of which a qualifying end 8000
user is located. 8001

(b) "Qualifying end user" means an end user of at least 8002

seven million qualifying kilowatt hours of electricity annually. 8003

(c) "Qualifying kilowatt hours" means kilowatt hours of 8004
electricity generated by a renewable energy resource, as defined 8005
in section 5727.01 of the Revised Code, using wind energy and 8006
the distribution of which is subject to the tax levied under 8007
section 5727.81 of the Revised Code for any measurement period 8008
beginning after June 30, 2015. 8009

~~(23)~~ (22) Any term used in this section has the same 8010
meaning as in section 5727.84 or 5751.20 of the Revised Code 8011
unless otherwise defined by this section. 8012

(B) (1) "Total resources" used to compute payments to be 8013
made under division (C) of this section shall be reduced to the 8014
extent that payments distributed in calendar year 2014 were 8015
attributable to levies no longer charged and payable. 8016

(2) "Current expense allocation" used to compute payments 8017
to be made under division (C) of this section shall be reduced 8018
to the extent that payments distributed in calendar year 2014 8019
were attributable to levies no longer charged and payable. 8020

(C) (1) Except as provided in ~~divisions~~ division (D) of 8021
this section, the tax commissioner shall compute payments for 8022
operating fixed-rate levy losses of local taxing units and 8023
public libraries for fiscal year 2016 and each year thereafter 8024
as prescribed in divisions (C) (1) (a) and (b) ~~and~~ of this 8025
section: 8026

(a) For public libraries and local taxing units other than 8027
municipal corporations: 8028

(i) If the ratio of current expense allocation to total 8029
resources is equal to or less than the threshold per cent, zero; 8030

(ii) If the ratio of current expense allocation to total 8031
resources is greater than the threshold per cent, the current 8032
expense allocation minus the product of total resources 8033
multiplied by the threshold per cent. 8034

(b) For municipal corporations: 8035

(i) If the ratio of the municipal current expense 8036
allocation to total resources is equal to or less than the 8037
threshold per cent, zero; 8038

(ii) If the ratio of the municipal current expense 8039
allocation to total resources is greater than the threshold per 8040
cent, the municipal current expense allocation minus the product 8041
of total resources multiplied by the threshold per cent. 8042

~~(3)~~ (2) For any local taxing unit or public library with 8043
operating fixed-rate levy losses greater than zero, the 8044
operating fixed-rate levy loss shall be allocated among all 8045
qualifying operating fixed-rate levies in proportion to each 8046
such levy's share of the payments received in tax year 2014. In 8047
fiscal year 2016 and thereafter, if a levy to which operating 8048
fixed-rate levy loss is allocated is no longer charged and 8049
payable, the payment to the local taxing unit or public library 8050
shall be reduced by the amount allocated to the levy that is no 8051
longer charged and payable. 8052

(D) (1) Except as provided in division (D) (2) of this 8053
section, the tax commissioner shall make payments to local 8054
taxing units equal to the sum of TPP inside millage debt levy 8055
loss and S.B. 3 inside millage debt levy loss. No payment shall 8056
be made if the levy for which the levy loss is computed is not 8057
charged and payable for debt purposes in fiscal year 2016 or any 8058
year thereafter. 8059

(2) No payment shall be made for TPP inside millage debt 8060
levy loss in calendar year 2018 or thereafter. No payment shall 8061
be made for S.B.3 inside millage debt levy loss in calendar year 8062
2017 or thereafter. 8063

(E) For a qualifying municipal corporation, the tax 8064
commissioner shall compute payments for fiscal year 2016 and 8065
each ensuing fiscal year in an amount equal to the amount of tax 8066
imposed under section 5727.81 of the Revised Code and paid on 8067
the basis of qualifying kilowatt hours of electricity 8068
distributed through the meter of a qualifying end user located 8069
in the municipal corporation for measurement periods ending in 8070
the preceding calendar year. The payment shall be computed 8071
regardless of whether the qualifying municipal corporation 8072
qualifies for a payment under any other division of this section 8073
for the fiscal year in which the payment is computed under this 8074
division. For the purposes of this division, the commissioner 8075
may require an electric distribution company distributing 8076
qualifying kilowatt hours or, if the end user is a self- 8077
assessing purchaser, the end user, to report to the commissioner 8078
the number of qualifying kilowatt hours distributed through the 8079
meter of the qualifying end user. 8080

(F) (1) The payments required to be made under divisions 8081
(C) and (D) of this section shall be paid from the local 8082
government tangible property tax replacement fund to the county 8083
undivided income tax fund in the proper county treasury. 8084
Beginning in August 2015, one-half of the amount determined 8085
under each of those divisions shall be paid on or before the 8086
last day of August each year, and one-half shall be paid on or 8087
before the last day of February each year. Within thirty days 8088
after receipt of such payments, the county treasurer shall 8089
distribute amounts determined under this section to the proper 8090

local taxing unit or public library as if they had been levied 8091
and collected as taxes, and the local taxing unit or public 8092
library shall allocate the amounts so received among its funds 8093
in the same proportions as if those amounts had been levied and 8094
collected as taxes. 8095

(2) On or before the last day of August and of February of 8096
each fiscal year that follows a calendar year in which taxes are 8097
paid on the basis of qualifying kilowatt hours of electricity 8098
distributed through the meter of a qualifying end user located 8099
in a qualifying municipal corporation, one-half of the payment 8100
computed under division (E) of this section shall be paid from 8101
the local government tangible personal property tax replacement 8102
fund directly to the qualifying municipal corporation. The 8103
municipal corporation shall credit the payments to a special 8104
fund created for the purpose of providing grants or other 8105
financial assistance to the qualifying end user or to compensate 8106
the municipal corporation for municipal income tax or other tax 8107
credits or reductions as the legislative authority may grant to 8108
the qualifying end user. Such grants or other financial 8109
assistance may be provided for by ordinance or resolution of the 8110
legislative authority of the qualifying municipal corporation 8111
and may continue for as long as is provided by the ordinance or 8112
resolution. 8113

(G) If all or a part of the territories of two or more 8114
local taxing units are merged, or unincorporated territory of a 8115
township is annexed by a municipal corporation, the tax 8116
commissioner shall adjust the payments made under this section 8117
to each of the local taxing units in proportion to the square 8118
mileage of the merged or annexed territory as a percentage of 8119
the total square mileage of the jurisdiction from which the 8120
territory originated, or as otherwise provided by a written 8121

agreement between the legislative authorities of the local 8122
taxing units certified to the commissioner not later than the 8123
first day of June of the calendar year in which the payment is 8124
to be made. 8125

Sec. 5713.03. The county auditor, from the best sources of 8126
information available, shall determine, as nearly as 8127
practicable, the true value of the fee simple estate, as if 8128
unencumbered but subject to any effects from the exercise of 8129
police powers or from other governmental actions, of each 8130
separate tract, lot, or parcel of real property and of 8131
buildings, structures, and improvements located thereon and the 8132
current agricultural use value of land valued for tax purposes 8133
in accordance with section 5713.31 of the Revised Code, in every 8134
district, according to the rules prescribed by this chapter and 8135
section 5715.01 of the Revised Code, and in accordance with the 8136
uniform rules and methods of valuing and assessing real property 8137
as adopted, prescribed, and promulgated by the tax commissioner. 8138
The auditor shall determine the taxable value of all real 8139
property by reducing its true or current agricultural use value 8140
by the percentage ordered by the commissioner. In determining 8141
the true value of any tract, lot, or parcel of real estate under 8142
this section, if such tract, lot, or parcel has been the subject 8143
of an arm's length sale between a willing seller and a willing 8144
buyer within a reasonable length of time, either before or after 8145
the tax lien date, the auditor may consider the sale price of 8146
such tract, lot, or parcel to be the true value for taxation 8147
purposes. However, the sale price in an arm's length transaction 8148
between a willing seller and a willing buyer shall not be 8149
considered the true value of the property sold if subsequent to 8150
the sale: 8151

(A) The tract, lot, or parcel of real estate loses value 8152

due to some casualty; 8153

(B) An improvement is added to the property. ~~Nothing~~ 8154

Nothing in this section or section 5713.01 of the Revised 8155
Code and no rule adopted under section 5715.01 of the Revised 8156
Code shall require the county auditor to change the true value 8157
in money of any property in any year except a year in which the 8158
tax commissioner is required to determine under section 5715.24 8159
of the Revised Code whether the property has been assessed as 8160
required by law. 8161

The county auditor shall adopt and use a real property 8162
record approved by the commissioner for each tract, lot, or 8163
parcel of real property, setting forth the true and taxable 8164
value of land and, in the case of land valued in accordance with 8165
section 5713.31 of the Revised Code, its current agricultural 8166
use value, the number of acres of arable land, permanent pasture 8167
land, woodland, and wasteland in each tract, lot, or parcel. The 8168
auditor shall record pertinent information and the true and 8169
taxable value of each building, structure, or improvement to 8170
land, which value shall be included as a separate part of the 8171
total value of each tract, lot, or parcel of real property. 8172

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 8173
5715.01 of the Revised Code: 8174

(A) "Land devoted exclusively to agricultural use" means: 8175

(1) Tracts, lots, or parcels of land totaling not less 8176
than ten acres to which, during the three calendar years prior 8177
to the year in which application is filed under section 5713.31 8178
of the Revised Code, and through the last day of May of such 8179
year, one or more of the following apply: 8180

(a) The tracts, lots, or parcels of land were devoted 8181

exclusively to commercial animal or poultry husbandry, 8182
aquaculture, algaculture meaning the farming of algae, 8183
apiculture, the cultivation of hemp by a person issued a hemp 8184
cultivation license under section 928.02 of the Revised Code, 8185
the production for a commercial purpose of timber, field crops, 8186
tobacco, fruits, vegetables, nursery stock, ornamental trees, 8187
sod, or flowers, or the growth of timber for a noncommercial 8188
purpose, if the land on which the timber is grown is contiguous 8189
to or part of a parcel of land under common ownership that is 8190
otherwise devoted exclusively to agricultural use. 8191

(b) The tracts, lots, or parcels of land were devoted 8192
exclusively to biodiesel production, biomass energy production, 8193
electric or heat energy production, or biologically derived 8194
methane gas production if the land on which the production 8195
facility is located is contiguous to or part of a parcel of land 8196
under common ownership that is otherwise devoted exclusively to 8197
agricultural use, provided that at least fifty per cent of the 8198
feedstock used in the production was derived from parcels of 8199
land under common ownership or leasehold. 8200

(c) The tracts, lots, or parcels of land were devoted to 8201
and qualified for payments or other compensation under a land 8202
retirement or conservation program under an agreement with an 8203
agency of the federal government. 8204

(2) Tracts, lots, or parcels of land totaling less than 8205
ten acres that, during the three calendar years prior to the 8206
year in which application is filed under section 5713.31 of the 8207
Revised Code and through the last day of May of such year, were 8208
devoted exclusively to commercial animal or poultry husbandry, 8209
aquaculture, algaculture meaning the farming of algae, 8210
apiculture, the cultivation of hemp by a person issued a hemp 8211

cultivation license under section 928.02 of the Revised Code, 8212
the production for a commercial purpose of field crops, tobacco, 8213
fruits, vegetables, timber, nursery stock, ornamental trees, 8214
sod, or flowers where such activities produced an average yearly 8215
gross income of at least twenty-five hundred dollars during such 8216
three-year period or where there is evidence of an anticipated 8217
gross income of such amount from such activities during the tax 8218
year in which application is made, or were devoted to and 8219
qualified for payments or other compensation under a land 8220
retirement or conservation program under an agreement with an 8221
agency of the federal government; 8222

~~(3) A tract, lot, or parcel of land taxed under sections 8223~~
~~5713.22 to 5713.26 of the Revised Code is not land devoted 8224~~
~~exclusively to agricultural use. 8225~~

~~(4)~~ Tracts, lots, or parcels of land, or portions thereof 8226
that, during the previous three consecutive calendar years have 8227
been designated as land devoted exclusively to agricultural use, 8228
but such land has been lying idle or fallow for up to one year 8229
and no action has occurred to such land that is either 8230
inconsistent with the return of it to agricultural production or 8231
converts the land devoted exclusively to agricultural use as 8232
defined in this section. Such land shall remain designated as 8233
land devoted exclusively to agricultural use provided that 8234
beyond one year, but less than three years, the landowner proves 8235
good cause as determined by the board of revision. 8236

~~(5)~~ (4) Tracts, lots, or parcels of land, or portions 8237
thereof that, during the previous three consecutive calendar 8238
years have been designated as land devoted exclusively to 8239
agricultural use, but such land has been lying idle or fallow 8240
because of dredged material being stored or deposited on such 8241

land pursuant to a contract between the land's owner and the 8242
department of natural resources or the United States army corps 8243
of engineers and no action has occurred to the land that is 8244
either inconsistent with the return of it to agricultural 8245
production or converts the land devoted exclusively to 8246
agricultural use. Such land shall remain designated as land 8247
devoted exclusively to agricultural use until the last year in 8248
which dredged material is stored or deposited on the land 8249
pursuant to such a contract, but not to exceed five years. 8250

"Land devoted exclusively to agricultural use" includes 8251
tracts, lots, or parcels of land or portions thereof that are 8252
used for conservation practices, provided that the tracts, lots, 8253
or parcels of land or portions thereof comprise twenty-five per 8254
cent or less of the total of the tracts, lots, or parcels of 8255
land that satisfy the criteria established in division (A) (1), 8256
(2), ~~(4)~~ (3), or ~~(5)~~ (4) of this section together with the 8257
tracts, lots, or parcels of land or portions thereof that are 8258
used for conservation practices. 8259

Notwithstanding any other provision of law to the 8260
contrary, the existence of agritourism on a tract, lot, or 8261
parcel of land that otherwise meets the definition of "land 8262
devoted exclusively to agricultural use" as defined in this 8263
division does not disqualify that tract, lot, or parcel from 8264
valuation under sections 5713.30 to 5713.37 and 5715.01 of the 8265
Revised Code. 8266

A tract, lot, or parcel of land taxed under sections 8267
5713.22 to 5713.26 of the Revised Code is not land devoted 8268
exclusively to agricultural use. 8269

A tract, lot, parcel, or portion thereof on which medical 8270
marijuana, as defined by section 3796.01 of the Revised Code, is 8271

cultivated or processed is not land devoted exclusively to 8272
agricultural use. 8273

(B) "Conversion of land devoted exclusively to 8274
agricultural use" means any of the following: 8275

(1) The failure of the owner of land devoted exclusively 8276
to agricultural use during the next preceding calendar year to 8277
file a renewal application under section 5713.31 of the Revised 8278
Code without good cause as determined by the board of revision; 8279

(2) The failure of the new owner of such land to file an 8280
initial application under that section without good cause as 8281
determined by the board of revision; 8282

(3) The failure of such land or portion thereof to qualify 8283
as land devoted exclusively to agricultural use for the current 8284
calendar year as requested by an application filed under such 8285
section; 8286

(4) The failure of the owner of the land described in 8287
division ~~(A) (4)~~ (A) (3) or ~~(5) (4)~~ of this section to act on such 8288
land in a manner that is consistent with the return of the land 8289
to agricultural production after three years. 8290

The construction or installation of an energy facility, as 8291
defined in section 5727.01 of the Revised Code, on a portion of 8292
a tract, lot, or parcel of land devoted exclusively to 8293
agricultural use shall not cause the remaining portion of the 8294
tract, lot, or parcel to be regarded as a conversion of land 8295
devoted exclusively to agricultural use if the remaining portion 8296
of the tract, lot, or parcel continues to be devoted exclusively 8297
to agricultural use. 8298

(C) "Tax savings" means the difference between the dollar 8299
amount of real property taxes levied in any year on land valued 8300

and assessed in accordance with its current agricultural use 8301
value and the dollar amount of real property taxes that would 8302
have been levied upon such land if it had been valued and 8303
assessed for such year in accordance with Section 2 of Article 8304
XII, Ohio Constitution. 8305

(D) "Owner" includes, but is not limited to, any person 8306
owning a fee simple, fee tail, or life estate or a buyer on a 8307
land installment contract. 8308

(E) "Conservation practices" are practices used to abate 8309
soil erosion as required in the management of the farming 8310
operation, and include, but are not limited to, the 8311
installation, construction, development, planting, or use of 8312
grass waterways, terraces, diversions, filter strips, field 8313
borders, windbreaks, riparian buffers, wetlands, ponds, and 8314
cover crops for that purpose. 8315

(F) "Wetlands" has the same meaning as in section 6111.02 8316
of the Revised Code. 8317

(G) "Biodiesel" means a mono-alkyl ester combustible 8318
liquid fuel that is derived from vegetable oils or animal fats 8319
or any combination of those reagents and that meets the American 8320
society for testing and materials specification D6751-03a for 8321
biodiesel fuel (B100) blend stock distillate fuels. 8322

(H) "Biologically derived methane gas" means gas from the 8323
anaerobic digestion of organic materials, including animal waste 8324
and agricultural crops and residues. 8325

(I) "Biomass energy" means energy that is produced from 8326
organic material derived from plants or animals and available on 8327
a renewable basis, including, but not limited to, agricultural 8328
crops, tree crops, crop by-products, and residues. 8329

(J) "Electric or heat energy" means electric or heat 8330
energy generated from manure, cornstalks, soybean waste, or 8331
other agricultural feedstocks. 8332

(K) "Dredged material" means material that is excavated or 8333
dredged from waters of this state. "Dredged material" does not 8334
include material resulting from normal farming, silviculture, 8335
and ranching activities, such as plowing, cultivating, seeding, 8336
and harvesting, for production of food, fiber, and forest 8337
products. 8338

(L) "Agritourism" has the same meaning as in section 8339
901.80 of the Revised Code. 8340

Sec. 5713.351. If the county auditor has determined under 8341
section 5713.35 of the Revised Code that a conversion of land 8342
has occurred with respect to any tract, lot, or parcel on the 8343
agricultural land tax list because of a failure to file an 8344
initial or renewal application, and if the auditor, upon 8345
application of the owner and payment by the owner of a twenty- 8346
five-dollar fee, finds that the land would be land devoted 8347
exclusively to agricultural use for the current year if the 8348
board of revision finds the failure arose for good cause, the 8349
owner may file a complaint against that determination with the 8350
board as provided in section 5715.19 of the Revised Code on the 8351
grounds that the tract, lot, or parcel is land devoted 8352
exclusively to agricultural use because there was good cause for 8353
the owner's failure to file an initial or renewal application. 8354
If the board finds that there was such good cause, the 8355
application under this section shall be considered an 8356
application that was properly filed under section 5713.31 of the 8357
Revised Code. 8358

Sec. 5715.13. (A) Except as provided in division (B) of 8359

this section, the county board of revision shall not decrease 8360
any valuation unless a party affected thereby or who is 8361
authorized to file a complaint under section 5715.19 of the 8362
Revised Code makes and files with the board a written 8363
application therefor, verified by oath and signature, showing 8364
the facts upon which it is claimed such decrease should be made. 8365

(B) The county board of revision may authorize a policy 8366
for the filing of an electronic complaint under section 5715.19 8367
of the Revised Code and the filing of an electronic application 8368
therefor under this section, subject to the approval of the tax 8369
commissioner. An electronic complaint need not be sworn to, but 8370
shall contain an electronic verification and shall be subscribed 8371
to by the person filing the complaint: "I declare under 8372
penalties of perjury that this complaint has been examined by me 8373
and to the best of my knowledge and belief is true, correct, and 8374
complete." 8375

Sec. 5715.36. (A) Any expense incurred by the tax 8376
commissioner as to the annual assessment of real property in any 8377
taxing district shall be paid out of the treasury of the county 8378
in which such district is located upon presentation of the order 8379
of the commissioner certifying the amount thereof to the county 8380
auditor, who shall thereupon issue a warrant therefor upon the 8381
general fund of the county and direct the warrant to the county 8382
treasurer, who shall pay the same. All money paid out of the 8383
county treasury under authority of this division and section 8384
5703.30 of the Revised Code shall be charged against the proper 8385
district, and amounts paid by the county shall be retained by 8386
the auditor from funds due such district at the time of making 8387
the semiannual distribution of taxes. 8388

(B) Any expense incurred by the board of tax appeals as to 8389

the hearing of any appeal from a county budget commission with 8390
respect to the allocation of the local government fund or the 8391
county public library fund shall be paid out of the treasury of 8392
the county involved upon presentation of the order of the board 8393
certifying the amount thereof to the county auditor, who shall 8394
thereupon issue a warrant therefor upon the general fund of the 8395
county and direct the warrant to the county treasurer, who shall 8396
pay the same. At the time the local government fund or the 8397
county public library fund is distributed, all money which had 8398
been paid out of the county treasury for such expenses shall be 8399
deducted by the county auditor from the fund involved in the 8400
appeal. The amount so deducted by the county auditor shall be 8401
forthwith returned to the general fund of the county. 8402

(C) An amount equal to the sum of the expenses incurred by 8403
the board of tax appeals as to any of the following shall be 8404
paid out of the general fund of the county in which such 8405
property is located upon presentation of the order of the board 8406
certifying the amount thereof to the county auditor, who shall 8407
thereupon issue a warrant therefor upon the general fund of the 8408
county and direct the warrant to the county treasurer, who shall 8409
pay the same: 8410

(1) The hearing of any appeal from a county board of 8411
revision under section 5717.01 of the Revised Code; 8412

(2) An appeal from any finding, computation, 8413
determination, or order of the tax commissioner made with 8414
respect to the assessment or exemption of real property under 8415
~~division (B) of section 5715.61 and~~ section 5717.02 of the 8416
Revised Code. At the time of each settlement of taxes under 8417
divisions (A) and (C) of section 321.24 of the Revised Code, 8418
there shall be deducted from the taxes included in such 8419

settlement and paid into the county general fund in the same 8420
manner as the fees allowed the county treasurer on amounts 8421
included in such settlement, the amounts paid out under this 8422
division since the preceding settlement. Each deduction shall be 8423
apportioned among the taxing districts within which the property 8424
that was the subject of the appeal is located in proportion to 8425
their relative shares of their respective taxes included in the 8426
settlement. 8427

Sec. 5721.06. (A) (1) The form of the notice required to be 8428
attached to the published delinquent tax list by division (B) (3) 8429
of section 5721.03 of the Revised Code shall be in substance as 8430
follows: 8431

"DELINQUENT LAND TAX NOTICE 8432

The lands, lots, and parts of lots returned delinquent by 8433
the county treasurer of county, with the 8434
taxes, assessments, interest, and penalties, charged against 8435
them agreeably to law, are contained and described in the 8436
following list: (Here insert the list with the names of the 8437
owners of such respective tracts of land or town lots as 8438
designated on the delinquent tax list. If, prior to seven days 8439
before the publication of the list, a delinquent tax contract 8440
has been entered into under section 323.31 of the Revised Code, 8441
the owner's name may be stricken from the list or designated by 8442
an asterisk shown in the margin next to the owner's name.) 8443

Notice is hereby given that the whole of such several 8444
lands, lots, or parts of lots will be certified for foreclosure 8445
by the county auditor pursuant to law unless the whole of the 8446
delinquent taxes, assessments, interest, and penalties are paid 8447
within one year or unless a tax certificate with respect to the 8448
parcel is sold under section 5721.32 or 5721.33 of the Revised 8449

Code. The names of persons who have entered into a written 8450
delinquent tax contract with the county treasurer to discharge 8451
the delinquency are designated by an asterisk or have been 8452
stricken from the list." 8453

(2) If the county treasurer has certified to the county 8454
auditor that the treasurer intends to offer for sale or assign a 8455
tax certificate with respect to one or more parcels of 8456
delinquent land under section 5721.32 or 5721.33 of the Revised 8457
Code, the form of the notice shall include the following 8458
statement, appended after the second paragraph of the notice 8459
prescribed by division (A) (1) of this section: 8460

"Notice also is hereby given that a tax certificate may be 8461
offered for sale or assigned under section 5721.32 or 5721.33 of 8462
the Revised Code with respect to those parcels shown on this 8463
list. If a tax certificate on a parcel is purchased, the 8464
purchaser of the tax certificate acquires the state's or its 8465
taxing district's first lien against the property, and an 8466
additional interest charge of up to eighteen per cent per annum 8467
shall be assessed against the parcel. In addition, failure by 8468
the owner of the parcel to redeem the tax certificate may result 8469
in foreclosure proceedings against the parcel. No tax 8470
certificate shall be offered for sale if the owner of the parcel 8471
has either discharged the lien by paying to the county treasurer 8472
in cash the amount of delinquent taxes, assessments, penalties, 8473
interest, and charges charged against the property, or has 8474
entered into a valid delinquent tax contract pursuant to section 8475
323.31 of the Revised Code to pay those amounts in 8476
installments." 8477

(B) The form of the notice required to be attached to the 8478
published delinquent vacant land tax list by division (B) (3) of 8479

section 5721.03 of the Revised Code shall be in substance as 8480
follows: 8481

"DELINQUENT VACANT LAND TAX NOTICE 8482

The delinquent vacant lands, returned delinquent by the 8483
county treasurer of..... county, with the taxes, 8484
assessments, interest, and penalties charged against them 8485
according to law, and remaining delinquent for one year, are 8486
contained and described in the following list: (here insert the 8487
list with the names of the owners of the respective tracts of 8488
land as designated on the delinquent vacant land tax list. If, 8489
prior to seven days before the publication of the list, a 8490
delinquent tax contract has been entered into under section 8491
323.31 of the Revised Code, the owner's name may be stricken 8492
from the list or designated by an asterisk shown in the margin 8493
next to the owner's name.) 8494

Notice is hereby given that these delinquent vacant lands 8495
will be certified for foreclosure or foreclosure and forfeiture 8496
by the county auditor pursuant to law unless the whole of the 8497
delinquent taxes, assessments, interest, and penalties are paid 8498
within twenty-eight days after the final publication of this 8499
notice. The names of persons who have entered into a written 8500
delinquent tax contract with the county treasurer to discharge 8501
the delinquency are designated by an asterisk or have been 8502
stricken from the list." 8503

Sec. 5721.191. (A) Subject to division (B) of this 8504
section, the form for the advertisement of a sale conducted 8505
pursuant to section 5721.19 of the Revised Code shall be as 8506
follows: 8507

"Notice of sale under judgment of foreclosure of liens 8508

for delinquent land taxes 8509

In the court of, Ohio 8510

case no. 8511

in the matter of foreclosure of liens for 8512

delinquent land taxes 8513

county treasurer of, Ohio 8514

Plaintiff, 8515

vs. 8516

parcels of land encumbered with delinquent 8517

tax liens, 8518

Defendants. 8519

8520

Whereas, judgment has been rendered against certain 8521

parcels of real property for taxes, assessments, charges, 8522

penalties, interest, and costs as follows: 8523

(Here set out, for each parcel, the respective permanent 8524

parcel number, full street address, description of the parcel, 8525

name and address of the last known owners of the parcel as shown 8526

on the general tax list, and total amount of the judgment) and; 8527

Whereas, such judgment orders such real property to be 8528

sold or otherwise disposed of according to law by the 8529

undersigned to satisfy the total amount of such judgment; 8530

Now, therefore, public notice is hereby given that I, 8531

..... (officer) of, 8532

Ohio, will either dispose of such property according to law or 8533

sell such real property at public auction, for cash, to the 8534
highest bidder of an amount that equals at least (insert here, 8535
as in the court's order, the fair market value of the parcel as 8536
determined by the county auditor, or the total amount of the 8537
judgment, including all taxes, assessments, charges, penalties, 8538
and interest payable subsequent to the delivery to the 8539
prosecuting attorney of the delinquent land tax certificate or 8540
master list of delinquent tracts and prior to the transfer of 8541
the deed of the property to the purchaser following confirmation 8542
of sale), between the hours of a.m. and p.m., 8543
at (address and location) in, Ohio, on 8544
....., the day of, If any 8545
parcel does not receive a sufficient bid or is not otherwise 8546
disposed of according to law, it may be offered for sale, under 8547
the same terms and conditions of the first sale and at the same 8548
time of day and at the same place, on, the 8549
..... day of, ..., for an amount that 8550
equals at least (insert here, as in the court's order, the fair 8551
market value of the parcel as determined by the county auditor, 8552
or the total amount of the judgment, including all taxes 8553
assessments, charges, penalties, and interest payable subsequent 8554
to the delivery to the prosecuting attorney of the delinquent 8555
land tax certificate or master list of delinquent tracts and 8556
prior to the transfer of the deed of the property to the 8557
purchaser following confirmation of sale)."

(B) If the title search required by division (B) of 8559
section 5721.18 of the Revised Code that relates to a parcel 8560
subject to an in rem action under that division, or if the title 8561
search that relates to a parcel subject to an in personam action 8562
under division (A) of section 5721.18 of the Revised Code, 8563
indicates that a federal tax lien exists relative to the parcel, 8564

then the form of the advertisement of sale as described in 8565
division (A) of this section additionally shall include the 8566
following statement in boldface type: 8567

"PUBLIC NOTICE IS HEREBY GIVEN THAT (INSERT HERE THE 8568
DESCRIPTION OF EACH RELEVANT PARCEL) TO BE SOLD AT PUBLIC 8569
AUCTION IS SUBJECT TO A FEDERAL TAX LIEN THAT MAY NOT BE 8570
EXTINGUISHED BY THE SALE. 8571

(C) If the proceedings for foreclosure were instituted 8572
under division (C) of section 5721.18 of the Revised Code, then 8573
the form of the advertisement of sale as described in division 8574
(A) of this section additionally shall include the following 8575
statement in boldface type: 8576

"Public notice is hereby given that (insert here the 8577
description of each relevant parcel) to be sold at public 8578
auction will be sold subject to all liens and encumbrances with 8579
respect to the parcel, other than the liens for land taxes, 8580
assessments, charges, penalties, and interest for which the lien 8581
was foreclosed and in satisfaction of which the property is 8582
sold. 8583

Sec. 5721.39. (A) In its judgment of foreclosure rendered 8584
in actions filed pursuant to section 5721.37 of the Revised 8585
Code, the court or board of revision shall enter a finding that 8586
includes all of the following with respect to the certificate 8587
parcel: 8588

(1) The amount of the sum of the certificate redemption 8589
prices for all the tax certificates sold against the parcel; 8590

(2) Interest on the certificate purchase prices of all 8591
certificates at the rate of eighteen per cent per year for the 8592
period beginning on the day on which the payment was submitted 8593

by the certificate holder under division (B) of section 5721.37 8594
of the Revised Code; 8595

(3) The amount paid under division (B) (2) of section 8596
5721.37 of the Revised Code, plus interest at the rate of 8597
eighteen per cent per year for the period beginning on the day 8598
the certificate holder filed a request for foreclosure or a 8599
notice of intent to foreclose under division (A) of that 8600
section; 8601

(4) Any delinquent taxes on the parcel that are not 8602
covered by a payment under division (B) (2) of section 5721.37 of 8603
the Revised Code; 8604

(5) Fees and costs incurred in the foreclosure proceeding 8605
instituted against the parcel, including, without limitation, 8606
the fees and costs of the prosecuting attorney represented by 8607
the fee paid under division (B) (3) of section 5721.37 of the 8608
Revised Code, plus interest as provided in division (D) (2) (d) of 8609
this section, or the fees and costs of the private attorney 8610
representing the certificate holder, and charges paid or 8611
incurred in procuring title searches and abstracting services 8612
relative to the subject premises. 8613

(B) The court or board of revision may order the 8614
certificate parcel to be sold or otherwise transferred according 8615
to law, without appraisal and as set forth in the prayer of the 8616
complaint, for not less than the amount of its finding, or, in 8617
the event that the true value of the certificate parcel as 8618
determined by the county auditor is less than the certificate 8619
redemption price, the court or board of revision may, as prayed 8620
for in the complaint, issue a decree transferring fee simple 8621
title free and clear of all subordinate liens to the certificate 8622
holder or as otherwise provided in sections 323.65 to 323.79 of 8623

the Revised Code. A decree of the court or board of revision 8624
transferring fee simple title to the certificate holder is 8625
forever a bar to all rights of redemption with respect to the 8626
certificate parcel. 8627

(C) (1) The certificate holder may file a motion with the 8628
court for an order authorizing a specified private selling 8629
officer, as defined in section 2329.01 of the Revised Code, to 8630
sell the parcel at a public auction. If the court authorizes a 8631
private selling officer to sell the parcel, then upon the filing 8632
of a praecipe for order of sale with the clerk of the court, the 8633
clerk of the court shall immediately issue an order of sale to 8634
the private selling officer authorized by the court. 8635

(2) The officer to whom the order of sale is directed may 8636
conduct the public auction of the parcel at a physical location 8637
in the county in which the parcel is located or online. If the 8638
public auction occurs online, the auction shall be open for 8639
bidding for seven days. If the parcel is not sold during this 8640
initial seven-day period, a second online auction shall be held 8641
not earlier than three days or later than thirty days after the 8642
end of the first auction. The second online auction shall be 8643
open for bidding for seven days. 8644

(3) A private selling officer who conducts an auction of 8645
the parcel under this section may do any of the following: 8646

(a) Market the parcels for sale and hire a title insurance 8647
agent licensed under Chapter 3953. of the Revised Code or title 8648
insurance company authorized to do business under that chapter 8649
to assist the private selling officer in performing 8650
administrative services; 8651

(b) Execute to the purchaser, or to the purchaser's legal 8652

representatives, a deed of conveyance of the parcel sold in 8653
conformity with the form set forth in section 5302.31 of the 8654
Revised Code; 8655

(c) Record on behalf of the purchaser the deed conveying 8656
title to the parcel sold, notwithstanding that the deed may not 8657
actually have been delivered to the purchaser prior to its 8658
recording. 8659

(4) By placing a bid at a sale conducted pursuant to this 8660
section, a purchaser appoints the private selling officer who 8661
conducts the sale as agent of the purchaser for the sole purpose 8662
of accepting delivery of the deed. 8663

(5) The private selling officer who conducts the sale 8664
shall hire a title insurance agent licensed under Chapter 3953. 8665
of the Revised Code or title insurance company authorized to do 8666
business under that chapter to perform title, escrow, and 8667
closing services related to the sale of the parcel. 8668

(6) Except as otherwise provided in sections 323.65 to 8669
323.79 of the Revised Code, and the alternative redemption 8670
period thereunder, each certificate parcel shall be advertised 8671
and sold by the officer to whom the order of sale is directed in 8672
the manner provided by law for the sale of real property on 8673
execution. The advertisement for sale of certificate parcels 8674
shall be published once a week for three consecutive weeks and 8675
shall include the date on which a second sale will be conducted 8676
if no bid is accepted at the first sale. Any number of parcels 8677
may be included in one advertisement. 8678

Except as otherwise provided in sections 323.65 to 323.79 8679
of the Revised Code, whenever the officer charged to conduct the 8680
sale offers a certificate parcel for sale at a physical location 8681

and not online and no bids are made equal to at least the amount 8682
of the finding of the court or board of revision, the officer 8683
shall adjourn the sale of the parcel to the second date that was 8684
specified in the advertisement of sale. The second sale shall be 8685
held at the same place and commence at the same time as set 8686
forth in the advertisement of sale. The officer shall offer any 8687
parcel not sold at the first sale. Upon the conclusion of any 8688
sale, or if any parcel remains unsold after being offered at two 8689
sales, the officer conducting the sale shall report the results 8690
to the court or board of revision. 8691

(D) Upon the confirmation of a sale, the proceeds of the 8692
sale shall be applied as follows: 8693

(1) The fees and costs incurred in the proceeding filed 8694
against the parcel pursuant to section 5721.37 of the Revised 8695
Code shall be paid first, including attorney's fees of the 8696
certificate holder's attorney payable under division (F) of that 8697
section, private selling officer's fees and marketing costs, 8698
title agent's or title company's fees, or the county 8699
prosecutor's costs covered by the fee paid by the certificate 8700
holder under division (B) (3) of that section. 8701

(2) Following the payment required by division (D) (1) of 8702
this section, the certificate holder that filed the notice of 8703
intent to foreclose or request for foreclosure with the county 8704
treasurer shall be paid the sum of the following amounts: 8705

(a) The sum of the amount found due for the certificate 8706
redemption prices of all the tax certificates that are sold 8707
against the parcel; 8708

(b) Any premium paid by the certificate holder at the time 8709
of purchase; 8710

(c) Interest on the amounts paid by the certificate holder 8711
under division (B) (1) of section 5721.37 of the Revised Code at 8712
the rate of eighteen per cent per year beginning on the day on 8713
which the payment was submitted by the certificate holder to the 8714
county treasurer and ending on the day immediately preceding the 8715
day on which the proceeds of the foreclosure sale are paid to 8716
the certificate holder; 8717

(d) Interest on the amounts paid by the certificate holder 8718
under divisions (B) (2) and (3) of section 5721.37 of the Revised 8719
Code at the rate of eighteen per cent per year beginning on the 8720
day on which the payment was submitted by the certificate holder 8721
under divisions (B) (2) and (3) of that section and ending on the 8722
day immediately preceding the day on which the proceeds of the 8723
foreclosure sale are paid to the certificate holder pursuant to 8724
this section, except that such interest shall not accrue for 8725
more than ~~three six years if the certificate was sold under~~ 8726
~~section 5721.32 of the Revised Code, or under section 5721.42 of~~ 8727
~~the Revised Code by the holder of a certificate issued under~~ 8728
~~section 5721.32 of the Revised Code, or more than six years if~~ 8729
~~the certificate was sold under section 5721.33 of the Revised~~ 8730
~~Code, or under section 5721.42 of the Revised Code by the holder~~ 8731
~~of a certificate issued under section 5721.33 of the Revised~~ 8732
~~Code,~~ after the day the amounts were paid by the certificate 8733
holder under divisions (B) (2) and (3) of section 5721.37 of the 8734
Revised Code; 8735

(e) The amounts paid by the certificate holder under 8736
divisions (B) (1), (2), and (3) of section 5721.37 of the Revised 8737
Code. 8738

(3) Following the payment required by division (D) (2) of 8739
this section, any amount due for taxes, installments of 8740

assessments, charges, penalties, and interest not covered by the 8741
tax certificate holder's payment under division (B) (2) of 8742
section 5721.37 of the Revised Code shall be paid, including all 8743
taxes, installments of assessments, charges, penalties, and 8744
interest payable subsequent to the entry of the finding and 8745
prior to the transfer of the deed of the parcel to the purchaser 8746
following confirmation of sale. If the proceeds available for 8747
distribution pursuant to this division are insufficient to pay 8748
the entire amount of those taxes, installments of assessments, 8749
charges, penalties, and interest, the proceeds shall be paid to 8750
each claimant in proportion to the amount of those taxes, 8751
installments of assessments, charges, penalties, and interest 8752
that each is due, and those taxes, installments of assessments, 8753
charges, penalties, and interest are deemed satisfied and shall 8754
be removed from the tax list and duplicate. 8755

(4) Any residue of money from proceeds of the sale shall 8756
be disposed of as prescribed by section 5721.20 of the Revised 8757
Code. 8758

(E) Unless the parcel previously was redeemed pursuant to 8759
section 5721.25 or 5721.38 of the Revised Code, upon the filing 8760
of the entry of confirmation of sale, or an order to transfer 8761
the parcel under sections 323.65 to 323.79 of the Revised Code, 8762
the title to the parcel is incontestable in the purchaser and is 8763
free and clear of all liens and encumbrances, except a federal 8764
tax lien, notice of which lien is properly filed in accordance 8765
with section 317.09 of the Revised Code prior to the date that a 8766
foreclosure proceeding is instituted pursuant to section 5721.37 8767
of the Revised Code, and which lien was foreclosed in accordance 8768
with 28 U.S.C.A. 2410(c), and except for the easements and 8769
covenants of record running with the land or lots that were 8770
created prior to the time the taxes or installments of 8771

assessments, for the nonpayment of which a tax certificate was 8772
issued and the parcel sold at foreclosure, became due and 8773
payable. 8774

The title shall not be invalid because of any 8775
irregularity, informality, or omission of any proceedings under 8776
this chapter or in any processes of taxation, if such 8777
irregularity, informality, or omission does not abrogate the 8778
provision for notice to holders of title, lien, or mortgage to, 8779
or other interests in, such foreclosed parcels, as prescribed in 8780
this chapter. 8781

Sec. 5725.98. (A) To provide a uniform procedure for 8782
calculating the amount of tax imposed by section 5725.18 of the 8783
Revised Code that is due under this chapter, a taxpayer shall 8784
claim any credits and offsets against tax liability to which it 8785
is entitled in the following order: 8786

(1) The credit for an insurance company or insurance 8787
company group under section 5729.031 of the Revised Code; 8788

(2) The credit for eligible employee training costs under 8789
section 5725.31 of the Revised Code; 8790

(3) The credit for purchasers of qualified low-income 8791
community investments under section 5725.33 of the Revised Code; 8792

(4) The nonrefundable job retention credit under division 8793
(B) of section 122.171 of the Revised Code; 8794

(5) The nonrefundable credit for investments in rural 8795
business growth funds under section 122.152 of the Revised Code; 8796

(6) The offset of assessments by the Ohio life and health 8797
insurance guaranty association permitted by section 3956.20 of 8798
the Revised Code; 8799

(7) The refundable credit for rehabilitating a historic building under section 5725.34 of the Revised Code~~;~~ 8800
8801

(8) The refundable credit for Ohio job retention under former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly; 8802
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(9) The refundable credit for Ohio job creation under section 5725.32 of the Revised Code; 8807
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(10) The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code. 8809
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(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 8813
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Sec. 5726.50. (A) A taxpayer may claim a refundable tax credit against the tax imposed under this chapter for each person included in the annual report of the taxpayer that is granted a credit by the tax credit authority under section 122.17 or former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before ~~the effective date of the amendment of this section by H.B. 64 of the 131st~~ 8822
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~~general assembly September 29, 2015.~~ Such a credit shall not be 8829
claimed for any tax year following the calendar year in which a 8830
relocation of employment positions occurs in violation of an 8831
agreement entered into under section 122.17 or 122.171 of the 8832
Revised Code. For the purpose of making tax payments under this 8833
chapter, taxes equal to the amount of the refundable credit 8834
shall be considered to be paid on the first day of the tax year. 8835

(B) A taxpayer may claim a nonrefundable tax credit 8836
against the tax imposed under this chapter for each person 8837
included in the annual report of the taxpayer that is granted a 8838
nonrefundable credit by the tax credit authority under division 8839
(B) of section 122.171 of the Revised Code. A taxpayer may claim 8840
against the tax imposed by this chapter any unused portion of 8841
the credits authorized under division (B) of section 5733.0610 8842
of the Revised Code. 8843

(C) The credits authorized in divisions (A) and (B) of 8844
this section shall be claimed in the order required under 8845
section 5726.98 of the Revised Code. If the amount of a credit 8846
authorized in division (A) of this section exceeds the tax 8847
otherwise due under section 5726.02 of the Revised Code after 8848
deducting all other credits preceding the credit in the order 8849
prescribed in section 5726.98 of the Revised Code, the excess 8850
shall be refunded to the taxpayer. 8851

Sec. 5727.02. As used in this chapter, "public utility," 8852
"electric company," "natural gas company," "pipe-line company," 8853
"water-works company," "water transportation company," or 8854
"heating company" does not include any of the following: 8855

(A) (1) Except as provided in division (A) (2) of this 8856
section, any person that is engaged in some other primary 8857
business to which the supplying of electricity, heat, natural 8858

gas, water, water transportation, steam, or air to others is 8859
incidental. 8860

(2) For tax year 2009 and each tax year thereafter, a 8861
person that is engaged in some other primary business to which 8862
the supplying of electricity to others is incidental shall be 8863
treated as an "electric company" and a "public utility" for 8864
purposes of this chapter solely to the extent required by 8865
section 5727.031 of the Revised Code. 8866

(3) For purposes of division (A) of this section and 8867
section 5727.031 of the Revised Code: 8868

(a) "Supplying of electricity" means generating, 8869
transmitting, or distributing electricity. 8870

(b) A person that leases to others energy facilities with 8871
an aggregate nameplate capacity in this state of two hundred 8872
fifty kilowatts or less per lease is not supplying electricity 8873
to others. 8874

(c) A person that owns, or leases from another person, 8875
energy facilities with an aggregate nameplate capacity in this 8876
state of two hundred fifty kilowatts or less is not supplying 8877
electricity to others, regardless of whether the owner or lessee 8878
engages in net metering as defined in section 4928.01 of the 8879
Revised Code. 8880

(d) A political subdivision of this state that owns an 8881
energy facility is not supplying electricity to others 8882
regardless of the nameplate capacity of the facility if the 8883
primary purpose of the facility is to supply electricity for the 8884
political subdivision's own use. As used in this division, 8885
"political subdivision" means a county, township, municipal 8886
corporation, or any other body corporate and politic that is 8887

responsible for government activities in a geographic area 8888
smaller than that of the state. 8889

(B) Any person that supplies electricity, natural gas, 8890
water, water transportation, steam, or air to its tenants, 8891
whether for a separate charge or otherwise; 8892

(C) Any person whose primary business in this state 8893
consists of producing, refining, or marketing petroleum or its 8894
products. 8895

(D) Any person whose primary business in this state 8896
consists of producing or gathering natural gas rather than 8897
supplying or distributing natural gas to consumers. 8898

Sec. 5727.11. (A) Except as otherwise provided in this 8899
section, the true value of all taxable property, except property 8900
of a railroad company, required by section 5727.06 of the 8901
Revised Code to be assessed by the tax commissioner shall be 8902
determined by a method of valuation using cost as capitalized on 8903
the public utility's books and records less composite annual 8904
allowances as prescribed by the commissioner. If the 8905
commissioner finds that application of this method will not 8906
result in the determination of true value of the public 8907
utility's taxable property, the commissioner may use another 8908
method of valuation. 8909

(B) (1) Except as provided in division (B) (2) of this 8910
section, the true value of current gas stored underground is the 8911
cost of that gas shown on the books and records of the public 8912
utility on the thirty-first day of December of the preceding 8913
year. 8914

(2) For tax year 2001 and thereafter, the true value of 8915
current gas stored underground is the quotient obtained by 8916

dividing (a) the average value of the current gas stored 8917
underground, which shall be determined by adding the value of 8918
the gas on hand at the end of each calendar month in the 8919
calendar year preceding the tax year, or, if applicable, the 8920
last day of business of each month for a partial month, divided 8921
by (b) the total number of months the natural gas company was in 8922
business during the calendar year prior to the beginning of the 8923
tax year. ~~with~~ With the approval of the tax commissioner, a 8924
natural gas company may use a date other than the end of a 8925
calendar month to value its current gas stored underground. 8926

(C) The true value of noncurrent gas stored underground is 8927
thirty-five per cent of the cost of that gas shown on the books 8928
and records of the public utility on the thirty-first day of 8929
December of the preceding year. 8930

(D) (1) Except as provided in division (D) (2) of this 8931
section, the true value of the production equipment of an 8932
electric company and the true value of all taxable property of a 8933
rural electric company is the equipment's or property's cost as 8934
capitalized on the company's books and records less fifty per 8935
cent of that cost as an allowance for depreciation and 8936
obsolescence. 8937

(2) The true value of the production equipment or energy 8938
conversion equipment of an electric company, rural electric 8939
company, or energy company purchased, transferred, or placed 8940
into service after October 5, 1999, is the purchase price of the 8941
equipment as capitalized on the company's books and records less 8942
composite annual allowances as prescribed by the tax 8943
commissioner. 8944

(E) The true value of taxable property, except property of 8945
a railroad company, required by section 5727.06 of the Revised 8946

Code to be assessed by the tax commissioner shall not include 8947
the allowance for funds used during construction or interest 8948
during construction that has been capitalized on the public 8949
utility's books and records as part of the total cost of the 8950
taxable property. This division shall not apply to the taxable 8951
property of an electric company or a rural electric company, 8952
excluding transmission and distribution property, first placed 8953
into service after December 31, 2000, or to the taxable property 8954
a person purchases, which includes transfers, if that property 8955
was used in business by the seller prior to the purchase. 8956

(F) The true value of watercraft owned or operated by a 8957
water transportation company shall be determined by multiplying 8958
the true value of the watercraft as determined under division 8959
(A) of this section by a fraction, the numerator of which is the 8960
number of revenue-earning miles traveled by the watercraft in 8961
the waters of this state and the denominator of which is the 8962
number of revenue-earning miles traveled by the watercraft in 8963
all waters. 8964

(G) The cost of property subject to a sale and leaseback 8965
transaction is the cost of the property as capitalized on the 8966
books and records of the public utility owning the property 8967
immediately prior to the sale and leaseback transaction. 8968

(H) The cost as capitalized on the books and records of a 8969
public utility includes amounts capitalized that represent 8970
regulatory assets, if such amounts previously were included on 8971
the company's books and records as capitalized costs of taxable 8972
personal property. 8973

(I) Any change in the composite annual allowances as 8974
prescribed by the commissioner on a prospective basis shall not 8975
be admissible in any judicial or administrative action or 8976

proceeding as evidence of value with regard to prior years' 8977
taxes. Information about the business, property, or transactions 8978
of any taxpayer obtained by the commissioner for the purpose of 8979
adopting or modifying the composite annual allowances shall not 8980
be subject to discovery or disclosure. 8981

Sec. 5727.23. On or before the first Monday in October, 8982
annually, the tax commissioner shall assess the taxable property 8983
of each public utility and interexchange telecommunications 8984
company, and for tax year 2009 and thereafter of each public 8985
utility property lessor. If the taxpayer failed to file its 8986
annual report required by section 5727.08 of the Revised Code at 8987
least sixty days prior to the first Monday of October, the 8988
commissioner may make the assessment under this section within 8989
sixty days after the taxpayer files the report, but this does 8990
not preclude the commissioner from making an assessment without 8991
receiving the report. 8992

The action of the tax commissioner shall be evidenced by a 8993
preliminary assessment that reflects the taxable value 8994
apportioned to each county and each taxing district in the 8995
county. The commissioner may amend the preliminary assessment as 8996
provided in this section. Each preliminary assessment and 8997
amended preliminary assessment shall be certified to the public 8998
utility, interexchange telecommunications company, or public 8999
utility property lessor, and to 7 the auditor of each county to 9000
which taxable value has been apportioned. 9001

The county auditor shall place the apportioned taxable 9002
value on the general tax list and duplicate of real and public 9003
utility property, and taxes shall be levied and collected 9004
thereon at the same rates and in the same manner as taxes are 9005
levied and collected on real property in the taxing district in 9006

question. 9007

Unless a petition for reassessment of an assessment has 9008
been properly filed pursuant to section 5727.47 of the Revised 9009
Code, each preliminary assessment and, if amended, each 9010
preliminary assessment as last amended shall become final ninety 9011
days after certification of the preliminary assessment or thirty 9012
days after certification of the amended preliminary assessment, 9013
whichever is later. If a petition for reassessment is properly 9014
filed, the assessment shall become final when the tax 9015
commissioner issues a final determination. 9016

Neither the certification of any preliminary or amended 9017
assessment nor the expiration of the period of time that makes 9018
any assessment final constitutes a final determination, 9019
assessment, reassessment, valuation, finding, computation, or 9020
order of the commissioner that is appealable under section 9021
5717.02 of the Revised Code. 9022

Sec. 5727.32. (A) For the purpose of the tax imposed by 9023
section 5727.30 of the Revised Code, the statement required by 9024
section 5727.31 of the Revised Code shall contain: 9025

(1) The name of the company; 9026

(2) The nature of the company, whether a person, 9027
association, or corporation, and under the laws of what state or 9028
country organized; 9029

(3) The location of its principal office; 9030

(4) The name and post-office address of the president, 9031
secretary, auditor, treasurer, and superintendent or general 9032
manager; 9033

(5) The name and post-office address of the chief officer 9034

or managing agent of the company in this state; 9035

(6) The amount of the excise taxes paid or to be paid with 9036
the reports made during the current calendar year as provided by 9037
section 5727.31 of the Revised Code; 9038

(7) In the case of telegraph companies: 9039

(a) The gross receipts from all sources, whether messages, 9040
telephone tolls, rentals, or otherwise, for business done within 9041
this state, including all sums earned or charged, whether 9042
actually received or not, for the year ending on the thirtieth 9043
day of June, and the company's proportion of gross receipts for 9044
business done by it within this state in connection with other 9045
companies, firms, corporations, persons, or associations, but 9046
excluding all of the following: 9047

(i) All of the receipts derived wholly from interstate 9048
business or business done for or with the federal government; 9049

(ii) The receipts of amounts billed on behalf of other 9050
entities. 9051

(b) The total gross receipts for such period from business 9052
done within this state. 9053

(8) In the case of all public utilities subject to the tax 9054
imposed by section 5727.30 of the Revised Code, except telegraph 9055
companies: 9056

(a) The gross receipts of the company, actually received, 9057
from all sources for business done within this state for the 9058
year next preceding the first day of May, including the 9059
company's proportion of gross receipts for business done by it 9060
within this state in connection with other companies, firms, 9061
corporations, persons, or associations, but excluding both of 9062

the following: 9063

(i) Receipts from interstate business or business done for 9064
the federal government; 9065

(ii) Receipts from sales to another public utility for 9066
resale, provided such other public utility is subject to the tax 9067
levied by section 5727.24 or 5727.30 of the Revised Code; 9068

(iii) Receipts of a combined company derived from 9069
operating as a natural gas company that is subject to the tax 9070
imposed by section 5727.24 of the Revised Code. 9071

(b) The total gross receipts of the company, for the year 9072
next preceding the first day of May, in this state from business 9073
done within the state. 9074

(B) The reports required by section 5727.31 of the Revised 9075
Code shall contain: 9076

(1) The name and principal mailing address of the company; 9077

(2) The total amount of the gross receipts excise taxes 9078
charged or levied as based upon its last preceding annual 9079
statement filed prior to the first day of January of the year in 9080
which such report is filed; 9081

(3) The amount of the excise taxes due with the report as 9082
provided by section 5727.31 of the Revised Code. 9083

Sec. 5727.33. (A) For the purpose of computing the excise 9084
tax imposed by section 5727.24 or 5727.30 of the Revised Code, 9085
the entire gross receipts actually received from all sources for 9086
business done within this state are taxable gross receipts, 9087
excluding the receipts described in divisions (B), (C), and (D) 9088
of this section. The gross receipts for the tax year of each 9089
telegraph company shall be computed for the period of the first 9090

day of July prior to the tax year to the thirtieth day of June 9091
of the tax year. The gross receipts of each natural gas company, 9092
including a combined company's taxable gross receipts attributed 9093
to a natural gas company activity, shall be computed in the 9094
manner required by section 5727.25 of the Revised Code. The 9095
gross receipts for the tax year of any other public utility 9096
subject to section 5727.30 of the Revised Code shall be computed 9097
for the period of the first day of May prior to the tax year to 9098
the thirtieth day of April of the tax year. 9099

(B) In ascertaining and determining the gross receipts of 9100
each public utility subject to this section, the following gross 9101
receipts are excluded: 9102

(1) All receipts derived wholly from interstate business; 9103

(2) All receipts derived wholly from business done for or 9104
with the federal government; 9105

(3) All receipts from the sale of merchandise; 9106

(4) All receipts from sales to other public utilities, 9107
except railroad and telegraph companies, for resale, provided 9108
the other public utility is subject to the tax levied by section 9109
5727.24 or 5727.30 of the Revised Code. 9110

(C) In ascertaining and determining the gross receipts of 9111
a natural gas company, receipts billed on behalf of other 9112
entities are excluded. The tax imposed by section ~~5729.811~~ 9113
5727.811 of the Revised Code, along with transportation and 9114
billing and collection fees charged to other entities, shall be 9115
included in the gross receipts of a natural gas company. 9116

(D) In ascertaining and determining the gross receipts of 9117
a combined company subject to the tax imposed by section 5727.30 9118
of the Revised Code, all receipts derived from operating as a 9119

natural gas company that are subject to the tax imposed by 9120
section 5727.24 of the Revised Code are excluded. 9121

(E) Except as provided in division (F) of this section, 9122
the amount ascertained by the commissioner under this section, 9123
less a deduction of twenty-five thousand dollars, shall be the 9124
taxable gross receipts of such companies for business done 9125
within this state for that year. 9126

(F) The amount ascertained under this section, less the 9127
following deduction, shall be the taxable gross receipts of a 9128
natural gas company or combined company subject to the tax 9129
imposed by section 5727.24 of the Revised Code for business done 9130
within this state: 9131

(1) For a natural gas company that files quarterly returns 9132
of the tax imposed by section 5727.24 of the Revised Code, six 9133
thousand two hundred fifty dollars for each quarterly return; 9134

(2) For a natural gas company that files an annual return 9135
of the tax imposed by section 5727.24 of the Revised Code, 9136
twenty-five thousand dollars for each annual return; 9137

(3) For a combined company, twenty-five thousand dollars 9138
on the annual statement filed under section 5727.31 of the 9139
Revised Code. A combined company shall not be entitled to a 9140
deduction in computing gross receipts subject to the tax imposed 9141
by section 5727.24 of the Revised Code. 9142

Sec. 5727.80. As used in sections 5727.80 to 5727.95 of 9143
the Revised Code: 9144

(A) "Electric distribution company" means either of the 9145
following: 9146

(1) A person who distributes electricity through a meter 9147

of an end user in this state or to an unmetered location in this 9148
state; 9149

(2) The end user of electricity in this state, if the end 9150
user obtains electricity that is not distributed or transmitted 9151
to the end user by an electric distribution company that is 9152
required to remit the tax imposed by section 5727.81 of the 9153
Revised Code. 9154

"Electric distribution company" does not include an end 9155
user of electricity in this state who self-generates electricity 9156
that is used directly by that end user on the same site that the 9157
electricity is generated or a person that donates all of the 9158
electricity the person generates to a political subdivision of 9159
the state. Division (A) (2) of this section shall not apply to a 9160
political subdivision in this state that is the end user of 9161
electricity that is donated to the political subdivision. 9162

(B) "Kilowatt hour" means one thousand watt hours of 9163
electricity. 9164

(C) For an electric distribution company, "meter of an end 9165
user in this state" means the last meter used to measure the 9166
kilowatt hours distributed by an electric distribution company 9167
to a location in this state, or the last meter located outside 9168
of this state that is used to measure the kilowatt hours 9169
consumed at a location in this state. 9170

(D) "Person" has the same meaning as in section 5701.01 of 9171
the Revised Code, but also includes a political subdivision of 9172
the state. 9173

(E) "Municipal electric utility" means a municipal 9174
corporation that owns or operates a system for the distribution 9175
of electricity. 9176

(F) "Qualified end user" means an end user of electricity 9177
that satisfies either of the following criteria: 9178

(1) The end user uses more than three million kilowatt 9179
hours of electricity at one manufacturing location in this state 9180
for a calendar day for use in a qualifying manufacturing 9181
process. 9182

(2) The end user uses electricity at a manufacturing 9183
location in this state for use in a chlor-alkali manufacturing 9184
process but, if the end user uses electricity distributed by a 9185
municipal electric utility, the end user can only be a 9186
"qualified end user" upon obtaining the consent of the 9187
legislative authority of the municipal corporation that owns or 9188
operates the utility. 9189

(G) "Qualified regeneration" means a process to convert 9190
electricity to a form of stored energy by means such as using 9191
electricity to compress air for storage or to pump water to an 9192
elevated storage reservoir, if such stored energy is 9193
subsequently used to generate electricity for sale to others 9194
primarily during periods when there is peak demand for 9195
electricity. 9196

(H) "Qualified regeneration meter" means the last meter 9197
used to measure electricity used in a qualified regeneration 9198
process. 9199

(I) "Qualifying manufacturing process" means an 9200
electrochemical manufacturing process or a chlor-alkali 9201
manufacturing process. 9202

(J) "Self-assessing purchaser" means a purchaser that 9203
meets all the requirements of, and pays the excise tax in 9204
accordance with, division (C) of section 5727.81 of the Revised 9205

Code. 9206

(K) "Natural gas distribution company" means a natural gas 9207
company or a combined company ~~, as defined in section 5727.01 of~~ 9208
~~the Revised Code,~~ that is subject to the excise tax imposed by 9209
section 5727.24 of the Revised Code and that distributes natural 9210
gas through a meter of an end user in this state or to an 9211
unmetered location in this state. 9212

(L) "MCF" means one thousand cubic feet. 9213

(M) For a natural gas distribution company, "meter of an 9214
end user in this state" means the last meter used to measure the 9215
MCF of natural gas distributed by a natural gas distribution 9216
company to a location in this state, or the last meter located 9217
outside of this state that is used to measure the natural gas 9218
consumed at a location in this state. 9219

(N) "Flex customer" means an industrial or a commercial 9220
facility that has consumed more than one billion cubic feet of 9221
natural gas a year at a single location during any of the 9222
previous five years, or an industrial or a commercial end user 9223
of natural gas that purchases natural gas distribution services 9224
from a natural gas distribution company at discounted rates or 9225
charges established in any of the following: 9226

(1) A special arrangement subject to review and regulation 9227
by the public utilities commission under section 4905.31 of the 9228
Revised Code; 9229

(2) A special arrangement with a natural gas distribution 9230
company pursuant to a municipal ordinance; 9231

(3) A variable rate schedule that permits rates to vary 9232
between defined amounts, provided that the schedule is on file 9233
with the public utilities commission. 9234

An end user that meets this definition on January 1, 2000, 9235
or thereafter is a "flex customer" for purposes of determining 9236
the rate of taxation under division (D) of section 5727.811 of 9237
the Revised Code. 9238

(O) "Electrochemical manufacturing process" means the 9239
performance of an electrochemical reaction in which electrons 9240
from direct current electricity remain a part of the product 9241
being manufactured. "Electrochemical manufacturing process" does 9242
not include a chlor-alkali manufacturing process. 9243

(P) "Chlor-alkali manufacturing process" means a process 9244
that uses electricity to produce chlorine and other chemicals 9245
through the electrolysis of a salt solution. 9246

Sec. 5727.83. (A) A natural gas distribution company, an 9247
electric distribution company, or a self-assessing purchaser 9248
shall remit each tax payment by electronic funds transfer as 9249
prescribed by divisions (B) and (C) of this section. 9250

The tax commissioner shall notify each natural gas 9251
distribution company, electric distribution company, and self- 9252
assessing purchaser of the obligation to remit taxes by 9253
electronic funds transfer, shall maintain an updated list of 9254
those companies and purchasers, and shall timely certify to the 9255
treasurer of state the list and any additions thereto or 9256
deletions therefrom. Failure by the tax commissioner to notify a 9257
company or self-assessing purchaser subject to this section to 9258
remit taxes by electronic funds transfer does not relieve the 9259
company or self-assessing purchaser of its obligation to remit 9260
taxes in that manner. 9261

(B) A natural gas distribution company, an electric 9262
distribution company, or a self-assessing purchaser required by 9263

this section to remit payments by electronic funds transfer 9264
shall remit such payments to the treasurer of state in the 9265
manner prescribed by rules adopted by the treasurer of state 9266
under section 113.061 of the Revised Code, and on or before the 9267
dates specified under section 5727.82 of the Revised Code. The 9268
payment of taxes by electronic funds transfer does not affect a 9269
company's or self-assessing purchaser's obligation to file a 9270
return as required under section 5727.82 of the Revised Code. 9271

(C) A natural gas distribution company, an electric 9272
distribution company, or a self-assessing purchaser required by 9273
this section to remit taxes by electronic funds transfer may 9274
apply to the treasurer of state in the manner prescribed by the 9275
treasurer of state to be excused from that requirement. The 9276
treasurer of state may excuse the company or self-assessing 9277
purchaser from remittance by electronic funds transfer for good 9278
cause shown for the period of time requested by the company or 9279
self-assessing purchaser or for a portion of that period. The 9280
treasurer of state shall notify the tax commissioner and the 9281
company or self-assessing purchaser of the treasurer of state's 9282
decision as soon as is practicable. 9283

(D) If a natural gas distribution company, an electric 9284
distribution company, or a self-assessing purchaser required by 9285
this section to remit taxes by electronic funds transfer remits 9286
those taxes by some means other than by electronic funds 9287
transfer as prescribed by this section and the rules adopted by 9288
the treasurer of state, and the treasurer of state determines 9289
that such failure was not due to reasonable cause or was due to 9290
willful neglect, the treasurer of state shall notify the tax 9291
commissioner of the failure to remit by electronic funds 9292
transfer and shall provide the commissioner with any information 9293
used in making that determination. The tax commissioner may 9294

collect an additional charge by assessment in the manner 9295
prescribed by section 5727.89 of the Revised Code. The 9296
additional charge shall equal five per cent of the amount of the 9297
taxes required to be paid by electronic funds transfer, but 9298
shall not exceed five thousand dollars. Any additional charge 9299
assessed under this section is in addition to any other penalty 9300
or charge imposed under this chapter, and shall be considered as 9301
revenue arising from the tax imposed under this chapter. The tax 9302
commissioner may abate all or a portion of such a charge and may 9303
adopt rules governing such abatements. 9304

No additional charge shall be assessed under this division 9305
against a natural gas distribution company, an electric 9306
distribution company, or a self-assessing purchaser that has 9307
been notified of its obligation to remit taxes under this 9308
section and that remits its first two tax payments after such 9309
notification by some means other than electronic funds transfer. 9310
The additional charge may be assessed upon the remittance of any 9311
subsequent tax payment that the company or purchaser remits by – 9312
~~some~~ some means other than electronic funds transfer. 9313

Sec. 5727.84. No determinations, computations, 9314
certifications, or payments shall be made under this section 9315
after June 30, 2015. 9316

(A) As used in this section and sections 5727.85, and 9317
~~5727.86, and 5727.87~~ of the Revised Code: 9318

(1) "School district" means a city, local, or exempted 9319
village school district. 9320

(2) "Joint vocational school district" means a joint 9321
vocational school district created under section 3311.16 of the 9322
Revised Code, and includes a cooperative education school 9323

district created under section 3311.52 or 3311.521 of the 9324
Revised Code and a county school financing district created 9325
under section 3311.50 of the Revised Code. 9326

(3) "Local taxing unit" means a subdivision or taxing 9327
unit, as defined in section 5705.01 of the Revised Code, a park 9328
district created under Chapter 1545. of the Revised Code, or a 9329
township park district established under section 511.23 of the 9330
Revised Code, but excludes school districts and joint vocational 9331
school districts. 9332

(4) "State education aid," for a school district, means 9333
the following: 9334

(a) For fiscal years prior to fiscal year 2010, the sum of 9335
state aid amounts computed for the district under former 9336
sections 3317.029, 3317.052, and 3317.053 of the Revised Code 9337
and the following provisions, as they existed for the applicable 9338
fiscal year: divisions (A), (C) (1), (C) (4), (D), (E), and (F) of 9339
section 3317.022; divisions (B), (C), and (D) of section 9340
3317.023; divisions (G), (L), and (N) of section 3317.024; and 9341
sections 3317.0216, 3317.0217, 3317.04, and 3317.05 of the 9342
Revised Code; and the adjustments required by: division (C) of 9343
section 3310.08; division (C) (2) of section 3310.41; division 9344
(C) of section 3314.08; division (D) (2) of section 3314.091; 9345
division (D) of former section 3314.13; divisions (E), (K), (L), 9346
(M), and (N) of section 3317.023; division (C) of section 9347
3317.20; and sections 3313.979 and 3313.981 of the Revised Code. 9348
However, when calculating state education aid for a school 9349
district for fiscal years 2008 and 2009, include the amount 9350
computed for the district under Section 269.20.80 of H.B. 119 of 9351
the 127th general assembly, as subsequently amended, instead of 9352
division (D) of section 3317.022 of the Revised Code; and 9353

include amounts calculated under Section 269.30.80 of H.B. 119 9354
of the 127th general assembly, as subsequently amended. 9355

(b) For fiscal years 2010 and 2011, the sum of the amounts 9356
computed for the district under former sections 3306.052, 9357
3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 3317.052, and 9358
3317.053 of the Revised Code and the following provisions, as 9359
they existed for the applicable fiscal year: division (G) of 9360
section 3317.024; section 3317.05 of the Revised Code; and the 9361
adjustments required by division (C) of section 3310.08; 9362
division (C) (2) of section 3310.41; division (C) of section 9363
3314.08; division (D) (2) of section 3314.091; division (D) of 9364
former section 3314.13; divisions (E), (K), (L), (M), and (N) of 9365
section 3317.023; division (C) of section 3317.20; and sections 9366
3313.979, 3313.981, and 3326.33 of the Revised Code. 9367

(c) For fiscal years 2012 and 2013, the amount paid in 9368
accordance with the section of H.B. 153 of the 129th general 9369
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 9370
SCHOOL DISTRICTS" and the adjustments required by division (C) 9371
of section 3310.08; division (C) (2) of section 3310.41; section 9372
3310.55; division (C) of section 3314.08; division (D) (2) of 9373
section 3314.091; division (D) of former section 3314.13; 9374
divisions (B), (H), (I), (J), and (K) of section 3317.023; 9375
division (C) of section 3317.20; and sections 3313.979 and 9376
3313.981 of the Revised Code; 9377

(d) For fiscal year 2014 and each fiscal year thereafter, 9378
the sum of amounts computed for and paid to the district under 9379
section 3317.022 of the Revised Code; and the adjustments 9380
required by division (C) of section 3310.08, division (C) (2) of 9381
section 3310.41, section 3310.55, division (C) of section 9382
3314.08, division (D) (2) of section 3314.091, divisions (B), 9383

(H), (J), and (K) of section 3317.023, and sections 3313.978, 9384
3313.981, 3317.0212, 3317.0213, 3317.0214, and 3326.33 of the 9385
Revised Code. However, for fiscal years 2014 and 2015, the 9386
amount computed for the district under the section of this act 9387
entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE 9388
SCHOOL DISTRICTS" also shall be included. 9389

(5) "State education aid," for a joint vocational school 9390
district, means the following: 9391

(a) For fiscal years prior to fiscal year 2010, the sum of 9392
the state aid amounts computed for the district under division 9393
(N) of section 3317.024 and section 3317.16 of the Revised Code. 9394
However, when calculating state education aid for a joint 9395
vocational school district for fiscal years 2008 and 2009, 9396
include the amount computed for the district under Section 9397
269.30.90 of H.B. 119 of the 127th general assembly, as 9398
subsequently amended. 9399

(b) For fiscal years 2010 and 2011, the amount computed 9400
for the district in accordance with the section of H.B. 1 of the 9401
128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 9402
SCHOOL DISTRICTS." 9403

(c) For fiscal years 2012 and 2013, the amount paid in 9404
accordance with the section of H.B. 153 of the 129th general 9405
assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 9406
DISTRICTS." 9407

(d) For fiscal year 2014 and each fiscal year thereafter, 9408
the amount computed for the district under section 3317.16 of 9409
the Revised Code; except that, for fiscal years 2014 and 2015, 9410
the amount computed for the district under the section of this 9411
act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 9412

DISTRICTS" shall be included. 9413

(6) "State education aid offset" means the amount 9414
determined for each school district or joint vocational school 9415
district under division (A)(1) of section 5727.85 of the Revised 9416
Code. 9417

(7) "Recognized valuation" means the amount computed for a 9418
school district pursuant to section 3317.015 of the Revised 9419
Code. 9420

(8) "Electric company tax value loss" means the amount 9421
determined under division (D) of this section. 9422

(9) "Natural gas company tax value loss" means the amount 9423
determined under division (E) of this section. 9424

(10) "Tax value loss" means the sum of the electric 9425
company tax value loss and the natural gas company tax value 9426
loss. 9427

(11) "Fixed-rate levy" means any tax levied on property 9428
other than a fixed-sum levy. 9429

(12) "Fixed-rate levy loss" means the amount determined 9430
under division (G) of this section. 9431

(13) "Fixed-sum levy" means a tax levied on property at 9432
whatever rate is required to produce a specified amount of tax 9433
money or levied in excess of the ten-mill limitation to pay debt 9434
charges, and includes school district emergency levies charged 9435
and payable pursuant to section 5705.194 of the Revised Code. 9436

(14) "Fixed-sum levy loss" means the amount determined 9437
under division (H) of this section. 9438

(15) "Consumer price index" means the consumer price index 9439

(all items, all urban consumers) prepared by the bureau of labor 9440
statistics of the United States department of labor. 9441

(16) "Total resources" and "total library resources" have 9442
the same meanings as in section 5751.20 of the Revised Code. 9443

(17) "2011 current expense S.B. 3 allocation" means the 9444
sum of payments received by a school district or joint 9445
vocational school district in fiscal year 2011 for current 9446
expense levy losses pursuant to division (C) (2) of section 9447
5727.85 of the Revised Code. If a fixed-rate levy eligible for 9448
reimbursement is not charged and payable in any year after tax 9449
year 2010, "2011 current expense S.B. 3 allocation" used to 9450
compute payments to be made under division (C) (3) of section 9451
5727.85 of the Revised Code in the tax years following the last 9452
year the levy is charged and payable shall be reduced to the 9453
extent that those payments are attributable to the fixed-rate 9454
levy loss of that levy. 9455

(18) "2010 current expense S.B. 3 allocation" means the 9456
sum of payments received by a municipal corporation in calendar 9457
year 2010 for current expense levy losses pursuant to division 9458
(A) (1) of section 5727.86 of the Revised Code, excluding any 9459
such payments received for current expense levy losses 9460
attributable to a tax levied under section 5705.23 of the 9461
Revised Code. If a fixed-rate levy eligible for reimbursement is 9462
not charged and payable in any year after tax year 2010, "2010 9463
current expense S.B. 3 allocation" used to compute payments to 9464
be made under division (A) (1) (d) or (e) of section 5727.86 of 9465
the Revised Code in the tax years following the last year the 9466
levy is charged and payable shall be reduced to the extent that 9467
those payments are attributable to the fixed-rate levy loss of 9468
that levy. 9469

(19) "2010 S.B. 3 allocation" means the sum of payments 9470
received by a local taxing unit during calendar year 2010 9471
pursuant to division (A) (1) of section 5727.86 of the Revised 9472
Code, excluding any such payments received for fixed-rate levy 9473
losses attributable to a tax levied under section 5705.23 of the 9474
Revised Code. If a fixed-rate levy eligible for reimbursement is 9475
not charged and payable in any year after tax year 2010, "2010 9476
S.B. 3 allocation" used to compute payments to be made under 9477
division (A) (1) (d) or (e) of section 5727.86 of the Revised Code 9478
in the tax years following the last year the levy is charged and 9479
payable shall be reduced to the extent that those payments are 9480
attributable to the fixed-rate levy loss of that levy. 9481

(20) "Total S.B. 3 allocation" means, in the case of a 9482
school district or joint vocational school district, the sum of 9483
the payments received in fiscal year 2011 pursuant to divisions 9484
(C) (2) and (D) of section 5727.85 of the Revised Code. In the 9485
case of a local taxing unit, "total S.B. 3 allocation" means the 9486
sum of payments received by the unit in calendar year 2010 9487
pursuant to divisions (A) (1) and (4) of section 5727.86 of the 9488
Revised Code, excluding any such payments received for fixed- 9489
rate levy losses attributable to a tax levied under section 9490
5705.23 of the Revised Code. If a fixed-rate levy eligible for 9491
reimbursement is not charged and payable in any year after tax 9492
year 2010, "total S.B. 3 allocation" used to compute payments to 9493
be made under division (C) (3) of section 5727.85 or division (A) 9494
(1) (d) or (e) of section 5727.86 of the Revised Code in the tax 9495
years following the last year the levy is charged and payable 9496
shall be reduced to the extent that those payments are 9497
attributable to the fixed-rate levy loss of that levy as would 9498
be computed under division (C) (2) of section 5727.85 or division 9499
(A) (1) (b) of section 5727.86 of the Revised Code. 9500

(21) "2011 non-current expense S.B. 3 allocation" means 9501
the difference of a school district's or joint vocational school 9502
district's total S.B. 3 allocation minus the sum of the school 9503
district's 2011 current expense S.B. 3 allocation and the 9504
portion of the school district's total S.B. 3 allocation 9505
constituting reimbursement for debt levies pursuant to division 9506
(D) of section 5727.85 of the Revised Code. 9507

(22) "2010 non-current expense S.B. 3 allocation" means 9508
the difference of a municipal corporation's total S.B. 3 9509
allocation minus the sum of its 2010 current expense S.B. 3 9510
allocation and the portion of its total S.B. 3 allocation 9511
constituting reimbursement for debt levies pursuant to division 9512
(A) (4) of section 5727.86 of the Revised Code. 9513

(23) "S.B. 3 allocation for library purposes" means, in 9514
the case of a county, municipal corporation, school district, or 9515
township public library that receives the proceeds of a tax 9516
levied under section 5705.23 of the Revised Code, the sum of the 9517
payments received by the public library in calendar year 2010 9518
pursuant to section 5727.86 of the Revised Code for fixed-rate 9519
levy losses attributable to a tax levied under section 5705.23 9520
of the Revised Code. If a fixed-rate levy authorized under 9521
section 5705.23 of the Revised Code that is eligible for 9522
reimbursement is not charged and payable in any year after tax 9523
year 2010, "S.B. 3 allocation for library purposes" used to 9524
compute payments to be made under division (A) (1) (f) of section 9525
5727.86 of the Revised Code in the tax years following the last 9526
year the levy is charged and payable shall be reduced to the 9527
extent that those payments are attributable to the fixed-rate 9528
levy loss of that levy as would be computed under division (A) 9529
(1) (b) of section 5727.86 of the Revised Code. 9530

(24) "Threshold per cent" means, in the case of a school 9531
district or joint vocational school district, two per cent for 9532
fiscal year 2012 and four per cent for fiscal years 2013 and 9533
thereafter. In the case of a local taxing unit or public library 9534
that receives the proceeds of a tax levied under section 5705.23 9535
of the Revised Code, "threshold per cent" means two per cent for 9536
calendar year 2011, four per cent for calendar year 2012, and 9537
six per cent for calendar years 2013 and thereafter. 9538

(B) The kilowatt-hour tax receipts fund is hereby created 9539
in the state treasury and shall consist of money arising from 9540
the tax imposed by section 5727.81 of the Revised Code. All 9541
money in the kilowatt-hour tax receipts fund shall be credited 9542
as follows: 9543

9544

	1	2	3	4
A	Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
B	2001-2011	63.0%	25.4%	11.6%
C	2012-2015	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in 9545
the state treasury and shall consist of money arising from the 9546
tax imposed by section 5727.811 of the Revised Code. All money 9547
in the fund shall be credited as follows for fiscal years before 9548
fiscal year 2012: 9549

(1) Sixty-eight and seven-tenths per cent shall be 9550

credited to the school district property tax replacement fund 9551
for the purpose of making the payments described in section 9552
5727.85 of the Revised Code. 9553

(2) Thirty-one and three-tenths per cent shall be credited 9554
to the local government property tax replacement fund for the 9555
purpose of making the payments described in section 5727.86 of 9556
the Revised Code. 9557

(D) Not later than January 1, 2002, the tax commissioner 9558
shall determine for each taxing district its electric company 9559
tax value loss, which is the sum of the applicable amounts 9560
described in divisions (D) (1) to (4) of this section: 9561

(1) The difference obtained by subtracting the amount 9562
described in division (D) (1) (b) from the amount described in 9563
division (D) (1) (a) of this section. 9564

(a) The value of electric company and rural electric 9565
company tangible personal property as assessed by the tax 9566
commissioner for tax year 1998 on a preliminary assessment, or 9567
an amended preliminary assessment if issued prior to March 1, 9568
1999, and as apportioned to the taxing district for tax year 9569
1998; 9570

(b) The value of electric company and rural electric 9571
company tangible personal property as assessed by the tax 9572
commissioner for tax year 1998 had the property been apportioned 9573
to the taxing district for tax year 2001, and assessed at the 9574
rates in effect for tax year 2001. 9575

(2) The difference obtained by subtracting the amount 9576
described in division (D) (2) (b) from the amount described in 9577
division (D) (2) (a) of this section. 9578

(a) The three-year average for tax years 1996, 1997, and 9579

1998 of the assessed value from nuclear fuel materials and 9580
assemblies assessed against a person under Chapter 5711. of the 9581
Revised Code from the leasing of them to an electric company for 9582
those respective tax years, as reflected in the preliminary 9583
assessments; 9584

(b) The three-year average assessed value from nuclear 9585
fuel materials and assemblies assessed under division (D) (2) (a) 9586
of this section for tax years 1996, 1997, and 1998, as reflected 9587
in the preliminary assessments, using an assessment rate of 9588
twenty-five per cent. 9589

(3) In the case of a taxing district having a nuclear 9590
power plant within its territory, any amount, resulting in an 9591
electric company tax value loss, obtained by subtracting the 9592
amount described in division (D) (1) of this section from the 9593
difference obtained by subtracting the amount described in 9594
division (D) (3) (b) of this section from the amount described in 9595
division (D) (3) (a) of this section. 9596

(a) The value of electric company tangible personal 9597
property as assessed by the tax commissioner for tax year 2000 9598
on a preliminary assessment, or an amended preliminary 9599
assessment if issued prior to March 1, 2001, and as apportioned 9600
to the taxing district for tax year 2000; 9601

(b) The value of electric company tangible personal 9602
property as assessed by the tax commissioner for tax year 2001 9603
on a preliminary assessment, or an amended preliminary 9604
assessment if issued prior to March 1, 2002, and as apportioned 9605
to the taxing district for tax year 2001. 9606

(4) In the case of a taxing district having a nuclear 9607
power plant within its territory, the difference obtained by 9608

subtracting the amount described in division (D) (4) (b) of this 9609
section from the amount described in division (D) (4) (a) of this 9610
section, provided that such difference is greater than ten per 9611
cent of the amount described in division (D) (4) (a) of this 9612
section. 9613

(a) The value of electric company tangible personal 9614
property as assessed by the tax commissioner for tax year 2005 9615
on a preliminary assessment, or an amended preliminary 9616
assessment if issued prior to March 1, 2006, and as apportioned 9617
to the taxing district for tax year 2005; 9618

(b) The value of electric company tangible personal 9619
property as assessed by the tax commissioner for tax year 2006 9620
on a preliminary assessment, or an amended preliminary 9621
assessment if issued prior to March 1, 2007, and as apportioned 9622
to the taxing district for tax year 2006. 9623

(E) Not later than January 1, 2002, the tax commissioner 9624
shall determine for each taxing district its natural gas company 9625
tax value loss, which is the sum of the amounts described in 9626
divisions (E) (1) and (2) of this section: 9627

(1) The difference obtained by subtracting the amount 9628
described in division (E) (1) (b) from the amount described in 9629
division (E) (1) (a) of this section. 9630

(a) The value of all natural gas company tangible personal 9631
property, other than property described in division (E) (2) of 9632
this section, as assessed by the tax commissioner for tax year 9633
1999 on a preliminary assessment, or an amended preliminary 9634
assessment if issued prior to March 1, 2000, and apportioned to 9635
the taxing district for tax year 1999; 9636

(b) The value of all natural gas company tangible personal 9637

property, other than property described in division (E) (2) of 9638
this section, as assessed by the tax commissioner for tax year 9639
1999 had the property been apportioned to the taxing district 9640
for tax year 2001, and assessed at the rates in effect for tax 9641
year 2001. 9642

(2) The difference in the value of current gas obtained by 9643
subtracting the amount described in division (E) (2) (b) from the 9644
amount described in division (E) (2) (a) of this section. 9645

(a) The three-year average assessed value of current gas 9646
as assessed by the tax commissioner for tax years 1997, 1998, 9647
and 1999 on a preliminary assessment, or an amended preliminary 9648
assessment if issued prior to March 1, 2001, and as apportioned 9649
in the taxing district for those respective years; 9650

(b) The three-year average assessed value from current gas 9651
under division (E) (2) (a) of this section for tax years 1997, 9652
1998, and 1999, as reflected in the preliminary assessment, 9653
using an assessment rate of twenty-five per cent. 9654

(F) The tax commissioner may request that natural gas 9655
companies, electric companies, and rural electric companies file 9656
a report to help determine the tax value loss under divisions 9657
(D) and (E) of this section. The report shall be filed within 9658
thirty days of the commissioner's request. A company that fails 9659
to file the report or does not timely file the report is subject 9660
to the penalty in section 5727.60 of the Revised Code. 9661

(G) Not later than January 1, 2002, the tax commissioner 9662
shall determine for each school district, joint vocational 9663
school district, and local taxing unit its fixed-rate levy loss, 9664
which is the sum of its electric company tax value loss 9665
multiplied by the tax rate in effect in tax year 1998 for fixed- 9666

rate levies and its natural gas company tax value loss 9667
multiplied by the tax rate in effect in tax year 1999 for fixed- 9668
rate levies. 9669

(H) Not later than January 1, 2002, the tax commissioner 9670
shall determine for each school district, joint vocational 9671
school district, and local taxing unit its fixed-sum levy loss, 9672
which is the amount obtained by subtracting the amount described 9673
in division (H) (2) of this section from the amount described in 9674
division (H) (1) of this section: 9675

(1) The sum of the electric company tax value loss 9676
multiplied by the tax rate in effect in tax year 1998, and the 9677
natural gas company tax value loss multiplied by the tax rate in 9678
effect in tax year 1999, for fixed-sum levies for all taxing 9679
districts within each school district, joint vocational school 9680
district, and local taxing unit. For the years 2002 through 9681
2006, this computation shall include school district emergency 9682
levies that existed in 1998 in the case of the electric company 9683
tax value loss, and 1999 in the case of the natural gas company 9684
tax value loss, and all other fixed-sum levies that existed in 9685
1998 in the case of the electric company tax value loss and 1999 9686
in the case of the natural gas company tax value loss and 9687
continue to be charged in the tax year preceding the 9688
distribution year. For the years 2007 through 2016 in the case 9689
of school district emergency levies, and for all years after 9690
2006 in the case of all other fixed-sum levies, this computation 9691
shall exclude all fixed-sum levies that existed in 1998 in the 9692
case of the electric company tax value loss and 1999 in the case 9693
of the natural gas company tax value loss, but are no longer in 9694
effect in the tax year preceding the distribution year. For the 9695
purposes of this section, an emergency levy that existed in 1998 9696
in the case of the electric company tax value loss, and 1999 in 9697

the case of the natural gas company tax value loss, continues to 9698
exist in a year beginning on or after January 1, 2007, but 9699
before January 1, 2017, if, in that year, the board of education 9700
levies a school district emergency levy for an annual sum at 9701
least equal to the annual sum levied by the board in tax year 9702
1998 or 1999, respectively, less the amount of the payment 9703
certified under this division for 2002. 9704

(2) The total taxable value in tax year 1999 less the tax 9705
value loss in each school district, joint vocational school 9706
district, and local taxing unit multiplied by one-fourth of one 9707
mill. 9708

If the amount computed under division (H) of this section 9709
for any school district, joint vocational school district, or 9710
local taxing unit is greater than zero, that amount shall equal 9711
the fixed-sum levy loss reimbursed pursuant to division (F) of 9712
section 5727.85 of the Revised Code or division (A) (2) of 9713
section 5727.86 of the Revised Code, and the one-fourth of one 9714
mill that is subtracted under division (H) (2) of this section 9715
shall be apportioned among all contributing fixed-sum levies in 9716
the proportion of each levy to the sum of all fixed-sum levies 9717
within each school district, joint vocational school district, 9718
or local taxing unit. 9719

(I) Notwithstanding divisions (D), (E), (G), and (H) of 9720
this section, in computing the tax value loss, fixed-rate levy 9721
loss, and fixed-sum levy loss, the tax commissioner shall use 9722
the greater of the 1998 tax rate or the 1999 tax rate in the 9723
case of levy losses associated with the electric company tax 9724
value loss, but the 1999 tax rate shall not include for this 9725
purpose any tax levy approved by the voters after June 30, 1999, 9726
and the tax commissioner shall use the greater of the 1999 or 9727

the 2000 tax rate in the case of levy losses associated with the 9728
natural gas company tax value loss. 9729

(J) Not later than January 1, 2002, the tax commissioner 9730
shall certify to the department of education the tax value loss 9731
determined under divisions (D) and (E) of this section for each 9732
taxing district, the fixed-rate levy loss calculated under 9733
division (G) of this section, and the fixed-sum levy loss 9734
calculated under division (H) of this section. The calculations 9735
under divisions (G) and (H) of this section shall separately 9736
display the levy loss for each levy eligible for reimbursement. 9737

(K) Not later than September 1, 2001, the tax commissioner 9738
shall certify the amount of the fixed-sum levy loss to the 9739
county auditor of each county in which a school district with a 9740
fixed-sum levy loss has territory. 9741

Sec. 5729.98. (A) To provide a uniform procedure for 9742
calculating the amount of tax due under this chapter, a taxpayer 9743
shall claim any credits and offsets against tax liability to 9744
which it is entitled in the following order: 9745

(1) The credit for an insurance company or insurance 9746
company group under section 5729.031 of the Revised Code; 9747

(2) The credit for eligible employee training costs under 9748
section 5729.07 of the Revised Code; 9749

(3) The credit for purchases of qualified low-income 9750
community investments under section 5729.16 of the Revised Code; 9751

(4) The nonrefundable job retention credit under division 9752
(B) of section 122.171 of the Revised Code; 9753

(5) The nonrefundable credit for investments in rural 9754
business growth funds under section 122.152 of the Revised Code; 9755

(6) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

(7) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code~~;~~;

(8) The refundable credit for Ohio job retention under former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;

(9) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

(10) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5733.042. (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Asset value" means the adjusted basis of assets as 9784
determined in accordance with Subchapter O of the Internal 9785
Revenue Code and the Treasury Regulations thereunder. 9786

(3) "Intangible expenses and costs" include expenses, 9787
losses, and costs for, related to, or in connection directly or 9788
indirectly with the direct or indirect acquisition of, the 9789
direct or indirect use of, the direct or indirect maintenance or 9790
management of, the direct or indirect ownership of, the direct 9791
or indirect sale of, the direct or indirect exchange of, or any 9792
other direct or indirect disposition of intangible property to 9793
the extent such amounts are allowed as deductions or costs in 9794
determining taxable income before operating loss deduction and 9795
special deductions for the taxable year under the Internal 9796
Revenue Code. Such expenses and costs include, but are not 9797
limited to, losses related to or incurred in connection directly 9798
or indirectly with factoring transactions, losses related to or 9799
incurred in connection directly or indirectly with discounting 9800
transactions, royalty, patent, technical, and copyright fees, 9801
licensing fees, and other similar expenses and costs. 9802

(4) "Interest expenses and costs" include but are not 9803
limited to amounts directly or indirectly allowed as deductions 9804
under section 163 of the Internal Revenue Code for purposes of 9805
determining taxable income under the Internal Revenue Code. 9806

(5) "Member" has the same meaning as in U.S. Treasury 9807
Regulation section 1.1502-1. 9808

(6) "Related member" means a person that, with respect to 9809
the taxpayer during all or any portion of the taxable year, is a 9810
"related entity" as defined in division (I)(12)(c) of section 9811
5733.04 of the Revised Code, is a component member as defined in 9812
section 1563(b) of the Internal Revenue Code, or is a person to 9813

or from whom there is attribution of stock ownership in 9814
accordance with section 1563(e) of the Internal Revenue Code 9815
except, for purposes of determining whether a person is a 9816
related member under this division, "twenty per cent" shall be 9817
substituted for "5 per cent" wherever "5 per cent" appears in 9818
section 1563(e) of the Internal Revenue Code. 9819

(B) This section applies to all corporations for tax years 9820
1999 and thereafter. For tax years prior to 1999, this section 9821
applies only to a corporation that has, or is a member of an 9822
affiliated group that has, or is a member of an affiliated group 9823
with another member that has, one or more of the following: 9824

(1) Gross sales, including sales to other members of the 9825
affiliated group, during the taxable year of at least fifty 9826
million dollars; 9827

(2) Total assets whose asset value at any time during the 9828
taxable year is at least twenty-five million dollars; 9829

(3) Taxable income before operating loss deduction and 9830
special deductions during the taxable year of at least five 9831
hundred thousand dollars. 9832

(C) For purposes of computing its net income under 9833
division (I) of section 5733.04 of the Revised Code, the 9834
corporation shall add interest expenses and costs and intangible 9835
expenses and costs directly or indirectly paid, accrued, or 9836
incurred to, or in connection directly or indirectly with one or 9837
more direct or indirect transactions with, one or more of the 9838
following related members: 9839

(1) Any related member whose activities, in any one state, 9840
are primarily limited to the maintenance and management of 9841
intangible investments or of the intangible investments of 9842

corporations, business trusts, or other entities registered as 9843
investment companies under the "Investment Company Act of 1940," 9844
15 U.S.C. 80a-1 et seq., as amended, and the collection and 9845
distribution of the income from such investments or from 9846
tangible property physically located outside such state. For 9847
purposes of division (C)(1) of this section, "intangible 9848
investments" includes, without limitation, investments in 9849
stocks, bonds, notes, and other debt obligations, including debt 9850
obligations of related members, interests in partnerships, 9851
patents, patent applications, trademarks, trade names, and 9852
similar types of intangible assets. 9853

(2) Any related member that is a personal holding company 9854
as defined in section 542 of the Internal Revenue Code without 9855
regard to the stock ownership requirements set forth in section 9856
542(a)(2) of the Internal Revenue Code; 9857

(3) Any related member that is not a corporation and is 9858
directly, indirectly, constructively, or beneficially owned in 9859
whole or in part by a personal holding company as defined in 9860
section 542 of the Internal Revenue Code without regard to the 9861
stock ownership requirements set forth in section 542(a)(2) of 9862
the Internal Revenue Code; 9863

(4) Any related member that is a foreign personal holding 9864
company as defined in section 552 of the Internal Revenue Code; 9865

(5) Any related member that is not a corporation and is 9866
directly, indirectly, constructively, or beneficially owned in 9867
whole or in part by a foreign personal holding company as 9868
defined in section 552 of the Internal Revenue Code; 9869

(6) Any related member if that related member or another 9870
related member directly or indirectly paid, accrued, or incurred 9871

to, or in connection directly or indirectly with one or more 9872
direct or indirect transactions with, another related member any 9873
interest expenses and costs or intangible expenses and costs in 9874
an amount less than, equal to, or greater than such amounts 9875
received from the corporation. Division (C) (6) of this section 9876
applies only if, within a one-hundred-twenty-month period 9877
commencing three years prior to the beginning of the tax year, a 9878
related member directly or indirectly paid, accrued, or incurred 9879
such amounts or losses with respect to one or more direct or 9880
indirect transactions with an entity described in divisions (C) 9881
(1) to (5) of this section. A rebuttable presumption exists that 9882
a related member did so pay, accrue, or incur such amounts or 9883
losses with respect to one or more direct or indirect 9884
transactions with an entity described in divisions (C) (1) to (5) 9885
of this section. A corporation can rebut this presumption only 9886
with a preponderance of the evidence to the contrary. 9887

(7) Any related member that, with respect to indebtedness 9888
directly or indirectly owed by the corporation to the related 9889
member, directly or indirectly charged or imposed on the 9890
corporation an excess interest rate. If the related member has 9891
charged or imposed on the corporation an excess interest rate, 9892
the adjustment required by division (C) (7) of this section with 9893
respect to such interest expenses and costs directly or 9894
indirectly paid, accrued, or incurred to the related member in 9895
connection with such indebtedness does not include so much of 9896
such interest expenses and costs that the corporation would have 9897
directly or indirectly paid, accrued, or incurred if the related 9898
member had charged or imposed the highest possible interest rate 9899
that would not have been an excess interest rate. For purposes 9900
of division (C) (7) of this section, an excess interest rate is 9901
an annual rate that exceeds by more than three per cent the 9902

greater of the rate per annum prescribed by section 5703.47 of 9903
the Revised Code in effect at the time of the origination of the 9904
indebtedness, or the rate per annum prescribed by section 9905
5703.47 of the Revised Code in effect at the time the 9906
corporation paid, accrued, or incurred the interest expense or 9907
cost to the related member. 9908

(D) (1) In making the adjustment required by division (C) 9909
of this section, the corporation shall make the adjustment 9910
required by section 5733.057 of the Revised Code. The 9911
adjustments required by division (C) of this section are not 9912
required if either of the following applies: 9913

(a) The corporation establishes by clear and convincing 9914
evidence that the adjustments are unreasonable. 9915

(b) The corporation and the tax commissioner agree in 9916
writing to the application or use of alternative adjustments and 9917
computations to more properly reflect the base required to be 9918
determined in accordance with division (B) of section 5733.05 of 9919
the Revised Code. Nothing in division (D) (1) (b) of this section 9920
shall be construed to limit or negate the tax commissioner's 9921
authority to otherwise enter into agreements and compromises 9922
otherwise allowed by law. 9923

(2) The adjustments required by divisions (C) (1) to (5) of 9924
this section do not apply to such portion of interest expenses 9925
and costs and intangible expenses and costs that the corporation 9926
can establish by the preponderance of the evidence meets both of 9927
the following: 9928

(a) The related member during the same taxable year 9929
directly or indirectly paid, accrued, or incurred such portion 9930
to a person who is not a related member. 9931

(b) The transaction giving rise to the interest expenses 9932
and costs or the intangible expenses and costs between the 9933
corporation and the related member did not have as a principal 9934
purpose the avoidance of any portion of the tax due under this 9935
chapter. 9936

(3) The adjustments required by division (C) (6) of this 9937
section do not apply to such portion of interest expenses and 9938
costs and intangible expenses and costs that the corporation can 9939
establish by the preponderance of the evidence meets both of the 9940
following: 9941

(a) The entity described in any of divisions (C) (1) to (6) 9942
of this section to whom the related member directly or 9943
indirectly paid, accrued, or incurred such portion, in turn 9944
during the same taxable year directly or indirectly paid, 9945
accrued or incurred such portion to a person who is not a 9946
related member, and 9947

(b) The transaction or transactions giving rise to the 9948
interest expenses and costs or the intangible expenses and costs 9949
between the corporation, the related member, and the entity 9950
described in any of divisions (C) (1) to (5) of this section did 9951
not have as a principal purpose the avoidance of any portion of 9952
the tax due under this chapter. 9953

(4) The adjustments required by division (C) of this 9954
section apply except to the extent that the increased tax, if 9955
any, attributable to such adjustments would have been avoided if 9956
both the corporation and the related member had been eligible to 9957
make and had timely made the election to combine in accordance 9958
with division (B) of section 5733.052 of the Revised Code. 9959

(E) Except as otherwise provided in division (F) of this 9960

section, if, on the day that is one year after the day the 9961
corporation files its report, the corporation has not made the 9962
adjustment required by this section or has not fully paid the 9963
tax and interest, if any, imposed by this chapter and 9964
attributable to such adjustment, the corporation is subject to a 9965
penalty equal to twice the interest charged under division (A) 9966
of section 5733.26 of the Revised Code for the delinquent 9967
payment of such tax and interest. For the purpose of the 9968
computation of the penalty imposed by this division, such 9969
penalty shall be deemed to be part of the tax due on the dates 9970
prescribed by this chapter without regard to the one-year period 9971
set forth in this division. The penalty imposed by this division 9972
is not in lieu of but is in addition to all other penalties, 9973
other similar charges, and interest imposed by this chapter. The 9974
tax commissioner may waive, abate, modify, or refund, with 9975
interest, all or any portion of the penalty imposed by this 9976
division only if the corporation establishes beyond a reasonable 9977
doubt that both the failure to fully comply with this section 9978
and the failure to fully pay such tax and interest within one 9979
year after the date the corporation files its report were not in 9980
any part attributable to the avoidance of any portion of the tax 9981
imposed by section 5733.06 of the Revised Code. 9982

(F) (1) For purposes of this division, "tax differential" 9983
means the difference between the tax that is imposed by section 9984
5733.06 of the Revised Code and that is attributable to the 9985
adjustment required by this section and the amount paid that is 9986
so attributable, prior to the day that is one year after the day 9987
the corporation files its report. 9988

(2) The penalty imposed by division (E) of this section 9989
does not apply if the tax differential meets both of the 9990
following requirements: 9991

(a) The tax differential is less than ten per cent of the 9992
tax imposed by section 5733.06 of the Revised Code; and 9993

(b) The difference is less than fifty thousand dollars. 9994

(3) Nothing in division (F) of this section shall be 9995
construed to waive, abate, or modify any other penalties, other 9996
similar charges, or interest imposed by other sections of this 9997
chapter. 9998

(G) Nothing in this section shall require a corporation to 9999
add to its net income more than once any amount of interest 10000
expenses and costs or intangible expenses and costs that the 10001
corporation pays, accrues, or incurs to a related member 10002
described in division (C) of this section. 10003

Sec. 5733.05. As used in this section, "qualified 10004
research" means laboratory research, experimental research, and 10005
other similar types of research; research in developing or 10006
improving a product; or research in developing or improving the 10007
means of producing a product. It does not include market 10008
research, consumer surveys, efficiency surveys, management 10009
studies, ordinary testing or inspection of materials or products 10010
for quality control, historical research, or literary research. 10011
"Product" as used in this paragraph does not include services or 10012
intangible property. 10013

The annual report determines the value of the issued and 10014
outstanding shares of stock of the taxpayer, which under 10015
division (A) or divisions (B) and (C) of this section is the 10016
base or measure of the franchise tax liability. Such 10017
determination shall be made as of the date shown by the report 10018
to have been the beginning of the corporation's annual 10019
accounting period that includes the first day of January of the 10020

tax year. For the purposes of this chapter, the value of the 10021
issued and outstanding shares of stock of any corporation that 10022
is a financial institution shall be deemed to be the value as 10023
calculated in accordance with division (A) of this section. For 10024
the purposes of this chapter, the value of the issued and 10025
outstanding shares of stock of any corporation that is not a 10026
financial institution shall be deemed to be the values as 10027
calculated in accordance with divisions (B) and (C) of this 10028
section. Except as otherwise required by this section or section 10029
5733.056 of the Revised Code, the value of a taxpayer's issued 10030
and outstanding shares of stock under division (A) or (C) of 10031
this section does not include any amount that is treated as a 10032
liability under generally accepted accounting principles. 10033

(A) The total value, as shown by the books of the 10034
financial institution, of its capital, surplus, whether earned 10035
or unearned, undivided profits, and reserves shall be determined 10036
as prescribed by section 5733.056 of the Revised Code for tax 10037
years 1998 and thereafter. 10038

(B) The sum of the corporation's net income during the 10039
corporation's taxable year, allocated or apportioned to this 10040
state as prescribed in divisions (B)(1) and (2) of this section, 10041
and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 10042
5733.059, and 5733.0510 of the Revised Code: 10043

(1) The net nonbusiness income allocated or apportioned to 10044
this state as provided by section 5733.051 of the Revised Code. 10045

(2) The amount of Ohio apportioned net business income, 10046
which shall be calculated by multiplying the corporation's net 10047
business income by a fraction. The numerator of the fraction is 10048
the sum of the following products: the property factor 10049
multiplied by twenty, the payroll factor multiplied by twenty, 10050

and the sales factor multiplied by sixty. The denominator of the
fraction is one hundred, provided that the denominator shall be
reduced by twenty if the property factor has a denominator of
zero, by twenty if the payroll factor has a denominator of zero,
and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be
determined as follows, but the numerator and the denominator of
the factors shall not include the portion of any property,
payroll, and sales otherwise includible in the factors to the
extent that the portion relates to, or is used in connection
with, the production of nonbusiness income allocated under
section 5733.051 of the Revised Code:

(a) The property factor is a fraction computed as follows:

The numerator of the fraction is the average value of the
corporation's real and tangible personal property owned or
rented, and used in the trade or business in this state during
the taxable year, and the denominator of the fraction is the
average value of all the corporation's real and tangible
personal property owned or rented, and used in the trade or
business everywhere during such year. Real and tangible personal
property used in the trade or business includes, but is not
limited to, real and tangible personal property that the
corporation rents, subrents, leases, or subleases to others if
the income or loss from such rentals, subrentals, leases, or
subleases is business income. There shall be excluded from the
numerator and denominator of the fraction the original cost of
all of the following property within Ohio: property with respect
to which a "pollution control facility" certificate has been
issued pursuant to section 5709.21 of the Revised Code; property
with respect to which an "industrial water pollution control

certificate" has been issued pursuant to that section or former 10081
section 6111.31 of the Revised Code; and property used 10082
exclusively during the taxable year for qualified research. 10083

(i) Property owned by the corporation is valued at its 10084
original cost. Property rented by the corporation is valued at 10085
eight times the net annual rental rate. "Net annual rental rate" 10086
means the annual rental rate paid by the corporation less any 10087
annual rental rate received by the corporation from subrentals. 10088

(ii) The average value of property shall be determined by 10089
averaging the values at the beginning and the end of the taxable 10090
year, but the tax commissioner may require the averaging of 10091
monthly values during the taxable year, if reasonably required 10092
to reflect properly the average value of the corporation's 10093
property. 10094

(b) The payroll factor is a fraction computed as follows: 10095

The numerator of the fraction is the total amount paid in 10096
this state during the taxable year by the corporation for 10097
compensation, and the denominator of the fraction is the total 10098
compensation paid everywhere by the corporation during such 10099
year. There shall be excluded from the numerator and the 10100
denominator of the payroll factor the total compensation paid in 10101
this state to employees who are primarily engaged in qualified 10102
research. 10103

(i) Compensation means any form of remuneration paid to an 10104
employee for personal services. 10105

(ii) Compensation is paid in this state if: (I) the 10106
recipient's service is performed entirely within this state, 10107
(II) the recipient's service is performed both within and 10108
without this state, but the service performed without this state 10109

is incidental to the recipient's service within this state, 10110
(III) some of the service is performed within this state and 10111
either the base of operations, or if there is no base of 10112
operations, the place from which the service is directed or 10113
controlled is within this state, or the base of operations or 10114
the place from which the service is directed or controlled is 10115
not in any state in which some part of the service is performed, 10116
but the recipient's residence is in this state. 10117

(iii) Compensation is paid in this state to any employee 10118
of a common or contract motor carrier corporation, who performs 10119
the employee's regularly assigned duties on a motor vehicle in 10120
more than one state, in the same ratio by which the mileage 10121
traveled by such employee within the state bears to the total 10122
mileage traveled by such employee everywhere during the taxable 10123
year. 10124

(c) The sales factor is a fraction computed as follows: 10125

Except as provided in this section, the numerator of the 10126
fraction is the total sales in this state by the corporation 10127
during the taxable year or part thereof, and the denominator of 10128
the fraction is the total sales by the corporation everywhere 10129
during such year or part thereof. In computing the numerator and 10130
denominator of the fraction, the following shall be eliminated 10131
from the fraction: receipts and any related gains or losses from 10132
the sale or other disposal of excluded assets; dividends or 10133
distributions; and interest or other similar amounts received 10134
for the use of, or for the forbearance of the use of, money. 10135
Also, in computing the numerator and denominator of the sales 10136
factor, in the case of a corporation owning at least eighty per 10137
cent of the issued and outstanding common stock of one or more 10138
insurance companies or public utilities, except an electric 10139

company and a combined company, and, for tax years 2005 and 10140
thereafter, a telephone company, or owning at least twenty-five 10141
per cent of the issued and outstanding common stock of one or 10142
more financial institutions, receipts received by the 10143
corporation from such utilities, insurance companies, and 10144
financial institutions shall be eliminated. As used in this 10145
division, "excluded assets" means property that is either: 10146
intangible property, other than trademarks, trade names, 10147
patents, copyrights, and similar intellectual property; or 10148
tangible personal property or real property where that property 10149
is a capital asset or an asset described in section 1231 of the 10150
Internal Revenue Code, without regard to the holding period 10151
specified therein. 10152

(i) For the purpose of this section and section 5733.03 of 10153
the Revised Code, receipts not eliminated or excluded from the 10154
fraction shall be situated as follows: 10155

Receipts from rents and royalties from real property 10156
located in this state shall be situated to this state. 10157

Receipts from rents and royalties of tangible personal 10158
property, to the extent the tangible personal property is used 10159
in this state, shall be situated to this state. 10160

Receipts from the sale of electricity and of electric 10161
transmission and distribution services shall be situated to this 10162
state in the manner provided under section 5733.059 of the 10163
Revised Code. 10164

Receipts from the sale of real property located in this 10165
state shall be situated to this state. 10166

Receipts from the sale of tangible personal property shall 10167
be situated to this state if such property is received in this 10168

state by the purchaser. In the case of delivery of tangible 10169
personal property by common carrier or by other means of 10170
transportation, the place at which such property is ultimately 10171
received after all transportation has been completed shall be 10172
considered as the place at which such property is received by 10173
the purchaser. Direct delivery in this state, other than for 10174
purposes of transportation, to a person or firm designated by a 10175
purchaser constitutes delivery to the purchaser in this state, 10176
and direct delivery outside this state to a person or firm 10177
designated by a purchaser does not constitute delivery to the 10178
purchaser in this state, regardless of where title passes or 10179
other conditions of sale. 10180

(ii) Receipts from all other sales not eliminated or 10181
excluded from the fraction shall be sitused to this state as 10182
follows: 10183

Receipts from the sale, exchange, disposition, or other 10184
grant of the right to use trademarks, trade names, patents, 10185
copyrights, and similar intellectual property shall be sitused 10186
to this state to the extent that the receipts are based on the 10187
amount of use of that property in this state. If the receipts 10188
are not based on the amount of use of that property, but rather 10189
on the right to use the property and the payor has the right to 10190
use the property in this state, then the receipts from the sale, 10191
exchange, disposition, or other grant of the right to use such 10192
property shall be sitused to this state to the extent the 10193
receipts are based on the right to use the property in this 10194
state. 10195

Receipts from the sale of services, and receipts from any 10196
other sales not eliminated or excluded from the sales factor and 10197
not otherwise sitused under division (B) (2) (c) of this section, 10198

shall be sitused to this state in the proportion to the 10199
purchaser's benefit, with respect to the sale, in this state to 10200
the purchaser's benefit, with respect to the sale, everywhere. 10201
The physical location where the purchaser ultimately uses or 10202
receives the benefit of what was purchased shall be paramount in 10203
determining the proportion of the benefit in this state to the 10204
benefit everywhere. 10205

(iii) Income from receipts eliminated or excluded from the 10206
sales factor under division (B) (2) (c) of this section shall not 10207
be presumed to be nonbusiness income. 10208

(d) If the allocation and apportionment provisions of 10209
division (B) of this section do not fairly represent the extent 10210
of the taxpayer's business activity in this state, the taxpayer 10211
may request, which request must be in writing and must accompany 10212
the report, a timely filed petition for reassessment, or a 10213
timely filed amended report, or the tax commissioner may 10214
require, in respect to all or any part of the taxpayer's 10215
allocated or apportioned base, if reasonable, any one or more of 10216
the following: 10217

(i) Separate accounting; 10218

(ii) The exclusion of any one or more of the factors; 10219

(iii) The inclusion of one or more additional factors that 10220
will fairly represent the taxpayer's allocated or apportioned 10221
base in this state. 10222

An alternative method will be effective only with approval 10223
by the tax commissioner. 10224

Nothing in this section shall be construed to extend any 10225
statute of limitations set forth in this chapter. 10226

(e) The tax commissioner may adopt rules providing for 10227
alternative allocation and apportionment methods, and 10228
alternative calculations of a corporation's base, that apply to 10229
corporations engaged in telecommunications. 10230

(C) (1) The total value, as shown on the books of each 10231
corporation that is not a ~~qualified~~ qualifying holding company, 10232
of the net book value of the corporation's assets less the net 10233
carrying value of its liabilities, and excluding from the 10234
corporation's assets land devoted exclusively to agricultural 10235
use as of the first Monday of June in the corporation's taxable 10236
year as determined by the county auditor of the county in which 10237
the land is located pursuant to section 5713.31 of the Revised 10238
Code, and making any adjustment required by division (D) of this 10239
section. For the purposes of determining that total value, any 10240
reserves shown on the corporation's books shall be considered 10241
liabilities or contra assets, as the case may be, except for any 10242
reserves that are deemed appropriations of retained earnings 10243
under generally accepted accounting principles. 10244

(2) The base upon which the tax is levied under division 10245
(C) of section 5733.06 of the Revised Code shall be computed by 10246
multiplying the amount determined under division (C) (1) of this 10247
section by the fraction determined under divisions (B) (2) (a) to 10248
(c) of this section and, if applicable, divisions (B) (2) (d) (ii) 10249
and (iii) of this section, and without regard to section 10250
5733.052 of the Revised Code, but substituting "net worth" for 10251
"net income" wherever "net income" appears in division (B) (2) (c) 10252
in this section. For purposes of division (C) (2) of this 10253
section, the numerator and denominator of each of the fractions 10254
shall include the portion of any real and tangible personal 10255
property, payroll, and sales, respectively, relating to, or used 10256
in connection with the production of, net nonbusiness income 10257

allocated under section 5733.051 of the Revised Code. Nothing in 10258
this division shall allow any amount to be included in the 10259
numerator or denominator more than once. 10260

(D) (1) If, on the last day of the taxpayer's taxable year 10261
preceding the tax year, the taxpayer is a related member to a 10262
corporation that elects to be a qualifying holding company for 10263
the tax year beginning after the last day of the taxpayer's 10264
taxable year, or if, on the last day of the taxpayer's taxable 10265
year preceding the tax year, a corporation that elects to be a 10266
qualifying holding company for the tax year beginning after the 10267
last day of the taxpayer's taxable year is a related member to 10268
the taxpayer, then the taxpayer's total value for the purposes 10269
of division (C) of this section shall be adjusted by the 10270
qualifying amount. Except as otherwise provided under division 10271
(D) (2) of this section, "qualifying amount" means the amount 10272
that, when added to the taxpayer's total value, and when 10273
subtracted from the net carrying value of the taxpayer's 10274
liabilities computed without regard to division (C) (2) of this 10275
section, or when subtracted from the taxpayer's total value and 10276
when added to the net carrying value of the taxpayer's 10277
liabilities computed without regard to division (D) of this 10278
section, results in the taxpayer's debt-to-equity ratio equaling 10279
the debt-to-equity ratio of the qualifying controlled group on 10280
the last day of the taxable year ending prior to the first day 10281
of the tax year computed on a consolidated basis in accordance 10282
with general accepted accounting principles. For the purposes of 10283
division (D) (1) of this section, the corporation's total value, 10284
after the adjustment required by that division, shall not exceed 10285
the net book value of the corporation's assets. 10286

(2) (a) The amount added to the taxpayer's total value and 10287
subtracted from the net carrying value of the taxpayer's 10288

liabilities shall not exceed the amount of the net carrying 10289
value of the taxpayer's liabilities owed to the taxpayer's 10290
related members. 10291

(b) A liability owed to the taxpayer's related members 10292
includes, but is not limited to, any amount that the corporation 10293
owes to a person that is not a related member if the 10294
corporation's related member or related members in whole or in 10295
part guarantee any portion or all of that amount, or pledge, 10296
hypothecate, mortgage, or carry out any similar transactions to 10297
secure any portion or all of that amount. 10298

(3) The base upon which the tax is levied under division 10299
(C) of section 5733.06 of the Revised Code shall be computed by 10300
multiplying the amount determined under divisions (C) and (D) of 10301
this section but without regard to section 5733.052 of the 10302
Revised Code. 10303

(4) For purposes of division (D) of this section, "related 10304
member" has the same meaning as in section 5733.042 of the 10305
Revised Code. 10306

Sec. 5733.052. (A) At the discretion of the tax 10307
commissioner, any taxpayer that owns or controls either directly 10308
or indirectly more than fifty per cent of the capital stock with 10309
voting rights of one or more other corporations, or has more 10310
than fifty per cent of its capital stock with voting rights 10311
owned or controlled either directly or indirectly by another 10312
corporation, or by related interests that own or control either 10313
directly or indirectly more than fifty per cent of the capital 10314
stock with voting rights of one or more other corporations, may 10315
be required or permitted, for purposes of computing the value of 10316
its issued and outstanding shares of stock under division (B) of 10317
section 5733.05 of the Revised Code, to combine its net income 10318

with the net income of any such other corporations. 10319

(B) A combination of net income may also be made at the 10320
election of any two or more taxpayers each having income, other 10321
than dividend or distribution income, from sources within Ohio, 10322
provided the ownership or control requirements contained in ~~the~~ 10323
division (A) of this section are satisfied and such combination 10324
is elected in a timely report which sets forth such information 10325
as the commissioner requires. This election, once made by two or 10326
more such taxpayers, may not be changed by such taxpayers with 10327
respect to amended reports or reports for future years without 10328
the written consent of the commissioner. As used in this 10329
section, "income from sources within Ohio" means income that 10330
would be allocated or apportioned to Ohio if the taxpayer 10331
computed its franchise tax without regard to this section. 10332

(C) No combination of net income under division (A) of 10333
this section shall be required unless the commissioner 10334
determines that, in order to properly reflect income, such a 10335
combination is necessary because of intercorporate transactions 10336
and the tax liability imposed by section 5733.06 of the Revised 10337
Code. 10338

(D) In case of a combination of income, the net income of 10339
each taxpayer shall be measured by the combined net income of 10340
all the corporations included in the combination. For purposes 10341
of such measurement, each corporation's net income shall be 10342
determined in the same manner as if the corporation were a 10343
taxpayer under this chapter. In computing combined net income, 10344
intercorporate transactions, including dividends or 10345
distributions, between corporations included in the combination 10346
shall be eliminated. If the computation of net income on a 10347
combination of income involves the use of any of the formulas 10348

set forth in this chapter, the factors used in the formulas 10349
shall be the combined totals of the factors for each corporation 10350
included in the combination after the elimination of any 10351
intercorporate transactions. The exemptions and deductions 10352
permitted under this chapter shall be taken in the same manner 10353
as if each corporation filed a separate report. 10354

(E) For purposes of division (B) of section 5733.05 of the 10355
Revised Code, each taxpayer's net income allocated or 10356
apportioned to this state shall be computed as follows: to 10357
compute the taxpayer's net income allocated to this state for 10358
purposes of division (B)(1) of section 5733.05 of the Revised 10359
Code, the taxpayer's net income for sources allocated under 10360
section 5733.051 of the Revised Code shall be separately 10361
determined, eliminating intercorporate transactions, and 10362
allocated to this state as provided by section 5733.051 of the 10363
Revised Code. To compute the taxpayer's net income apportioned 10364
to this state for purposes of division (B)(2) of section 5733.05 10365
of the Revised Code, the combined net income, other than net 10366
income from sources allocated under section 5733.051 of the 10367
Revised Code, shall be apportioned to Ohio and then prorated to 10368
the taxpayer on the basis of its proportionate part of the 10369
factors used to apportion the total of such net income to Ohio. 10370

Sec. 5733.055. (A) As used in this section: 10371

(1) "Ceiling amount" means the excess of the amount 10372
described in division (A)(1)(a) of this section over the amount 10373
described in division (A)(1)(b) of this section: 10374

(a) The amount of income allocated and apportioned to this 10375
state in accordance with this chapter but without regard to and 10376
without application of the adjustments required by this section; 10377

(b) The amount of income allocated and apportioned to this 10378
state in accordance with this chapter but without regard to and 10379
without application of the adjustments required by both this 10380
section and division (I) (13) of section 5733.04 of the Revised 10381
Code. 10382

(2) "Income adjustment amount" means the sum of the 10383
amounts described in divisions (A) (2) (a) and (b) of this 10384
section: 10385

(a) The related member's net interest income actually 10386
allocated and apportioned to other states that impose a tax on 10387
or measured by income, in accordance with the other states' 10388
allocation and apportionment rules; 10389

(b) The related member's net intangible income actually 10390
allocated and apportioned to other states that impose a tax on 10391
or measured by income, in accordance with the other states' 10392
allocation and apportionment rules. 10393

For purposes of division (A) (2) of this section, "other 10394
states" does not include those states under whose laws the 10395
taxpayer files or could have elected to file with the related 10396
member, or the related member files or could have elected to 10397
file with another related member, a combined income tax report 10398
or return, a consolidated income tax report or return, or any 10399
other report or return where such report or return is due 10400
because of the imposition of a tax measured on or by income and 10401
such report or return results in the elimination of the tax 10402
effects from transactions directly or indirectly between either 10403
the taxpayer and the related member or between the related 10404
member and another corporation if such other corporation, during 10405
a one-hundred-twenty-month period commencing three years prior 10406
to the beginning of the tax year, directly or indirectly paid, 10407

accrued, or incurred intangible expenses and costs or interest 10408
expenses and costs to an entity described in divisions (C) (1) to 10409
(5) of section 5733.042 of the Revised Code. 10410

(3) "Intangible expenses and costs" has the same meaning 10411
as in division (A) (3) of section 5733.042 of the Revised Code. 10412

(4) "Interest expenses and costs" has the same meaning as 10413
in division (A) (4) of section 5733.042 of the Revised Code. 10414

(5) "Intangible income and revenue" are those amounts 10415
earned or received by a related member from a taxpayer for the 10416
taxpayer's use of intangible property. Such amounts include, but 10417
are not limited to, royalty, patent, technical, and copyright 10418
fees, licensing fees, and other similar income and revenue. 10419

(6) "Interest income and revenue" are those amounts earned 10420
or received by a related member from a taxpayer to the extent 10421
such amounts are allowed as deductions under section 163 of the 10422
Internal Revenue Code for purposes of determining the taxpayer's 10423
taxable income under the Internal Revenue Code. 10424

(7) "Net intangible income" means intangible income and 10425
revenue reduced by intangible expenses and costs paid or accrued 10426
directly or indirectly to a related member described in any of 10427
divisions (C) (1) to (7) of section 5747.042 of the Revised Code. 10428

(8) "Net interest income" means interest income and 10429
revenue reduced by interest expenses and costs paid or accrued 10430
directly or indirectly to a related member described in any of 10431
divisions (C) (1) to (7) of section ~~5747.042~~ 5733.042 of the 10432
Revised Code. 10433

(B) Except as set forth in division (C) of this section, a 10434
deduction from the corporation's net income allocated and 10435
apportioned to this state shall be allowed in an amount equal to 10436

the income adjustment amount described in division (A) (2) of 10437
this section. However, in no case shall the deduction be greater 10438
than the ceiling amount described in division (A) (1) of this 10439
section. 10440

(C) The deduction provided by division (B) of this section 10441
is available to the taxpayer only if the taxpayer establishes 10442
with clear and convincing evidence that the intangible expenses 10443
and costs and the interest expenses and costs paid, accrued, or 10444
incurred by the corporation to a related member did not have as 10445
a principal purpose the avoidance of any portion of the tax 10446
imposed by section 5733.06 of the Revised Code. 10447

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 10448
Chapter 5747. of the Revised Code: 10449

(A) (1) "Adjusted qualifying amount" means either of the 10450
following: 10451

(a) The sum of each qualifying investor's distributive 10452
share of the income, gain, expense, or loss of a qualifying 10453
pass-through entity for the qualifying taxable year of the 10454
qualifying pass-through entity multiplied by the apportionment 10455
fraction defined in division (B) of this section, subject to 10456
section 5733.401 of the Revised Code and divisions (A) (2) to (7) 10457
of this section; 10458

(b) The sum of each qualifying beneficiary's share of the 10459
qualifying net income and qualifying net gain distributed by a 10460
qualifying trust for the qualifying taxable year of the 10461
qualifying trust multiplied by the apportionment fraction 10462
defined in division (B) of this section, subject to section 10463
5733.401 of the Revised Code and divisions (A) (2) to (7) of this 10464
section. 10465

(2) The sum shall exclude any amount which, pursuant to 10466
the Constitution of the United States, the Constitution of Ohio, 10467
or any federal law is not subject to a tax on or measured by net 10468
income. 10469

(3) For the purposes of Chapters 5733. and 5747. of the 10470
Revised Code, the profit or net income of the qualifying entity 10471
shall be increased by disallowing all amounts representing 10472
expenses, other than amounts described in division (A)(7) of 10473
this section, that the qualifying entity paid to or incurred 10474
with respect to direct or indirect transactions with one or more 10475
related members, excluding the cost of goods sold calculated in 10476
accordance with section 263A of the Internal Revenue Code and 10477
United States department of the treasury regulations issued 10478
thereunder. Nothing in division (A)(3) of this section shall be 10479
construed to limit solely to this chapter the application of 10480
section 263A of the Internal Revenue Code and United States 10481
department of the treasury regulations issued thereunder. 10482

(4) For the purposes of Chapters 5733. and 5747. of the 10483
Revised Code, the profit or net income of the qualifying entity 10484
shall be increased by disallowing all recognized losses, other 10485
than losses from sales of inventory the cost of which is 10486
calculated in accordance with section 263A of the Internal 10487
Revenue Code and United States department of the treasury 10488
regulations issued thereunder, with respect to all direct or 10489
indirect transactions with one or more related members. For the 10490
purposes of Chapters 5733. and 5747. of the Revised Code, losses 10491
from the sales of such inventory shall be allowed only to the 10492
extent calculated in accordance with section 482 of the Internal 10493
Revenue Code and United States department of the treasury 10494
regulations issued thereunder. Nothing in division (A)(4) of 10495
this section shall be construed to limit solely to this section 10496

the application of section 263A and section 482 of the Internal 10497
Revenue Code and United States department of the treasury 10498
regulations issued thereunder. 10499

(5) The sum shall be increased or decreased by an amount 10500
equal to the qualifying investor's or qualifying beneficiary's 10501
distributive or proportionate share of the amount that the 10502
qualifying entity would be required to add or deduct under 10503
divisions ~~(A) (20)~~ (A) (17) and ~~(21)~~ (18) of section 5747.01 of 10504
the Revised Code if the qualifying entity were a taxpayer for 10505
the purposes of Chapter 5747. of the Revised Code. 10506

(6) The sum shall be computed without regard to section 10507
5733.051 or division (D) of section 5733.052 of the Revised 10508
Code. 10509

(7) For the purposes of Chapters 5733. and 5747. of the 10510
Revised Code, guaranteed payments or compensation paid to 10511
investors by a qualifying entity that is not subject to the tax 10512
imposed by section 5733.06 of the Revised Code shall be 10513
considered a distributive share of income of the qualifying 10514
entity. Division (A) (7) of this section applies only to such 10515
payments or such compensation paid to an investor who at any 10516
time during the qualifying entity's taxable year holds at least 10517
a twenty per cent direct or indirect interest in the profits or 10518
capital of the qualifying entity. For the purposes of this 10519
division, guaranteed payments and compensation shall be 10520
considered to be paid to an investor by a qualifying entity if 10521
the qualifying entity in which the investor holds at least a 10522
twenty per cent direct or indirect interest is a client employer 10523
of a professional employer organization, as those terms are 10524
defined in section 4125.01 of the Revised Code, and the 10525
guaranteed payments or compensation are paid to the investor by 10526

that professional employer organization. 10527

(B) "Apportionment fraction" means: 10528

(1) With respect to a qualifying pass-through entity other 10529
than a financial institution, the fraction calculated pursuant 10530
to division (B) (2) of section 5733.05 of the Revised Code as if 10531
the qualifying pass-through entity were a corporation subject to 10532
the tax imposed by section 5733.06 of the Revised Code; 10533

(2) With respect to a qualifying pass-through entity that 10534
is a financial institution, the fraction calculated pursuant to 10535
division (C) of section 5733.056 of the Revised Code as if the 10536
qualifying pass-through entity were a financial institution 10537
subject to the tax imposed by section 5733.06 of the Revised 10538
Code. 10539

(3) With respect to a qualifying trust, the fraction 10540
calculated pursuant to division (B) (2) of section 5733.05 of the 10541
Revised Code as if the qualifying trust were a corporation 10542
subject to the tax imposed by section 5733.06 of the Revised 10543
Code, except that the property, payroll, and sales fractions 10544
shall be calculated by including in the numerator and 10545
denominator of the fractions only the property, payroll, and 10546
sales, respectively, directly related to the production of 10547
income or gain from acquisition, ownership, use, maintenance, 10548
management, or disposition of tangible personal property located 10549
in this state at any time during the qualifying trust's 10550
qualifying taxable year or of real property located in this 10551
state. 10552

(C) "Qualifying beneficiary" means any individual that, 10553
during the qualifying taxable year of a qualifying trust, is a 10554
beneficiary of that trust, but does not include an individual 10555

who is a resident taxpayer for the purposes of Chapter 5747. of 10556
the Revised Code for the entire qualifying taxable year of the 10557
qualifying trust. 10558

(D) "Fiscal year" means an accounting period ending on any 10559
day other than the thirty-first day of December. 10560

(E) "Individual" means a natural person. 10561

(F) "Month" means a calendar month. 10562

(G) ~~"Partnership" has the same meaning as in section~~ 10563
~~5747.01 of the Revised Code. "Distributive share" includes the~~ 10564
~~sum of the income, gain, expense, or loss of a disregarded~~ 10565
~~entity or qualified subchapter S subsidiary.~~ 10566

(H) "Investor" means any person that, during any portion 10567
of a taxable year of a qualifying pass-through entity, is a 10568
partner, member, shareholder, or investor in that qualifying 10569
pass-through entity. 10570

(I) Except as otherwise provided in section 5733.402 or 10571
5747.401 of the Revised Code, "qualifying investor" means any 10572
investor except those described in divisions (I)(1) to (9) of 10573
this section. 10574

(1) An investor satisfying one of the descriptions under 10575
section 501(a) or (c) of the Internal Revenue Code, a 10576
partnership with equity securities registered with the United 10577
States securities and exchange commission under section 12 of 10578
the "Securities Exchange Act of 1934," as amended, or an 10579
investor described in division (F) of section 3334.01, or 10580
division (A) or (C) of section 5733.09 of the Revised Code for 10581
the entire qualifying taxable year of the qualifying pass- 10582
through entity. 10583

(2) An investor who is either an individual or an estate 10584
and is a resident taxpayer for the purposes of section 5747.01 10585
of the Revised Code for the entire qualifying taxable year of 10586
the qualifying pass-through entity. 10587

(3) An investor who is an individual for whom the 10588
qualifying pass-through entity makes a good faith and reasonable 10589
effort to comply fully and timely with the filing and payment 10590
requirements set forth in division (D) of section 5747.08 of the 10591
Revised Code and section 5747.09 of the Revised Code with 10592
respect to the individual's adjusted qualifying amount for the 10593
entire qualifying taxable year of the qualifying pass-through 10594
entity. 10595

(4) An investor that is another qualifying pass-through 10596
entity having only investors described in division (I)(1), (2), 10597
(3), or (6) of this section during the three-year period 10598
beginning twelve months prior to the first day of the qualifying 10599
taxable year of the qualifying pass-through entity. 10600

(5) An investor that is another pass-through entity having 10601
no investors other than individuals and estates during the 10602
qualifying taxable year of the qualifying pass-through entity in 10603
which it is an investor, and that makes a good faith and 10604
reasonable effort to comply fully and timely with the filing and 10605
payment requirements set forth in division (D) of section 10606
5747.08 of the Revised Code and section 5747.09 of the Revised 10607
Code with respect to investors that are not resident taxpayers 10608
of this state for the purposes of Chapter 5747. of the Revised 10609
Code for the entire qualifying taxable year of the qualifying 10610
pass-through entity in which it is an investor. 10611

(6) An investor that is ~~a financial institution required~~ 10612
~~to calculate the tax in accordance with division (E) of section~~ 10613

~~5733.06 of the Revised Code on the first day of January of the~~ 10614
~~calendar year immediately following the last day of the~~ 10615
~~financial institution's calendar or fiscal year in which ends~~ 10616
~~the taxpayer's taxable year~~ treated as a C corporation for 10617
federal income tax purposes for the entire qualifying taxable 10618
year of the qualifying pass-through entity in which it is an 10619
investor. 10620

(7) An investor other than an individual that satisfies 10621
all the following: 10622

(a) The investor submits a written statement to the 10623
qualifying pass-through entity stating that the investor 10624
irrevocably agrees that the investor has nexus with this state 10625
under the Constitution of the United States and is subject to 10626
and liable for the tax calculated under division (A) or (B) of 10627
section 5733.06 of the Revised Code with respect to the 10628
investor's adjusted qualifying amount for the entire qualifying 10629
taxable year of the qualifying pass-through entity. The 10630
statement is subject to the penalties of perjury, shall be 10631
retained by the qualifying pass-through entity for no fewer than 10632
seven years, and shall be delivered to the tax commissioner upon 10633
request. 10634

(b) The investor makes a good faith and reasonable effort 10635
to comply timely and fully with all the reporting and payment 10636
requirements set forth in Chapter 5733. of the Revised Code with 10637
respect to the investor's adjusted qualifying amount for the 10638
entire qualifying taxable year of the qualifying pass-through 10639
entity. 10640

(c) Neither the investor nor the qualifying pass-through 10641
entity in which it is an investor, before, during, or after the 10642
qualifying pass-through entity's qualifying taxable year, 10643

carries out any transaction or transactions with one or more 10644
related members of the investor or the qualifying pass-through 10645
entity resulting in a reduction or deferral of tax imposed by 10646
Chapter 5733. of the Revised Code with respect to all or any 10647
portion of the investor's adjusted qualifying amount for the 10648
qualifying pass-through entity's taxable year, or that 10649
constitute a sham, lack economic reality, or are part of a 10650
series of transactions the form of which constitutes a step 10651
transaction or transactions or does not reflect the substance of 10652
those transactions. 10653

(8) Any other investor that the tax commissioner may 10654
designate by rule. The tax commissioner may adopt rules 10655
including a rule defining "qualifying investor" or "qualifying 10656
beneficiary" and governing the imposition of the withholding tax 10657
imposed by section 5747.41 of the Revised Code with respect to 10658
an individual who is a resident taxpayer for the purposes of 10659
Chapter 5747. of the Revised Code for only a portion of the 10660
qualifying taxable year of the qualifying entity. 10661

(9) An investor that is a trust or fund the beneficiaries 10662
of which, during the qualifying taxable year of the qualifying 10663
pass-through entity, are limited to the following: 10664

(a) A person that is or may be the beneficiary of a trust 10665
subject to Subchapter D of Chapter 1 of Subtitle A of the 10666
Internal Revenue Code. 10667

(b) A person that is or may be the beneficiary of or the 10668
recipient of payments from a trust or fund that is a nuclear 10669
decommissioning reserve fund, a designated settlement fund, or 10670
any other trust or fund established to resolve and satisfy 10671
claims that may otherwise be asserted by the beneficiary or a 10672
member of the beneficiary's family. Sections 267(c)(4), 468A(e), 10673

and 468B(d) (2) of the Internal Revenue Code apply to the 10674
determination of whether such a person satisfies division (I) (9) 10675
of this section. 10676

(c) A person who is or may be the beneficiary of a trust 10677
that, under its governing instrument, is not required to 10678
distribute all of its income currently. Division (I) (9) (c) of 10679
this section applies only if the trust, prior to the due date 10680
for filing the qualifying pass-through entity's return for taxes 10681
imposed by section 5733.41 and sections 5747.41 to 5747.453 of 10682
the Revised Code, irrevocably agrees in writing that for the 10683
taxable year during or for which the trust distributes any of 10684
its income to any of its beneficiaries, the trust is a 10685
qualifying trust and will pay the estimated tax, and will 10686
withhold and pay the withheld tax, as required under sections 10687
5747.40 to 5747.453 of the Revised Code. 10688

For the purposes of division (I) (9) of this section, a 10689
trust or fund shall be considered to have a beneficiary other 10690
than persons described under divisions (I) (9) (a) to (c) of this 10691
section if a beneficiary would not qualify under those divisions 10692
under the doctrines of "economic reality," "sham transaction," 10693
"step doctrine," or "substance over form." A trust or fund 10694
described in division (I) (9) of this section bears the burden of 10695
establishing by a preponderance of the evidence that any 10696
transaction giving rise to the tax benefits provided under 10697
division (I) (9) of this section does not have as a principal 10698
purpose a claim of those tax benefits. Nothing in this section 10699
shall be construed to limit solely to this section the 10700
application of the doctrines referred to in this paragraph. 10701

(J) "Qualifying net gain" means any recognized net gain 10702
with respect to the acquisition, ownership, use, maintenance, 10703

management, or disposition of tangible personal property located 10704
in this state at any time during a trust's qualifying taxable 10705
year or real property located in this state. 10706

(K) "Qualifying net income" means any recognized income, 10707
net of related deductible expenses, other than distributions 10708
deductions with respect to the acquisition, ownership, use, 10709
maintenance, management, or disposition of tangible personal 10710
property located in this state at any time during the trust's 10711
qualifying taxable year or real property located in this state. 10712

(L) "Qualifying entity" means a qualifying pass-through 10713
entity or a qualifying trust. 10714

(M) "Qualifying trust" means a trust subject to subchapter 10715
J of the Internal Revenue Code that, during any portion of the 10716
trust's qualifying taxable year, has income or gain from the 10717
acquisition, management, ownership, use, or disposition of 10718
tangible personal property located in this state at any time 10719
during the trust's qualifying taxable year or real property 10720
located in this state. "Qualifying trust" does not include a 10721
person described in section 501(c) of the Internal Revenue Code 10722
or a person described in division (C) of section 5733.09 of the 10723
Revised Code. 10724

(N) "Qualifying pass-through entity" means a pass-through 10725
entity as defined in section 5733.04 of the Revised Code, 10726
excluding: a person described in section 501(c) of the Internal 10727
Revenue Code; a partnership with equity securities registered 10728
with the United States securities and exchange commission under 10729
section 12 of the Securities Exchange Act of 1934, as amended; 10730
or a person described in division (C) of section 5733.09 of the 10731
Revised Code. 10732

(O) "Quarter" means the first three months, the second 10733
three months, the third three months, or the last three months 10734
of a qualifying entity's qualifying taxable year. 10735

(P) "Related member" has the same meaning as in division 10736
(A) (6) of section 5733.042 of the Revised Code without regard to 10737
division (B) of that section. However, for the purposes of 10738
divisions (A) (3) and (4) of this section only, "related member" 10739
has the same meaning as in division (A) (6) of section 5733.042 10740
of the Revised Code without regard to division (B) of that 10741
section, but shall be applied by substituting "forty per cent" 10742
for "twenty per cent" wherever "twenty per cent" appears in 10743
division (A) of that section. 10744

(Q) "Return" or "report" means the notifications and 10745
reports required to be filed pursuant to sections 5747.42 to 10746
5747.45 of the Revised Code for the purpose of reporting the tax 10747
imposed under section 5733.41 or 5747.41 of the Revised Code, 10748
and included declarations of estimated tax when so required. 10749

(R) "Qualifying taxable year" means the calendar year or 10750
the qualifying entity's fiscal year ending during the calendar 10751
year, or fractional part thereof, for which the adjusted 10752
qualifying amount is calculated pursuant to sections 5733.40 and 10753
5733.41 or sections 5747.40 to 5747.453 of the Revised Code. 10754

~~(S) "Distributive share" includes the sum of the income, 10755
gain, expense, or loss of a disregarded entity or qualified 10756
subchapter S subsidiary. 10757~~

Sec. 5733.98. (A) To provide a uniform procedure for 10758
calculating the amount of tax imposed by section 5733.06 of the 10759
Revised Code that is due under this chapter, a taxpayer shall 10760
claim any credits to which it is entitled in the following 10761

order, except as otherwise provided in section 5733.058 of the	10762
Revised Code:	10763
(1) For tax year 2005, the credit for taxes paid by a	10764
qualifying pass-through entity allowed under section 5733.0611	10765
of the Revised Code;	10766
(2) The credit allowed for financial institutions under	10767
section 5733.45 of the Revised Code;	10768
(3) The credit for qualifying affiliated groups under	10769
section 5733.068 of the Revised Code;	10770
(4) The subsidiary corporation credit under section	10771
5733.067 of the Revised Code;	10772
(5) The credit for recycling and litter prevention	10773
donations under section 5733.064 of the Revised Code;	10774
(6) The credit for employers that enter into agreements	10775
with child day-care centers under section 5733.36 of the Revised	10776
Code;	10777
(7) The credit for employers that reimburse employee child	10778
care expenses under section 5733.38 of the Revised Code;	10779
(8) The credit for purchases of lights and reflectors	10780
under section 5733.44 of the Revised Code;	10781
(9) The nonrefundable job retention credit under division	10782
(B) of section 5733.0610 of the Revised Code;	10783
(10) The second credit for purchases of new manufacturing	10784
machinery and equipment under section 5733.33 of the Revised	10785
Code;	10786
(11) The job training credit under section 5733.42 of the	10787
Revised Code;	10788

(12) The credit for qualified research expenses under section 5733.351 of the Revised Code;	10789 10790
(13) The enterprise zone credit under section 5709.66 of the Revised Code;	10791 10792
(14) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	10793 10794
(15) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	10795 10796
(16) The ethanol plant investment credit under section 5733.46 of the Revised Code;	10797 10798
(17) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	10799 10800
(18) <u>(17)</u> The export sales credit under section 5733.069 of the Revised Code;	10801 10802
(19) <u>(18)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	10803 10804
(20) <u>(19)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	10805 10806
(21) <u>(20)</u> The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	10807 10808
(22) <u>(21)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	10809 10810
(23) <u>(22)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	10811 10812
(24) <u>(23)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	10813 10814 10815

~~(25)~~ (24) The research and development credit under 10816
section 5733.352 of the Revised Code; 10817

~~(26)~~ (25) For tax years 2006 and subsequent tax years, the 10818
credit for taxes paid by a qualifying pass-through entity 10819
allowed under section 5733.0611 of the Revised Code; 10820

~~(27)~~ (26) The refundable credit for rehabilitating a 10821
historic building under section 5733.47 of the Revised Code; 10822

~~(28)~~ (27) The refundable jobs creation credit or job 10823
retention credit under division (A) of section 5733.0610 of the 10824
Revised Code; 10825

~~(29)~~ (28) The refundable credit for tax withheld under 10826
division (B) (2) of section 5747.062 of the Revised Code; 10827

~~(30)~~ (29) The refundable credit under section 5733.49 of 10828
the Revised Code for losses on loans made to the Ohio venture 10829
capital program under sections 150.01 to 150.10 of the Revised 10830
Code; 10831

~~(31)~~ (30) For tax years 2006, 2007, and 2008, the 10832
refundable credit allowable under division (B) of section 10833
5733.56 of the Revised Code; 10834

~~(32)~~ (31) The refundable motion picture and Broadway 10835
theatrical production credit under section 5733.59 of the 10836
Revised Code. 10837

(B) For any credit except the refundable credits 10838
enumerated in this section, the amount of the credit for a tax 10839
year shall not exceed the tax due after allowing for any other 10840
credit that precedes it in the order required under this 10841
section. Any excess amount of a particular credit may be carried 10842
forward if authorized under the section creating that credit. 10843

Sec. 5735.026. (A) The tax commissioner, for the purposes 10844
of administering this chapter, shall issue an exporter license 10845
to a person that receives motor fuel in this state and exports 10846
that fuel out of this state and that demonstrates to the tax 10847
commissioner's satisfaction that the person is an exporter. 10848

(B) To obtain an exporter license, a person shall file, 10849
under oath, an application with the commissioner in such form as 10850
the commissioner prescribes. The application shall set forth the 10851
following information: 10852

(1) The name under which the exporter will transact 10853
business within the state; 10854

(2) The location, including street number address, of the 10855
exporter's principal office or place of business; 10856

(3) The name and address of the owner, or the names and 10857
addresses of the partners if such exporter is a partnership, or 10858
the names and addresses of the principal officers if the 10859
exporter is a corporation or an association; 10860

(4) A certified copy of the certificate or license issued 10861
by the ~~Secretary of State~~ secretary of state showing that the 10862
corporation is authorized to transact business in this state if 10863
the exporter is a corporation organized under the laws of 10864
another state, territory, or country; 10865

(5) For an exporter described in division (DD) (1) of 10866
section 5735.01 of the Revised Code, a copy of the applicant's 10867
license or certificate to collect and remit motor fuel taxes or 10868
sell or distribute motor fuel in the specified destination state 10869
or states for which the license or certificate is to be issued; 10870

(6) Any other information the commissioner may require. 10871

(C) (1) After a hearing as provided in division (C) (2) of 10872
this section, the commissioner may refuse to issue a license to 10873
transact business as an exporter of motor fuel in the following 10874
circumstances: 10875

(a) The applicant has previously had a license issued 10876
under this chapter canceled for cause by the commissioner; 10877

(b) The commissioner believes that an application is not 10878
filed in good faith; 10879

(c) The applicant has previously violated any provision of 10880
this chapter; 10881

(d) The application is filed as a subterfuge by the 10882
applicant for the real person in interest who has previously had 10883
a license issued under this chapter canceled for cause by the 10884
commissioner or who has violated any provision of this chapter. 10885

(2) The commissioner shall conduct a hearing before 10886
refusing to issue a license to transact business as an exporter 10887
in any of the circumstances described in division (C) (1) of this 10888
section. The applicant shall be given five days' notice, in 10889
writing, of the hearing. The applicant may appear in person or 10890
be represented by counsel, and may present testimony at the 10891
hearing. 10892

(D) When an application in proper form has been accepted 10893
for filing, the commissioner shall issue to such exporter a 10894
license to transact business as an exporter of motor fuel in 10895
this state, subject to cancellation of such license as provided 10896
by law. 10897

(E) No person shall make a false or fraudulent statement 10898
on the application required by this section. 10899

Sec. 5735.06. (A) On or before the last day of each month, 10900
each motor fuel dealer shall file with the tax commissioner a 10901
report for the preceding calendar month on a form prescribed by 10902
the commissioner for that purpose. The report shall include the 10903
following information: 10904

(1) An itemized statement of the number of gallons of all 10905
motor fuel received during the preceding calendar month by such 10906
motor fuel dealer, which has been produced, refined, prepared, 10907
distilled, manufactured, blended, or compounded by such motor 10908
fuel dealer in the state; 10909

(2) An itemized statement of the number of gallons of all 10910
motor fuel received by such motor fuel dealer in the state from 10911
any source during the preceding calendar month, other than motor 10912
fuel included in division (A)(1) of this section, together with 10913
a statement showing the date of receipt of such motor fuel; the 10914
name of the person from whom purchased or received; the date of 10915
receipt of each shipment of motor fuel; the point of origin and 10916
the point of destination of each shipment; the quantity of each 10917
of said purchases or shipments; the name of the carrier; the 10918
number of gallons contained in each car if shipped by rail; the 10919
point of origin, destination, and shipper if shipped by pipe 10920
line; or the name and owner of the boat, barge, or vessel if 10921
shipped by water; 10922

(3) An itemized statement of the number of gallons of 10923
motor fuel which such motor fuel dealer has during the preceding 10924
calendar month: 10925

(a) For motor fuel other than gasoline sold for use other 10926
than for operating motor vehicles on the public highways or on 10927
waters within the boundaries of this state; 10928

(b) Exported from this state to any other state or foreign	10929
country as provided in division (A) (4) of section 5735.05 of the	10930
Revised Code;	10931
(c) Sold to the United States government or any of its	10932
agencies;	10933
(d) Sold for delivery to motor fuel dealers;	10934
(e) Sold exclusively for use in the operation of aircraft;	10935
(4) Such other information incidental to the enforcement	10936
of the motor fuel laws of the state as the commissioner	10937
requires.	10938
(B) The report shall show the tax due, computed as	10939
follows:	10940
(1) The following deductions shall be made from the total	10941
number of gallons of motor fuel received by the motor fuel	10942
dealer within the state during the preceding calendar month:	10943
(a) The total number of gallons of motor fuel received by	10944
the motor fuel dealer within the state and sold or otherwise	10945
disposed of during the preceding calendar month as set forth in	10946
section 5735.05 of the Revised Code;	10947
(b) The total number of gallons received during the	10948
preceding calendar month and sold or otherwise disposed of to	10949
another licensed motor fuel dealer pursuant to section 5735.05	10950
of the Revised Code;	10951
(c) To cover the costs of the motor fuel dealer in	10952
compiling the report, and evaporation, shrinkage, or other	10953
unaccounted-for losses:	10954
(i) If the report is timely filed and the tax is timely	10955

paid, three per cent of the total number of gallons of motor 10956
fuel received by the motor fuel dealer within the state during 10957
the preceding calendar month less the total number of gallons 10958
deducted under divisions (B) (1) (a) and (b) of this section, less 10959
one per cent of the total number of gallons of motor fuel that 10960
were sold to a retail dealer during the preceding calendar 10961
month; 10962

(ii) If the report required by division (A) of this 10963
section is not timely filed and the tax is not timely paid, no 10964
deduction shall be allowed; 10965

(iii) If the report is incomplete, no deduction shall be 10966
allowed for any fuel on which the tax is not timely reported and 10967
paid; 10968

(2) The number of gallons remaining after the deductions 10969
have been made shall be multiplied ~~separately by each of the~~ 10970
~~following amounts:~~ 10971

~~(a) The cents per gallon rate;~~ 10972

~~(b) Two cents.~~ 10973

~~The sum of the products prescribed by section 5735.05 of~~ 10974
~~the Revised Code. The product obtained in divisions (B) (2) (a)~~ 10975
~~and (b) of this section shall be the amount of motor fuel tax~~ 10976
for the preceding calendar month. 10977

(C) The report shall be filed together with payment of the 10978
tax shown on the report to be due. The commissioner may extend 10979
the time for filing reports and may remit all or part of 10980
penalties which may become due under sections 5735.01 to 5735.99 10981
of the Revised Code. For purposes of this section and sections 10982
5735.062 and 5735.12 of the Revised Code, a report required to 10983
be filed under this section and payment of the tax due under 10984

this chapter are considered filed when received by the tax commissioner. 10985
10986

(D) The tax commissioner may require a motor fuel dealer 10987
to file a report for a period other than one month. Such a 10988
report, together with payment of the tax, shall be filed not 10989
later than thirty days after the last day of the prescribed 10990
reporting period. 10991

(E) No person required by this section to file a tax 10992
report shall file a false or fraudulent tax report or supporting 10993
schedule. 10994

Sec. 5739.01. As used in this chapter: 10995

(A) "Person" includes individuals, receivers, assignees, 10996
trustees in bankruptcy, estates, firms, partnerships, 10997
associations, joint-stock companies, joint ventures, clubs, 10998
societies, corporations, the state and its political 10999
subdivisions, and combinations of individuals of any form. 11000

(B) "Sale" and "selling" include all of the following 11001
transactions for a consideration in any manner, whether 11002
absolutely or conditionally, whether for a price or rental, in 11003
money or by exchange, and by any means whatsoever: 11004

(1) All transactions by which title or possession, or 11005
both, of tangible personal property, is or is to be transferred, 11006
or a license to use or consume tangible personal property is or 11007
is to be granted; 11008

(2) All transactions by which lodging by a hotel is or is 11009
to be furnished to transient guests; 11010

(3) All transactions by which: 11011

(a) An item of tangible personal property is or is to be 11012

repaired, except property, the purchase of which would not be 11013
subject to the tax imposed by section 5739.02 of the Revised 11014
Code; 11015

(b) An item of tangible personal property is or is to be 11016
installed, except property, the purchase of which would not be 11017
subject to the tax imposed by section 5739.02 of the Revised 11018
Code or property that is or is to be incorporated into and will 11019
become a part of a production, transmission, transportation, or 11020
distribution system for the delivery of a public utility 11021
service; 11022

(c) The service of washing, cleaning, waxing, polishing, 11023
or painting a motor vehicle is or is to be furnished; 11024

(d) ~~Until August 1, 2003, industrial laundry cleaning~~ 11025
~~services are or are to be provided and, on and after August 1,~~ 11026
~~2003, laundry~~ Laundry and dry cleaning services are or are to be 11027
provided; 11028

(e) Automatic data processing, computer services, or 11029
electronic information services are or are to be provided for 11030
use in business when the true object of the transaction is the 11031
receipt by the consumer of automatic data processing, computer 11032
services, or electronic information services rather than the 11033
receipt of personal or professional services to which automatic 11034
data processing, computer services, or electronic information 11035
services are incidental or supplemental. Notwithstanding any 11036
other provision of this chapter, such transactions that occur 11037
between members of an affiliated group are not sales. An 11038
"affiliated group" means two or more persons related in such a 11039
way that one person owns or controls the business operation of 11040
another member of the group. In the case of corporations with 11041
stock, one corporation owns or controls another if it owns more 11042

than fifty per cent of the other corporation's common stock with 11043
voting rights. 11044

(f) Telecommunications service, including prepaid calling 11045
service, prepaid wireless calling service, or ancillary service, 11046
is or is to be provided, but not including coin-operated 11047
telephone service; 11048

(g) Landscaping and lawn care service is or is to be 11049
provided; 11050

(h) Private investigation and security service is or is to 11051
be provided; 11052

(i) Information services or tangible personal property is 11053
provided or ordered by means of a nine hundred telephone call; 11054

(j) Building maintenance and janitorial service is or is 11055
to be provided; 11056

(k) Employment service is or is to be provided; 11057

(l) Employment placement service is or is to be provided; 11058

(m) Exterminating service is or is to be provided; 11059

(n) Physical fitness facility service is or is to be 11060
provided; 11061

(o) Recreation and sports club service is or is to be 11062
provided; 11063

(p) ~~On and after August 1, 2003, satellite~~ Satellite 11064
broadcasting service is or is to be provided; 11065

(q) ~~On and after August 1, 2003, personal~~ Personal care 11066
service is or is to be provided to an individual. As used in 11067
this division, "personal care service" includes skin care, the 11068
application of cosmetics, manicuring, pedicuring, hair removal, 11069

tattooing, body piercing, tanning, massage, and other similar 11070
services. "Personal care service" does not include a service 11071
provided by or on the order of a licensed physician or licensed 11072
chiropractor, or the cutting, coloring, or styling of an 11073
individual's hair. 11074

(r) ~~On and after August 1, 2003, the~~ The transportation of 11075
persons by motor vehicle or aircraft is or is to be provided, 11076
when the transportation is entirely within this state, except 11077
for transportation provided by an ambulance service, by a 11078
transit bus, as defined in section 5735.01 of the Revised Code, 11079
and transportation provided by a citizen of the United States 11080
holding a certificate of public convenience and necessity issued 11081
under 49 U.S.C. 41102; 11082

(s) ~~On and after August 1, 2003, motor~~ Motor vehicle 11083
towing service is or is to be provided. As used in this 11084
division, "motor vehicle towing service" means the towing or 11085
conveyance of a wrecked, disabled, or illegally parked motor 11086
vehicle. 11087

(t) ~~On and after August 1, 2003, snow~~ Snow removal service 11088
is or is to be provided. As used in this division, "snow removal 11089
service" means the removal of snow by any mechanized means, but 11090
does not include the providing of such service by a person that 11091
has less than five thousand dollars in sales of such service 11092
during the calendar year. 11093

(u) Electronic publishing service is or is to be provided 11094
to a consumer for use in business, except that such transactions 11095
occurring between members of an affiliated group, as defined in 11096
division (B) (3) (e) of this section, are not sales. 11097

(4) All transactions by which printed, imprinted, 11098

overprinted, lithographic, multilithic, blueprinted, 11099
photostatic, or other productions or reproductions of written or 11100
graphic matter are or are to be furnished or transferred; 11101

(5) The production or fabrication of tangible personal 11102
property for a consideration for consumers who furnish either 11103
directly or indirectly the materials used in the production of 11104
fabrication work; and include the furnishing, preparing, or 11105
serving for a consideration of any tangible personal property 11106
consumed on the premises of the person furnishing, preparing, or 11107
serving such tangible personal property. Except as provided in 11108
section 5739.03 of the Revised Code, a construction contract 11109
pursuant to which tangible personal property is or is to be 11110
incorporated into a structure or improvement on and becoming a 11111
part of real property is not a sale of such tangible personal 11112
property. The construction contractor is the consumer of such 11113
tangible personal property, provided that the sale and 11114
installation of carpeting, the sale and installation of 11115
agricultural land tile, the sale and erection or installation of 11116
portable grain bins, or the provision of landscaping and lawn 11117
care service and the transfer of property as part of such 11118
service is never a construction contract. 11119

As used in division (B) (5) of this section: 11120

(a) "Agricultural land tile" means fired clay or concrete 11121
tile, or flexible or rigid perforated plastic pipe or tubing, 11122
incorporated or to be incorporated into a subsurface drainage 11123
system appurtenant to land used or to be used primarily in 11124
production by farming, agriculture, horticulture, or 11125
floriculture. The term does not include such materials when they 11126
are or are to be incorporated into a drainage system appurtenant 11127
to a building or structure even if the building or structure is 11128

used or to be used in such production. 11129

(b) "Portable grain bin" means a structure that is used or 11130
to be used by a person engaged in farming or agriculture to 11131
shelter the person's grain and that is designed to be 11132
disassembled without significant damage to its component parts. 11133

(6) All transactions in which all of the shares of stock 11134
of a closely held corporation are transferred, or an ownership 11135
interest in a pass-through entity, as defined in section 5733.04 11136
of the Revised Code, is transferred, if the corporation or pass- 11137
through entity is not engaging in business and its entire assets 11138
consist of boats, planes, motor vehicles, or other tangible 11139
personal property operated primarily for the use and enjoyment 11140
of the shareholders or owners; 11141

(7) All transactions in which a warranty, maintenance or 11142
service contract, or similar agreement by which the vendor of 11143
the warranty, contract, or agreement agrees to repair or 11144
maintain the tangible personal property of the consumer is or is 11145
to be provided; 11146

(8) The transfer of copyrighted motion picture films used 11147
solely for advertising purposes, except that the transfer of 11148
such films for exhibition purposes is not a sale; 11149

(9) ~~On and after August 1, 2003, all~~ All transactions by 11150
which tangible personal property is or is to be stored, except 11151
such property that the consumer of the storage holds for sale in 11152
the regular course of business; 11153

(10) All transactions in which "guaranteed auto 11154
protection" is provided whereby a person promises to pay to the 11155
consumer the difference between the amount the consumer receives 11156
from motor vehicle insurance and the amount the consumer owes to 11157

a person holding title to or a lien on the consumer's motor 11158
vehicle in the event the consumer's motor vehicle suffers a 11159
total loss under the terms of the motor vehicle insurance policy 11160
or is stolen and not recovered, if the protection and its price 11161
are included in the purchase or lease agreement; 11162

(11) (a) Except as provided in division (B) (11) (b) of this 11163
section, ~~on and after October 1, 2009,~~ all transactions by which 11164
health care services are paid for, reimbursed, provided, 11165
delivered, arranged for, or otherwise made available by a 11166
medicaid health insuring corporation pursuant to the 11167
corporation's contract with the state. 11168

(b) If the centers for medicare and medicaid services of 11169
the United States department of health and human services 11170
determines that the taxation of transactions described in 11171
division (B) (11) (a) of this section constitutes an impermissible 11172
health care-related tax under the "Social Security Act," section 11173
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 11174
the medicaid director shall notify the tax commissioner of that 11175
determination. Beginning with the first day of the month 11176
following that notification, the transactions described in 11177
division (B) (11) (a) of this section are not sales for the 11178
purposes of this chapter or Chapter 5741. of the Revised Code. 11179
The tax commissioner shall order that the collection of taxes 11180
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 11181
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 11182
for transactions occurring on or after that date. 11183

(12) All transactions by which a specified digital product 11184
is provided for permanent use or less than permanent use, 11185
regardless of whether continued payment is required. 11186

Except as provided in this section, "sale" and "selling" 11187

do not include transfers of interest in leased property where 11188
the original lessee and the terms of the original lease 11189
agreement remain unchanged, or professional, insurance, or 11190
personal service transactions that involve the transfer of 11191
tangible personal property as an inconsequential element, for 11192
which no separate charges are made. 11193

(C) "Vendor" means the person providing the service or by 11194
whom the transfer effected or license given by a sale is or is 11195
to be made or given and, for sales described in division (B) (3) 11196
(i) of this section, the telecommunications service vendor that 11197
provides the nine hundred telephone service; if two or more 11198
persons are engaged in business at the same place of business 11199
under a single trade name in which all collections on account of 11200
sales by each are made, such persons shall constitute a single 11201
vendor. 11202

Physicians, dentists, hospitals, and veterinarians who are 11203
engaged in selling tangible personal property as received from 11204
others, such as eyeglasses, mouthwashes, dentifrices, or similar 11205
articles, are vendors. Veterinarians who are engaged in 11206
transferring to others for a consideration drugs, the dispensing 11207
of which does not require an order of a licensed veterinarian or 11208
physician under federal law, are vendors. 11209

The operator of any peer-to-peer car sharing program shall 11210
be considered to be the vendor. 11211

(D) (1) "Consumer" means the person for whom the service is 11212
provided, to whom the transfer effected or license given by a 11213
sale is or is to be made or given, to whom the service described 11214
in division (B) (3) (f) or (i) of this section is charged, or to 11215
whom the admission is granted. 11216

(2) Physicians, dentists, hospitals, and blood banks 11217
operated by nonprofit institutions and persons licensed to 11218
practice veterinary medicine, surgery, and dentistry are 11219
consumers of all tangible personal property and services 11220
purchased by them in connection with the practice of medicine, 11221
dentistry, the rendition of hospital or blood bank service, or 11222
the practice of veterinary medicine, surgery, and dentistry. In 11223
addition to being consumers of drugs administered by them or by 11224
their assistants according to their direction, veterinarians 11225
also are consumers of drugs that under federal law may be 11226
dispensed only by or upon the order of a licensed veterinarian 11227
or physician, when transferred by them to others for a 11228
consideration to provide treatment to animals as directed by the 11229
veterinarian. 11230

(3) A person who performs a facility management, or 11231
similar service contract for a contractee is a consumer of all 11232
tangible personal property and services purchased for use in 11233
connection with the performance of such contract, regardless of 11234
whether title to any such property vests in the contractee. The 11235
purchase of such property and services is not subject to the 11236
exception for resale under division (E) of this section. 11237

(4) (a) In the case of a person who purchases printed 11238
matter for the purpose of distributing it or having it 11239
distributed to the public or to a designated segment of the 11240
public, free of charge, that person is the consumer of that 11241
printed matter, and the purchase of that printed matter for that 11242
purpose is a sale. 11243

(b) In the case of a person who produces, rather than 11244
purchases, printed matter for the purpose of distributing it or 11245
having it distributed to the public or to a designated segment 11246

of the public, free of charge, that person is the consumer of 11247
all tangible personal property and services purchased for use or 11248
consumption in the production of that printed matter. That 11249
person is not entitled to claim exemption under division (B) (42) 11250
(f) of section 5739.02 of the Revised Code for any material 11251
incorporated into the printed matter or any equipment, supplies, 11252
or services primarily used to produce the printed matter. 11253

(c) The distribution of printed matter to the public or to 11254
a designated segment of the public, free of charge, is not a 11255
sale to the members of the public to whom the printed matter is 11256
distributed or to any persons who purchase space in the printed 11257
matter for advertising or other purposes. 11258

(5) A person who makes sales of any of the services listed 11259
in division (B) (3) of this section is the consumer of any 11260
tangible personal property used in performing the service. The 11261
purchase of that property is not subject to the resale exception 11262
under division (E) of this section. 11263

(6) A person who engages in highway transportation for 11264
hire is the consumer of all packaging materials purchased by 11265
that person and used in performing the service, except for 11266
packaging materials sold by such person in a transaction 11267
separate from the service. 11268

(7) In the case of a transaction for health care services 11269
under division (B) (11) of this section, a medicaid health 11270
insuring corporation is the consumer of such services. The 11271
purchase of such services by a medicaid health insuring 11272
corporation is not subject to the exception for resale under 11273
division (E) of this section or to the exemptions provided under 11274
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 11275
the Revised Code. 11276

(E) "Retail sale" and "sales at retail" include all sales, 11277
except those in which the purpose of the consumer is to resell 11278
the thing transferred or benefit of the service provided, by a 11279
person engaging in business, in the form in which the same is, 11280
or is to be, received by the person. 11281

(F) "Business" includes any activity engaged in by any 11282
person with the object of gain, benefit, or advantage, either 11283
direct or indirect. "Business" does not include the activity of 11284
a person in managing and investing the person's own funds. 11285

(G) "Engaging in business" means commencing, conducting, 11286
or continuing in business, and liquidating a business when the 11287
liquidator thereof holds itself out to the public as conducting 11288
such business. Making a casual sale is not engaging in business. 11289

(H) (1) (a) "Price," except as provided in divisions (H) (2), 11290
(3), and (4) of this section, means the total amount of 11291
consideration, including cash, credit, property, and services, 11292
for which tangible personal property or services are sold, 11293
leased, or rented, valued in money, whether received in money or 11294
otherwise, without any deduction for any of the following: 11295

(i) The vendor's cost of the property sold; 11296

(ii) The cost of materials used, labor or service costs, 11297
interest, losses, all costs of transportation to the vendor, all 11298
taxes imposed on the vendor, including the tax imposed under 11299
Chapter 5751. of the Revised Code, and any other expense of the 11300
vendor; 11301

(iii) Charges by the vendor for any services necessary to 11302
complete the sale; 11303

(iv) ~~On and after August 1, 2003, delivery~~ Delivery 11304
charges. As used in this division, "delivery charges" means 11305

charges by the vendor for preparation and delivery to a location 11306
designated by the consumer of tangible personal property or a 11307
service, including transportation, shipping, postage, handling, 11308
crating, and packing. 11309

(v) Installation charges; 11310

(vi) Credit for any trade-in. 11311

(b) "Price" includes consideration received by the vendor 11312
from a third party, if the vendor actually receives the 11313
consideration from a party other than the consumer, and the 11314
consideration is directly related to a price reduction or 11315
discount on the sale; the vendor has an obligation to pass the 11316
price reduction or discount through to the consumer; the amount 11317
of the consideration attributable to the sale is fixed and 11318
determinable by the vendor at the time of the sale of the item 11319
to the consumer; and one of the following criteria is met: 11320

(i) The consumer presents a coupon, certificate, or other 11321
document to the vendor to claim a price reduction or discount 11322
where the coupon, certificate, or document is authorized, 11323
distributed, or granted by a third party with the understanding 11324
that the third party will reimburse any vendor to whom the 11325
coupon, certificate, or document is presented; 11326

(ii) The consumer identifies the consumer's self to the 11327
seller as a member of a group or organization entitled to a 11328
price reduction or discount. A preferred customer card that is 11329
available to any patron does not constitute membership in such a 11330
group or organization. 11331

(iii) The price reduction or discount is identified as a 11332
third party price reduction or discount on the invoice received 11333
by the consumer, or on a coupon, certificate, or other document 11334

presented by the consumer. 11335

(c) "Price" does not include any of the following: 11336

(i) Discounts, including cash, term, or coupons that are 11337
not reimbursed by a third party that are allowed by a vendor and 11338
taken by a consumer on a sale; 11339

(ii) Interest, financing, and carrying charges from credit 11340
extended on the sale of tangible personal property or services, 11341
if the amount is separately stated on the invoice, bill of sale, 11342
or similar document given to the purchaser; 11343

(iii) Any taxes legally imposed directly on the consumer 11344
that are separately stated on the invoice, bill of sale, or 11345
similar document given to the consumer. For the purpose of this 11346
division, the tax imposed under Chapter 5751. of the Revised 11347
Code is not a tax directly on the consumer, even if the tax or a 11348
portion thereof is separately stated. 11349

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 11350
this section, any discount allowed by an automobile manufacturer 11351
to its employee, or to the employee of a supplier, on the 11352
purchase of a new motor vehicle from a new motor vehicle dealer 11353
in this state. 11354

(v) The dollar value of a gift card that is not sold by a 11355
vendor or purchased by a consumer and that is redeemed by the 11356
consumer in purchasing tangible personal property or services if 11357
the vendor is not reimbursed and does not receive compensation 11358
from a third party to cover all or part of the gift card value. 11359
For the purposes of this division, a gift card is not sold by a 11360
vendor or purchased by a consumer if it is distributed pursuant 11361
to an awards, loyalty, or promotional program. Past and present 11362
purchases of tangible personal property or services by the 11363

consumer shall not be treated as consideration exchanged for a 11364
gift card. 11365

(2) In the case of a sale of any new motor vehicle by a 11366
new motor vehicle dealer, as defined in section 4517.01 of the 11367
Revised Code, in which another motor vehicle is accepted by the 11368
dealer as part of the consideration received, "price" has the 11369
same meaning as in division (H)(1) of this section, reduced by 11370
the credit afforded the consumer by the dealer for the motor 11371
vehicle received in trade. 11372

(3) In the case of a sale of any watercraft or outboard 11373
motor by a watercraft dealer licensed in accordance with section 11374
1547.543 of the Revised Code, in which another watercraft, 11375
watercraft and trailer, or outboard motor is accepted by the 11376
dealer as part of the consideration received, "price" has the 11377
same meaning as in division (H)(1) of this section, reduced by 11378
the credit afforded the consumer by the dealer for the 11379
watercraft, watercraft and trailer, or outboard motor received 11380
in trade. As used in this division, "watercraft" includes an 11381
outdrive unit attached to the watercraft. 11382

(4) In the case of transactions for health care services 11383
under division (B)(11) of this section, "price" means the amount 11384
of managed care premiums received each month by a medicaid 11385
health insuring corporation. 11386

(I) "Receipts" means the total amount of the prices of the 11387
sales of vendors, provided that the dollar value of gift cards 11388
distributed pursuant to an awards, loyalty, or promotional 11389
program, and cash discounts allowed and taken on sales at the 11390
time they are consummated are not included, minus any amount 11391
deducted as a bad debt pursuant to section 5739.121 of the 11392
Revised Code. "Receipts" does not include the sale price of 11393

property returned or services rejected by consumers when the 11394
full sale price and tax are refunded either in cash or by 11395
credit. 11396

(J) "Place of business" means any location at which a 11397
person engages in business. 11398

(K) "Premises" includes any real property or portion 11399
thereof upon which any person engages in selling tangible 11400
personal property at retail or making retail sales and also 11401
includes any real property or portion thereof designated for, or 11402
devoted to, use in conjunction with the business engaged in by 11403
such person. 11404

(L) "Casual sale" means a sale of an item of tangible 11405
personal property that was obtained by the person making the 11406
sale, through purchase or otherwise, for the person's own use 11407
and was previously subject to any state's taxing jurisdiction on 11408
its sale or use, and includes such items acquired for the 11409
seller's use that are sold by an auctioneer employed directly by 11410
the person for such purpose, provided the location of such sales 11411
is not the auctioneer's permanent place of business. As used in 11412
this division, "permanent place of business" includes any 11413
location where such auctioneer has conducted more than two 11414
auctions during the year. 11415

(M) "Hotel" means every establishment kept, used, 11416
maintained, advertised, or held out to the public to be a place 11417
where sleeping accommodations are offered to guests, in which 11418
five or more rooms are used for the accommodation of such 11419
guests, whether the rooms are in one or several structures, 11420
except as otherwise provided in ~~division (G) of section 5739.09~~ 11421
5739.091 of the Revised Code. 11422

(N) "Transient guests" means persons occupying a room or 11423
rooms for sleeping accommodations for less than thirty 11424
consecutive days. 11425

(O) "Making retail sales" means the effecting of 11426
transactions wherein one party is obligated to pay the price and 11427
the other party is obligated to provide a service or to transfer 11428
title to or possession of the item sold. "Making retail sales" 11429
does not include the preliminary acts of promoting or soliciting 11430
the retail sales, other than the distribution of printed matter 11431
which displays or describes and prices the item offered for 11432
sale, nor does it include delivery of a predetermined quantity 11433
of tangible personal property or transportation of property or 11434
personnel to or from a place where a service is performed. 11435

(P) "Used directly in the rendition of a public utility 11436
service" means that property that is to be incorporated into and 11437
will become a part of the consumer's production, transmission, 11438
transportation, or distribution system and that retains its 11439
classification as tangible personal property after such 11440
incorporation; fuel or power used in the production, 11441
transmission, transportation, or distribution system; and 11442
tangible personal property used in the repair and maintenance of 11443
the production, transmission, transportation, or distribution 11444
system, including only such motor vehicles as are specially 11445
designed and equipped for such use. Tangible personal property 11446
and services used primarily in providing highway transportation 11447
for hire are not used directly in the rendition of a public 11448
utility service. In this definition, "public utility" includes a 11449
citizen of the United States holding, and required to hold, a 11450
certificate of public convenience and necessity issued under 49 11451
U.S.C. 41102. 11452

(Q) "Refining" means removing or separating a desirable 11453
product from raw or contaminated materials by distillation or 11454
physical, mechanical, or chemical processes. 11455

(R) "Assembly" and "assembling" mean attaching or fitting 11456
together parts to form a product, but do not include packaging a 11457
product. 11458

(S) "Manufacturing operation" means a process in which 11459
materials are changed, converted, or transformed into a 11460
different state or form from which they previously existed and 11461
includes refining materials, assembling parts, and preparing raw 11462
materials and parts by mixing, measuring, blending, or otherwise 11463
committing such materials or parts to the manufacturing process. 11464
"Manufacturing operation" does not include packaging. 11465

(T) "Fiscal officer" means, with respect to a regional 11466
transit authority, the secretary-treasurer thereof, and with 11467
respect to a county that is a transit authority, the fiscal 11468
officer of the county transit board if one is appointed pursuant 11469
to section 306.03 of the Revised Code or the county auditor if 11470
the board of county commissioners operates the county transit 11471
system. 11472

(U) "Transit authority" means a regional transit authority 11473
created pursuant to section 306.31 of the Revised Code or a 11474
county in which a county transit system is created pursuant to 11475
section 306.01 of the Revised Code. For the purposes of this 11476
chapter, a transit authority must extend to at least the entire 11477
area of a single county. A transit authority that includes 11478
territory in more than one county must include all the area of 11479
the most populous county that is a part of such transit 11480
authority. County population shall be measured by the most 11481
recent census taken by the United States census bureau. 11482

(V) "Legislative authority" means, with respect to a 11483
regional transit authority, the board of trustees thereof, and 11484
with respect to a county that is a transit authority, the board 11485
of county commissioners. 11486

(W) "Territory of the transit authority" means all of the 11487
area included within the territorial boundaries of a transit 11488
authority as they from time to time exist. Such territorial 11489
boundaries must at all times include all the area of a single 11490
county or all the area of the most populous county that is a 11491
part of such transit authority. County population shall be 11492
measured by the most recent census taken by the United States 11493
census bureau. 11494

(X) "Providing a service" means providing or furnishing 11495
anything described in division (B) (3) of this section for 11496
consideration. 11497

(Y) (1) (a) "Automatic data processing" means processing of 11498
others' data, including keypunching or similar data entry 11499
services together with verification thereof, or providing access 11500
to computer equipment for the purpose of processing data. 11501

(b) "Computer services" means providing services 11502
consisting of specifying computer hardware configurations and 11503
evaluating technical processing characteristics, computer 11504
programming, and training of computer programmers and operators, 11505
provided in conjunction with and to support the sale, lease, or 11506
operation of taxable computer equipment or systems. 11507

(c) "Electronic information services" means providing 11508
access to computer equipment by means of telecommunications 11509
equipment for the purpose of either of the following: 11510

(i) Examining or acquiring data stored in or accessible to 11511

the computer equipment; 11512

(ii) Placing data into the computer equipment to be 11513
retrieved by designated recipients with access to the computer 11514
equipment. 11515

~~For transactions occurring on or after the effective date~~ 11516
~~of the amendment of this section by H.B. 157 of the 127th~~ 11517
~~general assembly, December 21, 2007, "electronic "Electronic~~ 11518
information services" does not include electronic publishing. 11519

(d) "Automatic data processing, computer services, or 11520
electronic information services" shall not include personal or 11521
professional services. 11522

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 11523
section, "personal and professional services" means all services 11524
other than automatic data processing, computer services, or 11525
electronic information services, including but not limited to: 11526

(a) Accounting and legal services such as advice on tax 11527
matters, asset management, budgetary matters, quality control, 11528
information security, and auditing and any other situation where 11529
the service provider receives data or information and studies, 11530
alters, analyzes, interprets, or adjusts such material; 11531

(b) Analyzing business policies and procedures; 11532

(c) Identifying management information needs; 11533

(d) Feasibility studies, including economic and technical 11534
analysis of existing or potential computer hardware or software 11535
needs and alternatives; 11536

(e) Designing policies, procedures, and custom software 11537
for collecting business information, and determining how data 11538
should be summarized, sequenced, formatted, processed, 11539

controlled, and reported so that it will be meaningful to 11540
management; 11541

(f) Developing policies and procedures that document how 11542
business events and transactions are to be authorized, executed, 11543
and controlled; 11544

(g) Testing of business procedures; 11545

(h) Training personnel in business procedure applications; 11546

(i) Providing credit information to users of such 11547
information by a consumer reporting agency, as defined in the 11548
"Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 11549
U.S.C. 1681a(f), or as hereafter amended, including but not 11550
limited to gathering, organizing, analyzing, recording, and 11551
furnishing such information by any oral, written, graphic, or 11552
electronic medium; 11553

(j) Providing debt collection services by any oral, 11554
written, graphic, or electronic means; 11555

(k) Providing digital advertising services. 11556

The services listed in divisions (Y) (2) (a) to (k) of this 11557
section are not automatic data processing or computer services. 11558

(Z) "Highway transportation for hire" means the 11559
transportation of personal property belonging to others for 11560
consideration by any of the following: 11561

(1) The holder of a permit or certificate issued by this 11562
state or the United States authorizing the holder to engage in 11563
transportation of personal property belonging to others for 11564
consideration over or on highways, roadways, streets, or any 11565
similar public thoroughfare; 11566

(2) A person who engages in the transportation of personal 11567
property belonging to others for consideration over or on 11568
highways, roadways, streets, or any similar public thoroughfare 11569
but who could not have engaged in such transportation on 11570
December 11, 1985, unless the person was the holder of a permit 11571
or certificate of the types described in division (Z) (1) of this 11572
section; 11573

(3) A person who leases a motor vehicle to and operates it 11574
for a person described by division (Z) (1) or (2) of this 11575
section. 11576

(AA) (1) "Telecommunications service" means the electronic 11577
transmission, conveyance, or routing of voice, data, audio, 11578
video, or any other information or signals to a point, or 11579
between or among points. "Telecommunications service" includes 11580
such transmission, conveyance, or routing in which computer 11581
processing applications are used to act on the form, code, or 11582
protocol of the content for purposes of transmission, 11583
conveyance, or routing without regard to whether the service is 11584
referred to as voice-over internet protocol service or is 11585
classified by the federal communications commission as enhanced 11586
or value-added. "Telecommunications service" does not include 11587
any of the following: 11588

(a) Data processing and information services that allow 11589
data to be generated, acquired, stored, processed, or retrieved 11590
and delivered by an electronic transmission to a consumer where 11591
the consumer's primary purpose for the underlying transaction is 11592
the processed data or information; 11593

(b) Installation or maintenance of wiring or equipment on 11594
a customer's premises; 11595

- (c) Tangible personal property; 11596
- (d) Advertising, including directory advertising; 11597
- (e) Billing and collection services provided to third parties; 11598
11599
- (f) Internet access service; 11600
- (g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3; 11601
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- (h) Ancillary service; 11609
- (i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones. 11610
11611
- (2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division: 11612
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11614
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11617
- (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. 11618
11619
11620
"Conference bridging service" does not include 11621
telecommunications services used to reach the conference bridge. 11622
- (b) "Detailed telecommunications billing service" means an 11623

ancillary service of separately stating information pertaining 11624
to individual calls on a customer's billing statement. 11625

(c) "Directory assistance" means an ancillary service of 11626
providing telephone number or address information. 11627

(d) "Vertical service" means an ancillary service that is 11628
offered in connection with one or more telecommunications 11629
services, which offers advanced calling features that allow 11630
customers to identify callers and manage multiple calls and call 11631
connections, including conference bridging service. 11632

(e) "Voice mail service" means an ancillary service that 11633
enables the customer to store, send, or receive recorded 11634
messages. "Voice mail service" does not include any vertical 11635
services that the customer may be required to have in order to 11636
utilize the voice mail service. 11637

(3) "900 service" means an inbound toll telecommunications 11638
service purchased by a subscriber that allows the subscriber's 11639
customers to call in to the subscriber's prerecorded 11640
announcement or live service, and which is typically marketed 11641
under the name "900 service" and any subsequent numbers 11642
designated by the federal communications commission. "900 11643
service" does not include the charge for collection services 11644
provided by the seller of the telecommunications service to the 11645
subscriber, or services or products sold by the subscriber to 11646
the subscriber's customer. 11647

(4) "Prepaid calling service" means the right to access 11648
exclusively telecommunications services, which must be paid for 11649
in advance and which enables the origination of calls using an 11650
access number or authorization code, whether manually or 11651
electronically dialed, and that is sold in predetermined units 11652

or dollars of which the number declines with use in a known 11653
amount. 11654

(5) "Prepaid wireless calling service" means a 11655
telecommunications service that provides the right to utilize 11656
mobile telecommunications service as well as other non- 11657
telecommunications services, including the download of digital 11658
products delivered electronically, and content and ancillary 11659
services, that must be paid for in advance and that is sold in 11660
predetermined units or dollars of which the number declines with 11661
use in a known amount. 11662

(6) "Value-added non-voice data service" means a 11663
telecommunications service in which computer processing 11664
applications are used to act on the form, content, code, or 11665
protocol of the information or data primarily for a purpose 11666
other than transmission, conveyance, or routing. 11667

(7) "Coin-operated telephone service" means a 11668
telecommunications service paid for by inserting money into a 11669
telephone accepting direct deposits of money to operate. 11670

(8) "Customer" has the same meaning as in section 5739.034 11671
of the Revised Code. 11672

(BB) "Laundry and dry cleaning services" means removing 11673
soil or dirt from towels, linens, articles of clothing, or other 11674
fabric items that belong to others and supplying towels, linens, 11675
articles of clothing, or other fabric items. "Laundry and dry 11676
cleaning services" does not include the provision of self- 11677
service facilities for use by consumers to remove soil or dirt 11678
from towels, linens, articles of clothing, or other fabric 11679
items. 11680

(CC) "Magazines distributed as controlled circulation 11681

publications" means magazines containing at least twenty-four 11682
pages, at least twenty-five per cent editorial content, issued 11683
at regular intervals four or more times a year, and circulated 11684
without charge to the recipient, provided that such magazines 11685
are not owned or controlled by individuals or business concerns 11686
which conduct such publications as an auxiliary to, and 11687
essentially for the advancement of the main business or calling 11688
of, those who own or control them. 11689

(DD) "Landscaping and lawn care service" means the 11690
services of planting, seeding, sodding, removing, cutting, 11691
trimming, pruning, mulching, aerating, applying chemicals, 11692
watering, fertilizing, and providing similar services to 11693
establish, promote, or control the growth of trees, shrubs, 11694
flowers, grass, ground cover, and other flora, or otherwise 11695
maintaining a lawn or landscape grown or maintained by the owner 11696
for ornamentation or other nonagricultural purpose. However, 11697
"landscaping and lawn care service" does not include the 11698
providing of such services by a person who has less than five 11699
thousand dollars in sales of such services during the calendar 11700
year. 11701

(EE) "Private investigation and security service" means 11702
the performance of any activity for which the provider of such 11703
service is required to be licensed pursuant to Chapter 4749. of 11704
the Revised Code, or would be required to be so licensed in 11705
performing such services in this state, and also includes the 11706
services of conducting polygraph examinations and of monitoring 11707
or overseeing the activities on or in, or the condition of, the 11708
consumer's home, business, or other facility by means of 11709
electronic or similar monitoring devices. "Private investigation 11710
and security service" does not include special duty services 11711
provided by off-duty police officers, deputy sheriffs, and other 11712

peace officers regularly employed by the state or a political 11713
subdivision. 11714

(FF) "Information services" means providing conversation, 11715
giving consultation or advice, playing or making a voice or 11716
other recording, making or keeping a record of the number of 11717
callers, and any other service provided to a consumer by means 11718
of a nine hundred telephone call, except when the nine hundred 11719
telephone call is the means by which the consumer makes a 11720
contribution to a recognized charity. 11721

(GG) "Research and development" means designing, creating, 11722
or formulating new or enhanced products, equipment, or 11723
manufacturing processes, and also means conducting scientific or 11724
technological inquiry and experimentation in the physical 11725
sciences with the goal of increasing scientific knowledge which 11726
may reveal the bases for new or enhanced products, equipment, or 11727
manufacturing processes. 11728

(HH) "Qualified research and development equipment" means 11729
capitalized tangible personal property, and leased personal 11730
property that would be capitalized if purchased, used by a 11731
person primarily to perform research and development. Tangible 11732
personal property primarily used in testing, as defined in 11733
division (A) (4) of section 5739.011 of the Revised Code, or used 11734
for recording or storing test results, is not qualified research 11735
and development equipment unless such property is primarily used 11736
by the consumer in testing the product, equipment, or 11737
manufacturing process being created, designed, or formulated by 11738
the consumer in the research and development activity or in 11739
recording or storing such test results. 11740

(II) "Building maintenance and janitorial service" means 11741
cleaning the interior or exterior of a building and any tangible 11742

personal property located therein or thereon, including any 11743
services incidental to such cleaning for which no separate 11744
charge is made. However, "building maintenance and janitorial 11745
service" does not include the providing of such service by a 11746
person who has less than five thousand dollars in sales of such 11747
service during the calendar year. As used in this division, 11748
"cleaning" does not include sanitation services necessary for an 11749
establishment described in 21 U.S.C. 608 to comply with rules 11750
and regulations adopted pursuant to that section. 11751

(JJ) "Employment service" means providing or supplying 11752
personnel, on a temporary or long-term basis, to perform work or 11753
labor under the supervision or control of another, when the 11754
personnel so provided or supplied receive their wages, salary, 11755
or other compensation from the provider or supplier of the 11756
employment service or from a third party that provided or 11757
supplied the personnel to the provider or supplier. "Employment 11758
service" does not include: 11759

(1) Acting as a contractor or subcontractor, where the 11760
personnel performing the work are not under the direct control 11761
of the purchaser. 11762

(2) Medical and health care services. 11763

(3) Supplying personnel to a purchaser pursuant to a 11764
contract of at least one year between the service provider and 11765
the purchaser that specifies that each employee covered under 11766
the contract is assigned to the purchaser on a permanent basis. 11767

(4) Transactions between members of an affiliated group, 11768
as defined in division (B) (3) (e) of this section. 11769

(5) Transactions where the personnel so provided or 11770
supplied by a provider or supplier to a purchaser of an 11771

employment service are then provided or supplied by that 11772
purchaser to a third party as an employment service, except 11773
"employment service" does include the transaction between that 11774
purchaser and the third party. 11775

(KK) "Employment placement service" means locating or 11776
finding employment for a person or finding or locating an 11777
employee to fill an available position. 11778

(LL) "Exterminating service" means eradicating or 11779
attempting to eradicate vermin infestations from a building or 11780
structure, or the area surrounding a building or structure, and 11781
includes activities to inspect, detect, or prevent vermin 11782
infestation of a building or structure. 11783

(MM) "Physical fitness facility service" means all 11784
transactions by which a membership is granted, maintained, or 11785
renewed, including initiation fees, membership dues, renewal 11786
fees, monthly minimum fees, and other similar fees and dues, by 11787
a physical fitness facility such as an athletic club, health 11788
spa, or gymnasium, which entitles the member to use the facility 11789
for physical exercise. 11790

(NN) "Recreation and sports club service" means all 11791
transactions by which a membership is granted, maintained, or 11792
renewed, including initiation fees, membership dues, renewal 11793
fees, monthly minimum fees, and other similar fees and dues, by 11794
a recreation and sports club, which entitles the member to use 11795
the facilities of the organization. "Recreation and sports club" 11796
means an organization that has ownership of, or controls or 11797
leases on a continuing, long-term basis, the facilities used by 11798
its members and includes an aviation club, gun or shooting club, 11799
yacht club, card club, swimming club, tennis club, golf club, 11800
country club, riding club, amateur sports club, or similar 11801

organization. 11802

(OO) "Livestock" means farm animals commonly raised for 11803
food, food production, or other agricultural purposes, 11804
including, but not limited to, cattle, sheep, goats, swine, 11805
poultry, and captive deer. "Livestock" does not include 11806
invertebrates, amphibians, reptiles, domestic pets, animals for 11807
use in laboratories or for exhibition, or other animals not 11808
commonly raised for food or food production. 11809

(PP) "Livestock structure" means a building or structure 11810
used exclusively for the housing, raising, feeding, or 11811
sheltering of livestock, and includes feed storage or handling 11812
structures and structures for livestock waste handling. 11813

(QQ) "Horticulture" means the growing, cultivation, and 11814
production of flowers, fruits, herbs, vegetables, sod, 11815
mushrooms, and nursery stock. As used in this division, "nursery 11816
stock" has the same meaning as in section 927.51 of the Revised 11817
Code. 11818

(RR) "Horticulture structure" means a building or 11819
structure used exclusively for the commercial growing, raising, 11820
or overwintering of horticultural products, and includes the 11821
area used for stocking, storing, and packing horticultural 11822
products when done in conjunction with the production of those 11823
products. 11824

(SS) "Newspaper" means an unbound publication bearing a 11825
title or name that is regularly published, at least as 11826
frequently as biweekly, and distributed from a fixed place of 11827
business to the public in a specific geographic area, and that 11828
contains a substantial amount of news matter of international, 11829
national, or local events of interest to the general public. 11830

(TT) "Peer-to-peer car sharing program" has the same 11831
meaning as in section 4516.01 of the Revised Code. 11832

(UU) (1) "Lease" or "rental" means any transfer of the 11833
possession or control of tangible personal property for a fixed 11834
or indefinite term, for consideration. "Lease" or "rental" 11835
includes future options to purchase or extend, and agreements 11836
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 11837
trailers where the amount of consideration may be increased or 11838
decreased by reference to the amount realized upon the sale or 11839
disposition of the property. "Lease" or "rental" does not 11840
include: 11841

(a) A transfer of possession or control of tangible 11842
personal property under a security agreement or a deferred 11843
payment plan that requires the transfer of title upon completion 11844
of the required payments; 11845

(b) A transfer of possession or control of tangible 11846
personal property under an agreement that requires the transfer 11847
of title upon completion of required payments and payment of an 11848
option price that does not exceed the greater of one hundred 11849
dollars or one per cent of the total required payments; 11850

(c) Providing tangible personal property along with an 11851
operator for a fixed or indefinite period of time, if the 11852
operator is necessary for the property to perform as designed. 11853
For purposes of this division, the operator must do more than 11854
maintain, inspect, or set up the tangible personal property. 11855

(2) "Lease" and "rental," as defined in division (UU) of 11856
this section, shall not apply to leases or rentals that exist 11857
before June 26, 2003. 11858

(3) "Lease" and "rental" have the same meaning as in 11859

division (UU) (1) of this section regardless of whether a 11860
transaction is characterized as a lease or rental under 11861
generally accepted accounting principles, the Internal Revenue 11862
Code, Title XIII of the Revised Code, or other federal, state, 11863
or local laws. 11864

(VV) "Mobile telecommunications service" has the same 11865
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 11866
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 11867
amended, and, on and after August 1, 2003, includes related fees 11868
and ancillary services, including universal service fees, 11869
detailed billing service, directory assistance, service 11870
initiation, voice mail service, and vertical services, such as 11871
caller ID and three-way calling. 11872

(WW) "Certified service provider" has the same meaning as 11873
in section 5740.01 of the Revised Code. 11874

(XX) "Satellite broadcasting service" means the 11875
distribution or broadcasting of programming or services by 11876
satellite directly to the subscriber's receiving equipment 11877
without the use of ground receiving or distribution equipment, 11878
except the subscriber's receiving equipment or equipment used in 11879
the uplink process to the satellite, and includes all service 11880
and rental charges, premium channels or other special services, 11881
installation and repair service charges, and any other charges 11882
having any connection with the provision of the satellite 11883
broadcasting service. 11884

(YY) "Tangible personal property" means personal property 11885
that can be seen, weighed, measured, felt, or touched, or that 11886
is in any other manner perceptible to the senses. For purposes 11887
of this chapter and Chapter 5741. of the Revised Code, "tangible 11888
personal property" includes motor vehicles, electricity, water, 11889

gas, steam, and prewritten computer software. 11890

(ZZ) "Municipal gas utility" means a municipal corporation 11891
that owns or operates a system for the distribution of natural 11892
gas. 11893

(AAA) "Computer" means an electronic device that accepts 11894
information in digital or similar form and manipulates it for a 11895
result based on a sequence of instructions. 11896

(BBB) "Computer software" means a set of coded 11897
instructions designed to cause a computer or automatic data 11898
processing equipment to perform a task. 11899

(CCC) "Delivered electronically" means delivery of 11900
computer software from the seller to the purchaser by means 11901
other than tangible storage media. 11902

(DDD) "Prewritten computer software" means computer 11903
software, including prewritten upgrades, that is not designed 11904
and developed by the author or other creator to the 11905
specifications of a specific purchaser. The combining of two or 11906
more prewritten computer software programs or prewritten 11907
portions thereof does not cause the combination to be other than 11908
prewritten computer software. "Prewritten computer software" 11909
includes software designed and developed by the author or other 11910
creator to the specifications of a specific purchaser when it is 11911
sold to a person other than the purchaser. If a person modifies 11912
or enhances computer software of which the person is not the 11913
author or creator, the person shall be deemed to be the author 11914
or creator only of such person's modifications or enhancements. 11915
Prewritten computer software or a prewritten portion thereof 11916
that is modified or enhanced to any degree, where such 11917
modification or enhancement is designed and developed to the 11918

specifications of a specific purchaser, remains prewritten 11919
computer software; provided, however, that where there is a 11920
reasonable, separately stated charge or an invoice or other 11921
statement of the price given to the purchaser for the 11922
modification or enhancement, the modification or enhancement 11923
shall not constitute prewritten computer software. 11924

(EEE) (1) "Food" means substances, whether in liquid, 11925
concentrated, solid, frozen, dried, or dehydrated form, that are 11926
sold for ingestion or chewing by humans and are consumed for 11927
their taste or nutritional value. "Food" does not include 11928
alcoholic beverages, dietary supplements, soft drinks, or 11929
tobacco. 11930

(2) As used in division (EEE) (1) of this section: 11931

(a) "Alcoholic beverages" means beverages that are 11932
suitable for human consumption and contain one-half of one per 11933
cent or more of alcohol by volume. 11934

(b) "Dietary supplements" means any product, other than 11935
tobacco, that is intended to supplement the diet and that is 11936
intended for ingestion in tablet, capsule, powder, softgel, 11937
gelcap, or liquid form, or, if not intended for ingestion in 11938
such a form, is not represented as conventional food for use as 11939
a sole item of a meal or of the diet; that is required to be 11940
labeled as a dietary supplement, identifiable by the "supplement 11941
facts" box found on the label, as required by 21 C.F.R. 101.36; 11942
and that contains one or more of the following dietary 11943
ingredients: 11944

(i) A vitamin; 11945

(ii) A mineral; 11946

(iii) An herb or other botanical; 11947

(iv) An amino acid;	11948
(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;	11949 11950
(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.	11951 11952 11953
(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.	11954 11955 11956 11957 11958
(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.	11959 11960
(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.	11961 11962 11963 11964 11965 11966 11967 11968 11969
(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.	11970 11971 11972 11973
(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to	11974 11975 11976

serve a medical purpose, generally is not useful to a person in 11977
the absence of illness or injury, and is not worn in or on the 11978
body. "Durable medical equipment" does not include mobility 11979
enhancing equipment. 11980

(III) "Mobility enhancing equipment" means equipment, 11981
including repair and replacement parts for such equipment, that 11982
is primarily and customarily used to provide or increase the 11983
ability to move from one place to another and is appropriate for 11984
use either in a home or a motor vehicle, that is not generally 11985
used by persons with normal mobility, and that does not include 11986
any motor vehicle or equipment on a motor vehicle normally 11987
provided by a motor vehicle manufacturer. "Mobility enhancing 11988
equipment" does not include durable medical equipment. 11989

(JJJ) "Prosthetic device" means a replacement, corrective, 11990
or supportive device, including repair and replacement parts for 11991
the device, worn on or in the human body to artificially replace 11992
a missing portion of the body, prevent or correct physical 11993
deformity or malfunction, or support a weak or deformed portion 11994
of the body. As used in this division, before July 1, 2019, 11995
"prosthetic device" does not include corrective eyeglasses, 11996
contact lenses, or dental prosthesis. On or after July 1, 2019, 11997
"prosthetic device" does not include dental prosthesis but does 11998
include corrective eyeglasses or contact lenses. 11999

(KKK) (1) "Fractional aircraft ownership program" means a 12000
program in which persons within an affiliated group sell and 12001
manage fractional ownership program aircraft, provided that at 12002
least one hundred airworthy aircraft are operated in the program 12003
and the program meets all of the following criteria: 12004

(a) Management services are provided by at least one 12005
program manager within an affiliated group on behalf of the 12006

fractional owners. 12007

(b) Each program aircraft is owned or possessed by at 12008
least one fractional owner. 12009

(c) Each fractional owner owns or possesses at least a 12010
one-sixteenth interest in at least one fixed-wing program 12011
aircraft. 12012

(d) A dry-lease aircraft interchange arrangement is in 12013
effect among all of the fractional owners. 12014

(e) Multi-year program agreements are in effect regarding 12015
the fractional ownership, management services, and dry-lease 12016
aircraft interchange arrangement aspects of the program. 12017

(2) As used in division (KKK) (1) of this section: 12018

(a) "Affiliated group" has the same meaning as in division 12019
(B) (3) (e) of this section. 12020

(b) "Fractional owner" means a person that owns or 12021
possesses at least a one-sixteenth interest in a program 12022
aircraft and has entered into the agreements described in 12023
division (KKK) (1) (e) of this section. 12024

(c) "Fractional ownership program aircraft" or "program 12025
aircraft" means a turbojet aircraft that is owned or possessed 12026
by a fractional owner and that has been included in a dry-lease 12027
aircraft interchange arrangement and agreement under divisions 12028
(KKK) (1) (d) and (e) of this section, or an aircraft a program 12029
manager owns or possesses primarily for use in a fractional 12030
aircraft ownership program. 12031

(d) "Management services" means administrative and 12032
aviation support services furnished under a fractional aircraft 12033
ownership program in accordance with a management services 12034

agreement under division (KKK) (1) (e) of this section, and 12035
offered by the program manager to the fractional owners, 12036
including, at a minimum, the establishment and implementation of 12037
safety guidelines; the coordination of the scheduling of the 12038
program aircraft and crews; program aircraft maintenance; 12039
program aircraft insurance; crew training for crews employed, 12040
furnished, or contracted by the program manager or the 12041
fractional owner; the satisfaction of record-keeping 12042
requirements; and the development and use of an operations 12043
manual and a maintenance manual for the fractional aircraft 12044
ownership program. 12045

(e) "Program manager" means the person that offers 12046
management services to fractional owners pursuant to a 12047
management services agreement under division (KKK) (1) (e) of this 12048
section. 12049

(LLL) "Electronic publishing" means providing access to 12050
one or more of the following primarily for business customers, 12051
including the federal government or a state government or a 12052
political subdivision thereof, to conduct research: news; 12053
business, financial, legal, consumer, or credit materials; 12054
editorials, columns, reader commentary, or features; photos or 12055
images; archival or research material; legal notices, identity 12056
verification, or public records; scientific, educational, 12057
instructional, technical, professional, trade, or other literary 12058
materials; or other similar information which has been gathered 12059
and made available by the provider to the consumer in an 12060
electronic format. Providing electronic publishing includes the 12061
functions necessary for the acquisition, formatting, editing, 12062
storage, and dissemination of data or information that is the 12063
subject of a sale. 12064

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

(QQQ) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (QQQ) of this section:

(1) "Digital audiovisual work" means a series of related images that, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

(2) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds, including digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(3) "Digital book" means a work that is generally 12094
recognized in the ordinary and usual sense as a book. 12095

(4) "Electronically transferred" means obtained by the 12096
purchaser by means other than tangible storage media. 12097

(RRR) "Digital advertising services" means providing 12098
access, by means of telecommunications equipment, to computer 12099
equipment that is used to enter, upload, download, review, 12100
manipulate, store, add, or delete data for the purpose of 12101
electronically displaying, delivering, placing, or transferring 12102
promotional advertisements to potential customers about products 12103
or services or about industry or business brands. 12104

~~(SSS) "Peer to peer car sharing program" has the same 12105~~
~~meaning as in section 4516.01 of the Revised Code. 12106~~

Sec. 5739.011. (A) As used in this section: 12107

(1) "Manufacturer" means a person who is engaged in 12108
manufacturing, processing, assembling, or refining a product for 12109
sale and, solely for the purposes of division (B) (12) of this 12110
section, a person who meets all the qualifications of that 12111
division. 12112

(2) "Manufacturing facility" means a single location where 12113
a manufacturing operation is conducted, including locations 12114
consisting of one or more buildings or structures in a 12115
contiguous area owned or controlled by the manufacturer. 12116

(3) "Materials handling" means the movement of the product 12117
being or to be manufactured, during which movement the product 12118
is not undergoing any substantial change or alteration in its 12119
state or form. 12120

(4) "Testing" means a process or procedure to identify the 12121

properties or assure the quality of a material or product. 12122

(5) "Completed product" means a manufactured item that is 12123
in the form and condition as it will be sold by the 12124
manufacturer. An item is completed when all processes that 12125
change or alter its state or form or enhance its value are 12126
finished, even though the item subsequently will be tested to 12127
ensure its quality or be packaged for storage or shipment. 12128

(6) "Continuous manufacturing operation" means the process 12129
in which raw materials or components are moved through the steps 12130
whereby manufacturing occurs. Materials handling of raw 12131
materials or parts from the point of receipt or preproduction 12132
storage or of a completed product, to or from storage, to or 12133
from packaging, or to the place from which the completed product 12134
will be shipped, is not a part of a continuous manufacturing 12135
operation. 12136

(7) "Food" has the same meaning as in section 3717.01 of 12137
the Revised Code. 12138

(B) For purposes of division (B) (42) (g) of section 5739.02 12139
of the Revised Code, the "thing transferred" includes, but is 12140
not limited to, any of the following: 12141

(1) Production machinery and equipment that act upon the 12142
product or machinery and equipment that treat the materials or 12143
parts in preparation for the manufacturing operation; 12144

(2) Materials handling equipment that moves the product 12145
through a continuous manufacturing operation; equipment that 12146
temporarily stores the product during the manufacturing 12147
operation; or, excluding motor vehicles licensed to operate on 12148
public highways, equipment used in intraplant or interplant 12149
transfers of work in process where the plant or plants between 12150

which such transfers occur are manufacturing facilities operated	12151
by the same person;	12152
(3) Catalysts, solvents, water, acids, oil, and similar	12153
consumables that interact with the product and that are an	12154
integral part of the manufacturing operation;	12155
(4) Machinery, equipment, and other tangible personal	12156
property used during the manufacturing operation that control,	12157
physically support, produce power for, lubricate, or are	12158
otherwise necessary for the functioning of production machinery	12159
and equipment and the continuation of the manufacturing	12160
operation;	12161
(5) Machinery, equipment, fuel, power, material, parts,	12162
and other tangible personal property used to manufacture	12163
machinery, equipment, or other tangible personal property used	12164
in manufacturing a product for sale;	12165
(6) Machinery, equipment, and other tangible personal	12166
property used by a manufacturer to test raw materials, the	12167
product being manufactured, or the completed product;	12168
(7) Machinery and equipment used to handle or temporarily	12169
store scrap that is intended to be reused in the manufacturing	12170
operation at the same manufacturing facility;	12171
(8) Coke, gas, water, steam, and similar substances used	12172
in the manufacturing operation; machinery and equipment used	12173
for, and fuel consumed in, producing or extracting those	12174
substances; machinery, equipment, and other tangible personal	12175
property used to treat, filter, pump, or otherwise make the	12176
substance suitable for use in the manufacturing operation; and	12177
machinery and equipment used for, and fuel consumed in,	12178
producing electricity for use in the manufacturing operation;	12179

(9) Machinery, equipment, and other tangible personal	12180
property used to transport or transmit electricity, coke, gas,	12181
water, steam, or similar substances used in the manufacturing	12182
operation from the point of generation, if produced by the	12183
manufacturer, or from the point where the substance enters the	12184
manufacturing facility, if purchased by the manufacturer, to the	12185
manufacturing operation;	12186
(10) Machinery, equipment, and other tangible personal	12187
property that treats, filters, cools, refines, or otherwise	12188
renders water, steam, acid, oil, solvents, or similar substances	12189
used in the manufacturing operation reusable, provided that the	12190
substances are intended for reuse and not for disposal, sale, or	12191
transportation from the manufacturing facility;	12192
(11) Parts, components, and repair and installation	12193
services for items described in division (B) of this section;	12194
(12) Machinery and equipment, detergents, supplies,	12195
solvents, and any other tangible personal property located at a	12196
manufacturing facility that are used in the process of removing	12197
soil, dirt, or other contaminants from, or otherwise preparing	12198
in a suitable condition for use, towels, linens, articles of	12199
clothing, floor mats, mop heads, or other similar items, to be	12200
supplied to a consumer as part of laundry and dry cleaning	12201
services as defined in division (BB) of section 5739.01 of the	12202
Revised Code , only when the towels, linens, articles of	12203
clothing, floor mats, mop heads, or other similar items belong	12204
to the provider of the services;	12205
(13) Equipment and supplies used to clean processing	12206
equipment that is part of a continuous manufacturing operation	12207
to produce food for human consumption.	12208

- (C) For purposes of division (B) (42) (g) of section 5739.02 12209
of the Revised Code, the "thing transferred" does not include 12210
any of the following: 12211
- (1) Tangible personal property used in administrative, 12212
personnel, security, inventory control, record-keeping, 12213
ordering, billing, or similar functions; 12214
- (2) Tangible personal property used in storing raw 12215
materials or parts prior to the commencement of the 12216
manufacturing operation or used to handle or store a completed 12217
product, including storage that actively maintains a completed 12218
product in a marketable state or form; 12219
- (3) Tangible personal property used to handle or store 12220
scrap or waste intended for disposal, sale, or other 12221
disposition, other than reuse in the manufacturing operation at 12222
the same manufacturing facility; 12223
- (4) Tangible personal property that is or is to be 12224
incorporated into realty; 12225
- (5) Machinery, equipment, and other tangible personal 12226
property used for ventilation, dust or gas collection, humidity 12227
or temperature regulation, or similar environmental control, 12228
except machinery, equipment, and other tangible personal 12229
property that totally regulates the environment in a special and 12230
limited area of the manufacturing facility where the regulation 12231
is essential for production to occur; 12232
- (6) Tangible personal property used for the protection and 12233
safety of workers, unless the property is attached to or 12234
incorporated into machinery and equipment used in a continuous 12235
manufacturing operation; 12236
- (7) Tangible personal property used to store fuel, water, 12237

solvents, acid, oil, or similar items consumed in the 12238
manufacturing operation; 12239

(8) Except as provided in division (B) (13) of this 12240
section, machinery, equipment, and other tangible personal 12241
property used to clean, repair, or maintain real or personal 12242
property in the manufacturing facility; 12243

(9) Motor vehicles registered for operation on public 12244
highways. 12245

(D) For purposes of division (B) (42) (g) of section 5739.02 12246
of the Revised Code, if the "thing transferred" is a machine 12247
used by a manufacturer in both a taxable and an exempt manner, 12248
it shall be totally taxable or totally exempt from taxation 12249
based upon its quantified primary use. If the "things 12250
transferred" are fungibles, they shall be taxed based upon the 12251
proportion of the fungibles used in a taxable manner. 12252

Sec. 5739.02. For the purpose of providing revenue with 12253
which to meet the needs of the state, for the use of the general 12254
revenue fund of the state, for the purpose of securing a 12255
thorough and efficient system of common schools throughout the 12256
state, for the purpose of affording revenues, in addition to 12257
those from general property taxes, permitted under 12258
constitutional limitations, and from other sources, for the 12259
support of local governmental functions, and for the purpose of 12260
reimbursing the state for the expense of administering this 12261
chapter, an excise tax is hereby levied on each retail sale made 12262
in this state. 12263

(A) (1) The tax shall be collected as provided in section 12264
5739.025 of the Revised Code. The rate of the tax shall be five 12265
and three-fourths per cent. The tax applies and is collectible 12266

when the sale is made, regardless of the time when the price is 12267
paid or delivered. 12268

(2) In the case of the lease or rental, with a fixed term 12269
of more than thirty days or an indefinite term with a minimum 12270
period of more than thirty days, of any motor vehicles designed 12271
by the manufacturer to carry a load of not more than one ton, 12272
watercraft, outboard motor, or aircraft, or of any tangible 12273
personal property, other than motor vehicles designed by the 12274
manufacturer to carry a load of more than one ton, to be used by 12275
the lessee or renter primarily for business purposes, the tax 12276
shall be collected by the vendor at the time the lease or rental 12277
is consummated and shall be calculated by the vendor on the 12278
basis of the total amount to be paid by the lessee or renter 12279
under the lease agreement. If the total amount of the 12280
consideration for the lease or rental includes amounts that are 12281
not calculated at the time the lease or rental is executed, the 12282
tax shall be calculated and collected by the vendor at the time 12283
such amounts are billed to the lessee or renter. In the case of 12284
an open-end lease or rental, the tax shall be calculated by the 12285
vendor on the basis of the total amount to be paid during the 12286
initial fixed term of the lease or rental, and for each 12287
subsequent renewal period as it comes due. As used in this 12288
division, "motor vehicle" has the same meaning as in section 12289
4501.01 of the Revised Code, and "watercraft" includes an 12290
outdrive unit attached to the watercraft. 12291

A lease with a renewal clause and a termination penalty or 12292
similar provision that applies if the renewal clause is not 12293
exercised is presumed to be a sham transaction. In such a case, 12294
the tax shall be calculated and paid on the basis of the entire 12295
length of the lease period, including any renewal periods, until 12296
the termination penalty or similar provision no longer applies. 12297

The taxpayer shall bear the burden, by a preponderance of the 12298
evidence, that the transaction or series of transactions is not 12299
a sham transaction. 12300

(3) Except as provided in division (A) (2) of this section, 12301
in the case of a sale, the price of which consists in whole or 12302
in part of the lease or rental of tangible personal property, 12303
the tax shall be measured by the installments of that lease or 12304
rental. 12305

(4) In the case of a sale of a physical fitness facility 12306
service or recreation and sports club service, the price of 12307
which consists in whole or in part of a membership for the 12308
receipt of the benefit of the service, the tax applicable to the 12309
sale shall be measured by the installments thereof. 12310

(B) The tax does not apply to the following: 12311

(1) Sales to the state or any of its political 12312
subdivisions, or to any other state or its political 12313
subdivisions if the laws of that state exempt from taxation 12314
sales made to this state and its political subdivisions; 12315

(2) Sales of food for human consumption off the premises 12316
where sold; 12317

(3) Sales of food sold to students only in a cafeteria, 12318
dormitory, fraternity, or sorority maintained in a private, 12319
public, or parochial school, college, or university; 12320

(4) Sales of newspapers and sales or transfers of 12321
magazines distributed as controlled circulation publications; 12322

(5) The furnishing, preparing, or serving of meals without 12323
charge by an employer to an employee provided the employer 12324
records the meals as part compensation for services performed or 12325

work done; 12326

(6) (a) Sales of motor fuel upon receipt, use, 12327
distribution, or sale of which in this state a tax is imposed by 12328
the law of this state, but this exemption shall not apply to the 12329
sale of motor fuel on which a refund of the tax is allowable 12330
under division (A) of section 5735.14 of the Revised Code; and 12331
the tax commissioner may deduct the amount of tax levied by this 12332
section applicable to the price of motor fuel when granting a 12333
refund of motor fuel tax pursuant to division (A) of section 12334
5735.14 of the Revised Code and shall cause the amount deducted 12335
to be paid into the general revenue fund of this state; 12336

(b) Sales of motor fuel other than that described in 12337
division (B) (6) (a) of this section and used for powering a 12338
refrigeration unit on a vehicle other than one used primarily to 12339
provide comfort to the operator or occupants of the vehicle. 12340

(7) Sales of natural gas by a natural gas company or 12341
municipal gas utility, of water by a water-works company, or of 12342
steam by a heating company, if in each case the thing sold is 12343
delivered to consumers through pipes or conduits, and all sales 12344
of communications services by a telegraph company, all terms as 12345
defined in section 5727.01 of the Revised Code, and sales of 12346
electricity delivered through wires; 12347

(8) Casual sales by a person, or auctioneer employed 12348
directly by the person to conduct such sales, except as to such 12349
sales of motor vehicles, watercraft or outboard motors required 12350
to be titled under section 1548.06 of the Revised Code, 12351
watercraft documented with the United States coast guard, 12352
snowmobiles, and all-purpose vehicles as defined in section 12353
4519.01 of the Revised Code; 12354

(9) (a) Sales of services or tangible personal property, 12355
other than motor vehicles, mobile homes, and manufactured homes, 12356
by churches, organizations exempt from taxation under section 12357
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 12358
organizations operated exclusively for charitable purposes as 12359
defined in division (B) (12) of this section, provided that the 12360
number of days on which such tangible personal property or 12361
services, other than items never subject to the tax, are sold 12362
does not exceed six in any calendar year, except as otherwise 12363
provided in division (B) (9) (b) of this section. If the number of 12364
days on which such sales are made exceeds six in any calendar 12365
year, the church or organization shall be considered to be 12366
engaged in business and all subsequent sales by it shall be 12367
subject to the tax. In counting the number of days, all sales by 12368
groups within a church or within an organization shall be 12369
considered to be sales of that church or organization. 12370

(b) The limitation on the number of days on which tax- 12371
exempt sales may be made by a church or organization under 12372
division (B) (9) (a) of this section does not apply to sales made 12373
by student clubs and other groups of students of a primary or 12374
secondary school, or a parent-teacher association, booster 12375
group, or similar organization that raises money to support or 12376
fund curricular or extracurricular activities of a primary or 12377
secondary school. 12378

(c) Divisions (B) (9) (a) and (b) of this section do not 12379
apply to sales by a noncommercial educational radio or 12380
television broadcasting station. 12381

(10) Sales not within the taxing power of this state under 12382
the Constitution or laws of the United States or the 12383
Constitution of this state; 12384

(11) Except for transactions that are sales under division 12385
(B) (3) (r) of section 5739.01 of the Revised Code, the 12386
transportation of persons or property, unless the transportation 12387
is by a private investigation and security service; 12388

(12) Sales of tangible personal property or services to 12389
churches, to organizations exempt from taxation under section 12390
501(c) (3) of the Internal Revenue Code of 1986, and to any other 12391
nonprofit organizations operated exclusively for charitable 12392
purposes in this state, no part of the net income of which 12393
inures to the benefit of any private shareholder or individual, 12394
and no substantial part of the activities of which consists of 12395
carrying on propaganda or otherwise attempting to influence 12396
legislation; sales to offices administering one or more homes 12397
for the aged or one or more hospital facilities exempt under 12398
section 140.08 of the Revised Code; and sales to organizations 12399
described in division (D) of section 5709.12 of the Revised 12400
Code. 12401

"Charitable purposes" means the relief of poverty; the 12402
improvement of health through the alleviation of illness, 12403
disease, or injury; the operation of an organization exclusively 12404
for the provision of professional, laundry, printing, and 12405
purchasing services to hospitals or charitable institutions; the 12406
operation of a home for the aged, as defined in section 5701.13 12407
of the Revised Code; the operation of a radio or television 12408
broadcasting station that is licensed by the federal 12409
communications commission as a noncommercial educational radio 12410
or television station; the operation of a nonprofit animal 12411
adoption service or a county humane society; the promotion of 12412
education by an institution of learning that maintains a faculty 12413
of qualified instructors, teaches regular continuous courses of 12414
study, and confers a recognized diploma upon completion of a 12415

specific curriculum; the operation of a parent-teacher 12416
association, booster group, or similar organization primarily 12417
engaged in the promotion and support of the curricular or 12418
extracurricular activities of a primary or secondary school; the 12419
operation of a community or area center in which presentations 12420
in music, dramatics, the arts, and related fields are made in 12421
order to foster public interest and education therein; the 12422
production of performances in music, dramatics, and the arts; or 12423
the promotion of education by an organization engaged in 12424
carrying on research in, or the dissemination of, scientific and 12425
technological knowledge and information primarily for the 12426
public. 12427

Nothing in this division shall be deemed to exempt sales 12428
to any organization for use in the operation or carrying on of a 12429
trade or business, or sales to a home for the aged for use in 12430
the operation of independent living facilities as defined in 12431
division (A) of section 5709.12 of the Revised Code. 12432

(13) Building and construction materials and services sold 12433
to construction contractors for incorporation into a structure 12434
or improvement to real property under a construction contract 12435
with this state or a political subdivision of this state, or 12436
with the United States government or any of its agencies; 12437
building and construction materials and services sold to 12438
construction contractors for incorporation into a structure or 12439
improvement to real property that are accepted for ownership by 12440
this state or any of its political subdivisions, or by the 12441
United States government or any of its agencies at the time of 12442
completion of the structures or improvements; building and 12443
construction materials sold to construction contractors for 12444
incorporation into a horticulture structure or livestock 12445
structure for a person engaged in the business of horticulture 12446

or producing livestock; building materials and services sold to 12447
a construction contractor for incorporation into a house of 12448
public worship or religious education, or a building used 12449
exclusively for charitable purposes under a construction 12450
contract with an organization whose purpose is as described in 12451
division (B) (12) of this section; building materials and 12452
services sold to a construction contractor for incorporation 12453
into a building under a construction contract with an 12454
organization exempt from taxation under section 501(c) (3) of the 12455
Internal Revenue Code of 1986 when the building is to be used 12456
exclusively for the organization's exempt purposes; building and 12457
construction materials sold for incorporation into the original 12458
construction of a sports facility under section 307.696 of the 12459
Revised Code; building and construction materials and services 12460
sold to a construction contractor for incorporation into real 12461
property outside this state if such materials and services, when 12462
sold to a construction contractor in the state in which the real 12463
property is located for incorporation into real property in that 12464
state, would be exempt from a tax on sales levied by that state; 12465
building and construction materials for incorporation into a 12466
transportation facility pursuant to a public-private agreement 12467
entered into under sections 5501.70 to 5501.83 of the Revised 12468
Code; and, until one calendar year after the construction of a 12469
convention center that qualifies for property tax exemption 12470
under section 5709.084 of the Revised Code is completed, 12471
building and construction materials and services sold to a 12472
construction contractor for incorporation into the real property 12473
comprising that convention center; 12474

(14) Sales of ships or vessels or rail rolling stock used 12475
or to be used principally in interstate or foreign commerce, and 12476
repairs, alterations, fuel, and lubricants for such ships or 12477

vessels or rail rolling stock; 12478

(15) Sales to persons primarily engaged in any of the 12479
activities mentioned in division (B) (42) (a), (g), or (h) of this 12480
section, to persons engaged in making retail sales, or to 12481
persons who purchase for sale from a manufacturer tangible 12482
personal property that was produced by the manufacturer in 12483
accordance with specific designs provided by the purchaser, of 12484
packages, including material, labels, and parts for packages, 12485
and of machinery, equipment, and material for use primarily in 12486
packaging tangible personal property produced for sale, 12487
including any machinery, equipment, and supplies used to make 12488
labels or packages, to prepare packages or products for 12489
labeling, or to label packages or products, by or on the order 12490
of the person doing the packaging, or sold at retail. "Packages" 12491
includes bags, baskets, cartons, crates, boxes, cans, bottles, 12492
bindings, wrappings, and other similar devices and containers, 12493
but does not include motor vehicles or bulk tanks, trailers, or 12494
similar devices attached to motor vehicles. "Packaging" means 12495
placing in a package. Division (B) (15) of this section does not 12496
apply to persons engaged in highway transportation for hire. 12497

(16) Sales of food to persons using supplemental nutrition 12498
assistance program benefits to purchase the food. As used in 12499
this division, "food" has the same meaning as in 7 U.S.C. 2012 12500
and federal regulations adopted pursuant to the Food and 12501
Nutrition Act of 2008. 12502

(17) Sales to persons engaged in farming, agriculture, 12503
horticulture, or floriculture, of tangible personal property for 12504
use or consumption primarily in the production by farming, 12505
agriculture, horticulture, or floriculture of other tangible 12506
personal property for use or consumption primarily in the 12507

production of tangible personal property for sale by farming, 12508
agriculture, horticulture, or floriculture; or material and 12509
parts for incorporation into any such tangible personal property 12510
for use or consumption in production; and of tangible personal 12511
property for such use or consumption in the conditioning or 12512
holding of products produced by and for such use, consumption, 12513
or sale by persons engaged in farming, agriculture, 12514
horticulture, or floriculture, except where such property is 12515
incorporated into real property; 12516

(18) Sales of drugs for a human being that may be 12517
dispensed only pursuant to a prescription; insulin as recognized 12518
in the official United States pharmacopoeia; urine and blood 12519
testing materials when used by diabetics or persons with 12520
hypoglycemia to test for glucose or acetone; hypodermic syringes 12521
and needles when used by diabetics for insulin injections; 12522
epoetin alfa when purchased for use in the treatment of persons 12523
with medical disease; hospital beds when purchased by hospitals, 12524
nursing homes, or other medical facilities; and medical oxygen 12525
and medical oxygen-dispensing equipment when purchased by 12526
hospitals, nursing homes, or other medical facilities; 12527

(19) Sales of prosthetic devices, durable medical 12528
equipment for home use, or mobility enhancing equipment, when 12529
made pursuant to a prescription and when such devices or 12530
equipment are for use by a human being. 12531

(20) Sales of emergency and fire protection vehicles and 12532
equipment to nonprofit organizations for use solely in providing 12533
fire protection and emergency services, including trauma care 12534
and emergency medical services, for political subdivisions of 12535
the state; 12536

(21) Sales of tangible personal property manufactured in 12537

this state, if sold by the manufacturer in this state to a 12538
retailer for use in the retail business of the retailer outside 12539
of this state and if possession is taken from the manufacturer 12540
by the purchaser within this state for the sole purpose of 12541
immediately removing the same from this state in a vehicle owned 12542
by the purchaser; 12543

(22) Sales of services provided by the state or any of its 12544
political subdivisions, agencies, instrumentalities, 12545
institutions, or authorities, or by governmental entities of the 12546
state or any of its political subdivisions, agencies, 12547
instrumentalities, institutions, or authorities; 12548

(23) Sales of motor vehicles to nonresidents of this state 12549
under the circumstances described in division (B) of section 12550
5739.029 of the Revised Code; 12551

(24) Sales to persons engaged in the preparation of eggs 12552
for sale of tangible personal property used or consumed directly 12553
in such preparation, including such tangible personal property 12554
used for cleaning, sanitizing, preserving, grading, sorting, and 12555
classifying by size; packages, including material and parts for 12556
packages, and machinery, equipment, and material for use in 12557
packaging eggs for sale; and handling and transportation 12558
equipment and parts therefor, except motor vehicles licensed to 12559
operate on public highways, used in intraplant or interplant 12560
transfers or shipment of eggs in the process of preparation for 12561
sale, when the plant or plants within or between which such 12562
transfers or shipments occur are operated by the same person. 12563
"Packages" includes containers, cases, baskets, flats, fillers, 12564
filler flats, cartons, closure materials, labels, and labeling 12565
materials, and "packaging" means placing therein. 12566

(25) (a) Sales of water to a consumer for residential use; 12567

(b) Sales of water by a nonprofit corporation engaged 12568
exclusively in the treatment, distribution, and sale of water to 12569
consumers, if such water is delivered to consumers through pipes 12570
or tubing. 12571

(26) Fees charged for inspection or reinspection of motor 12572
vehicles under section 3704.14 of the Revised Code; 12573

(27) Sales to persons licensed to conduct a food service 12574
operation pursuant to section 3717.43 of the Revised Code, of 12575
tangible personal property primarily used directly for the 12576
following: 12577

(a) To prepare food for human consumption for sale; 12578

(b) To preserve food that has been or will be prepared for 12579
human consumption for sale by the food service operator, not 12580
including tangible personal property used to display food for 12581
selection by the consumer; 12582

(c) To clean tangible personal property used to prepare or 12583
serve food for human consumption for sale. 12584

(28) Sales of animals by nonprofit animal adoption 12585
services or county humane societies; 12586

(29) Sales of services to a corporation described in 12587
division (A) of section 5709.72 of the Revised Code, and sales 12588
of tangible personal property that qualifies for exemption from 12589
taxation under section 5709.72 of the Revised Code; 12590

(30) Sales and installation of agricultural land tile, as 12591
defined in division (B) (5) (a) of section 5739.01 of the Revised 12592
Code; 12593

(31) Sales and erection or installation of portable grain 12594
bins, as defined in division (B) (5) (b) of section 5739.01 of the 12595

Revised Code; 12596

(32) The sale, lease, repair, and maintenance of, parts 12597
for, or items attached to or incorporated in, motor vehicles 12598
that are primarily used for transporting tangible personal 12599
property belonging to others by a person engaged in highway 12600
transportation for hire, except for packages and packaging used 12601
for the transportation of tangible personal property; 12602

(33) Sales to the state headquarters of any veterans' 12603
organization in this state that is either incorporated and 12604
issued a charter by the congress of the United States or is 12605
recognized by the United States veterans administration, for use 12606
by the headquarters; 12607

(34) Sales to a telecommunications service vendor, mobile 12608
telecommunications service vendor, or satellite broadcasting 12609
service vendor of tangible personal property and services used 12610
directly and primarily in transmitting, receiving, switching, or 12611
recording any interactive, one- or two-way electromagnetic 12612
communications, including voice, image, data, and information, 12613
through the use of any medium, including, but not limited to, 12614
poles, wires, cables, switching equipment, computers, and record 12615
storage devices and media, and component parts for the tangible 12616
personal property. The exemption provided in this division shall 12617
be in lieu of all other exemptions under division (B) (42) (a) or 12618
(n) of this section to which the vendor may otherwise be 12619
entitled, based upon the use of the thing purchased in providing 12620
the telecommunications, mobile telecommunications, or satellite 12621
broadcasting service. 12622

(35) (a) Sales where the purpose of the consumer is to use 12623
or consume the things transferred in making retail sales and 12624
consisting of newspaper inserts, catalogues, coupons, flyers, 12625

gift certificates, or other advertising material that prices and 12626
describes tangible personal property offered for retail sale. 12627

(b) Sales to direct marketing vendors of preliminary 12628
materials such as photographs, artwork, and typesetting that 12629
will be used in printing advertising material; and of printed 12630
matter that offers free merchandise or chances to win sweepstake 12631
prizes and that is mailed to potential customers with 12632
advertising material described in division (B) (35) (a) of this 12633
section; 12634

(c) Sales of equipment such as telephones, computers, 12635
facsimile machines, and similar tangible personal property 12636
primarily used to accept orders for direct marketing retail 12637
sales. 12638

(d) Sales of automatic food vending machines that preserve 12639
food with a shelf life of forty-five days or less by 12640
refrigeration and dispense it to the consumer. 12641

For purposes of division (B) (35) of this section, "direct 12642
marketing" means the method of selling where consumers order 12643
tangible personal property by United States mail, delivery 12644
service, or telecommunication and the vendor delivers or ships 12645
the tangible personal property sold to the consumer from a 12646
warehouse, catalogue distribution center, or similar fulfillment 12647
facility by means of the United States mail, delivery service, 12648
or common carrier. 12649

(36) Sales to a person engaged in the business of 12650
horticulture or producing livestock of materials to be 12651
incorporated into a horticulture structure or livestock 12652
structure; 12653

(37) Sales of personal computers, computer monitors, 12654

computer keyboards, modems, and other peripheral computer 12655
equipment to an individual who is licensed or certified to teach 12656
in an elementary or a secondary school in this state for use by 12657
that individual in preparation for teaching elementary or 12658
secondary school students; 12659

(38) Sales of tangible personal property that is not 12660
required to be registered or licensed under the laws of this 12661
state to a citizen of a foreign nation that is not a citizen of 12662
the United States, provided the property is delivered to a 12663
person in this state that is not a related member of the 12664
purchaser, is physically present in this state for the sole 12665
purpose of temporary storage and package consolidation, and is 12666
subsequently delivered to the purchaser at a delivery address in 12667
a foreign nation. As used in division (B) (38) of this section, 12668
"related member" has the same meaning as in section 5733.042 of 12669
the Revised Code, and "temporary storage" means the storage of 12670
tangible personal property for a period of not more than sixty 12671
days. 12672

(39) Sales of used manufactured homes and used mobile 12673
homes, as defined in section 5739.0210 of the Revised Code, made 12674
on or after January 1, 2000; 12675

(40) Sales of tangible personal property and services to a 12676
provider of electricity used or consumed directly and primarily 12677
in generating, transmitting, or distributing electricity for use 12678
by others, including property that is or is to be incorporated 12679
into and will become a part of the consumer's production, 12680
transmission, or distribution system and that retains its 12681
classification as tangible personal property after 12682
incorporation; fuel or power used in the production, 12683
transmission, or distribution of electricity; energy conversion 12684

equipment as defined in section 5727.01 of the Revised Code; and 12685
tangible personal property and services used in the repair and 12686
maintenance of the production, transmission, or distribution 12687
system, including only those motor vehicles as are specially 12688
designed and equipped for such use. The exemption provided in 12689
this division shall be in lieu of all other exemptions in 12690
division (B) (42) (a) or (n) of this section to which a provider 12691
of electricity may otherwise be entitled based on the use of the 12692
tangible personal property or service purchased in generating, 12693
transmitting, or distributing electricity. 12694

(41) Sales to a person providing services under division 12695
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 12696
personal property and services used directly and primarily in 12697
providing taxable services under that section. 12698

(42) Sales where the purpose of the purchaser is to do any 12699
of the following: 12700

(a) To incorporate the thing transferred as a material or 12701
a part into tangible personal property to be produced for sale 12702
by manufacturing, assembling, processing, or refining; or to use 12703
or consume the thing transferred directly in producing tangible 12704
personal property for sale by mining, including, without 12705
limitation, the extraction from the earth of all substances that 12706
are classed geologically as minerals, or directly in the 12707
rendition of a public utility service, except that the sales tax 12708
levied by this section shall be collected upon all meals, 12709
drinks, and food for human consumption sold when transporting 12710
persons. This paragraph does not exempt from "retail sale" or 12711
"sales at retail" the sale of tangible personal property that is 12712
to be incorporated into a structure or improvement to real 12713
property. 12714

(b) To hold the thing transferred as security for the	12715
performance of an obligation of the vendor;	12716
(c) To resell, hold, use, or consume the thing transferred	12717
as evidence of a contract of insurance;	12718
(d) To use or consume the thing directly in commercial	12719
fishing;	12720
(e) To incorporate the thing transferred as a material or	12721
a part into, or to use or consume the thing transferred directly	12722
in the production of, magazines distributed as controlled	12723
circulation publications;	12724
(f) To use or consume the thing transferred in the	12725
production and preparation in suitable condition for market and	12726
sale of printed, imprinted, overprinted, lithographic,	12727
multilithic, blueprinted, photostatic, or other productions or	12728
reproductions of written or graphic matter;	12729
(g) To use the thing transferred, as described in section	12730
5739.011 of the Revised Code, primarily in a manufacturing	12731
operation to produce tangible personal property for sale;	12732
(h) To use the benefit of a warranty, maintenance or	12733
service contract, or similar agreement, as described in division	12734
(B) (7) of section 5739.01 of the Revised Code, to repair or	12735
maintain tangible personal property, if all of the property that	12736
is the subject of the warranty, contract, or agreement would not	12737
be subject to the tax imposed by this section;	12738
(i) To use the thing transferred as qualified research and	12739
development equipment;	12740
(j) To use or consume the thing transferred primarily in	12741
storing, transporting, mailing, or otherwise handling purchased	12742

sales inventory in a warehouse, distribution center, or similar 12743
facility when the inventory is primarily distributed outside 12744
this state to retail stores of the person who owns or controls 12745
the warehouse, distribution center, or similar facility, to 12746
retail stores of an affiliated group of which that person is a 12747
member, or by means of direct marketing. This division does not 12748
apply to motor vehicles registered for operation on the public 12749
highways. As used in this division, "affiliated group" has the 12750
same meaning as in division (B) (3) (e) of section 5739.01 of the 12751
Revised Code and "direct marketing" has the same meaning as in 12752
division (B) (35) of this section. 12753

(k) To use or consume the thing transferred to fulfill a 12754
contractual obligation incurred by a warrantor pursuant to a 12755
warranty provided as a part of the price of the tangible 12756
personal property sold or by a vendor of a warranty, maintenance 12757
or service contract, or similar agreement the provision of which 12758
is defined as a sale under division (B) (7) of section 5739.01 of 12759
the Revised Code; 12760

(l) To use or consume the thing transferred in the 12761
production of a newspaper for distribution to the public; 12762

(m) To use tangible personal property to perform a service 12763
listed in division (B) (3) of section 5739.01 of the Revised 12764
Code, if the property is or is to be permanently transferred to 12765
the consumer of the service as an integral part of the 12766
performance of the service; 12767

(n) To use or consume the thing transferred primarily in 12768
producing tangible personal property for sale by farming, 12769
agriculture, horticulture, or floriculture. Persons engaged in 12770
rendering farming, agriculture, horticulture, or floriculture 12771
services for others are deemed engaged primarily in farming, 12772

agriculture, horticulture, or floriculture. This paragraph does 12773
not exempt from "retail sale" or "sales at retail" the sale of 12774
tangible personal property that is to be incorporated into a 12775
structure or improvement to real property. 12776

(o) To use or consume the thing transferred in acquiring, 12777
formatting, editing, storing, and disseminating data or 12778
information by electronic publishing; 12779

(p) To provide the thing transferred to the owner or 12780
lessee of a motor vehicle that is being repaired or serviced, if 12781
the thing transferred is a rented motor vehicle and the 12782
purchaser is reimbursed for the cost of the rented motor vehicle 12783
by a manufacturer, warrantor, or provider of a maintenance, 12784
service, or other similar contract or agreement, with respect to 12785
the motor vehicle that is being repaired or serviced; 12786

(q) To use or consume the thing transferred directly in 12787
production of crude oil and natural gas for sale. Persons 12788
engaged in rendering production services for others are deemed 12789
engaged in production. 12790

As used in division (B) (42) (q) of this section, 12791
"production" means operations and tangible personal property 12792
directly used to expose and evaluate an underground reservoir 12793
that may contain hydrocarbon resources, prepare the wellbore for 12794
production, and lift and control all substances yielded by the 12795
reservoir to the surface of the earth. 12796

(i) For the purposes of division (B) (42) (q) of this 12797
section, the "thing transferred" includes, but is not limited 12798
to, any of the following: 12799

(I) Services provided in the construction of permanent 12800
access roads, services provided in the construction of the well 12801

site, and services provided in the construction of temporary	12802
impoundments;	12803
(II) Equipment and rigging used for the specific purpose	12804
of creating with integrity a wellbore pathway to underground	12805
reservoirs;	12806
(III) Drilling and workover services used to work within a	12807
subsurface wellbore, and tangible personal property directly	12808
used in providing such services;	12809
(IV) Casing, tubulars, and float and centralizing	12810
equipment;	12811
(V) Trailers to which production equipment is attached;	12812
(VI) Well completion services, including cementing of	12813
casing, and tangible personal property directly used in	12814
providing such services;	12815
(VII) Wireline evaluation, mud logging, and perforation	12816
services, and tangible personal property directly used in	12817
providing such services;	12818
(VIII) Reservoir stimulation, hydraulic fracturing, and	12819
acidizing services, and tangible personal property directly used	12820
in providing such services, including all material pumped	12821
downhole;	12822
(IX) Pressure pumping equipment;	12823
(X) Artificial lift systems equipment;	12824
(XI) Wellhead equipment and well site equipment used to	12825
separate, stabilize, and control hydrocarbon phases and produced	12826
water;	12827
(XII) Tangible personal property directly used to control	12828

production equipment. 12829

(ii) For the purposes of division (B) (42) (q) of this 12830
section, the "thing transferred" does not include any of the 12831
following: 12832

(I) Tangible personal property used primarily in the 12833
exploration and production of any mineral resource regulated 12834
under Chapter 1509. of the Revised Code other than oil or gas; 12835

(II) Tangible personal property used primarily in storing, 12836
holding, or delivering solutions or chemicals used in well 12837
stimulation as defined in section 1509.01 of the Revised Code; 12838

(III) Tangible personal property used primarily in 12839
preparing, installing, or reclaiming foundations for drilling or 12840
pumping equipment or well stimulation material tanks; 12841

(IV) Tangible personal property used primarily in 12842
transporting, delivering, or removing equipment to or from the 12843
well site or storing such equipment before its use at the well 12844
site; 12845

(V) Tangible personal property used primarily in gathering 12846
operations occurring off the well site, including gathering 12847
pipelines transporting hydrocarbon gas or liquids away from a 12848
crude oil or natural gas production facility; 12849

(VI) Tangible personal property that is to be incorporated 12850
into a structure or improvement to real property; 12851

(VII) Well site fencing, lighting, or security systems; 12852

(VIII) Communication devices or services; 12853

(IX) Office supplies; 12854

(X) Trailers used as offices or lodging; 12855

(XI) Motor vehicles of any kind;	12856
(XII) Tangible personal property used primarily for the	12857
storage of drilling byproducts and fuel not used for production;	12858
(XIII) Tangible personal property used primarily as a	12859
safety device;	12860
(XIV) Data collection or monitoring devices;	12861
(XV) Access ladders, stairs, or platforms attached to	12862
storage tanks.	12863
The enumeration of tangible personal property in division	12864
(B) (42) (q) (ii) of this section is not intended to be exhaustive,	12865
and any tangible personal property not so enumerated shall not	12866
necessarily be construed to be a "thing transferred" for the	12867
purposes of division (B) (42) (q) of this section.	12868
The commissioner shall adopt and promulgate rules under	12869
sections 119.01 to 119.13 of the Revised Code that the	12870
commissioner deems necessary to administer division (B) (42) (q)	12871
of this section.	12872
As used in division (B) (42) of this section, "thing"	12873
includes all transactions included in divisions (B) (3) (a), (b),	12874
and (e) of section 5739.01 of the Revised Code.	12875
(43) Sales conducted through a coin operated device that	12876
activates vacuum equipment or equipment that dispenses water,	12877
whether or not in combination with soap or other cleaning agents	12878
or wax, to the consumer for the consumer's use on the premises	12879
in washing, cleaning, or waxing a motor vehicle, provided no	12880
other personal property or personal service is provided as part	12881
of the transaction.	12882
(44) Sales of replacement and modification parts for	12883

engines, airframes, instruments, and interiors in, and paint 12884
for, aircraft used primarily in a fractional aircraft ownership 12885
program, and sales of services for the repair, modification, and 12886
maintenance of such aircraft, and machinery, equipment, and 12887
supplies primarily used to provide those services. 12888

(45) Sales of telecommunications service that is used 12889
directly and primarily to perform the functions of a call 12890
center. As used in this division, "call center" means any 12891
physical location where telephone calls are placed or received 12892
in high volume for the purpose of making sales, marketing, 12893
customer service, technical support, or other specialized 12894
business activity, and that employs at least fifty individuals 12895
that engage in call center activities on a full-time basis, or 12896
sufficient individuals to fill fifty full-time equivalent 12897
positions. 12898

(46) Sales by a telecommunications service vendor of 900 12899
service to a subscriber. This division does not apply to 12900
information services, ~~as defined in division (FF) of section~~ 12901
~~5739.01 of the Revised Code.~~ 12902

(47) Sales of value-added non-voice data service. This 12903
division does not apply to any similar service that is not 12904
otherwise a telecommunications service. 12905

~~(48)(a) Sales of machinery, equipment, and software to a~~ 12906
~~qualified direct selling entity for use in a warehouse or~~ 12907
~~distribution center primarily for storing, transporting, or~~ 12908
~~otherwise handling inventory that is held for sale to~~ 12909
~~independent salespersons who operate as direct sellers and that~~ 12910
~~is held primarily for distribution outside this state;~~ 12911

~~(b) As used in division (B) (48) (a) of this section:~~ 12912

~~(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.~~ 12913
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~~(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B) (48) of this section after execution of the tax credit agreement by the tax credit authority.~~ 12918
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~~(c) Division (B) (48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.~~ 12928
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12931
Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that does all of the following: 12932
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12934

(a) Accepts direct payments to operate; 12935

(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B) (48) (a) of this section; 12936
12937
12938

(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment. 12939
12940

(49) Sales of materials, parts, equipment, or engines used 12941

in the repair or maintenance of aircraft or avionics systems of 12942
such aircraft, and sales of repair, remodeling, replacement, or 12943
maintenance services in this state performed on aircraft or on 12944
an aircraft's avionics, engine, or component materials or parts. 12945
As used in division (B) (49) of this section, "aircraft" means 12946
aircraft of more than six thousand pounds maximum certified 12947
takeoff weight or used exclusively in general aviation. 12948

(50) Sales of full flight simulators that are used for 12949
pilot or flight-crew training, sales of repair or replacement 12950
parts or components, and sales of repair or maintenance services 12951
for such full flight simulators. "Full flight simulator" means a 12952
replica of a specific type, or make, model, and series of 12953
aircraft cockpit. It includes the assemblage of equipment and 12954
computer programs necessary to represent aircraft operations in 12955
ground and flight conditions, a visual system providing an out- 12956
of-the-cockpit view, and a system that provides cues at least 12957
equivalent to those of a three-degree-of-freedom motion system, 12958
and has the full range of capabilities of the systems installed 12959
in the device as described in appendices A and B of part 60 of 12960
chapter 1 of title 14 of the Code of Federal Regulations. 12961

(51) Any transfer or lease of tangible personal property 12962
between the state and JobsOhio in accordance with section 12963
4313.02 of the Revised Code. 12964

(52) (a) Sales to a qualifying corporation. 12965

(b) As used in division (B) (52) of this section: 12966

(i) "Qualifying corporation" means a nonprofit corporation 12967
organized in this state that leases from an eligible county 12968
land, buildings, structures, fixtures, and improvements to the 12969
land that are part of or used in a public recreational facility 12970

used by a major league professional athletic team or a class A 12971
to class AAA minor league affiliate of a major league 12972
professional athletic team for a significant portion of the 12973
team's home schedule, provided the following apply: 12974

(I) The facility is leased from the eligible county 12975
pursuant to a lease that requires substantially all of the 12976
revenue from the operation of the business or activity conducted 12977
by the nonprofit corporation at the facility in excess of 12978
operating costs, capital expenditures, and reserves to be paid 12979
to the eligible county at least once per calendar year. 12980

(II) Upon dissolution and liquidation of the nonprofit 12981
corporation, all of its net assets are distributable to the 12982
board of commissioners of the eligible county from which the 12983
corporation leases the facility. 12984

(ii) "Eligible county" has the same meaning as in section 12985
307.695 of the Revised Code. 12986

(53) Sales to or by a cable service provider, video 12987
service provider, or radio or television broadcast station 12988
regulated by the federal government of cable service or 12989
programming, video service or programming, audio service or 12990
programming, or electronically transferred digital audiovisual 12991
or audio work. As used in division (B) (53) of this section, 12992
"cable service" and "cable service provider" have the same 12993
meanings as in section 1332.01 of the Revised Code, and "video 12994
service," "video service provider," and "video programming" have 12995
the same meanings as in section 1332.21 of the Revised Code. 12996

~~(54) Sales of a digital audio work electronically 12997~~
~~transferred for delivery through use of a machine, such as a 12998~~
~~juke box, that does all of the following: 12999~~

(a) Accepts direct payments to operate;	13000
(b) Automatically plays a selected digital audio work for	13001
a single play upon receipt of a payment described in division	13002
(B) (54) (a) of this section;	13003
(c) Operates exclusively for the purpose of playing	13004
digital audio works in a commercial establishment.	13005
(55) (a) (a) Sales of the following occurring on the first	13006
Friday of August and the following Saturday and Sunday of each	13007
year, beginning in 2018:	13008
(i) An item of clothing, the price of which is seventy-	13009
five dollars or less;	13010
(ii) An item of school supplies, the price of which is	13011
twenty dollars or less;	13012
(iii) An item of school instructional material, the price	13013
of which is twenty dollars or less.	13014
(b) As used in division (B) (55) <u>(B) (54)</u> of this section:	13015
(i) "Clothing" means all human wearing apparel suitable	13016
for general use. "Clothing" includes, but is not limited to,	13017
aprons, household and shop; athletic supporters; baby receiving	13018
blankets; bathing suits and caps; beach capes and coats; belts	13019
and suspenders; boots; coats and jackets; costumes; diapers,	13020
children and adult, including disposable diapers; earmuffs;	13021
footlets; formal wear; garters and garter belts; girdles; gloves	13022
and mittens for general use; hats and caps; hosiery; insoles for	13023
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	13024
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	13025
sneakers; socks and stockings; steel-toed shoes; underwear;	13026
uniforms, athletic and nonathletic; and wedding apparel.	13027

"Clothing" does not include items purchased for use in a trade 13028
or business; clothing accessories or equipment; protective 13029
equipment; sports or recreational equipment; belt buckles sold 13030
separately; costume masks sold separately; patches and emblems 13031
sold separately; sewing equipment and supplies including, but 13032
not limited to, knitting needles, patterns, pins, scissors, 13033
sewing machines, sewing needles, tape measures, and thimbles; 13034
and sewing materials that become part of "clothing" including, 13035
but not limited to, buttons, fabric, lace, thread, yarn, and 13036
zippers. 13037

(ii) "School supplies" means items commonly used by a 13038
student in a course of study. "School supplies" includes only 13039
the following items: binders; book bags; calculators; cellophane 13040
tape; blackboard chalk; compasses; composition books; crayons; 13041
erasers; folders, expandable, pocket, plastic, and manila; glue, 13042
paste, and paste sticks; highlighters; index cards; index card 13043
boxes; legal pads; lunch boxes; markers; notebooks; paper, 13044
loose-leaf ruled notebook paper, copy paper, graph paper, 13045
tracing paper, manila paper, colored paper, poster board, and 13046
construction paper; pencil boxes and other school supply boxes; 13047
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 13048
and writing tablets. "School supplies" does not include any item 13049
purchased for use in a trade or business. 13050

(iii) "School instructional material" means written 13051
material commonly used by a student in a course of study as a 13052
reference and to learn the subject being taught. "School 13053
instructional material" includes only the following items: 13054
reference books, reference maps and globes, textbooks, and 13055
workbooks. "School instructional material" does not include any 13056
material purchased for use in a trade or business. 13057

(C) For the purpose of the proper administration of this 13058
chapter, and to prevent the evasion of the tax, it is presumed 13059
that all sales made in this state are subject to the tax until 13060
the contrary is established. 13061

(D) The levy of this tax on retail sales of recreation and 13062
sports club service shall not prevent a municipal corporation 13063
from levying any tax on recreation and sports club dues or on 13064
any income generated by recreation and sports club dues. 13065

(E) The tax collected by the vendor from the consumer 13066
under this chapter is not part of the price, but is a tax 13067
collection for the benefit of the state, and of counties levying 13068
an additional sales tax pursuant to section 5739.021 or 5739.026 13069
of the Revised Code and of transit authorities levying an 13070
additional sales tax pursuant to section 5739.023 of the Revised 13071
Code. Except for the discount authorized under section 5739.12 13072
of the Revised Code and the effects of any rounding pursuant to 13073
section 5703.055 of the Revised Code, no person other than the 13074
state or such a county or transit authority shall derive any 13075
benefit from the collection or payment of the tax levied by this 13076
section or section 5739.021, 5739.023, or 5739.026 of the 13077
Revised Code. 13078

13079
Sec. 5739.021. (A) For the purpose of providing additional 13080
general revenues for the county, supporting criminal and 13081
administrative justice services in the county, funding a 13082
regional transportation improvement project under section 13083
5595.06 of the Revised Code, or any combination of the 13084
foregoing, and to pay the expenses of administering such levy, 13085
any county may levy a tax at the rate of not more than one per 13086
cent upon every retail sale made in the county, except sales of 13087

watercraft and outboard motors required to be titled pursuant to 13088
Chapter 1548. of the Revised Code and sales of motor vehicles, 13089
and may increase the rate of an existing tax to not more than 13090
one per cent. The rate of any tax levied pursuant to this 13091
section shall be a multiple of one-twentieth of one per cent. 13092
The rate levied under this section in any county other than a 13093
county that adopted a charter under Article X, Section 3, Ohio 13094
Constitution, may exceed one per cent, but may not exceed one 13095
and one-half per cent minus the amount by which the rate levied 13096
under section 5739.023 of the Revised Code by the county transit 13097
authority exceeds one per cent. 13098

The tax shall be levied and the rate increased pursuant to 13099
a resolution of the board of county commissioners. The 13100
resolution shall state the purpose for which the tax is to be 13101
levied and the number of years for which the tax is to be 13102
levied, or that it is for a continuing period of time. If the 13103
tax is to be levied for the purpose of providing additional 13104
general revenues and for the purpose of supporting criminal and 13105
administrative justice services, the resolution shall state the 13106
rate or amount of the tax to be apportioned to each such 13107
purpose. The rate or amount may be different for each year the 13108
tax is to be levied, but the rates or amounts actually 13109
apportioned each year shall not be different from that stated in 13110
the resolution for that year. Any amount by which the rate of 13111
the tax exceeds one per cent shall be apportioned exclusively 13112
for the construction, acquisition, equipping, or repair of a 13113
detention facility in the county. 13114

If the resolution is adopted as an emergency measure 13115
necessary for the immediate preservation of the public peace, 13116
health, or safety, it must receive an affirmative vote of all of 13117
the members of the board of county commissioners and shall state 13118

the reasons for such necessity. The board shall deliver a 13119
certified copy of the resolution to the tax commissioner, not 13120
later than the sixty-fifth day prior to the date on which the 13121
tax is to become effective, which shall be the first day of the 13122
calendar quarter. A resolution proposing to levy a tax at a rate 13123
that would cause the rate levied under this section to exceed 13124
one per cent may not be adopted as an emergency measure. 13125

Prior to the adoption of any resolution under this 13126
section, the board of county commissioners shall conduct two 13127
public hearings on the resolution, the second hearing to be not 13128
less than three nor more than ten days after the first. Notice 13129
of the date, time, and place of the hearings shall be given by 13130
publication in a newspaper of general circulation in the county, 13131
or as provided in section 7.16 of the Revised Code, once a week 13132
on the same day of the week for two consecutive weeks, the 13133
second publication being not less than ten nor more than thirty 13134
days prior to the first hearing. 13135

Except as provided in division (B) (1) or (3) of this 13136
section, the resolution shall be subject to a referendum as 13137
provided in sections 305.31 to 305.41 of the Revised Code. 13138

If a petition for a referendum is filed, the county 13139
auditor with whom the petition was filed shall, within five 13140
days, notify the board of county commissioners and the tax 13141
commissioner of the filing of the petition by certified mail. If 13142
the board of elections with which the petition was filed 13143
declares the petition invalid, the board of elections, within 13144
five days, shall notify the board of county commissioners and 13145
the tax commissioner of that declaration by certified mail. If 13146
the petition is declared to be invalid, the effective date of 13147
the tax or increased rate of tax levied by this section shall be 13148

the first day of a calendar quarter following the expiration of 13149
sixty-five days from the date the commissioner receives notice 13150
from the board of elections that the petition is invalid. 13151

(B) (1) A resolution that is not adopted as an emergency 13152
measure may direct the board of elections to submit the question 13153
of levying the tax or increasing the rate of tax to the electors 13154
of the county at a special election held on the date specified 13155
by the board of county commissioners in the resolution, provided 13156
that the election occurs not less than ninety days after a 13157
certified copy of such resolution is transmitted to the board of 13158
elections and the election is not held in ~~February or~~ August of 13159
any year. A resolution proposing to levy a tax at a rate that 13160
would cause the rate levied under this section to exceed one per 13161
cent may not go into effect unless the question is submitted to 13162
electors under this division. Upon transmission of the 13163
resolution to the board of elections, the board of county 13164
commissioners shall notify the tax commissioner in writing of 13165
the levy question to be submitted to the electors. No resolution 13166
adopted under this division shall go into effect unless approved 13167
by a majority of those voting upon it, and, except as provided 13168
in division (B) (3) of this section, shall become effective on 13169
the first day of a calendar quarter following the expiration of 13170
sixty-five days from the date the tax commissioner receives 13171
notice from the board of elections of the affirmative vote. 13172

(2) A resolution that is adopted as an emergency measure 13173
shall go into effect as provided in division (A) of this 13174
section, but may direct the board of elections to submit the 13175
question of repealing the tax or increase in the rate of the tax 13176
to the electors of the county at the next general election in 13177
the county occurring not less than ninety days after a certified 13178
copy of the resolution is transmitted to the board of elections. 13179

Upon transmission of the resolution to the board of elections, 13180
the board of county commissioners shall notify the tax 13181
commissioner in writing of the levy question to be submitted to 13182
the electors. The ballot question shall be the same as that 13183
prescribed in section 5739.022 of the Revised Code. The board of 13184
elections shall notify the board of county commissioners and the 13185
tax commissioner of the result of the election immediately after 13186
the result has been declared. If a majority of the qualified 13187
electors voting on the question of repealing the tax or increase 13188
in the rate of the tax vote for repeal of the tax or repeal of 13189
the increase, the board of county commissioners, on the first 13190
day of a calendar quarter following the expiration of sixty-five 13191
days after the date the board and tax commissioner receive 13192
notice of the result of the election, shall, in the case of a 13193
repeal of the tax, cease to levy the tax, or, in the case of a 13194
repeal of an increase in the rate of the tax, cease to levy the 13195
increased rate and levy the tax at the rate at which it was 13196
imposed immediately prior to the increase in rate. 13197

(3) If a vendor makes a sale in this state by printed 13198
catalog and the consumer computed the tax on the sale based on 13199
local rates published in the catalog, any tax levied or repealed 13200
or rate changed under this section shall not apply to such a 13201
sale until the first day of a calendar quarter following the 13202
expiration of one hundred twenty days from the date of notice by 13203
the tax commissioner pursuant to division (H) of this section. 13204

(C) If a resolution is rejected at a referendum or if a 13205
resolution adopted after January 1, 1982, as an emergency 13206
measure is repealed by the electors pursuant to division (B) (2) 13207
of this section or section 5739.022 of the Revised Code, then 13208
for one year after the date of the election at which the 13209
resolution was rejected or repealed the board of county 13210

commissioners may not adopt any resolution authorized by this 13211
section as an emergency measure. 13212

(D) The board of county commissioners, at any time while a 13213
tax levied under this section is in effect, may by resolution 13214
reduce the rate at which the tax is levied to a lower rate 13215
authorized by this section. Any reduction in the rate at which 13216
the tax is levied shall be made effective on the first day of a 13217
calendar quarter next following the sixty-fifth day after a 13218
certified copy of the resolution is delivered to the tax 13219
commissioner. 13220

(E) The tax on every retail sale subject to a tax levied 13221
pursuant to this section shall be in addition to the tax levied 13222
by section 5739.02 of the Revised Code and any tax levied 13223
pursuant to section 5739.023 or 5739.026 of the Revised Code. 13224

A county that levies a tax pursuant to this section shall 13225
levy a tax at the same rate pursuant to section 5741.021 of the 13226
Revised Code. 13227

The additional tax levied by the county shall be collected 13228
pursuant to section 5739.025 of the Revised Code. If the 13229
additional tax or some portion thereof is levied for the purpose 13230
of criminal and administrative justice services or specifically 13231
for the purpose of constructing, acquiring, equipping, or 13232
repairing a detention facility, the revenue from the tax, or the 13233
amount or rate apportioned to that purpose, shall be credited to 13234
one or more special funds created in the county treasury for 13235
receipt of that revenue. 13236

Any tax levied pursuant to this section is subject to the 13237
exemptions provided in section 5739.02 of the Revised Code and 13238
in addition shall not be applicable to sales not within the 13239

taxing power of a county under the Constitution of the United 13240
States or the Ohio Constitution. 13241

(F) For purposes of this section, a copy of a resolution 13242
is "certified" when it contains a written statement attesting 13243
that the copy is a true and exact reproduction of the original 13244
resolution. 13245

(G) If a board of commissioners intends to adopt a 13246
resolution to levy a tax in whole or in part for the purpose of 13247
criminal and administrative justice services, the board shall 13248
prepare and make available at the first public hearing at which 13249
the resolution is considered a statement containing the 13250
following information: 13251

(1) For each of the two preceding fiscal years, the amount 13252
of expenditures made by the county from the county general fund 13253
for the purpose of criminal and administrative justice services; 13254

(2) For the fiscal year in which the resolution is 13255
adopted, the board's estimate of the amount of expenditures to 13256
be made by the county from the county general fund for the 13257
purpose of criminal and administrative justice services; 13258

(3) For each of the two fiscal years after the fiscal year 13259
in which the resolution is adopted, the board's preliminary plan 13260
for expenditures to be made from the county general fund for the 13261
purpose of criminal and administrative justice services, both 13262
under the assumption that the tax will be imposed for that 13263
purpose and under the assumption that the tax would not be 13264
imposed for that purpose, and for expenditures to be made from 13265
the special fund created under division (E) of this section 13266
under the assumption that the tax will be imposed for that 13267
purpose. 13268

The board shall prepare the statement and the preliminary
plan using the best information available to the board at the
time the statement is prepared. Neither the statement nor the
preliminary plan shall be used as a basis to challenge the
validity of the tax in any court of competent jurisdiction, nor
shall the statement or preliminary plan limit the authority of
the board to appropriate, pursuant to section 5705.38 of the
Revised Code, an amount different from that specified in the
preliminary plan.

(H) Upon receipt from a board of county commissioners of a
certified copy of a resolution required by division (A) or (D)
of this section, or from the board of elections of a notice of
the results of an election required by division (A) or (B) (1) or
(2) of this section, the tax commissioner shall provide notice
of a tax rate change in a manner that is reasonably accessible
to all affected vendors. The commissioner shall provide this
notice at least sixty days prior to the effective date of the
rate change. The commissioner, by rule, may establish the method
by which notice will be provided.

(I) As used in this section:

(1) "Criminal and administrative justice services" means
the exercise by the county sheriff of all powers and duties
vested in that office by law; the exercise by the county
prosecuting attorney of all powers and duties vested in that
office by law; the exercise by any court in the county of all
powers and duties vested in that court; the exercise by the
clerk of the court of common pleas, any clerk of a municipal
court having jurisdiction throughout the county, or the clerk of
any county court of all powers and duties vested in the clerk by
law except, in the case of the clerk of the court of common

pleas, the titling of motor vehicles or watercraft pursuant to 13299
Chapter 1548. or 4505. of the Revised Code; the exercise by the 13300
county coroner of all powers and duties vested in that office by 13301
law; making payments to any other public agency or a private, 13302
nonprofit agency, the purposes of which in the county include 13303
the diversion, adjudication, detention, or rehabilitation of 13304
criminals or juvenile offenders; the operation and maintenance 13305
of any detention facility; and the construction, acquisition, 13306
equipping, or repair of such a detention facility. 13307

(2) "Detention facility" has the same meaning as in 13308
section 2921.01 of the Revised Code. 13309

(3) "Construction, acquisition, equipping, or repair" of a 13310
detention facility includes the payment of any debt charges 13311
incurred in the issuance of securities pursuant to Chapter 133. 13312
of the Revised Code for the purpose of constructing, acquiring, 13313
equipping, or repairing such a facility. 13314

Sec. 5739.028. As used in this section "sports facility" 13315
and "constructing" have the same meanings as in division (A)(8) 13316
of section 5739.026 of the Revised Code. 13317

This section applies only to taxes levied pursuant to 13318
sections 5739.023 and 5741.022 of the Revised Code by a regional 13319
transit authority created under section 306.31 of the Revised 13320
Code for a continuing period of time and at an aggregate rate, 13321
~~on the effective date of this section July 19, 1995,~~ greater 13322
than one-half of one per cent on every retail sale made in the 13323
territory of the transit authority. 13324

The board of county commissioners of the most populous 13325
county in the territory of a regional transit authority levying 13326
a tax to which this section applies may adopt a resolution not 13327

later than one hundred eighty days after ~~the effective date of~~ 13328
~~this section~~ July 19, 1995, proposing to reduce the rate of such 13329
a tax and to increase by the same extent the rate of tax levied 13330
under sections 5739.026 and 5741.023 of the Revised Code for the 13331
purpose of constructing or renovating a sports facility. The 13332
total reduction in the rate of taxes levied by a transit 13333
authority and the increase in the rate of tax levied for the 13334
purpose of constructing or renovating a sports facility shall 13335
not exceed one-tenth of one per cent upon retail sales made in 13336
the territory of the transit authority; provided, the amount of 13337
taxes received by the county for the purpose of constructing or 13338
renovating a sports facility under this section shall not exceed 13339
four million five hundred thousand dollars in any calendar year. 13340
Any amounts received by a county in a calendar year in excess of 13341
four million five hundred thousand dollars pursuant to this 13342
section shall be paid to the transit authority by the county 13343
within forty-five days following receipt by the county. 13344

The resolution shall specify that the rate of tax levied 13345
by the transit authority will be reduced and that a tax will be 13346
levied at the same rate for the purpose of constructing or 13347
renovating a sports facility; the rate by which the tax levied 13348
by the transit authority will be reduced and by which the tax 13349
levied for the purpose of constructing or renovating a sports 13350
facility will be increased; the date the rates levied for those 13351
purposes will be reduced and increased, respectively; and the 13352
number of years the rate levied by a transit authority will be 13353
reduced and the rate levied for constructing or renovating a 13354
sports facility will be increased. The date the rate levied by 13355
the transit authority will be reduced and the rate levied for 13356
the purpose of constructing or renovating a sports facility will 13357
be increased shall not be earlier than the first day of the 13358

month that begins at least sixty days after the day the election 13359
on the question is conducted unless the board of county 13360
commissioners levies a tax under one or more of sections 13361
307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code on 13362
~~the effective date of this section~~ July 19, 1995, in which case 13363
the date the rate levied by the transit authority will be 13364
reduced and the rate levied for the purpose of constructing or 13365
renovating a sports facility will be increased shall not be 13366
earlier than the first day following the latest day on which any 13367
of the taxes levied under one of those sections on ~~the~~ 13368
~~effective date of this amendment~~ July 19, 1995, may be levied as 13369
prescribed by the resolution levying that tax. The number of 13370
years the rate of the existing tax may be reduced and the rate 13371
of tax may be levied for constructing or renovating a sports 13372
facility may be any number of years as specified in the 13373
resolution, or for a continuing period of time if so specified 13374
in the resolution. 13375

Before a resolution adopted under this section may take 13376
effect, the board of county commissioners shall submit the 13377
resolution to the approval of the electors of the county, and 13378
the resolution shall be approved by a majority of voters voting 13379
on the question. Upon adoption of the resolution, the board of 13380
county commissioners shall certify a copy of the resolution to 13381
the board of elections of the county and to the tax 13382
commissioner, and the board of elections shall submit the 13383
question at a special election held on the date specified by the 13384
board of county commissioners in the resolution, provided that 13385
the election occurs not less than seventy-five days after the 13386
resolution is certified to the board of elections and the 13387
election is not held in ~~February or August~~ of any year. The 13388
board of county commissioners shall certify the copy of the 13389

resolution to the board of elections in the manner prescribed 13390
under section 3505.071 of the Revised Code. The board of 13391
elections shall certify the results of the election to the board 13392
of county commissioners and to the tax commissioner. If the 13393
question is approved by a majority of electors voting on the 13394
question, the rate of tax imposed under sections 5739.023 and 13395
5741.022 of the Revised Code shall be reduced, and the rate of 13396
tax levied for constructing or renovating a sports facility 13397
under sections 5739.026 and 5741.023 of the Revised Code shall 13398
be increased by the same amount, on the date specified in the 13399
resolution. 13400

If revenue from a tax levied under sections 5739.023 and 13401
5741.022 of the Revised Code and subject to reduction under this 13402
section is pledged to the payment of bonds, notes, or notes in 13403
anticipation of bonds, the board of county commissioners 13404
adopting a resolution under this section shall provide 13405
sufficient revenue from the tax for the repayment of debt 13406
charges on those bonds or notes, unless an adequate substitute 13407
for payment of those charges is provided by the transit 13408
authority. 13409

Sec. 5739.03. (A) Except as provided in section 5739.05 or 13410
section 5739.051 of the Revised Code, the tax imposed by or 13411
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 13412
the Revised Code shall be paid by the consumer to the vendor, 13413
and each vendor shall collect from the consumer, as a trustee 13414
for the state of Ohio, the full and exact amount of the tax 13415
payable on each taxable sale, in the manner and at the times 13416
provided as follows: 13417

(1) If the price is, at or prior to the provision of the 13418
service or the delivery of possession of the thing sold to the 13419

consumer, paid in currency passed from hand to hand by the 13420
consumer or the consumer's agent to the vendor or the vendor's 13421
agent, the vendor or the vendor's agent shall collect the tax 13422
with and at the same time as the price; 13423

(2) If the price is otherwise paid or to be paid, the 13424
vendor or the vendor's agent shall, at or prior to the provision 13425
of the service or the delivery of possession of the thing sold 13426
to the consumer, charge the tax imposed by or pursuant to 13427
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 13428
Code to the account of the consumer, which amount shall be 13429
collected by the vendor from the consumer in addition to the 13430
price. Such sale shall be reported on and the amount of the tax 13431
applicable thereto shall be remitted with the return for the 13432
period in which the sale is made, and the amount of the tax 13433
shall become a legal charge in favor of the vendor and against 13434
the consumer. 13435

(B) (1) (a) If any sale is claimed to be exempt under 13436
division (E) of section 5739.01 of the Revised Code or under 13437
section 5739.02 of the Revised Code, with the exception of 13438
divisions (B) (1) to (11), (28), or ~~(55)~~ (54) of section 5739.02 13439
of the Revised Code, or if the consumer claims the transaction 13440
is not a taxable sale due to one or more of the exclusions 13441
provided under divisions (JJ) (1) to (5) of section 5739.01 of 13442
the Revised Code, the consumer must provide to the vendor, and 13443
the vendor must obtain from the consumer, a certificate 13444
specifying the reason that the sale is not legally subject to 13445
the tax. The certificate shall be in such form, and shall be 13446
provided either in a hard copy form or electronic form, as the 13447
tax commissioner prescribes. 13448

(b) A vendor that obtains a fully completed exemption 13449

certificate from a consumer is relieved of liability for 13450
collecting and remitting tax on any sale covered by that 13451
certificate. If it is determined the exemption was improperly 13452
claimed, the consumer shall be liable for any tax due on that 13453
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 13454
Chapter 5741. of the Revised Code. Relief under this division 13455
from liability does not apply to any of the following: 13456

(i) A vendor that fraudulently fails to collect tax; 13457

(ii) A vendor that solicits consumers to participate in 13458
the unlawful claim of an exemption; 13459

(iii) A vendor that accepts an exemption certificate from 13460
a consumer that claims an exemption based on who purchases or 13461
who sells property or a service, when the subject of the 13462
transaction sought to be covered by the exemption certificate is 13463
actually received by the consumer at a location operated by the 13464
vendor in this state, and this state has posted to its web site 13465
an exemption certificate form that clearly and affirmatively 13466
indicates that the claimed exemption is not available in this 13467
state; 13468

(iv) A vendor that accepts an exemption certificate from a 13469
consumer who claims a multiple points of use exemption under 13470
division (D) of section 5739.033 of the Revised Code, if the 13471
item purchased is tangible personal property, other than 13472
prewritten computer software. 13473

(2) The vendor shall maintain records, including exemption 13474
certificates, of all sales on which a consumer has claimed an 13475
exemption, and provide them to the tax commissioner on request. 13476

(3) The tax commissioner may establish an identification 13477
system whereby the commissioner issues an identification number 13478

to a consumer that is exempt from payment of the tax. The 13479
consumer must present the number to the vendor, if any sale is 13480
claimed to be exempt as provided in this section. 13481

(4) If no certificate is provided or obtained within 13482
ninety days after the date on which such sale is consummated, it 13483
shall be presumed that the tax applies. Failure to have so 13484
provided or obtained a certificate shall not preclude a vendor, 13485
within one hundred twenty days after the tax commissioner gives 13486
written notice of intent to levy an assessment, from either 13487
establishing that the sale is not subject to the tax, or 13488
obtaining, in good faith, a fully completed exemption 13489
certificate. 13490

(5) Certificates need not be obtained nor provided where 13491
the identity of the consumer is such that the transaction is 13492
never subject to the tax imposed or where the item of tangible 13493
personal property sold or the service provided is never subject 13494
to the tax imposed, regardless of use, or when the sale is in 13495
interstate commerce. 13496

(6) If a transaction is claimed to be exempt under 13497
division (B) (13) of section 5739.02 of the Revised Code, the 13498
contractor shall obtain certification of the claimed exemption 13499
from the contractee. This certification shall be in addition to 13500
an exemption certificate provided by the contractor to the 13501
vendor. A contractee that provides a certification under this 13502
division shall be deemed to be the consumer of all items 13503
purchased by the contractor under the claim of exemption, if it 13504
is subsequently determined that the exemption is not properly 13505
claimed. The certification shall be in such form as the tax 13506
commissioner prescribes. 13507

(C) As used in this division, "contractee" means a person 13508

who seeks to enter or enters into a contract or agreement with a 13509
contractor or vendor for the construction of real property or 13510
for the sale and installation onto real property of tangible 13511
personal property. 13512

Any contractor or vendor may request from any contractee a 13513
certification of what portion of the property to be transferred 13514
under such contract or agreement is to be incorporated into the 13515
realty and what portion will retain its status as tangible 13516
personal property after installation is completed. The 13517
contractor or vendor shall request the certification by 13518
certified mail delivered to the contractee, return receipt 13519
requested. Upon receipt of such request and prior to entering 13520
into the contract or agreement, the contractee shall provide to 13521
the contractor or vendor a certification sufficiently detailed 13522
to enable the contractor or vendor to ascertain the resulting 13523
classification of all materials purchased or fabricated by the 13524
contractor or vendor and transferred to the contractee. This 13525
requirement applies to a contractee regardless of whether the 13526
contractee holds a direct payment permit under section 5739.031 13527
of the Revised Code or provides to the contractor or vendor an 13528
exemption certificate as provided under this section. 13529

For the purposes of the taxes levied by this chapter and 13530
Chapter 5741. of the Revised Code, the contractor or vendor may 13531
in good faith rely on the contractee's certification. 13532
Notwithstanding division (B) of section 5739.01 of the Revised 13533
Code, if the tax commissioner determines that certain property 13534
certified by the contractee as tangible personal property 13535
pursuant to this division is, in fact, real property, the 13536
contractee shall be considered to be the consumer of all 13537
materials so incorporated into that real property and shall be 13538
liable for the applicable tax, and the contractor or vendor 13539

shall be excused from any liability on those materials. 13540

If a contractee fails to provide such certification upon 13541
the request of the contractor or vendor, the contractor or 13542
vendor shall comply with the provisions of this chapter and 13543
Chapter 5741. of the Revised Code without the certification. If 13544
the tax commissioner determines that such compliance has been 13545
performed in good faith and that certain property treated as 13546
tangible personal property by the contractor or vendor is, in 13547
fact, real property, the contractee shall be considered to be 13548
the consumer of all materials so incorporated into that real 13549
property and shall be liable for the applicable tax, and the 13550
construction contractor or vendor shall be excused from any 13551
liability on those materials. 13552

This division does not apply to any contract or agreement 13553
where the tax commissioner determines as a fact that a 13554
certification under this division was made solely on the 13555
decision or advice of the contractor or vendor. 13556

(D) Notwithstanding division (B) of section 5739.01 of the 13557
Revised Code, whenever the total rate of tax imposed under this 13558
chapter is increased after the date after a construction 13559
contract is entered into, the contractee shall reimburse the 13560
construction contractor for any additional tax paid on tangible 13561
property consumed or services received pursuant to the contract. 13562

(E) A vendor who files a petition for reassessment 13563
contesting the assessment of tax on sales for which the vendor 13564
obtained no valid exemption certificates and for which the 13565
vendor failed to establish that the sales were properly not 13566
subject to the tax during the one-hundred-twenty-day period 13567
allowed under division (B) of this section, may present to the 13568
tax commissioner additional evidence to prove that the sales 13569

were properly subject to a claim of exception or exemption. The 13570
vendor shall file such evidence within ninety days of the 13571
receipt by the vendor of the notice of assessment, except that, 13572
upon application and for reasonable cause, the period for 13573
submitting such evidence shall be extended thirty days. 13574

The commissioner shall consider such additional evidence 13575
in reaching the final determination on the assessment and 13576
petition for reassessment. 13577

(F) Whenever a vendor refunds the price, minus any 13578
separately stated delivery charge, of an item of tangible 13579
personal property on which the tax imposed under this chapter 13580
has been paid, the vendor shall also refund the amount of tax 13581
paid, minus the amount of tax attributable to the delivery 13582
charge. 13583

Sec. 5739.034. (A) As used in this section: 13584

(1) "Air-to-ground radiotelephone service" means a radio 13585
service, as defined in 47 C.F.R. 22.99, in which common carriers 13586
are authorized to offer and provide radio telecommunications 13587
service for hire to subscribers in aircraft. 13588

(2) "Call-by-call basis" means any method of charging for 13589
telecommunications services where the price is measured by 13590
individual calls. 13591

(3) "Customer" means the person or entity that contracts 13592
with a seller of telecommunications service. If the end user of 13593
telecommunications service is not the contracting party, the end 13594
user of the telecommunications service is the customer of the 13595
telecommunications service. "Customer" does not include a 13596
reseller of telecommunications service or of mobile 13597
telecommunications service of a serving carrier under an 13598

agreement to serve the customer outside the home service 13599
provider's licensed service area. 13600

(4) "End user" means the person who utilizes the 13601
telecommunications service. In the case of a person other than 13602
an individual, "end user" means the individual who utilizes the 13603
service on behalf of the person. 13604

(5) "Home service provider" has the same meaning as in the 13605
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 13606
114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 13607

(6) "Place of primary use" means the street address 13608
representative of where the customer's use of the 13609
telecommunications service primarily occurs, which must be the 13610
residential street address or the primary business street 13611
address of the customer. In the case of mobile 13612
telecommunications services, "place of primary use" must be 13613
within the licensed service area of the home service provider. 13614

(7) "Post-paid calling service" means the 13615
telecommunications service obtained by making a payment on a 13616
call-by-call basis either through the use of a credit card or 13617
payment mechanism such as a bank card, travel card, credit card, 13618
or debit card, or by charge made to a telephone number that is 13619
not associated with the origination or termination of the 13620
telecommunications service. "Post-paid calling service" includes 13621
a telecommunications service, except a prepaid wireless calling 13622
service, that would be a prepaid calling service, but for the 13623
fact that it is not exclusively a telecommunications service. 13624

(8) ~~"Prepaid calling service" and "prepaid wireless~~ 13625
~~calling service" have the same meanings as in section 5739.01 of~~ 13626
~~the Revised Code.~~ 13627

~~(9)~~—"Service address" means: 13628

(a) The location of the telecommunications equipment to 13629
which a customer's call is charged and from which the call 13630
originates or terminates, regardless of where the call is billed 13631
or paid. 13632

(b) If the location in division (A) ~~(9)~~ (8) (a) of this 13633
section is not known, "service address" means the origination 13634
point of the signal of the telecommunications service first 13635
identified by either the seller's telecommunications system or 13636
in information received by the seller from its service provider, 13637
where the system used to transport such signals is not that of 13638
the seller. 13639

(c) If the locations in divisions (A) ~~(9)~~ (8) (a) and (b) of 13640
this section are not known, "service address" means the location 13641
of the customer's place of primary use. 13642

~~(10)~~ (9) "Private communication service" means a 13643
telecommunications service that entitles a customer to exclusive 13644
or priority use of a communications channel or group of channels 13645
between or among termination points, regardless of the manner in 13646
which the channel or channels are connected, and includes 13647
switching capacity, extension lines, stations, and any other 13648
associated services that are provided in connection with the use 13649
of such channel or channels. 13650

(B) The amount of tax due pursuant to sections 5739.02, 13651
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 13652
telecommunications service, information service, or mobile 13653
telecommunications service, is the sum of the taxes imposed 13654
pursuant to those sections at the sourcing location of the sale 13655
as determined under this section. 13656

(C) Except for the telecommunications services described 13657
in division (E) of this section, the sale of telecommunications 13658
service sold on a call-by-call basis shall be sourced to each 13659
level of taxing jurisdiction where the call originates and 13660
terminates in that jurisdiction, or each level of taxing 13661
jurisdiction where the call either originates or terminates and 13662
in which the service address also is located. 13663

(D) Except for the telecommunications services described 13664
in division (E) of this section, a sale of telecommunications 13665
services sold on a basis other than a call-by-call basis shall 13666
be sourced to the customer's place of primary use. 13667

(E) The sale of the following telecommunications services 13668
shall be sourced to each level of taxing jurisdiction, as 13669
follows: 13670

(1) A sale of mobile telecommunications service, other 13671
than air-to-ground radiotelephone service and prepaid calling 13672
service, shall be sourced to the customer's place of primary use 13673
as required by the Mobile Telecommunications Sourcing Act. 13674

(2) A sale of post-paid calling service shall be sourced 13675
to the origination point of the telecommunications signal as 13676
first identified by the service provider's telecommunications 13677
system, or information received by the seller from its service 13678
provider, where the system used to transport such signals is not 13679
that of the seller. 13680

(3) A sale of prepaid calling service or prepaid wireless 13681
calling service shall be sourced under division (C) of section 13682
5739.033 of the Revised Code. But in the case of prepaid 13683
wireless calling service, in lieu of sourcing the sale of the 13684
service under division (C) (5) of section 5739.033 of the Revised 13685

Code, the service provider may elect to source the sale to the 13686
location associated with the mobile telephone number. 13687

(4) A sale of a private communication service shall be 13688
sourced as follows: 13689

(a) Service for a separate charge related to a customer 13690
channel termination point shall be sourced to each level of 13691
jurisdiction in which the customer channel termination point is 13692
located; 13693

(b) Service where all customer channel termination points 13694
are located entirely within one jurisdiction or level of 13695
jurisdiction shall be sourced in the jurisdiction in which the 13696
customer channel termination points are located; 13697

(c) Service for segments of a channel between two customer 13698
channel termination points located in different jurisdictions 13699
and which segments of a channel are separately charged shall be 13700
sourced fifty per cent in each level of jurisdiction in which 13701
the customer channel termination points are located; 13702

(d) Service for segments of a channel located in more than 13703
one jurisdiction or level of jurisdiction and which segments are 13704
not separately billed shall be sourced in each jurisdiction 13705
based on the percentage determined by dividing the number of 13706
customer channel termination points in the jurisdiction by the 13707
total number of customer channel termination points. 13708

Sec. 5739.05. (A) (1) The tax commissioner shall enforce 13709
and administer sections 5739.01 to 5739.31 of the Revised Code, 13710
which are hereby declared to be sections which the commissioner 13711
is required to administer within the meaning of sections 5703.17 13712
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 13713
The commissioner may adopt and promulgate, in accordance with 13714

sections 119.01 to 119.13 of the Revised Code, such rules as the 13715
commissioner deems necessary to administer sections 5739.01 to 13716
5739.31 of the Revised Code. 13717

(2) On or before the first day of May of each year, the 13718
commissioner shall make available to vendors a notice explaining 13719
the three-day exemption period required under division ~~(B) (55)~~— 13720
(B) (54) of section 5739.02 of the Revised Code. 13721

(B) Upon application, the commissioner may authorize a 13722
vendor to pay on a predetermined basis the tax levied by or 13723
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 13724
the Revised Code upon sales of things produced or distributed or 13725
services provided by such vendor, and the commissioner may waive 13726
the collection of the tax from the consumer. The commissioner 13727
shall not grant such authority unless the commissioner finds 13728
that the granting of the authority would improve compliance and 13729
increase the efficiency of the administration of the tax. The 13730
person to whom such authority is granted shall post a notice, if 13731
required by the commissioner, at the location where the product 13732
is offered for sale that the tax is included in the selling 13733
price. The commissioner may adopt rules to administer this 13734
division. 13735

(C) Upon application, the commissioner may authorize a 13736
vendor to remit, on the basis of a prearranged agreement under 13737
this division, the tax levied by section 5739.02 or pursuant to 13738
section 5739.021, 5739.023, or 5739.026 of the Revised Code. The 13739
proportions and ratios in a prearranged agreement shall be 13740
determined either by a test check conducted by the commissioner 13741
under terms and conditions agreed to by the commissioner and the 13742
vendor or by any other method agreed upon by the vendor and the 13743
commissioner. If the parties are unable to agree to the terms 13744

and conditions of the test check or other method, the 13745
application shall be denied. 13746

If used, the test check shall determine the proportion 13747
that taxable retail sales bear to all of the vendor's retail 13748
sales and the ratio which the tax required to be collected under 13749
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 13750
Revised Code bears to the receipts from the vendor's taxable 13751
retail sales. 13752

The vendor's liability for remitting the tax shall be 13753
based solely upon the proportions and ratios established in the 13754
agreement until such time that the vendor or the commissioner 13755
believes that the nature of the vendor's business has so changed 13756
as to make the agreement no longer representative. The 13757
commissioner may give notice to the vendor at any time that the 13758
authorization is revoked or the vendor may notify the 13759
commissioner that the vendor no longer elects to report under 13760
the authorization. Such notice shall be delivered to the other 13761
party personally or by registered mail. The revocation or 13762
cancellation is effective the last day of the month in which the 13763
vendor or the commissioner receives the notice. 13764

13765

Sec. 5739.08. ~~The levy of an excise tax on transactions by~~ 13766
~~which lodging by a hotel is or is to be furnished to transient~~ 13767
~~guests pursuant to section 5739.02 and division (B) of section~~ 13768
~~5739.01 of the Revised Code does not prevent any of the~~ 13769
~~following:~~ 13770

(A) A municipal corporation or township ~~from levying~~ may 13771
levy an excise tax for any lawful purpose not to exceed three 13772
per cent on transactions by which lodging by a hotel is or is to 13773

be furnished to transient guests in addition to the tax levied 13774
by section 5739.02 of the Revised Code. If a municipal 13775
corporation or township repeals a tax imposed under division (A) 13776
of this section, and a county in which the municipal corporation 13777
or township has territory has a tax imposed under division ~~(C)~~ 13778
(M) of section 5739.09 of the Revised Code in effect, the 13779
municipal corporation or township may not reimpose its tax as 13780
long as that county tax remains in effect. A municipal 13781
corporation or township in which a tax is levied under division 13782
(B) (2) of section 351.021 of the Revised Code may not increase 13783
the rate of its tax levied under division (A) of this section to 13784
any rate that would cause the total taxes levied under both of 13785
those divisions to exceed three per cent on any lodging 13786
transaction within the municipal corporation or township. 13787

~~(B) A municipal corporation or a township from levying an 13788
additional excise tax not to exceed three per cent on such 13789
transactions pursuant to division (B) of section 5739.09 of the 13790
Revised Code. Such tax is in addition to any tax imposed under 13791
division (A) of this section. 13792~~

~~(C) A county from levying an excise tax pursuant to 13793
division (A) of section 5739.09 of the Revised Code; 13794~~

~~(D) A county from levying an excise tax not to exceed 13795
three per cent of such transactions pursuant to division (C) of 13796
section 5739.09 of the Revised Code. Such a tax is in addition 13797
to any tax imposed under division (C) of this section. 13798~~

~~(E) A convention facilities authority, as defined in 13799
division (A) of section 351.01 of the Revised Code, from levying 13800
the excise taxes provided for in divisions (B) and (C) of 13801
section 351.021 of the Revised Code; 13802~~

~~(F) A county from levying an excise tax not to exceed one~~ 13803
~~and one half per cent of such transactions pursuant to division~~ 13804
~~(D) of section 5739.09 of the Revised Code. Such tax is in~~ 13805
~~addition to any tax imposed under division (C) or (D) of this~~ 13806
~~section.~~ 13807

~~(G) A county from levying an excise tax not to exceed one~~ 13808
~~and one half per cent of such transactions pursuant to division~~ 13809
~~(E) of section 5739.09 of the Revised Code. Such a tax is in~~ 13810
~~addition to any tax imposed under division (C), (D), or (F) of~~ 13811
~~this section.~~ The legislative authority of a municipal 13812
corporation or the board of trustees of a township that is not 13813
wholly or partly located in a county that has in effect a 13814
resolution levying an excise tax pursuant to division (A) of 13815
section 5739.09 of the Revised Code may, by ordinance or 13816
resolution, levy an additional excise tax not to exceed three 13817
per cent on transactions by which lodging by a hotel is or is to 13818
be furnished to transient guests. The legislative authority of 13819
the municipal corporation or the board of trustees of the 13820
township shall deposit at least fifty per cent of the revenue 13821
from the tax levied pursuant to this division into a separate 13822
fund, which shall be spent solely to make contributions to 13823
convention and visitors' bureaus operating within the county in 13824
which the municipal corporation or township is wholly or partly 13825
located, and the balance of that revenue shall be deposited in 13826
the general fund. The municipal corporation or township shall 13827
establish all regulations necessary to provide for the 13828
administration and allocation of the tax. The regulations may 13829
prescribe the time for payment of the tax, and may provide for 13830
the imposition of a penalty or interest, or both, for late 13831
payments, provided that the penalty does not exceed ten per cent 13832
of the amount of tax due, and the rate at which interest accrues 13833

does not exceed the rate per annum prescribed pursuant to 13834
section 5703.47 of the Revised Code. The levy of a tax under 13835
this division is in addition to any tax imposed on the same 13836
transaction by a municipal corporation or a township under 13837
division (A) of this section. 13838

(C) (1) As used in division (C) of this section, "cost" has 13839
the same meaning as in section 351.01 of the Revised Code, and 13840
"convention center" has the same meaning as in section 307.695 13841
of the Revised Code. 13842

(2) The legislative authority of the most populous 13843
municipal corporation located wholly or partly in a county in 13844
which the board of county commissioners has levied a tax under 13845
division (D) of section 5739.09 of the Revised Code may amend, 13846
on or before September 30, 2002, that municipal corporation's 13847
ordinance or resolution that levies an excise tax on 13848
transactions by which lodging by a hotel is or is to be 13849
furnished to transient guests, to provide for all of the 13850
following: 13851

(a) That the rate of the tax shall be increased by not 13852
more than an additional one per cent on each transaction; 13853

(b) That all of the revenue from the increase in rate 13854
shall be pledged and contributed to a convention facilities 13855
authority established by the board of county commissioners under 13856
Chapter 351. of the Revised Code on or before May 15, 2002, and 13857
be used to pay costs of constructing, expanding, maintaining, 13858
operating, or promoting a convention center in the county, 13859
including paying bonds, or notes issued in anticipation of 13860
bonds, as provided by that chapter; 13861

(c) That the increase in rate shall not be subject to 13862

diminution by initiative or referendum or by law while any 13863
bonds, or notes in anticipation of bonds, issued by the 13864
authority under Chapter 351. of the Revised Code to which the 13865
revenue is pledged, remain outstanding in accordance with their 13866
terms, unless provision is made by law, by the board of county 13867
commissioners, or by the legislative authority, for an adequate 13868
substitute therefor that is satisfactory to the trustee if a 13869
trust agreement secures the bonds. 13870

(3) The legislative authority of a municipal corporation 13871
that, pursuant to division (C) (2) of this section, has amended 13872
its ordinance or resolution to increase the rate of the tax 13873
authorized by division (B) of this section may further amend the 13874
ordinance or resolution to provide that the revenue referred to 13875
in division (C) (2) (b) of this section shall be pledged and 13876
contributed both to a convention facilities authority to pay the 13877
costs of constructing, expanding, maintaining, or operating one 13878
or more convention centers in the county, including paying 13879
bonds, or notes issued in anticipation of bonds, as provided in 13880
Chapter 351. of the Revised Code, and to a convention and 13881
visitors' bureau to pay the costs of promoting one or more 13882
convention centers in the county. 13883

(D) As used in division (D) of this section, "eligible 13884
municipal corporation" means a municipal corporation that, on 13885
September 29, 2017, levied a tax under division (B) of this 13886
section at a rate of three per cent and that is located in a 13887
county that, on that date, levied a tax under division (A) of 13888
section 5739.09 of the Revised Code at a rate of three per cent 13889
and that has, according to the most recent federal decennial 13890
census, a population exceeding three hundred thousand but not 13891
greater than three hundred fifty thousand. 13892

The legislative authority of an eligible municipal 13893
corporation may amend, on or before December 31, 2017, that 13894
municipal corporation's ordinance or resolution that levies an 13895
excise tax on transactions by which lodging by a hotel is or is 13896
to be furnished to transient guests, to provide for the 13897
following: 13898

(1) That the rate of the tax shall be increased by not 13899
more than an additional three per cent on each transaction; 13900

(2) That all of the revenue from the increase in rate 13901
shall be used by the municipal corporation for economic 13902
development and tourism-related purposes. 13903

Sec. 5739.09. (A) (1) A board of county commissioners may, 13904
by resolution adopted by a majority of the members of the board, 13905
levy an excise tax not to exceed three per cent on transactions 13906
by which lodging by a hotel is or is to be furnished to 13907
transient guests. The board shall establish all regulations 13908
necessary to provide for the administration and allocation of 13909
the tax. The regulations may prescribe the time for payment of 13910
the tax, and may provide for the imposition of a penalty or 13911
interest, or both, for late payments, provided that the penalty 13912
does not exceed ten per cent of the amount of tax due, and the 13913
rate at which interest accrues does not exceed the rate per 13914
annum prescribed pursuant to section 5703.47 of the Revised 13915
Code. Except as otherwise provided in ~~divisions (A) (2), (3),~~ 13916
~~(4), (5), (6), (7), (8), (9), (10), (11), and (12)~~ of this 13917
section, the regulations shall provide, after deducting the real 13918
and actual costs of administering the tax, for the return to 13919
each municipal corporation or township that does not levy an 13920
excise tax on the transactions, a uniform percentage of the tax 13921
collected in the municipal corporation or in the unincorporated 13922

portion of the township from each transaction, not to exceed 13923
thirty-three and one-third per cent. ~~The Except as provided in~~ 13924
~~this section, the~~ remainder of the revenue arising from the tax 13925
shall be deposited in a separate fund and shall be spent solely 13926
to make contributions to the convention and visitors' bureau 13927
operating within the county, including a pledge and contribution 13928
of any portion of the remainder pursuant to an agreement 13929
authorized by section 307.678 or 307.695 of the Revised Code, ~~7-~~ 13930
~~provided that if.~~ 13931

(2) If the board of county commissioners of an eligible 13932
county as defined in section 307.678 or 307.695 of the Revised 13933
Code adopts a resolution amending a resolution levying a tax 13934
under ~~this division~~ (A) of this section to provide that revenue 13935
from the tax shall be used by the board as described in either 13936
division (D) of section 307.678 or division (H) of section 13937
307.695 of the Revised Code, the remainder of the revenue shall 13938
be used as described in the resolution making that amendment. 13939
~~Except-~~ 13940

(3) ~~Except as provided in division (A) (2), (3), (4), (5),~~ 13941
~~(6), (7), (8), (9), (10), or (11) (B), (C), (D), (E), (F), (G),~~ 13942
~~(H), (I), (J), (K), or (H) (Q)~~ of this section, on and after May 13943
10, 1994, a board of county commissioners may not levy an excise 13944
tax pursuant to ~~this division~~ (A) of this section in any 13945
municipal corporation or township located wholly or partly 13946
within the county that has in effect an ordinance or resolution 13947
levying an excise tax pursuant to division (B) of ~~this section~~ 13948
5739.08 of the Revised Code. ~~The~~ 13949

(4) ~~The~~ board of a county that has levied a tax under 13950
division ~~(C)~~ (M) of this section may, by resolution adopted 13951
within ninety days after July 15, 1985, by a majority of the 13952

members of the board, amend the resolution levying a tax under 13953
~~this division (A) of this section~~ to provide for a portion of 13954
that tax to be pledged and contributed in accordance with an 13955
agreement entered into under section 307.695 of the Revised 13956
Code. A tax, any revenue from which is pledged pursuant to such 13957
an agreement, shall remain in effect at the rate at which it is 13958
imposed for the duration of the period for which the revenue 13959
from the tax has been so pledged. 13960

(5) The board of county commissioners of an eligible 13961
county as defined in section 307.695 of the Revised Code may, by 13962
resolution adopted by a majority of the members of the board, 13963
amend a resolution levying a tax under ~~this division (A) of this~~ 13964
section to provide that the revenue from the tax shall be used 13965
by the board as described in division (H) of section 307.695 of 13966
the Revised Code, in which case the tax shall remain in effect 13967
at the rate at which it was imposed for the duration of any 13968
agreement entered into by the board under section 307.695 of the 13969
Revised Code, the duration during which any securities issued by 13970
the board under that section are outstanding, or the duration of 13971
the period during which the board owns a project as defined in 13972
section 307.695 of the Revised Code, whichever duration is 13973
longest. 13974

(6) The board of county commissioners of an eligible 13975
county as defined in section 307.678 of the Revised Code may, by 13976
resolution, amend a resolution levying a tax under ~~this division~~ 13977
(A) of this section to provide that revenue from the tax, not to 13978
exceed five hundred thousand dollars each year, may be used as 13979
described in division (E) of section 307.678 of the Revised 13980
Code. 13981

(7) Notwithstanding division ~~(A) (1) (A)~~ of this section, 13982

the board of county commissioners of a county described in 13983
division ~~(A) (8) (a)~~ (H) (1) of this section may, by resolution, 13984
amend a resolution levying a tax under ~~this~~ division (A) of this 13985
section to provide that all or a portion of the revenue from the 13986
tax, including any revenue otherwise required to be returned to 13987
townships or municipal corporations under ~~this~~ that division, 13988
may be used or pledged for the payment of debt service on 13989
securities issued to pay the costs of constructing, operating, 13990
and maintaining sports facilities described in division ~~(A) (8)~~ 13991
~~(b)~~ (H) (2) of this section. 13992

(8) The board of county commissioners of a county 13993
described in division ~~(A) (9)~~ (I) of this section may, by 13994
resolution, amend a resolution levying a tax under ~~this~~ division 13995
(A) of this section to provide that all or a portion of the 13996
revenue from the tax may be used for the purposes described in 13997
section 307.679 of the Revised Code. 13998

~~(2)~~ (B) A board of county commissioners that levies an 13999
excise tax under division ~~(A) (1)~~ (A) of this section on June 30, 14000
1997, at a rate of three per cent, and that has pledged revenue 14001
from the tax to an agreement entered into under section 307.695 14002
of the Revised Code or, in the case of the board of county 14003
commissioners of an eligible county as defined in section 14004
307.695 of the Revised Code, has amended a resolution levying a 14005
tax under division ~~(C)~~ (M) of this section to provide that 14006
proceeds from the tax shall be used by the board as described in 14007
division (H) of section 307.695 of the Revised Code, may, at any 14008
time by a resolution adopted by a majority of the members of the 14009
board, amend the resolution levying a tax under division ~~(A) (1)~~ 14010
(A) of this section to provide for an increase in the rate of 14011
that tax up to seven per cent on each transaction; to provide 14012
that revenue from the increase in the rate shall be used as 14013

described in division (H) of section 307.695 of the Revised Code 14014
or be spent solely to make contributions to the convention and 14015
visitors' bureau operating within the county to be used 14016
specifically for promotion, advertising, and marketing of the 14017
region in which the county is located; and to provide that the 14018
rate in excess of the three per cent levied under division ~~(A)~~ 14019
~~(1)~~ (A) of this section shall remain in effect at the rate at 14020
which it is imposed for the duration of the period during which 14021
any agreement is in effect that was entered into under section 14022
307.695 of the Revised Code by the board of county commissioners 14023
levying a tax under division ~~(A) (1)~~ (A) of this section, the 14024
duration of the period during which any securities issued by the 14025
board under division (I) of section 307.695 of the Revised Code 14026
are outstanding, or the duration of the period during which the 14027
board owns a project as defined in section 307.695 of the 14028
Revised Code, whichever duration is longest. The amendment also 14029
shall provide that no portion of that revenue need be returned 14030
to townships or municipal corporations as would otherwise be 14031
required under division ~~(A) (1)~~ (A) of this section. 14032

~~(3)~~ (C) (1) As used in division (C) of this section, "cost" 14033
and "facility" have the same meanings as in section 351.01 of 14034
the Revised Code, and "convention center" has the same meaning 14035
as in section 307.695 of the Revised Code. 14036

(2) A board of county commissioners that levies a tax 14037
under division ~~(A) (1)~~ (A) of this section on March 18, 1999, at 14038
a rate of three per cent may, by resolution adopted not later 14039
than forty-five days after March 18, 1999, amend the resolution 14040
levying the tax to provide for all of the following: 14041

(a) That the rate of the tax shall be increased by not 14042
more than an additional four per cent on each transaction; 14043

(b) That all of the revenue from the increase in the rate
shall be pledged and contributed to a convention facilities
authority established by the board of county commissioners under
Chapter 351. of the Revised Code on or before November 15, 1998,
and used to pay costs of constructing, maintaining, operating,
and promoting a facility in the county, including paying bonds,
or notes issued in anticipation of bonds, as provided by that
chapter;

(c) That no portion of the revenue arising from the
increase in rate need be returned to municipal corporations or
townships as otherwise required under division ~~(A) (1)~~ (A) of
this section;

(d) That the increase in rate shall not be subject to
diminution by initiative or referendum or by law while any
bonds, or notes in anticipation of bonds, issued by the
authority under Chapter 351. of the Revised Code to which the
revenue is pledged, remain outstanding in accordance with their
terms, unless provision is made by law or by the board of county
commissioners for an adequate substitute therefor that is
satisfactory to the trustee if a trust agreement secures the
bonds.

(3) Division ~~(A) (3)~~ (C) of this section does not apply to
the board of county commissioners of any county in which a
convention center or facility exists or is being constructed on
November 15, 1998, or of any county in which a convention
facilities authority levies a tax pursuant to section 351.021 of
the Revised Code on that date.

~~As used in division (A) (3) of this section, "cost" and
"facility" have the same meanings as in section 351.01 of the
Revised Code, and "convention center" has the same meaning as in~~

~~section 307.695 of the Revised Code.~~ 14074

~~(4)(a)~~ (D) (1) As used in division (D) of this section, 14075
"cost" has the same meaning as in section 351.01 of the Revised 14076
Code, and "convention center" has the same meaning as in section 14077
307.695 of the Revised Code. 14078

(2) A board of county commissioners that levies a tax 14079
under division ~~(A) (1)~~ (A) of this section on June 30, 2002, at a 14080
rate of three per cent may, by resolution adopted not later than 14081
September 30, 2002, amend the resolution levying the tax to 14082
provide for all of the following: 14083

~~(i)~~ (a) That the rate of the tax shall be increased by not 14084
more than an additional three and one-half per cent on each 14085
transaction; 14086

~~(ii)~~ (b) That all of the revenue from the increase in rate 14087
shall be pledged and contributed to a convention facilities 14088
authority established by the board of county commissioners under 14089
Chapter 351. of the Revised Code on or before May 15, 2002, and 14090
be used to pay costs of constructing, expanding, maintaining, 14091
operating, or promoting a convention center in the county, 14092
including paying bonds, or notes issued in anticipation of 14093
bonds, as provided by that chapter; 14094

~~(iii)~~ (c) That no portion of the revenue arising from the 14095
increase in rate need be returned to municipal corporations or 14096
townships as otherwise required under division ~~(A) (1)~~ (A) of 14097
this section; 14098

~~(iv)~~ (d) That the increase in rate shall not be subject to 14099
diminution by initiative or referendum or by law while any 14100
bonds, or notes in anticipation of bonds, issued by the 14101
authority under Chapter 351. of the Revised Code to which the 14102

revenue is pledged, remain outstanding in accordance with their 14103
terms, unless provision is made by law or by the board of county 14104
commissioners for an adequate substitute therefor that is 14105
satisfactory to the trustee if a trust agreement secures the 14106
bonds. 14107

~~(b)~~ (3) Any board of county commissioners that, pursuant 14108
to division ~~(A) (4) (a)~~ (D) (2) of this section, has amended a 14109
resolution levying the tax authorized by division ~~(A) (1)~~ (A) of 14110
this section may further amend the resolution to provide that 14111
the revenue referred to in division ~~(A) (4) (a) (ii)~~ (D) (2) (b) of 14112
this section shall be pledged and contributed both to a 14113
convention facilities authority to pay the costs of 14114
constructing, expanding, maintaining, or operating one or more 14115
convention centers in the county, including paying bonds, or 14116
notes issued in anticipation of bonds, as provided in Chapter 14117
351. of the Revised Code, and to a convention and visitors' 14118
bureau to pay the costs of promoting one or more convention 14119
centers in the county. 14120

~~As used in division (A) (4) of this section, "cost" has the~~ 14121
~~same meaning as in section 351.01 of the Revised Code, and~~ 14122
~~"convention center" has the same meaning as in section 307.695-~~ 14123
~~of the Revised Code.~~ 14124

~~(5) (a)~~ (E) (1) As used in division ~~(A) (5)~~ (E) of this 14125
section: 14126

~~(i)~~ (a) "Port authority" means a port authority created 14127
under Chapter 4582. of the Revised Code. 14128

~~(ii)~~ (b) "Port authority military-use facility" means port 14129
authority facilities on which or adjacent to which is located an 14130
installation of the armed forces of the United States, a reserve 14131

component thereof, or the national guard and at least part of 14132
which is made available for use, for consideration, by the armed 14133
forces of the United States, a reserve component thereof, or the 14134
national guard. 14135

~~(b)~~ (2) For the purpose of contributing revenue to pay 14136
operating expenses of a port authority that operates a port 14137
authority military-use facility, the board of county 14138
commissioners of a county that created, participated in the 14139
creation of, or has joined such a port authority may do one or 14140
both of the following: 14141

~~(i)~~ (a) Amend a resolution previously adopted under 14142
division ~~(A) (1)~~ (A) of this section to designate some or all of 14143
the revenue from the tax levied under the resolution to be used 14144
for that purpose, notwithstanding that division; 14145

~~(ii)~~ (b) Amend a resolution previously adopted under 14146
division ~~(A) (1)~~ (A) of this section to increase the rate of the 14147
tax by not more than an additional two per cent and use the 14148
revenue from the increase exclusively for that purpose. 14149

~~(e)~~ (3) If a board of county commissioners amends a 14150
resolution to increase the rate of a tax as authorized in 14151
division ~~(A) (5) (b) (ii)~~ (E) (2) (b) of this section, the board also 14152
may amend the resolution to specify that the increase in rate of 14153
the tax does not apply to "hotels," as otherwise defined in 14154
section 5739.01 of the Revised Code, having fewer rooms used for 14155
the accommodation of guests than a number of rooms specified by 14156
the board. 14157

~~(6)~~ (F) (1) A board of county commissioners of a county 14158
organized under a county charter adopted pursuant to Article X, 14159
Section 3, Ohio Constitution, and that levies an excise tax 14160

under division ~~(A)(1)~~ (A) of this section at a rate of three per cent and levies an additional excise tax under division ~~(E)~~ (O) of this section at a rate of one and one-half per cent may, by resolution adopted not later than January 1, 2008, by a majority of the members of the board, amend the resolution levying a tax under division ~~(A)(1)~~ (A) of this section to provide for an increase in the rate of that tax by not more than an additional one per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. Notwithstanding divisions ~~(A)(1)~~ (A) and ~~(E)~~ (O) of this section, the resolution shall provide that all of the revenue from the increase in rate, after deducting the real and actual costs of administering the tax, shall be used to pay the costs of improving, expanding, equipping, financing, or operating a convention center by a convention and visitors' bureau in the county. ~~The~~

(2) The increase in rate shall remain in effect for the period specified in the resolution, not to exceed ten years, and may be extended for an additional period of time not to exceed ten years thereafter by a resolution adopted by a majority of the members of the board. ~~The~~

(3) The increase in rate shall be subject to the regulations adopted under division ~~(A)(1)~~ (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under that division.

~~(7)~~ (G)(1) Division ~~(A)(7)~~ (G) of this section applies only to a county with a population greater than sixty-five thousand and less than seventy thousand according to the most recent federal decennial census and in which, on December 31,

2006, an excise tax is levied under division ~~(A) (1) (A)~~ of this 14191
section at a rate not less than and not greater than three per 14192
cent, and in which the most recent increase in the rate of that 14193
tax was enacted or took effect in November 1984. 14194

(2) The board of county commissioners of a county to which 14195
~~this division~~ (G) of this section applies, by resolution adopted 14196
by a majority of the members of the board, may increase the rate 14197
of the tax by not more than one per cent on transactions by 14198
which lodging by a hotel is or is to be furnished to transient 14199
guests. The increase in rate shall be for the purpose of paying 14200
expenses deemed necessary by the convention and visitors' bureau 14201
operating in the county to promote travel and tourism. ~~The~~ 14202

(3) ~~The~~ increase in rate shall remain in effect for the 14203
period specified in the resolution, not to exceed twenty years, 14204
provided that the increase in rate may not continue beyond the 14205
time when the purpose for which the increase is levied ceases to 14206
exist. If revenue from the increase in rate is pledged to the 14207
payment of debt charges on securities, the increase in rate is 14208
not subject to diminution by initiative or referendum or by law 14209
for so long as the securities are outstanding, unless provision 14210
is made by law or by the board of county commissioners for an 14211
adequate substitute for that revenue that is satisfactory to the 14212
trustee if a trust agreement secures payment of the debt 14213
charges. ~~The~~ 14214

(4) ~~The~~ increase in rate shall be subject to the 14215
regulations adopted under division ~~(A) (1) (A)~~ of this section, 14216
except that the resolution may provide that no portion of the 14217
revenue from the increase in the rate shall be returned to 14218
townships or municipal corporations as would otherwise be 14219
required under division ~~(A) (1) (A)~~ of this section. ~~A~~ 14220

(5) A resolution adopted under division ~~(A) (7)~~ (G) of this 14221
section is subject to referendum under sections 305.31 to 305.99 14222
of the Revised Code. 14223

~~(8) (a)~~ (H) (1) Division ~~(A) (8)~~ (H) of this section applies 14224
only to a county satisfying all of the following: 14225

~~(i)~~ (a) The population of the county is greater than one 14226
hundred seventy-five thousand and less than two hundred twenty- 14227
five thousand according to the most recent federal decennial 14228
census. 14229

~~(ii)~~ (b) An amusement park with an average yearly 14230
attendance in excess of two million guests is located in the 14231
county. 14232

~~(iii)~~ (c) On December 31, 2014, an excise tax was levied 14233
in the county under division ~~(A) (1)~~ (A) of this section at a 14234
rate of three per cent. 14235

~~(b)~~ (2) The board of county commissioners of a county to 14236
which ~~this~~ division (H) of this section applies, by resolution 14237
adopted by a majority of the members of the board, may increase 14238
the rate of the tax by not more than one per cent on 14239
transactions by which lodging by a hotel is or is to be 14240
furnished to transient guests. The increase in rate shall be 14241
used to pay the costs of constructing and maintaining facilities 14242
owned by the county or by a port authority created under Chapter 14243
4582. of the Revised Code, and designed to host sporting events 14244
and expenses deemed necessary by the convention and visitors' 14245
bureau operating in the county to promote travel and tourism 14246
with reference to the sports facilities, and to pay or pledge to 14247
the payment of debt service on securities issued to pay the 14248
costs of constructing, operating, and maintaining the sports 14249

facilities. ~~The~~ 14250

(3) The increase in rate shall remain in effect for the 14251
period specified in the resolution. If revenue from the increase 14252
in rate is pledged to the payment of debt charges on securities, 14253
the increase in rate is not subject to diminution by initiative 14254
or referendum or by law for so long as the securities are 14255
outstanding, unless provision is made by law or by the board of 14256
county commissioners for an adequate substitute for that revenue 14257
that is satisfactory to the trustee if a trust agreement secures 14258
payment of the debt charges. ~~The~~ 14259

(4) The increase in rate shall be subject to the 14260
regulations adopted under division ~~(A)(1)~~ (A) of this section, 14261
except that the resolution may provide that no portion of the 14262
revenue from the increase in the rate shall be returned to 14263
townships or municipal corporations as would otherwise be 14264
required under division ~~(A)(1)~~ (A) of this section. 14265

~~(9)~~ (I)(1) The board of county commissioners of a county 14266
with a population greater than seventy-five thousand and less 14267
than seventy-eight thousand, by resolution adopted by a majority 14268
of the members of the board not later than October 15, 2015, may 14269
increase the rate of the tax by not more than one per cent on 14270
transactions by which lodging by a hotel is or is to be 14271
furnished to transient guests. The increase in rate shall be for 14272
the purposes described in section 307.679 of the Revised Code or 14273
for the promotion of travel and tourism in the county, including 14274
travel and tourism to sports facilities. ~~The~~ 14275

(2) The increase in rate shall remain in effect for the 14276
period specified in the resolution and as necessary to fulfill 14277
the county's obligations under a cooperative agreement entered 14278
into under section 307.679 of the Revised Code. If the 14279

resolution is adopted by the board before September 29, 2015, 14280
but after that enactment becomes law, the increase in rate shall 14281
become effective beginning on September 29, 2015. If revenue 14282
from the increase in rate is pledged to the payment of debt 14283
charges on securities, or to substitute for other revenues 14284
pledged to the payment of such debt, the increase in rate is not 14285
subject to diminution by initiative or referendum or by law for 14286
so long as the securities are outstanding, unless provision is 14287
made by law or by the board of county commissioners for an 14288
adequate substitute for that revenue that is satisfactory to the 14289
trustee if a trust agreement secures payment of the debt 14290
charges. ~~The~~ 14291

(3) The increase in rate shall be subject to the 14292
regulations adopted under division ~~(A)(1)~~ (A) of this section, 14293
except that no portion of the revenue from the increase in the 14294
rate shall be returned to townships or municipal corporations as 14295
would otherwise be required under division ~~(A)(1)~~ (A) of this 14296
section. 14297

~~(10)~~ (J)(1) Division ~~(A)(10)~~ (J) of this section applies 14298
only to counties satisfying either of the following: 14299

(a) A county that, on July 1, 2015, does not levy an 14300
excise tax under division ~~(A)(1)~~ (A) of this section and that 14301
has a population of at least thirty-nine thousand but not more 14302
than forty thousand according to the 2010 federal decennial 14303
census; 14304

(b) A county that, on July 1, 2015, levies an excise tax 14305
under division ~~(A)(1)~~ (A) of this section at a rate of three per 14306
cent and that has a population of at least seventy-one thousand 14307
but not more than seventy-five thousand according to 2010 14308
federal decennial census. 14309

(2) The board of county commissioners of a county to which 14310
division ~~(A) (10)~~ (J) of this section applies, by resolution 14311
adopted by a majority of the members of the board, may levy an 14312
excise tax at a rate not to exceed three per cent on 14313
transactions by which lodging by a hotel is or is to be 14314
furnished to transient guests for the purpose of acquiring, 14315
constructing, equipping, or repairing permanent improvements, as 14316
defined in section 133.01 of the Revised Code. ~~If~~ 14317

(3) ~~If~~ the board does not levy a tax under division ~~(A) (1)~~ 14318
(A) of this section, the board shall establish regulations 14319
necessary to provide for the administration of the tax, which 14320
may prescribe the time for payment of the tax and the imposition 14321
of penalty or interest subject to the limitations on penalty and 14322
interest provided in division ~~(A) (1)~~ (A) of this section. No 14323
portion of the revenue shall be returned to townships or 14324
municipal corporations in the county unless otherwise provided 14325
by resolution of the board. ~~The~~ 14326

(4) The tax shall apply throughout the territory of the 14327
county, including in any township or municipal corporation 14328
levying an excise tax under ~~division (B) of this section or~~ 14329
division (A) or (B) of section 5739.08 of the Revised Code. The 14330
levy of the tax is subject to referendum as provided under 14331
section 305.31 of the Revised Code. 14332

(5) The tax shall remain in effect for the period 14333
specified in the resolution. If revenue from the increase in 14334
rate is pledged to the payment of debt charges on securities, 14335
the increase in rate is not subject to diminution by initiative 14336
or referendum or by law for so long as the securities are 14337
outstanding unless provision is made by law or by the board for 14338
an adequate substitute for that revenue that is satisfactory to 14339

the trustee if a trust agreement secures payment of the debt 14340
charges. 14341

~~(11)~~ (K) (1) The board of county commissioners of an 14342
eligible county, as defined in section 307.678 of the Revised 14343
Code, that levies an excise tax under division ~~(A) (1)~~ (A) of 14344
this section on July 1, 2017, at a rate of three per cent may, 14345
by resolution adopted by a majority of the members of the board, 14346
amend the resolution levying the tax to increase the rate of the 14347
tax by not more than an additional three per cent on each 14348
transaction. ~~No~~ 14349

(2) ~~No~~ portion of the revenue shall be returned to 14350
townships or municipal corporations in the county unless 14351
otherwise provided by resolution of the board. Otherwise, the 14352
revenue from the increase in the rate shall be distributed and 14353
used in the same manner described under division ~~(A) (1)~~ (A) of 14354
this section or distributed or used to provide credit 14355
enhancement facilities as authorized under section 307.678 of 14356
the Revised Code. ~~The~~ 14357

(3) ~~The~~ increase in rate shall remain in effect for the 14358
period specified in the resolution. If revenue from the increase 14359
in rate is pledged to the payment of debt charges on securities, 14360
the increase in rate is not subject to diminution by initiative 14361
or referendum or by law for so long as the securities are 14362
outstanding unless provision is made by law or by the board for 14363
an adequate substitute for that revenue that is satisfactory to 14364
the trustee if a trust agreement secures payment of the debt 14365
charges. 14366

~~(12) (a)~~ (L) (1) As used in ~~this~~ division (L) of this 14367
section: 14368

~~(i)-(a)~~ "Eligible county" means a county that has a 14369
population greater than one hundred ninety thousand and less 14370
than two hundred thousand according to the 2010 federal 14371
decennial census and that levies an excise tax under division 14372
~~(A)(1)-(A)~~ of this section at a rate of three per cent. 14373

~~(ii)-(b)~~ "Professional sports facility" means a sports 14374
facility that is intended to house major or minor league 14375
professional athletic teams, including a stadium, together with 14376
all parking facilities, walkways, and other auxiliary 14377
facilities, real and personal property, property rights, 14378
easements, and interests that may be appropriate for, or used in 14379
connection with, the operation of the facility. 14380

~~(b)-(2)~~ Subject to division ~~(A)(12)(c)-(L)(3)~~ of this 14381
section, the board of county commissioners of an eligible 14382
county, by resolution adopted by a majority of the members of 14383
the board, may increase the rate of the tax by not more than one 14384
per cent on transactions by which lodging by a hotel is or is to 14385
be furnished to transient guests. Revenue from the increase in 14386
rate shall be used for the purposes of paying the costs of 14387
constructing, improving, and maintaining a professional sports 14388
facility in the county and paying expenses considered necessary 14389
by the convention and visitors' bureau operating in the county 14390
to promote travel and tourism with respect to that professional 14391
sports facility. The tax shall take effect only after the 14392
convention and visitors' bureau enters into a contract for the 14393
construction, improvement, or maintenance of a professional 14394
sports facility that is or will be located on property acquired, 14395
in whole or in part, with revenue from the increased rate, and 14396
thereafter shall remain in effect for the period specified in 14397
the resolution. If revenue from the increase in rate is pledged 14398
to the payment of debt charges on securities, the increase in 14399

rate is not subject to diminution by initiative or referendum or 14400
by law for so long as the securities are outstanding, unless a 14401
provision is made by law or by the board of county commissioners 14402
for an adequate substitute for that revenue that is satisfactory 14403
to the trustee if a trust agreement secures payment of the debt 14404
charges. The increase in rate shall be subject to the 14405
regulations adopted under division ~~(A) (1)~~ (A) of this section, 14406
except that the resolution may provide that no portion of the 14407
revenue from the increase in the rate shall be returned to 14408
townships or municipal corporations as would otherwise be 14409
required under division ~~(A) (1)~~ (A) of this section. 14410

~~(e)~~ (3) If, on December 31, 2019, the convention and 14411
visitors' bureau has not entered into a contract for the 14412
construction, improvement, or maintenance of a professional 14413
sports facility that is or will be located on property acquired, 14414
in whole or in part, with revenue from the increased rate, the 14415
authority to levy the tax under division ~~(A) (12) (b)~~ (L) (2) of 14416
this section is hereby repealed on that date. 14417

~~(B) (1) The legislative authority of a municipal~~ 14418
~~corporation or the board of trustees of a township that is not~~ 14419
~~wholly or partly located in a county that has in effect a~~ 14420
~~resolution levying an excise tax pursuant to division (A) (1) of~~ 14421
~~this section may, by ordinance or resolution, levy an excise tax~~ 14422
~~not to exceed three per cent on transactions by which lodging by~~ 14423
~~a hotel is or is to be furnished to transient guests. The~~ 14424
~~legislative authority of the municipal corporation or the board~~ 14425
~~of trustees of the township shall deposit at least fifty per~~ 14426
~~cent of the revenue from the tax levied pursuant to this~~ 14427
~~division into a separate fund, which shall be spent solely to~~ 14428
~~make contributions to convention and visitors' bureaus operating~~ 14429
~~within the county in which the municipal corporation or township~~ 14430

~~is wholly or partly located, and the balance of that revenue~~ 14431
~~shall be deposited in the general fund. The municipal~~ 14432
~~corporation or township shall establish all regulations~~ 14433
~~necessary to provide for the administration and allocation of~~ 14434
~~the tax. The regulations may prescribe the time for payment of~~ 14435
~~the tax, and may provide for the imposition of a penalty or~~ 14436
~~interest, or both, for late payments, provided that the penalty~~ 14437
~~does not exceed ten per cent of the amount of tax due, and the~~ 14438
~~rate at which interest accrues does not exceed the rate per~~ 14439
~~annum prescribed pursuant to section 5703.47 of the Revised~~ 14440
~~Code. The levy of a tax under this division is in addition to~~ 14441
~~any tax imposed on the same transaction by a municipal~~ 14442
~~corporation or a township as authorized by division (A) of~~ 14443
~~section 5739.08 of the Revised Code.~~ 14444

~~(2) (a) The legislative authority of the most populous~~ 14445
~~municipal corporation located wholly or partly in a county in~~ 14446
~~which the board of county commissioners has levied a tax under~~ 14447
~~division (A) (4) of this section may amend, on or before~~ 14448
~~September 30, 2002, that municipal corporation's ordinance or~~ 14449
~~resolution that levies an excise tax on transactions by which~~ 14450
~~lodging by a hotel is or is to be furnished to transient guests,~~ 14451
~~to provide for all of the following:~~ 14452

~~(i) That the rate of the tax shall be increased by not~~ 14453
~~more than an additional one per cent on each transaction;~~ 14454

~~(ii) That all of the revenue from the increase in rate~~ 14455
~~shall be pledged and contributed to a convention facilities~~ 14456
~~authority established by the board of county commissioners under~~ 14457
~~Chapter 351. of the Revised Code on or before May 15, 2002, and~~ 14458
~~be used to pay costs of constructing, expanding, maintaining,~~ 14459
~~operating, or promoting a convention center in the county,~~ 14460

~~including paying bonds, or notes issued in anticipation of~~ 14461
~~bonds, as provided by that chapter;~~ 14462

~~(iii) That the increase in rate shall not be subject to~~ 14463
~~diminution by initiative or referendum or by law while any~~ 14464
~~bonds, or notes in anticipation of bonds, issued by the~~ 14465
~~authority under Chapter 351. of the Revised Code to which the~~ 14466
~~revenue is pledged, remain outstanding in accordance with their~~ 14467
~~terms, unless provision is made by law, by the board of county~~ 14468
~~commissioners, or by the legislative authority, for an adequate~~ 14469
~~substitute therefor that is satisfactory to the trustee if a~~ 14470
~~trust agreement secures the bonds.~~ 14471

~~(b) The legislative authority of a municipal corporation~~ 14472
~~that, pursuant to division (B) (2) (a) of this section, has~~ 14473
~~amended its ordinance or resolution to increase the rate of the~~ 14474
~~tax authorized by division (B) (1) of this section may further~~ 14475
~~amend the ordinance or resolution to provide that the revenue~~ 14476
~~referred to in division (B) (2) (a) (ii) of this section shall be~~ 14477
~~pledged and contributed both to a convention facilities~~ 14478
~~authority to pay the costs of constructing, expanding,~~ 14479
~~maintaining, or operating one or more convention centers in the~~ 14480
~~county, including paying bonds, or notes issued in anticipation~~ 14481
~~of bonds, as provided in Chapter 351. of the Revised Code, and~~ 14482
~~to a convention and visitors' bureau to pay the costs of~~ 14483
~~promoting one or more convention centers in the county.~~ 14484

~~As used in division (B) (2) of this section, "cost" has the~~ 14485
~~same meaning as in section 351.01 of the Revised Code, and~~ 14486
~~"convention center" has the same meaning as in section 307.695-~~ 14487
~~of the Revised Code.~~ 14488

~~(3) The legislative authority of an eligible municipal~~ 14489
~~corporation may amend, on or before December 31, 2017, that~~ 14490

~~municipal corporation's ordinance or resolution that levies an~~ 14491
~~excise tax on transactions by which lodging by a hotel is or is~~ 14492
~~to be furnished to transient guests, to provide for the~~ 14493
~~following:—~~ 14494

~~(a) That the rate of the tax shall be increased by not~~ 14495
~~more than an additional three per cent on each transaction;—~~ 14496

~~(b) That all of the revenue from the increase in rate~~ 14497
~~shall be used by the municipal corporation for economic~~ 14498
~~development and tourism related purposes.—~~ 14499

~~As used in division (B) (3) of this section, "eligible~~ 14500
~~municipal corporation" means a municipal corporation that, on~~ 14501
~~the effective date of the amendment of this section by H.B. 49~~ 14502
~~of the 132nd general assembly, September 29, 2017, levied a tax~~ 14503
~~under division (B) (1) of this section at a rate of three per~~ 14504
~~cent and that is located in a county that, on that date, levied~~ 14505
~~a tax under division (A) of this section at a rate of three per~~ 14506
~~cent and that has, according to the most recent federal~~ 14507
~~decennial census, a population exceeding three hundred thousand~~ 14508
~~but not greater than three hundred fifty thousand.—~~ 14509

~~(C)~~ (M) (1) For the purposes described in section 307.695 14510
of the Revised Code and to cover the costs of administering the 14511
tax, a board of county commissioners of a county where a tax 14512
imposed under division ~~(A) (1)~~ (A) of this section is in effect 14513
may, by resolution adopted within ninety days after July 15, 14514
1985, by a majority of the members of the board, levy an 14515
additional excise tax not to exceed three per cent on 14516
transactions by which lodging by a hotel is or is to be 14517
furnished to transient guests. The tax authorized by ~~this~~ 14518
division (M) of this section shall be in addition to any tax 14519
that is levied pursuant to ~~division~~ divisions (A) to (L) of this 14520

section, but it shall not apply to transactions subject to a tax 14521
levied by a municipal corporation or township pursuant to ~~the~~ 14522
~~authorization granted by division (A) of~~ section 5739.08 of the 14523
Revised Code. ~~The~~ 14524

(2) The board shall establish all regulations necessary to 14525
provide for the administration and allocation of the tax. The 14526
regulations may prescribe the time for payment of the tax, and 14527
may provide for the imposition of a penalty or interest, or 14528
both, for late payments, provided that the penalty does not 14529
exceed ten per cent of the amount of tax due, and the rate at 14530
which interest accrues does not exceed the rate per annum 14531
prescribed pursuant to section 5703.47 of the Revised Code. ~~All~~ 14532

(3) All revenues arising from the tax shall be expended in 14533
accordance with section 307.695 of the Revised Code. The board 14534
of county commissioners of an eligible county as defined in 14535
section 307.695 of the Revised Code may, by resolution adopted 14536
by a majority of the members of the board, amend the resolution 14537
levying a tax under this division to provide that the revenue 14538
from the tax shall be used by the board as described in division 14539
(H) of section 307.695 of the Revised Code. ~~A~~ 14540

(4) A tax imposed under this division shall remain in 14541
effect at the rate at which it is imposed for the duration of 14542
the period during which any agreement entered into by the board 14543
under section 307.695 of the Revised Code is in effect, the 14544
duration of the period during which any securities issued by the 14545
board under division (I) of section 307.695 of the Revised Code 14546
are outstanding, or the duration of the period during which the 14547
board owns a project as defined in section 307.695 of the 14548
Revised Code, whichever duration is longest. 14549

~~(D)~~ (N) (1) For the purpose of providing contributions 14550

under division (B) (1) of section 307.671 of the Revised Code to 14551
enable the acquisition, construction, and equipping of a port 14552
authority educational and cultural facility in the county and, 14553
to the extent provided for in the cooperative agreement 14554
authorized by that section, for the purpose of paying debt 14555
service charges on bonds, or notes in anticipation of bonds, 14556
described in division (B) (1) (b) of that section, a board of 14557
county commissioners, by resolution adopted within ninety days 14558
after December 22, 1992, by a majority of the members of the 14559
board, may levy an additional excise tax not to exceed one and 14560
one-half per cent on transactions by which lodging by a hotel is 14561
or is to be furnished to transient guests. The excise tax 14562
authorized by ~~this~~ division (N) of this section shall be in 14563
addition to any tax that is levied pursuant to divisions (A), ~~—~~ 14564
~~(B), and (C)~~ to (M) of this section, to any excise tax levied 14565
pursuant to section 5739.08 of the Revised Code, and to any 14566
excise tax levied pursuant to section 351.021 of the Revised 14567
Code. ~~The~~ 14568

(2) The board of county commissioners shall establish all 14569
regulations necessary to provide for the administration and 14570
allocation of the tax that are not inconsistent with this 14571
section or section 307.671 of the Revised Code. The regulations 14572
may prescribe the time for payment of the tax, and may provide 14573
for the imposition of a penalty or interest, or both, for late 14574
payments, provided that the penalty does not exceed ten per cent 14575
of the amount of tax due, and the rate at which interest accrues 14576
does not exceed the rate per annum prescribed pursuant to 14577
section 5703.47 of the Revised Code. ~~All~~ 14578

(3) All revenues arising from the tax shall be expended in 14579
accordance with section 307.671 of the Revised Code and division 14580
~~(D)~~ (N) of this section. The levy of a tax imposed under ~~this~~ 14581

division (N) of this section may not commence prior to the first 14582
day of the month next following the execution of the cooperative 14583
agreement authorized by section 307.671 of the Revised Code by 14584
all parties to that agreement. ~~The~~ 14585

(4) The tax shall remain in effect at the rate at which it 14586
is imposed for the period of time described in division (C) of 14587
section 307.671 of the Revised Code for which the revenue from 14588
the tax has been pledged by the county to the corporation 14589
pursuant to that section, but, to any extent provided for in the 14590
cooperative agreement, for no lesser period than the period of 14591
time required for payment of the debt service charges on bonds, 14592
or notes in anticipation of bonds, described in division (B)(1) 14593
(b) of that section. 14594

~~(E)-(O) (1)~~ For the purpose of paying the costs of 14595
acquiring, constructing, equipping, and improving a municipal 14596
educational and cultural facility, including debt service 14597
charges on bonds provided for in division (B) of section 307.672 14598
of the Revised Code, and for any additional purposes determined 14599
by the county in the resolution levying the tax or amendments to 14600
the resolution, including subsequent amendments providing for 14601
paying costs of acquiring, constructing, renovating, 14602
rehabilitating, equipping, and improving a port authority 14603
educational and cultural performing arts facility, as defined in 14604
section 307.674 of the Revised Code, and including debt service 14605
charges on bonds provided for in division (B) of section 307.674 14606
of the Revised Code, the legislative authority of a county, by 14607
resolution adopted within ninety days after June 30, 1993, by a 14608
majority of the members of the legislative authority, may levy 14609
an additional excise tax not to exceed one and one-half per cent 14610
on transactions by which lodging by a hotel is or is to be 14611
furnished to transient guests. The excise tax authorized by ~~this~~ 14612

division (O) of this section shall be in addition to any tax 14613
that is levied pursuant to divisions (A), ~~(B)~~, ~~(C)~~, and ~~(D)~~ to 14614
(N) of this section, to any excise tax levied pursuant to 14615
section 5739.08 of the Revised Code, and to any excise tax 14616
levied pursuant to section 351.021 of the Revised Code. ~~The~~ 14617

(2) The legislative authority of the county shall 14618
establish all regulations necessary to provide for the 14619
administration and allocation of the tax. The regulations may 14620
prescribe the time for payment of the tax, and may provide for 14621
the imposition of a penalty or interest, or both, for late 14622
payments, provided that the penalty does not exceed ten per cent 14623
of the amount of tax due, and the rate at which interest accrues 14624
does not exceed the rate per annum prescribed pursuant to 14625
section 5703.47 of the Revised Code. ~~All~~ 14626

(3) All revenues arising from the tax shall be expended in 14627
accordance with section 307.672 of the Revised Code and this 14628
division. The levy of a tax imposed under this division shall 14629
not commence prior to the first day of the month next following 14630
the execution of the cooperative agreement authorized by section 14631
307.672 of the Revised Code by all parties to that agreement. 14632
The tax shall remain in effect at the rate at which it is 14633
imposed for the period of time determined by the legislative 14634
authority of the county. That period of time shall not exceed 14635
fifteen years, except that the legislative authority of a county 14636
with a population of less than two hundred fifty thousand 14637
according to the most recent federal decennial census, by 14638
resolution adopted by a majority of its members before the 14639
original tax expires, may extend the duration of the tax for an 14640
additional period of time. The additional period of time by 14641
which a legislative authority extends a tax levied under ~~this~~ 14642
division (O) of this section shall not exceed fifteen years. 14643

~~(F)~~ (P) (1) The legislative authority of a county that has 14644
levied a tax under division ~~(E)~~ (O) of this section may, by 14645
resolution adopted within one hundred eighty days after January 14646
4, 2001, by a majority of the members of the legislative 14647
authority, amend the resolution levying a tax under that 14648
division to provide for the use of the proceeds of that tax, to 14649
the extent that it is no longer needed for its original purpose 14650
as determined by the parties to a cooperative agreement 14651
amendment pursuant to division (D) of section 307.672 of the 14652
Revised Code, to pay costs of acquiring, constructing, 14653
renovating, rehabilitating, equipping, and improving a port 14654
authority educational and cultural performing arts facility, 14655
including debt service charges on bonds provided for in division 14656
(B) of section 307.674 of the Revised Code, and to pay all 14657
obligations under any guaranty agreements, reimbursement 14658
agreements, or other credit enhancement agreements described in 14659
division (C) of section 307.674 of the Revised Code. ~~The~~ 14660

(2) ~~The~~ resolution may also provide for the extension of 14661
the tax at the same rate for the longer of the period of time 14662
determined by the legislative authority of the county, but not 14663
to exceed an additional twenty-five years, or the period of time 14664
required to pay all debt service charges on bonds provided for 14665
in division (B) of section 307.672 of the Revised Code and on 14666
port authority revenue bonds provided for in division (B) of 14667
section 307.674 of the Revised Code. ~~All~~ 14668

(3) ~~All~~ revenues arising from the amendment and extension 14669
of the tax shall be expended in accordance with section 307.674 14670
of the Revised Code, ~~this division,~~ and ~~division (E)~~ divisions 14671
(O) and (P) of this section. 14672

~~(G) For purposes of a tax levied by a county, township, or~~ 14673

~~municipal corporation under this section or section 5739.08 of~~ 14674
~~the Revised Code, a board of county commissioners, board of~~ 14675
~~township trustees, or the legislative authority of a municipal~~ 14676
~~corporation may adopt a resolution or ordinance at any time~~ 14677
~~specifying that "hotel," as otherwise defined in section 5739.01~~ 14678
~~of the Revised Code, includes the following:—~~ 14679

~~(1) Establishments in which fewer than five rooms are used~~ 14680
~~for the accommodation of guests.—~~ 14681

~~(2) Establishments at which rooms are used for the~~ 14682
~~accommodation of guests regardless of whether each room is~~ 14683
~~accessible through its own keyed entry or several rooms are~~ 14684
~~accessible through the same keyed entry; and, in determining the~~ 14685
~~number of rooms, all rooms are included regardless of the number~~ 14686
~~of structures in which the rooms are situated or the number of~~ 14687
~~parcels of land on which the structures are located if the~~ 14688
~~structures are under the same ownership and the structures are~~ 14689
~~not identified in advertisements of the accommodations as~~ 14690
~~distinct establishments. For the purposes of division (C) (2) of~~ 14691
~~this section, two or more structures are under the same~~ 14692
~~ownership if they are owned by the same person, or if they are~~ 14693
~~owned by two or more persons the majority of the ownership~~ 14694
~~interests of which are owned by the same person.—~~ 14695

~~The resolution or ordinance may apply to a tax imposed~~ 14696
~~pursuant to this section prior to the adoption of the resolution~~ 14697
~~or ordinance if the resolution or ordinance so states, but the~~ 14698
~~tax shall not apply to transactions by which lodging by such an~~ 14699
~~establishment is provided to transient guests prior to the~~ 14700
~~adoption of the resolution or ordinance.—~~ 14701

~~(H) (1) (Q) (1) As used in this division (Q) of this~~ 14702
~~section:~~ 14703

(a) "Convention facilities authority" has the same meaning 14704
as in section 351.01 of the Revised Code. 14705

(b) "Convention center" has the same meaning as in section 14706
307.695 of the Revised Code. 14707

(2) Notwithstanding any contrary provision of division ~~(D)~~ 14708
(N) of this section, the legislative authority of a county with 14709
a population of one million or more according to the most recent 14710
federal decennial census that has levied a tax under division 14711
~~(D)~~ (N) of this section may, by resolution adopted by a majority 14712
of the members of the legislative authority, provide for the 14713
extension of such levy and may provide that the proceeds of that 14714
tax, to the extent that they are no longer needed for their 14715
original purpose as defined by a cooperative agreement entered 14716
into under section 307.671 of the Revised Code, shall be 14717
deposited into the county general revenue fund. The resolution 14718
shall provide for the extension of the tax at a rate not to 14719
exceed the rate specified in division ~~(D)~~ (N) of this section 14720
for a period of time determined by the legislative authority of 14721
the county, but not to exceed an additional forty years. 14722

(3) The legislative authority of a county with a 14723
population of one million or more that has levied a tax under 14724
division ~~(A) (1)~~ (A) of this section may, by resolution adopted 14725
by a majority of the members of the legislative authority, 14726
increase the rate of the tax levied by such county under 14727
division ~~(A) (1)~~ (A) of this section to a rate not to exceed five 14728
per cent on transactions by which lodging by a hotel is or is to 14729
be furnished to transient guests. Notwithstanding any contrary 14730
provision of division ~~(A) (1)~~ (A) of this section, the resolution 14731
may provide that all collections resulting from the rate levied 14732
in excess of three per cent, after deducting the real and actual 14733

costs of administering the tax, shall be deposited in the county 14734
general fund. 14735

(4) The legislative authority of a county with a 14736
population of one million or more that has levied a tax under 14737
division ~~(A)(1)~~ (A) of this section may, by resolution adopted 14738
on or before August 30, 2004, by a majority of the members of 14739
the legislative authority, provide that all or a portion of the 14740
proceeds of the tax levied under division ~~(A)(1)~~ (A) of this 14741
section, after deducting the real and actual costs of 14742
administering the tax and the amounts required to be returned to 14743
townships and municipal corporations with respect to the first 14744
three per cent levied under division ~~(A)(1)~~ (A) of this section, 14745
shall be deposited in the county general fund, provided that 14746
such proceeds shall be used to satisfy any pledges made in 14747
connection with an agreement entered into under section 307.695 14748
of the Revised Code. 14749

(5) No amount collected from a tax levied, extended, or 14750
required to be deposited in the county general fund under 14751
division ~~(H)~~ (Q) of this section shall be contributed to a 14752
convention facilities authority, corporation, or other entity 14753
created after July 1, 2003, for the principal purpose of 14754
constructing, improving, expanding, equipping, financing, or 14755
operating a convention center unless the mayor of the municipal 14756
corporation in which the convention center is to be operated by 14757
that convention facilities authority, corporation, or other 14758
entity has consented to the creation of that convention 14759
facilities authority, corporation, or entity. Notwithstanding 14760
any contrary provision of section 351.04 of the Revised Code, if 14761
a tax is levied by a county under division ~~(H)~~ (Q) of this 14762
section, the board of county commissioners of that county may 14763
determine the manner of selection, the qualifications, the 14764

number, and terms of office of the members of the board of 14765
directors of any convention facilities authority, corporation, 14766
or other entity described in division ~~(H) (5)~~ (Q) (5) of this 14767
section. 14768

(6) (a) No amount collected from a tax levied, extended, or 14769
required to be deposited in the county general fund under 14770
division ~~(H)~~ (Q) of this section may be used for any purpose 14771
other than paying the direct and indirect costs of constructing, 14772
improving, expanding, equipping, financing, or operating a 14773
convention center and for the real and actual costs of 14774
administering the tax, unless, prior to the adoption of the 14775
resolution of the legislative authority of the county 14776
authorizing the levy, extension, increase, or deposit, the 14777
county and the mayor of the most populous municipal corporation 14778
in that county have entered into an agreement as to the use of 14779
such amounts, provided that such agreement has been approved by 14780
a majority of the mayors of the other municipal corporations in 14781
that county. The agreement shall provide that the amounts to be 14782
used for purposes other than paying the convention center or 14783
administrative costs described in division ~~(H) (6) (a)~~ (Q) (6) (a) 14784
of this section be used only for the direct and indirect costs 14785
of capital improvements, including the financing of capital 14786
improvements. 14787

(b) If the county in which the tax is levied has an 14788
association of mayors and city managers, the approval of that 14789
association of an agreement described in division ~~(H) (6) (a)~~ (Q) 14790
(6) (a) of this section shall be considered to be the approval of 14791
the majority of the mayors of the other municipal corporations 14792
for purposes of that division. 14793

(7) Each year, the auditor of state shall conduct an audit 14794

of the uses of any amounts collected from taxes levied, 14795
extended, or deposited under division ~~(H)~~ (Q) of this section 14796
and shall prepare a report of the auditor of state's findings. 14797
The auditor of state shall submit the report to the legislative 14798
authority of the county that has levied, extended, or deposited 14799
the tax, the speaker of the house of representatives, the 14800
president of the senate, and the leaders of the minority parties 14801
of the house of representatives and the senate. 14802

~~(I)~~ ~~(1)~~ (R) (1) As used in ~~this~~ division (R) of this 14803
section: 14804

(a) "Convention facilities authority" has the same meaning 14805
as in section 351.01 of the Revised Code. 14806

(b) "Convention center" has the same meaning as in section 14807
307.695 of the Revised Code. 14808

(2) Notwithstanding any contrary provision of division ~~(D)~~ 14809
(N) of this section, the legislative authority of a county with 14810
a population of one million two hundred thousand or more 14811
according to the most recent federal decennial census or the 14812
most recent annual population estimate published or released by 14813
the United States census bureau at the time the resolution is 14814
adopted placing the levy on the ballot, that has levied a tax 14815
under division ~~(D)~~ (N) of this section may, by resolution 14816
adopted by a majority of the members of the legislative 14817
authority, provide for the extension of such levy and may 14818
provide that the proceeds of that tax, to the extent that the 14819
proceeds are no longer needed for their original purpose as 14820
defined by a cooperative agreement entered into under section 14821
307.671 of the Revised Code and after deducting the real and 14822
actual costs of administering the tax, shall be used for paying 14823
the direct and indirect costs of constructing, improving, 14824

expanding, equipping, financing, or operating a convention 14825
center. The resolution shall provide for the extension of the 14826
tax at a rate not to exceed the rate specified in division ~~(D)~~ 14827
(N) of this section for a period of time determined by the 14828
legislative authority of the county, but not to exceed an 14829
additional forty years. 14830

(3) The legislative authority of a county with a 14831
population of one million two hundred thousand or more that has 14832
levied a tax under division ~~(A) (1)~~ (A) of this section may, by 14833
resolution adopted by a majority of the members of the 14834
legislative authority, increase the rate of the tax levied by 14835
such county under division ~~(A) (1)~~ (A) of this section to a rate 14836
not to exceed five per cent on transactions by which lodging by 14837
a hotel is or is to be furnished to transient guests. 14838
Notwithstanding any contrary provision of division ~~(A) (1)~~ (A) of 14839
this section, the resolution shall provide that all collections 14840
resulting from the rate levied in excess of three per cent, 14841
after deducting the real and actual costs of administering the 14842
tax, shall be used for paying the direct and indirect costs of 14843
constructing, improving, expanding, equipping, financing, or 14844
operating a convention center. 14845

(4) The legislative authority of a county with a 14846
population of one million two hundred thousand or more that has 14847
levied a tax under division ~~(A) (1)~~ (A) of this section may, by 14848
resolution adopted on or before July 1, 2008, by a majority of 14849
the members of the legislative authority, provide that all or a 14850
portion of the proceeds of the tax levied under division ~~(A) (1)~~ 14851
(A) of this section, after deducting the real and actual costs 14852
of administering the tax and the amounts required to be returned 14853
to townships and municipal corporations with respect to the 14854
first three per cent levied under division ~~(A) (1)~~ (A) of this 14855

section, shall be used to satisfy any pledges made in connection 14856
with an agreement entered into under section 307.695 of the 14857
Revised Code or shall otherwise be used for paying the direct 14858
and indirect costs of constructing, improving, expanding, 14859
equipping, financing, or operating a convention center. 14860

(5) Any amount collected from a tax levied or extended 14861
under division ~~(I)~~(R) of this section may be contributed to a 14862
convention facilities authority created before July 1, 2005, but 14863
no amount collected from a tax levied or extended under division 14864
~~(I)~~(R) of this section may be contributed to a convention 14865
facilities authority, corporation, or other entity created after 14866
July 1, 2005, unless the mayor of the municipal corporation in 14867
which the convention center is to be operated by that convention 14868
facilities authority, corporation, or other entity has consented 14869
to the creation of that convention facilities authority, 14870
corporation, or entity. 14871

~~(J)(1) Except as provided in division (J)(2) of this 14872
section, money collected by a county and distributed under this 14873
section to a convention and visitors' bureau in existence as of 14874
June 30, 2013, the effective date of H.B. 59 of the 130th 14875
general assembly, except for any such money pledged, as of that 14876
effective date, to the payment of debt service charges on bonds, 14877
notes, securities, or lease agreements, shall be used solely for 14878
tourism sales, marketing and promotion, and their associated 14879
costs, including, but not limited to, operational and 14880
administrative costs of the bureau, sales and marketing, and 14881
maintenance of the physical bureau structure. 14882~~

~~(2) A convention and visitors' bureau that has entered 14883
into an agreement under section 307.678 of the Revised Code may 14884
use revenue it receives from a tax levied under division (A)(1) 14885~~

~~of this section as described in division (E) of section 307.678—~~ 14886
~~of the Revised Code.—~~ 14887

~~(K)~~ (S) As used in division (S) of this section, 14888
"soldiers' memorial" means a memorial constructed and funded 14889
under Chapter 345. of the Revised Code. 14890

The board of county commissioners of a county with a 14891
population between one hundred three thousand and one hundred 14892
seven thousand according to the most recent federal decennial 14893
census, by resolution adopted by a majority of the members of 14894
the board within six months after September 15, 2014, ~~the~~ 14895
~~effective date of H.B. 483 of the 130th general assembly,~~ may 14896
levy a tax not to exceed three per cent on transactions by which 14897
a hotel is or is to be furnished to transient guests. The 14898
purpose of the tax shall be to pay the costs of expanding, 14899
maintaining, or operating a soldiers' memorial and the costs of 14900
administering the tax. All revenue arising from the tax shall be 14901
credited to one or more special funds in the county treasury and 14902
shall be spent solely for the purposes of paying those costs. 14903
~~The—~~ 14904

The board of county commissioners shall adopt all rules 14905
necessary to provide for the administration of the tax subject 14906
to the same limitations on imposing penalty or interest under 14907
division ~~(A)(1)~~ (A) of this section. 14908

~~As used in this division "soldiers' memorial" means a~~ 14909
~~memorial constructed and funded under Chapter 345. of the~~ 14910
~~Revised Code.—~~ 14911

~~(I)~~ (T) As used in division (T) of this section, "eligible 14912
county" means a county in which a county agricultural society or 14913
independent agricultural society is organized under section 14914

1711.01 or 1711.02 of the Revised Code, provided the 14915
agricultural society owns a facility or site in the county at 14916
which an annual harness horse race is conducted where one-day 14917
attendance equals at least forty thousand attendees. 14918

A board of county commissioners of an eligible county, by 14919
resolution adopted by a majority of the members of the board, 14920
may levy an excise tax at the rate of up to three per cent on 14921
transactions by which lodging by a hotel is or is to be 14922
furnished to transient guests for the purpose of paying the 14923
costs of permanent improvements at sites at which one or more 14924
agricultural societies conduct fairs or exhibits, paying the 14925
costs of maintaining or operating such permanent improvements, 14926
and paying the costs of administering the tax. ~~A-~~ 14927

A resolution adopted under ~~this~~ division (T) of this 14928
section, other than a resolution that only extends the period of 14929
time for which the tax is levied, shall direct the board of 14930
elections to submit the question of the proposed lodging tax to 14931
the electors of the county at a special election held on the 14932
date specified by the board in the resolution, provided that the 14933
election occurs not less than ninety days after a certified copy 14934
of the resolution is transmitted to the board of elections. A 14935
resolution submitted to the electors under ~~this~~ division (T) of 14936
this section shall not go into effect unless it is approved by a 14937
majority of those voting upon it. The resolution takes effect on 14938
the date the board of county commissioners receives notification 14939
from the board of elections of an affirmative vote. 14940

The tax shall remain in effect for the period specified in 14941
the resolution, not to exceed five years, and may be extended 14942
for an additional period of time not to exceed fifteen years 14943
thereafter by a resolution adopted by a majority of the members 14944

of the board. A resolution extending the period of time for 14945
which the tax is in effect is not subject to approval of the 14946
electors of the county, but is subject to referendum under 14947
sections 305.31 to 305.99 of the Revised Code. All revenue 14948
arising from the tax shall be credited to one or more special 14949
funds in the county treasury and shall be spent solely for the 14950
purposes of paying the costs of such permanent improvements and 14951
maintaining or operating the improvements. Revenue allocated for 14952
the use of a county agricultural society may be credited to the 14953
county agricultural society fund created in section 1711.16 of 14954
the Revised Code upon appropriation by the board. If revenue is 14955
credited to that fund, it shall be expended only as provided in 14956
that section. 14957

The board of county commissioners shall adopt all rules 14958
necessary to provide for the administration of the tax. The 14959
rules may prescribe the time for payment of the tax, and may 14960
provide for the imposition or penalty or interest, or both, for 14961
late payments, provided that the penalty does not exceed ten per 14962
cent of the amount of tax due, and the rate at which interest 14963
accrues does not exceed the rate per annum prescribed in section 14964
5703.47 of the Revised Code. 14965

~~As used in this division, "eligible county" means a county~~ 14966
~~in which a county agricultural society or independent~~ 14967
~~agricultural society is organized under section 1711.01 or~~ 14968
~~1711.02 of the Revised Code, provided the agricultural society~~ 14969
~~owns a facility or site in the county at which an annual harness~~ 14970
~~horse race is conducted where one day attendance equals at least~~ 14971
~~forty thousand attendees.~~ 14972

~~(M)~~ (U) As used in ~~this~~ this division (U) of this section, 14973
"eligible county" means a county in which a tax is levied under 14974

division (A) of this section at a rate of three per cent and 14975
whose territory includes a part of Lake Erie the shoreline of 14976
which represents at least fifty per cent of the linear length of 14977
the county's border with other counties of this state. 14978

The board of county commissioners of an eligible county 14979
that has entered into an agreement with a port authority in the 14980
county under section 4582.56 of the Revised Code may levy an 14981
additional lodging tax on transactions by which lodging by a 14982
hotel is or is to be furnished to transient guests for the 14983
purpose of financing lakeshore improvement projects constructed 14984
or financed by the port authority under that section. The 14985
resolution levying the tax shall specify the purpose of the tax, 14986
the rate of the tax, which shall not exceed two per cent, and 14987
the number of years the tax will be levied or that it will be 14988
levied for a continuing period of time. The tax shall be 14989
administered pursuant to the regulations adopted by the board 14990
under division (A) of this section, except that all the proceeds 14991
of the tax levied under this division shall be pledged to the 14992
payment of the costs, including debt charges, of lakeshore 14993
improvements undertaken by a port authority pursuant to the 14994
agreement under section 4582.56 of the Revised Code. No revenue 14995
from the tax may be used to pay the current expenses of the port 14996
authority. 14997

A resolution levying a tax under ~~this division~~ (U) of this 14998
section is subject to referendum under sections 305.31 to 305.41 14999
and 305.99 of the Revised Code. 15000

~~(N) (1) (a) (V) (1)~~ As used in division (V) of this section: 15001

(a) "Tourism development district" means a district 15002
designated by a municipal corporation under section 715.014 of 15003
the Revised Code or by a township under section 503.56 of the 15004

Revised Code. 15005

(b) "Lodging tax" means a tax levied pursuant to this 15006
section or section 5739.08 of the Revised Code. 15007

(c) "Tourism development district lodging tax proceeds" 15008
means all proceeds of a lodging tax derived from transactions by 15009
which lodging by a hotel located in a tourism development 15010
district is or is to be provided to transient guests. 15011

(d) "Eligible county" has the same meaning as in section 15012
307.678 of the Revised Code. 15013

(2) (a) Notwithstanding division (A) of this section, the 15014
board of county commissioners, board of township trustees, or 15015
legislative authority of any county, township, or municipal 15016
corporation that levies a lodging tax on September 29, 2017, and 15017
in which any part of a tourism development district is located 15018
on or after that date shall amend the ordinance or resolution 15019
levying the tax to require either of the following: 15020

(i) In the case of a tax levied by a county, that all 15021
tourism development district lodging tax proceeds from that tax 15022
be used exclusively to foster and develop tourism in the tourism 15023
development district; 15024

(ii) In the case of a tax levied by a township or 15025
municipal corporation, that all tourism development district 15026
lodging tax proceeds from that tax be used exclusively to foster 15027
and develop tourism in the tourism development district. 15028

(b) Notwithstanding division (A) of this section, any 15029
ordinance or resolution levying a lodging tax adopted on or 15030
after September 29, 2017, by a county, township, or municipal 15031
corporation in which any part of a tourism development district 15032
is located on or after that date shall require that all tourism 15033

development district lodging tax proceeds from that tax be used 15034
exclusively to foster and develop tourism in the tourism 15035
development district. 15036

(c) A county shall not use any of the proceeds described 15037
in division ~~(N) (1) (a) (i)~~ (V) (2) (a) (i) or ~~(N) (1) (b)~~ (V) (2) (b) of 15038
this section unless the convention and visitors' bureau 15039
operating within the county approves the manner in which such 15040
proceeds are used to foster and develop tourism in the tourism 15041
development district. Upon obtaining such approval, the county 15042
may pay such proceeds to the bureau to use for the agreed-upon 15043
purpose. 15044

A municipal corporation or township shall not use any of 15045
the proceeds described in division ~~(N) (1) (a) (ii)~~ (V) (2) (a) (ii) 15046
or ~~(N) (1) (b)~~ (V) (2) (b) of this section unless the convention and 15047
visitors' bureau operating within the municipal corporation or 15048
township approves the manner in which such proceeds are used to 15049
foster and develop tourism in the tourism development district. 15050
Upon obtaining such approval, the municipal corporation or 15051
township may pay such proceeds to the bureau to use for the 15052
agreed-upon purpose. 15053

~~(2) (a)~~ (3) (a) Notwithstanding division (A) of this 15054
section, the board of county commissioners of an eligible county 15055
that levies a lodging tax on March 23, 2018, may amend the 15056
resolution levying that tax to require that all or a portion of 15057
the proceeds of that tax otherwise required to be spent solely 15058
to make contributions to the convention and visitors' bureau 15059
operating within the county shall be used to foster and develop 15060
tourism in a tourism development district. 15061

(b) Notwithstanding division (A) of this section, the 15062
board of county commissioners of an eligible county that adopts 15063

a resolution levying a lodging tax on or after March 23, 2018, 15064
may require that all or a portion of the proceeds of that tax 15065
otherwise required to be spent solely to make contributions to 15066
the convention and visitors' bureau operating within the county 15067
pursuant to division (A) of this section shall be used to foster 15068
and develop tourism in a tourism development district. 15069

(c) A county shall not use any of the proceeds in the 15070
manner described in division ~~(N) (2) (a)~~ (V) (3) (a) or (b) of this 15071
section unless the convention and visitors' bureau operating 15072
within the county approves the manner in which such proceeds are 15073
used to foster and develop tourism in the tourism development 15074
district. Upon obtaining such approval, the county may pay such 15075
proceeds to the bureau to use for the agreed upon purpose. 15076

~~(3) As used in division (N) of this section:—~~ 15077

~~(a) "Tourism development district" means a district 15078
designated by a municipal corporation under section 715.014 of 15079
the Revised Code or by a township under section 503.56 of the 15080
Revised Code.— 15081~~

~~(b) "Lodging tax" means a tax levied pursuant to this 15082
section or section 5739.08 of the Revised Code.— 15083~~

~~(c) "Tourism development district lodging tax proceeds" 15084
means all proceeds of a lodging tax derived from transactions by 15085
which lodging by a hotel located in a tourism development 15086
district is or is to be provided to transient guests.— 15087~~

~~(d) "Eligible county" has the same meaning as in section 15088
307.678 of the Revised Code.— 15089~~

Sec. 5739.091. (A) For the purposes of a tax levied by a 15090
county, township, or municipal corporation under section 5739.08 15091
or 5739.09 of the Revised Code, a board of county commissioners, 15092

board of township trustees, or the legislative authority of a 15093
municipal corporation may adopt a resolution or ordinance at any 15094
time specifying that "hotel," as otherwise defined in section 15095
5739.01 of the Revised Code, includes the following: 15096

(1) Establishments in which fewer than five rooms are used 15097
for the accommodation of guests; 15098

(2) Establishments at which rooms are used for the 15099
accommodation of guests regardless of whether each room is 15100
accessible through its own keyed entry or several rooms are 15101
accessible through the same keyed entry; and, in determining the 15102
number of rooms, all rooms are included regardless of the number 15103
of structures in which the rooms are situated or the number of 15104
parcels of land on which the structures are located if the 15105
structures are under the same ownership and the structures are 15106
not identified in advertisements of the accommodations as 15107
distinct establishments. For the purposes of division (A) (2) of 15108
this section, two or more structures are under the same 15109
ownership if they are owned by the same person, or if they are 15110
owned by two or more persons the majority of the ownership 15111
interests of which are owned by the same person. 15112

(B) The resolution or ordinance may apply to a tax imposed 15113
pursuant to section 5739.08 or 5739.09 of the Revised Code prior 15114
to the adoption of the resolution or ordinance if the resolution 15115
or ordinance so states, but the tax shall not apply to 15116
transactions by which lodging by such an establishment is 15117
provided to transient guests prior to the adoption of the 15118
resolution or ordinance. 15119

Sec. 5739.092. (A) Except as provided in division (B) of 15120
this section, money collected by a county and distributed under 15121
section 5739.09 of the Revised Code to a convention and 15122

visitors' bureau in existence as of June 30, 2013, except for 15123
any such money pledged, as of that date, to the payment of debt 15124
service charges on bonds, notes, securities, or lease 15125
agreements, shall be used solely for tourism sales, marketing 15126
and promotion, and their associated costs, including operational 15127
and administrative costs of the bureau, sales and marketing, and 15128
maintenance of the physical bureau structure. 15129

(B) A convention and visitors' bureau that has entered 15130
into an agreement under section 307.678 of the Revised Code may 15131
use revenue it receives from a tax levied under division (A) of 15132
section 5739.09 of the Revised Code as described in division (E) 15133
of section 307.678 of the Revised Code. 15134

Sec. 5739.21. (A) One hundred per cent of all money 15135
deposited into the state treasury under sections 5739.01 to 15136
5739.31 of the Revised Code that is not required to be 15137
distributed as provided in section 5739.102 of the Revised Code 15138
or division (B) of this section shall be credited to the general 15139
revenue fund. 15140

(B) (1) In any case where any county or transit authority 15141
has levied a tax or taxes pursuant to section 5739.021, 15142
5739.023, or 5739.026 of the Revised Code, the tax commissioner 15143
shall, within forty-five days after the end of each month, 15144
determine and certify to the director of budget and management 15145
the amount of the proceeds of such tax or taxes received during 15146
that month from billings and assessments, or associated with tax 15147
returns or reports filed during that month, to be returned to 15148
the county or transit authority levying the tax or taxes. The 15149
amount to be returned to each county and transit authority shall 15150
be a fraction of the aggregate amount of money collected with 15151
respect to each area in which one or more of such taxes are 15152

concurrently in effect with the tax levied by section 5739.02 of 15153
the Revised Code. The numerator of the fraction is the rate of 15154
the tax levied by the county or transit authority and the 15155
denominator of the fraction is the aggregate rate of such taxes 15156
applicable to such area. The amount to be returned to each 15157
county or transit authority shall be reduced by the amount of 15158
any refunds of county or transit authority tax paid pursuant to 15159
section 5739.07 of the Revised Code during the same month, or 15160
transfers made pursuant to division (B)(2) of section 5703.052 15161
of the Revised Code. 15162

(2) On a periodic basis, using the best information 15163
available, the tax commissioner shall distribute any amount of a 15164
county or transit authority tax that cannot be distributed under 15165
division (B)(1) of this section. Through audit or other means, 15166
the commissioner shall attempt to obtain the information 15167
necessary to make the distribution as provided under that 15168
division and, on receipt of that information, shall make 15169
adjustments to distributions previously made under this 15170
division. 15171

(3) ~~Beginning July 1, 2008, eight~~ Eight and thirty-three 15172
one-hundredths of one per cent of the revenue collected from the 15173
tax due under division (A) of section 5739.029 of the Revised 15174
Code shall be distributed to the county where the sale of the 15175
motor vehicle is sitused under section ~~5739.035~~ 5739.033 of the 15176
Revised Code. The amount to be so distributed to the county 15177
shall be apportioned on the basis of the rates of taxes the 15178
county levies pursuant to sections 5739.021 and 5739.026 of the 15179
Revised Code, as applicable, and shall be credited to the funds 15180
of the county as provided in divisions (A) and (B) of section 15181
5739.211 of the Revised Code. 15182

(C) The aggregate amount to be returned to any county or transit authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the rates authorized under that section.

(D) The director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B) (1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority.

Sec. 5740.02. (A) (1) The state of Ohio shall participate in discussions with other states regarding the development of a streamlined sales and use tax system to reduce the burden and cost for all sellers to collect this state's sales and use taxes.

(2) Subject to division (B) of this section, the state
also shall participate in meetings of the implementing states or
the governing board of the agreement to review, amend, or
administer the terms of the agreement to simplify and modernize
sales and use tax administration that embodies the requirements
set forth in section 5740.05 of the Revised Code. For purposes
of these meetings, the state shall be represented by three
delegates. The tax commissioner or the commissioner's designee
shall be the chairperson of the delegation. The other delegates
shall be one delegate chosen by the speaker of the house of
representatives and one delegate chosen by the president of the
senate. In all matters where voting by the member states or the
governing board is required to amend the agreement, the
chairperson, based on the votes of the majority of the
delegation, shall cast this state's vote.

(B) The state shall not participate in the meetings of the
implementing states or the governing board referred to in
division (A) (2) of this section unless the meetings are
conducted in accordance with requirements substantially similar
to those described in divisions (C) and (F) of section 121.22 of
the Revised Code, as if the participants of the meetings were a
public body as defined in that section, except such meetings may
be closed during any discussion pertaining to proprietary
information of a person if the person so requests, personnel
matters, competitive bidding, certification of service
providers, or matters substantially similar to those described
in ~~divisions~~ division (G) (2), (3), or (5) of section 121.22 of
the Revised Code. The state may participate in teleconferences,
special meetings, meetings of working groups, committees, or
steering committees if they are conducted in accordance with the
public participation rules applicable to such meetings, as

established by the implementing states entitled to participate 15244
in discussions to finalize the agreement, or the governing 15245
board. 15246

(C) As used in this section: 15247

(1) "Meetings of the implementing states" means meetings 15248
of the entire body of the states that are entitled to 15249
participate in discussions to finalize the agreement because 15250
they have enacted legislation based on the uniform sales and use 15251
tax administration act, approved January 24, 2001, or the 15252
simplified sales and use tax administration act, approved 15253
January 27, 2001. 15254

(2) "Governing board" means the board that, under the 15255
terms of the agreement, is responsible for the administration 15256
and operation of the agreement. 15257

Sec. 5743.05. The tax commissioner shall sell all stamps 15258
provided for by section 5743.03 of the Revised Code. The stamps 15259
shall be sold at their face value, except the commissioner 15260
shall, by rule, authorize the sale of stamps to wholesale 15261
dealers in this state, or to wholesale dealers outside this 15262
state, at a discount of not less than one and eight-tenths per 15263
cent or more than ten per cent of their face value, as a 15264
commission for affixing and canceling the stamps. 15265

The commissioner, by rule, shall authorize the delivery of 15266
stamps to wholesale dealers in this state and to wholesale 15267
dealers outside this state on credit. If such a dealer has not 15268
been in good credit standing with this state for five 15269
consecutive years preceding the purchase, the commissioner shall 15270
require the dealer to file with the commissioner a bond to the 15271
state in the amount and in the form prescribed by the 15272

commissioner, with surety to the satisfaction of the 15273
commissioner, conditioned on payment to the treasurer of state 15274
or the commissioner within thirty days or the following twenty- 15275
third day of June, whichever comes first for stamps delivered 15276
within that time. If such a dealer has been in good credit 15277
standing with this state for five consecutive years preceding 15278
the purchase, the commissioner shall not require that the dealer 15279
file such a bond but shall require payment for the stamps within 15280
thirty days after purchase of the stamps or the following 15281
twenty-third day of June, whichever comes first. Stamps sold to 15282
a dealer not required to file a bond shall be sold at face 15283
value. The maximum amount that may be sold on credit to a dealer 15284
not required to file a bond shall equal one hundred ten per cent 15285
of the dealer's average monthly purchases over the preceding 15286
calendar year. The maximum amount shall be adjusted to reflect 15287
any changes in the tax rate and may be adjusted, upon 15288
application to the commissioner by the dealer, to reflect 15289
changes in the business operations of the dealer. The maximum 15290
amount shall be applicable to the period between the first day 15291
of July to the following twenty-third day of June. Payment by a 15292
dealer not required to file a bond shall be remitted by 15293
electronic funds transfer as prescribed by section 5743.051 of 15294
the Revised Code. If a dealer not required to file a bond fails 15295
to make the payment in full within the required payment period, 15296
the commissioner shall not thereafter sell stamps to that dealer 15297
until the dealer pays the outstanding amount, including penalty 15298
and interest on that amount as prescribed in this chapter, and 15299
the commissioner thereafter may require the dealer to file a 15300
bond until the dealer is restored to good standing. The 15301
commissioner shall limit delivery of stamps on credit to the 15302
period running from the first day of July of the fiscal year 15303
until the twenty-third day of the following June. Any discount 15304

allowed as a commission for affixing and canceling stamps shall 15305
be allowed with respect to sales of stamps on credit. 15306

The commissioner shall redeem and pay for any destroyed, 15307
unused, or spoiled tax stamps at their net value, and shall 15308
refund to wholesale dealers the net amount of state and county 15309
taxes paid erroneously or paid on cigarettes that have been sold 15310
in interstate or foreign commerce or that have become unsalable, 15311
and the net amount of county taxes that were paid on cigarettes 15312
that have been sold at retail or for retail sale outside a 15313
taxing county. 15314

An application for a refund of tax shall be filed with the 15315
commissioner, on the form prescribed by the commissioner for 15316
that purpose, within three years from the date the tax stamps 15317
are destroyed or spoiled, from the date of the erroneous 15318
payment, or from the date that cigarettes on which taxes have 15319
been paid have been sold in interstate or foreign commerce or 15320
have become unsalable. 15321

On the filing of the application, the commissioner shall 15322
determine the amount of refund to which the applicant is 15323
entitled, payable from receipts of the state tax, and, if 15324
applicable, payable from receipts of a county tax. If the amount 15325
is not less than that claimed, the commissioner shall certify 15326
the amount to the director of budget and management and 15327
treasurer of state for payment from the tax refund fund created 15328
by section 5703.052 of the Revised Code. If the amount is less 15329
than that claimed, the commissioner shall proceed in accordance 15330
with section 5703.70 of the Revised Code. 15331

If a refund is granted for payment of an illegal or 15332
erroneous assessment issued by the department, the refund shall 15333
include interest on the amount of the refund from the date of 15334

the overpayment. The interest shall be computed at the rate per 15335
annum prescribed by section 5703.47 of the Revised Code. 15336

Sec. 5743.08. Whenever the tax commissioner discovers any 15337
cigarettes which are being shipped, or which have been shipped, 15338
or transported in violation of section 2927.023 of the Revised 15339
Code, or discovers cigarettes, subject to the taxes levied under 15340
section 5743.02, 5743.021, 5743.024, or 5743.026 of the Revised 15341
Code, and upon which the taxes have not been paid or that are 15342
held for sale or distribution in violation of any other 15343
provision of this chapter, the commissioner may seize and take 15344
possession of such cigarettes, which shall thereupon be 15345
forfeited to the state, and the commissioner, within a 15346
reasonable time thereafter shall sell or destroy the forfeited 15347
cigarettes. If the commissioner takes ~~possession~~ possession of 15348
cigarettes seized pursuant to section 3739.11 of the Revised 15349
Code, such cigarettes shall be forfeited to the state, and the 15350
commissioner shall destroy such cigarettes, except prior to the 15351
destruction of any such cigarettes, the true holder of the 15352
trademark rights in the cigarette brand shall be permitted to 15353
inspect the cigarettes. If the commissioner sells cigarettes 15354
under this section, the commissioner shall use proceeds from the 15355
sale to pay the costs incurred in the proceedings. Any proceeds 15356
remaining after all costs have been paid shall be considered 15357
revenue arising from the taxes levied under this chapter. 15358
Seizure and sale shall not be deemed to relieve any person from 15359
the fine or imprisonment provided for violation of sections 15360
5743.01 to 5743.20 of the Revised Code or from a civil penalty 15361
under section 3739.99 of the Revised Code. A sale shall be made 15362
where it is most convenient and economical. The tax commissioner 15363
may order the destruction of the forfeited cigarettes if the 15364
quantity or quality of the cigarettes is not sufficient to 15365

warrant their sale. 15366

Sec. 5743.33. Except as provided in section ~~5747.331~~ 15367
5743.331 of the Revised Code, every person who has acquired 15368
cigarettes for use, storage, or other consumption subject to the 15369
tax levied under section 5743.32, 5743.321, 5743.323, or 15370
5743.324 of the Revised Code, shall, on or before the fifteenth 15371
day of the month following receipt of such cigarettes, file with 15372
the tax commissioner a return showing the amount of cigarettes 15373
acquired, together with remittance of the tax thereon. No such 15374
person shall transport within this state, cigarettes that have a 15375
wholesale value in excess of three hundred dollars, unless that 15376
person has obtained consent to transport the cigarettes from the 15377
department of taxation prior to such transportation. Such 15378
consent shall not be required if the applicable taxes levied 15379
under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the 15380
Revised Code have been paid. Application for the consent shall 15381
be in the form prescribed by the tax commissioner. 15382

Every person transporting such cigarettes shall possess 15383
the consent while transporting or possessing the cigarettes 15384
within this state and shall produce the consent upon request of 15385
any law enforcement officer or authorized agent of the tax 15386
commissioner. 15387

Any person transporting such cigarettes without the 15388
consent required by this section, shall be subject to the 15389
provisions of this chapter, including the applicable taxes 15390
imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 15391
of the Revised Code. 15392

Sec. 5743.65. No person required by division ~~(B)~~ (C) of 15393
section 5743.62 or division (B) of section 5743.63 of the 15394
Revised Code to file a return with the tax commissioner shall 15395

fail to make the return or fail to pay the applicable taxes 15396
levied under section 5743.62 or 5743.63 of the Revised Code or 15397
fail to pay any lawful assessment issued by the tax 15398
commissioner. 15399

Sec. 5745.14. (A) If any of the facts, figures, 15400
computations, or attachments required in a taxpayer's report to 15401
determine the tax due a municipal corporation must be altered as 15402
the result of an adjustment to the taxpayer's federal income tax 15403
return, whether the adjustment is initiated by the taxpayer, the 15404
internal revenue service, or the tax commissioner, and such 15405
alteration affects the taxpayer's tax liability to a municipal 15406
corporation, the taxpayer shall file an amended report with the 15407
tax commissioner in such form as the commissioner requires. The 15408
amended report shall be filed not later than one year after the 15409
adjustment has been agreed to or finally determined. 15410

(B) In the case of an underpayment, the amended report 15411
shall be accompanied by payment of an additional tax and 15412
interest due and is a report subject to assessment under section 15413
5745.12 of the Revised Code for the purpose of assessing any 15414
additional tax due under this division, together with any 15415
applicable penalty and interest. It shall not reopen those 15416
facts, figures, computations, or attachments from a previously 15417
filed report no longer subject to assessment that are not 15418
affected, either directly or indirectly, by the adjustment to 15419
the taxpayer's federal income tax return. 15420

(C) In the case of an overpayment, an application for 15421
refund may be filed under section 5745.11 of the Revised Code 15422
within the one-year period prescribed for filing the amended 15423
report even if it is filed beyond the period prescribed by that 15424
section, if it otherwise conforms to the requirements of such 15425

section. An application filed under this division shall claim 15426
refund of overpayments resulting from alterations to only those 15427
facts, figures, computations, or attachments required in the 15428
taxpayer's report that are affected, either directly or 15429
indirectly, by the adjustment to the taxpayer's federal income 15430
tax return unless it is also filed within the time prescribed by 15431
section 5745.11 of the Revised Code. It shall not reopen those 15432
facts, figures, computations, or attachments that are not 15433
affected, either directly or indirectly, by the adjustment to 15434
the taxpayer's federal income tax return. 15435

Sec. 5747.01. Except as otherwise expressly provided or 15436
clearly appearing from the context, any term used in this 15437
chapter that is not otherwise defined in this section has the 15438
same meaning as when used in a comparable context in the laws of 15439
the United States relating to federal income taxes or if not 15440
used in a comparable context in those laws, has the same meaning 15441
as in section 5733.40 of the Revised Code. Any reference in this 15442
chapter to the Internal Revenue Code includes other laws of the 15443
United States relating to federal income taxes. 15444

As used in this chapter: 15445

(A) "Adjusted gross income" or "Ohio adjusted gross 15446
income" means federal adjusted gross income, as defined and used 15447
in the Internal Revenue Code, adjusted as provided in this 15448
section: 15449

(1) Add interest or dividends on obligations or securities 15450
of any state or of any political subdivision or authority of any 15451
state, other than this state and its subdivisions and 15452
authorities. 15453

(2) Add interest or dividends on obligations of any 15454

authority, commission, instrumentality, territory, or possession 15455
of the United States to the extent that the interest or 15456
dividends are exempt from federal income taxes but not from 15457
state income taxes. 15458

(3) Deduct interest or dividends on obligations of the 15459
United States and its territories and possessions or of any 15460
authority, commission, or instrumentality of the United States 15461
to the extent that the interest or dividends are included in 15462
federal adjusted gross income but exempt from state income taxes 15463
under the laws of the United States. 15464

(4) Deduct disability and survivor's benefits to the 15465
extent included in federal adjusted gross income. 15466

(5) Deduct benefits under Title II of the Social Security 15467
Act and tier 1 railroad retirement benefits to the extent 15468
included in federal adjusted gross income under section 86 of 15469
the Internal Revenue Code. 15470

~~(6) In the case of a taxpayer who is a beneficiary of a 15471
trust that makes an accumulation distribution as defined in 15472
section 665 of the Internal Revenue Code, add, for the 15473
beneficiary's taxable years beginning before 2002, the portion, 15474
if any, of such distribution that does not exceed the 15475
undistributed net income of the trust for the three taxable 15476
years preceding the taxable year in which the distribution is 15477
made to the extent that the portion was not included in the 15478
trust's taxable income for any of the trust's taxable years 15479
beginning in 2002 or thereafter. "Undistributed net income of a 15480
trust" means the taxable income of the trust increased by (a) (i) 15481
the additions to adjusted gross income required under division 15482
(A) of this section and (ii) the personal exemptions allowed to 15483
the trust pursuant to section 642(b) of the Internal Revenue 15484~~

Code, and decreased by (b) (i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

~~(7)~~ Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

~~(8)~~ (7) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

~~(9)~~ (8) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

~~(10)~~ (9) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

~~(11)~~ ~~(a)~~ (10) (a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or

Ohio adjusted gross income for the taxable year, the amount the
taxpayer paid during the taxable year for medical care insurance
and qualified long-term care insurance for the taxpayer, the
taxpayer's spouse, and dependents. No deduction for medical care
insurance under division ~~(A) (11) (a)~~ (A) (10) (a) of this section
shall be allowed either to any taxpayer who is eligible to
participate in any subsidized health plan maintained by any
employer of the taxpayer or of the taxpayer's spouse, or to any
taxpayer who is entitled to, or on application would be entitled
to, benefits under part A of Title XVIII of the "Social Security
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the
purposes of division ~~(A) (11) (a)~~ (A) (10) (a) of this section,
"subsidized health plan" means a health plan for which the
employer pays any portion of the plan's cost. The deduction
allowed under division ~~(A) (11) (a)~~ (A) (10) (a) of this section
shall be the net of any related premium refunds, related premium
reimbursements, or related insurance premium dividends received
during the taxable year.

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

~~(c) Deduct, to the extent not otherwise deducted or
excluded in computing federal or Ohio adjusted gross income, any
amount included in federal adjusted gross income under section
105 or not excluded under section 106 of the Internal Revenue
Code solely because it relates to an accident and health plan
for a person who otherwise would be a "qualifying relative" and~~

~~thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.~~ 15545
15546
15547
15548

~~(d)~~ For purposes of division ~~(A)(11)~~ (A)(10) of this 15549
section, "medical care" has the meaning given in section 213 of 15550
the Internal Revenue Code, subject to the special rules, 15551
limitations, and exclusions set forth therein, and "qualified 15552
long-term care" has the same meaning given in section 7702B(c) 15553
of the Internal Revenue Code. Solely for purposes of ~~divisions~~ 15554
~~(A)(11)(a) and (c)~~ division (A)(10)(a) of this section, 15555
"dependent" includes a person who otherwise would be a 15556
"qualifying relative" and thus a "dependent" under section 152 15557
of the Internal Revenue Code but for the fact that the person 15558
fails to meet the income and support limitations under section 15559
152(d)(1)(B) and (C) of the Internal Revenue Code. 15560

~~(12)(a)~~ (11)(a) Deduct any amount included in federal 15561
adjusted gross income solely because the amount represents a 15562
reimbursement or refund of expenses that in any year the 15563
taxpayer had deducted as an itemized deduction pursuant to 15564
section 63 of the Internal Revenue Code and applicable United 15565
States department of the treasury regulations. The deduction 15566
otherwise allowed under division ~~(A)(12)(a)~~ (A)(11)(a) of this 15567
section shall be reduced to the extent the reimbursement is 15568
attributable to an amount the taxpayer deducted under this 15569
section in any taxable year. 15570

(b) Add any amount not otherwise included in Ohio adjusted 15571
gross income for any taxable year to the extent that the amount 15572
is attributable to the recovery during the taxable year of any 15573
amount deducted or excluded in computing federal or Ohio 15574

adjusted gross income in any taxable year. 15575

~~(13)~~ (12) Deduct any portion of the deduction described in 15576
section 1341(a) (2) of the Internal Revenue Code, for repaying 15577
previously reported income received under a claim of right, that 15578
meets both of the following requirements: 15579

(a) It is allowable for repayment of an item that was 15580
included in the taxpayer's adjusted gross income for a prior 15581
taxable year and did not qualify for a credit under division (A) 15582
or (B) of section 5747.05 of the Revised Code for that year; 15583

(b) It does not otherwise reduce the taxpayer's adjusted 15584
gross income for the current or any other taxable year. 15585

~~(14)~~ (13) Deduct an amount equal to the deposits made to, 15586
and net investment earnings of, a medical savings account during 15587
the taxable year, in accordance with section 3924.66 of the 15588
Revised Code. The deduction allowed by division ~~(A) (14)~~ (A) (13) 15589
of this section does not apply to medical savings account 15590
deposits and earnings otherwise deducted or excluded for the 15591
current or any other taxable year from the taxpayer's federal 15592
adjusted gross income. 15593

~~(15) (a)~~ (14) (a) Add an amount equal to the funds withdrawn 15594
from a medical savings account during the taxable year, and the 15595
net investment earnings on those funds, when the funds withdrawn 15596
were used for any purpose other than to reimburse an account 15597
holder for, or to pay, eligible medical expenses, in accordance 15598
with section 3924.66 of the Revised Code; 15599

(b) Add the amounts distributed from a medical savings 15600
account under division (A) (2) of section 3924.68 of the Revised 15601
Code during the taxable year. 15602

~~(16)~~ (15) Add any amount claimed as a credit under section 15603

5747.059 of the Revised Code to the extent that such amount 15604
satisfies either of the following: 15605

(a) The amount was deducted or excluded from the 15606
computation of the taxpayer's federal adjusted gross income as 15607
required to be reported for the taxpayer's taxable year under 15608
the Internal Revenue Code; 15609

(b) The amount resulted in a reduction of the taxpayer's 15610
federal adjusted gross income as required to be reported for any 15611
of the taxpayer's taxable years under the Internal Revenue Code. 15612

~~(17)~~ (16) Deduct the amount contributed by the taxpayer to 15613
an individual development account program established by a 15614
county department of job and family services pursuant to 15615
sections 329.11 to 329.14 of the Revised Code for the purpose of 15616
matching funds deposited by program participants. On request of 15617
the tax commissioner, the taxpayer shall provide any information 15618
that, in the tax commissioner's opinion, is necessary to 15619
establish the amount deducted under division ~~(A) (17)~~ (A) (16) of 15620
this section. 15621

~~(18) Beginning in taxable year 2001 but not for any 15622
taxable year beginning after December 31, 2005, if the taxpayer 15623
is married and files a joint return and the combined federal 15624
adjusted gross income of the taxpayer and the taxpayer's spouse 15625
for the taxable year does not exceed one hundred thousand 15626
dollars, or if the taxpayer is single and has a federal adjusted 15627
gross income for the taxable year not exceeding fifty thousand 15628
dollars, deduct amounts paid during the taxable year for 15629
qualified tuition and fees paid to an eligible institution for 15630
the taxpayer, the taxpayer's spouse, or any dependent of the 15631
taxpayer, who is a resident of this state and is enrolled in or 15632
attending a program that culminates in a degree or diploma at an 15633~~

~~eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.~~

~~(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A) (18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.~~

~~(20) (a) (i)~~ (17) (a) (i) Subject to divisions ~~(A) (20) (a) (iii)~~ (A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Subject to divisions ~~(A) (20) (a) (iii)~~ (A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths of the amount of qualifying section 179 depreciation expense, including the taxpayer's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(iii) Subject to division ~~(A) (20) (a) (v)~~ (A) (17) (a) (v) of this section, for taxable years beginning in 2012 or thereafter, if the increase in income taxes withheld by the taxpayer is equal to or greater than ten per cent of income taxes withheld by the taxpayer during the taxpayer's immediately preceding

taxable year, "two-thirds" shall be substituted for "five- 15664
sixths" for the purpose of divisions ~~(A) (20) (a) (i)~~ (A) (17) (a) (i) 15665
and (ii) of this section. 15666

(iv) Subject to division ~~(A) (20) (a) (v)~~ (A) (17) (a) (v) of 15667
this section, for taxable years beginning in 2012 or thereafter, 15668
a taxpayer is not required to add an amount under division ~~(A)~~ 15669
~~(20)~~ (A) (17) of this section if the increase in income taxes 15670
withheld by the taxpayer and by any pass-through entity in which 15671
the taxpayer has a direct or indirect ownership interest is 15672
equal to or greater than the sum of (I) the amount of qualifying 15673
section 179 depreciation expense and (II) the amount of 15674
depreciation expense allowed to the taxpayer by subsection (k) 15675
of section 168 of the Internal Revenue Code, and including the 15676
taxpayer's proportionate or distributive shares of such amounts 15677
allowed to any such pass-through entities. 15678

(v) If a taxpayer directly or indirectly incurs a net 15679
operating loss for the taxable year for federal income tax 15680
purposes, to the extent such loss resulted from depreciation 15681
expense allowed by subsection (k) of section 168 of the Internal 15682
Revenue Code and by qualifying section 179 depreciation expense, 15683
"the entire" shall be substituted for "five-sixths of the" for 15684
the purpose of divisions ~~(A) (20) (a) (i)~~ (A) (17) (a) (i) and (ii) of 15685
this section. 15686

The tax commissioner, under procedures established by the 15687
commissioner, may waive the add-backs related to a pass-through 15688
entity if the taxpayer owns, directly or indirectly, less than 15689
five per cent of the pass-through entity. 15690

(b) Nothing in division ~~(A) (20)~~ (A) (17) of this section 15691
shall be construed to adjust or modify the adjusted basis of any 15692
asset. 15693

(c) To the extent the add-back required under division ~~(A)~~
~~(20)(a)~~ (A)(17)(a) of this section is attributable to property
generating nonbusiness income or loss allocated under section
5747.20 of the Revised Code, the add-back shall be situated to
the same location as the nonbusiness income or loss generated by
the property for the purpose of determining the credit under
division (A) of section 5747.05 of the Revised Code. Otherwise,
the add-back shall be apportioned, subject to one or more of the
four alternative methods of apportionment enumerated in section
5747.21 of the Revised Code.

(d) For the purposes of division ~~(A)(20)(a)(v)~~ (A)(17)(a)
(v) of this section, net operating loss carryback and
carryforward shall not include the allowance of any net
operating loss deduction carryback or carryforward to the
taxable year to the extent such loss resulted from depreciation
allowed by section 168(k) of the Internal Revenue Code and by
the qualifying section 179 depreciation expense amount.

(e) For the purposes of divisions ~~(A)(20)~~ (A)(17) and ~~(21)~~
(18) of this section:

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

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

(iii) "Qualifying section 179 depreciation expense" means
the difference between (I) the amount of depreciation expense

directly or indirectly allowed to a taxpayer under section 179 15723
of the Internal Revised Code, and (II) the amount of 15724
depreciation expense directly or indirectly allowed to the 15725
taxpayer under section 179 of the Internal Revenue Code as that 15726
section existed on December 31, 2002. 15727

~~(21)(a)~~ (18)(a) If the taxpayer was required to add an 15728
amount under division ~~(A)(20)(a)~~ (A)(17)(a) of this section for 15729
a taxable year, deduct one of the following: 15730

(i) One-fifth of the amount so added for each of the five 15731
succeeding taxable years if the amount so added was five-sixths 15732
of qualifying section 179 depreciation expense or depreciation 15733
expense allowed by subsection (k) of section 168 of the Internal 15734
Revenue Code; 15735

(ii) One-half of the amount so added for each of the two 15736
succeeding taxable years if the amount so added was two-thirds 15737
of such depreciation expense; 15738

(iii) One-sixth of the amount so added for each of the six 15739
succeeding taxable years if the entire amount of such 15740
depreciation expense was so added. 15741

(b) If the amount deducted under division ~~(A)(21)(a)~~ (A) 15742
(18)(a) of this section is attributable to an add-back allocated 15743
under division ~~(A)(20)(c)~~ (A)(17)(c) of this section, the amount 15744
deducted shall be situated to the same location. Otherwise, the 15745
add-back shall be apportioned using the apportionment factors 15746
for the taxable year in which the deduction is taken, subject to 15747
one or more of the four alternative methods of apportionment 15748
enumerated in section 5747.21 of the Revised Code. 15749

(c) No deduction is available under division ~~(A)(21)(a)~~ 15750
(A)(18)(a) of this section with regard to any depreciation 15751

allowed by section 168(k) of the Internal Revenue Code and by 15752
the qualifying section 179 depreciation expense amount to the 15753
extent that such depreciation results in or increases a federal 15754
net operating loss carryback or carryforward. If no such 15755
deduction is available for a taxable year, the taxpayer may 15756
carry forward the amount not deducted in such taxable year to 15757
the next taxable year and add that amount to any deduction 15758
otherwise available under division ~~(A) (21) (a)~~ (A) (18) (a) of this 15759
section for that next taxable year. The carryforward of amounts 15760
not so deducted shall continue until the entire addition 15761
required by division ~~(A) (20) (a)~~ (A) (17) (a) of this section has 15762
been deducted. 15763

~~(d) No refund shall be allowed as a result of adjustments~~ 15764
~~made by division (A) (21) of this section.~~ 15765

~~(22)~~ (19) Deduct, to the extent not otherwise deducted or 15766
excluded in computing federal or Ohio adjusted gross income for 15767
the taxable year, the amount the taxpayer received during the 15768
taxable year as reimbursement for life insurance premiums under 15769
section 5919.31 of the Revised Code. 15770

~~(23)~~ (20) Deduct, to the extent not otherwise deducted or 15771
excluded in computing federal or Ohio adjusted gross income for 15772
the taxable year, the amount the taxpayer received during the 15773
taxable year as a death benefit paid by the adjutant general 15774
under section 5919.33 of the Revised Code. 15775

~~(24)~~ (21) Deduct, to the extent included in federal 15776
adjusted gross income and not otherwise allowable as a deduction 15777
or exclusion in computing federal or Ohio adjusted gross income 15778
for the taxable year, military pay and allowances received by 15779
the taxpayer during the taxable year for active duty service in 15780
the United States army, air force, navy, marine corps, or coast 15781

guard or reserve components thereof or the national guard. The 15782
deduction may not be claimed for military pay and allowances 15783
received by the taxpayer while the taxpayer is stationed in this 15784
state. 15785

~~(25)~~ (22) Deduct, to the extent not otherwise allowable as 15786
a deduction or exclusion in computing federal or Ohio adjusted 15787
gross income for the taxable year and not otherwise compensated 15788
for by any other source, the amount of qualified organ donation 15789
expenses incurred by the taxpayer during the taxable year, not 15790
to exceed ten thousand dollars. A taxpayer may deduct qualified 15791
organ donation expenses only once for all taxable years 15792
beginning with taxable years beginning in 2007. 15793

For the purposes of division ~~(A) (25)~~ (A) (22) of this 15794
section: 15795

(a) "Human organ" means all or any portion of a human 15796
liver, pancreas, kidney, intestine, or lung, and any portion of 15797
human bone marrow. 15798

(b) "Qualified organ donation expenses" means travel 15799
expenses, lodging expenses, and wages and salary forgone by a 15800
taxpayer in connection with the taxpayer's donation, while 15801
living, of one or more of the taxpayer's human organs to another 15802
human being. 15803

~~(26)~~ (23) Deduct, to the extent not otherwise deducted or 15804
excluded in computing federal or Ohio adjusted gross income for 15805
the taxable year, amounts received by the taxpayer as retired 15806
personnel pay for service in the uniformed services or reserve 15807
components thereof, or the national guard, or received by the 15808
surviving spouse or former spouse of such a taxpayer under the 15809
survivor benefit plan on account of such a taxpayer's death. If 15810

the taxpayer receives income on account of retirement paid under 15811
the federal civil service retirement system or federal employees 15812
retirement system, or under any successor retirement program 15813
enacted by the congress of the United States that is established 15814
and maintained for retired employees of the United States 15815
government, and such retirement income is based, in whole or in 15816
part, on credit for the taxpayer's uniformed service, the 15817
deduction allowed under this division shall include only that 15818
portion of such retirement income that is attributable to the 15819
taxpayer's uniformed service, to the extent that portion of such 15820
retirement income is otherwise included in federal adjusted 15821
gross income and is not otherwise deducted under this section. 15822
Any amount deducted under division ~~(A) (26)~~ (A) (23) of this 15823
section is not included in a taxpayer's adjusted gross income 15824
for the purposes of section 5747.055 of the Revised Code. No 15825
amount may be deducted under division ~~(A) (26)~~ (A) (23) of this 15826
section on the basis of which a credit was claimed under section 15827
5747.055 of the Revised Code. 15828

~~(27)~~ (24) Deduct, to the extent not otherwise deducted or 15829
excluded in computing federal or Ohio adjusted gross income for 15830
the taxable year, the amount the taxpayer received during the 15831
taxable year from the military injury relief fund created in 15832
section 5902.05 of the Revised Code. 15833

~~(28)~~ (25) Deduct, to the extent not otherwise deducted or 15834
excluded in computing federal or Ohio adjusted gross income for 15835
the taxable year, the amount the taxpayer received as a veterans 15836
bonus during the taxable year from the Ohio department of 15837
veterans services as authorized by Section 2r of Article VIII, 15838
Ohio Constitution. 15839

~~(29)~~ (26) Deduct, to the extent not otherwise deducted or 15840

excluded in computing federal or Ohio adjusted gross income for 15841
the taxable year, any income derived from a transfer agreement 15842
or from the enterprise transferred under that agreement under 15843
section 4313.02 of the Revised Code. 15844

~~(30)~~ (27) Deduct, to the extent not otherwise deducted or 15845
excluded in computing federal or Ohio adjusted gross income for 15846
the taxable year, Ohio college opportunity or federal Pell grant 15847
amounts received by the taxpayer or the taxpayer's spouse or 15848
dependent pursuant to section 3333.122 of the Revised Code or 20 15849
U.S.C. 1070a, et seq., and used to pay room or board furnished 15850
by the educational institution for which the grant was awarded 15851
at the institution's facilities, including meal plans 15852
administered by the institution. For the purposes of this 15853
division, receipt of a grant includes the distribution of a 15854
grant directly to an educational institution and the crediting 15855
of the grant to the enrollee's account with the institution. 15856

~~(31)~~ (28) Deduct from the portion of an individual's 15857
federal adjusted gross income that is eligible business income, 15858
to the extent not otherwise deducted or excluded in computing 15859
federal adjusted gross income for the taxable year, one hundred 15860
twenty-five thousand dollars for each spouse if spouses file 15861
separate returns under section 5747.08 of the Revised Code or 15862
two hundred fifty thousand dollars for all other individuals. 15863

~~(32)~~ (29) Deduct, as provided under section 5747.78 of the 15864
Revised Code, contributions to ABLE savings accounts made in 15865
accordance with sections 113.50 to 113.56 of the Revised Code. 15866

~~(33)~~ (a) ~~(30)~~ (a) Deduct, to the extent not otherwise 15867
deducted or excluded in computing federal or Ohio adjusted gross 15868
income during the taxable year, all of the following: 15869

(i) Compensation paid to a qualifying employee described 15870
in division (A) (14) (a) of section 5703.94 of the Revised Code to 15871
the extent such compensation is for disaster work conducted in 15872
this state during a disaster response period pursuant to a 15873
qualifying solicitation received by the employee's employer; 15874

(ii) Compensation paid to a qualifying employee described 15875
in division (A) (14) (b) of section 5703.94 of the Revised Code to 15876
the extent such compensation is for disaster work conducted in 15877
this state by the employee during the disaster response period 15878
on critical infrastructure owned or used by the employee's 15879
employer; 15880

(iii) Income received by an out-of-state disaster business 15881
for disaster work conducted in this state during a disaster 15882
response period, or, if the out-of-state disaster business is a 15883
pass-through entity, a taxpayer's distributive share of the 15884
pass-through entity's income from the business conducting 15885
disaster work in this state during a disaster response period, 15886
if, in either case, the disaster work is conducted pursuant to a 15887
qualifying solicitation received by the business. 15888

(b) All terms used in division ~~(A) (33)~~ (A) (30) of this 15889
section have the same meanings as in section 5703.94 of the 15890
Revised Code. 15891

(B) (1) "Business income" means income, including gain or 15892
loss, arising from transactions, activities, and sources in the 15893
regular course of a trade or business and includes income, gain, 15894
or loss from real property, tangible property, and intangible 15895
property if the acquisition, rental, management, and disposition 15896
of the property constitute integral parts of the regular course 15897
of a trade or business operation. "Business income" includes 15898
income, including gain or loss, from a partial or complete 15899

liquidation of a business, including, but not limited to, gain 15900
or loss from the sale or other disposition of goodwill. 15901

(2) "Eligible business income" means business income 15902
excluding income from a trade or business that performs either 15903
or both of the following: 15904

(a) Legal services provided by an active attorney admitted 15905
to the practice of law in this state or by an attorney 15906
registered for corporate counsel status under section 6 of rule 15907
VI of the Ohio supreme court rules for the government of the bar 15908
of Ohio; 15909

(b) Executive agency lobbying activity, retirement system 15910
lobbying activity, or actively advocating by a person required 15911
to register with the joint legislative ethics committee under 15912
section 101.78, 101.92, or 121.62 of the Revised Code. Terms 15913
used in division (B)(2) of this section have the same meaning as 15914
in section 101.70, 101.92, or 121.60 of the Revised Code. 15915

(C) "Nonbusiness income" means all income other than 15916
business income and may include, but is not limited to, 15917
compensation, rents and royalties from real or tangible personal 15918
property, capital gains, interest, dividends and distributions, 15919
patent or copyright royalties, or lottery winnings, prizes, and 15920
awards. 15921

(D) "Compensation" means any form of remuneration paid to 15922
an employee for personal services. 15923

(E) "Fiduciary" means a guardian, trustee, executor, 15924
administrator, receiver, conservator, or any other person acting 15925
in any fiduciary capacity for any individual, trust, or estate. 15926

(F) "Fiscal year" means an accounting period of twelve 15927
months ending on the last day of any month other than December. 15928

(G) "Individual" means any natural person.	15929
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	15930 15931
(I) "Resident" means any of the following, provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:	15932 15933 15934
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	15935 15936
(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section.	15937 15938 15939 15940
(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.	15941 15942 15943
For the purposes of division (I) (3) of this section:	15944
(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:	15945 15946 15947 15948 15949 15950
(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section;	15951 15952 15953 15954
(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly	15955 15956

transferred assets to an irrevocable trust, but only if at least 15957
one of the trust's qualifying beneficiaries is domiciled in this 15958
state for the purposes of this chapter during all or some 15959
portion of the trust's current taxable year; 15960

(iii) A person who was domiciled in this state for the 15961
purposes of this chapter when the trust document or instrument 15962
or part of the trust document or instrument became irrevocable, 15963
but only if at least one of the trust's qualifying beneficiaries 15964
is a resident domiciled in this state for the purposes of this 15965
chapter during all or some portion of the trust's current 15966
taxable year. If a trust document or instrument became 15967
irrevocable upon the death of a person who at the time of death 15968
was domiciled in this state for purposes of this chapter, that 15969
person is a person described in division (I) (3) (a) (iii) of this 15970
section. 15971

(b) A trust is irrevocable to the extent that the 15972
transferor is not considered to be the owner of the net assets 15973
of the trust under sections 671 to 678 of the Internal Revenue 15974
Code. 15975

(c) With respect to a trust other than a charitable lead 15976
trust, "qualifying beneficiary" has the same meaning as 15977
"potential current beneficiary" as defined in section 1361(e) (2) 15978
of the Internal Revenue Code, and with respect to a charitable 15979
lead trust "qualifying beneficiary" is any current, future, or 15980
contingent beneficiary, but with respect to any trust 15981
"qualifying beneficiary" excludes a person or a governmental 15982
entity or instrumentality to any of which a contribution would 15983
qualify for the charitable deduction under section 170 of the 15984
Internal Revenue Code. 15985

(d) For the purposes of division (I) (3) (a) of this 15986

section, the extent to which a trust consists directly or 15987
indirectly, in whole or in part, of assets, net of any related 15988
liabilities, that were transferred directly or indirectly, in 15989
whole or part, to the trust by any of the sources enumerated in 15990
that division shall be ascertained by multiplying the fair 15991
market value of the trust's assets, net of related liabilities, 15992
by the qualifying ratio, which shall be computed as follows: 15993

(i) The first time the trust receives assets, the 15994
numerator of the qualifying ratio is the fair market value of 15995
those assets at that time, net of any related liabilities, from 15996
sources enumerated in division (I) (3) (a) of this section. The 15997
denominator of the qualifying ratio is the fair market value of 15998
all the trust's assets at that time, net of any related 15999
liabilities. 16000

(ii) Each subsequent time the trust receives assets, a 16001
revised qualifying ratio shall be computed. The numerator of the 16002
revised qualifying ratio is the sum of (1) the fair market value 16003
of the trust's assets immediately prior to the subsequent 16004
transfer, net of any related liabilities, multiplied by the 16005
qualifying ratio last computed without regard to the subsequent 16006
transfer, and (2) the fair market value of the subsequently 16007
transferred assets at the time transferred, net of any related 16008
liabilities, from sources enumerated in division (I) (3) (a) of 16009
this section. The denominator of the revised qualifying ratio is 16010
the fair market value of all the trust's assets immediately 16011
after the subsequent transfer, net of any related liabilities. 16012

(iii) Whether a transfer to the trust is by or from any of 16013
the sources enumerated in division (I) (3) (a) of this section 16014
shall be ascertained without regard to the domicile of the 16015
trust's beneficiaries. 16016

(e) For the purposes of division (I)(3)(a)(i) of this 16017
section: 16018

(i) A trust is described in division (I)(3)(e)(i) of this 16019
section if the trust is a testamentary trust and the testator of 16020
that testamentary trust was domiciled in this state at the time 16021
of the testator's death for purposes of the taxes levied under 16022
Chapter 5731. of the Revised Code. 16023

(ii) A trust is described in division (I)(3)(e)(ii) of 16024
this section if the transfer is a qualifying transfer described 16025
in any of divisions (I)(3)(f)(i) to (vi) of this section, the 16026
trust is an irrevocable inter vivos trust, and at least one of 16027
the trust's qualifying beneficiaries is domiciled in this state 16028
for purposes of this chapter during all or some portion of the 16029
trust's current taxable year. 16030

(f) For the purposes of division (I)(3)(e)(ii) of this 16031
section, a "qualifying transfer" is a transfer of assets, net of 16032
any related liabilities, directly or indirectly to a trust, if 16033
the transfer is described in any of the following: 16034

(i) The transfer is made to a trust, created by the 16035
decedent before the decedent's death and while the decedent was 16036
domiciled in this state for the purposes of this chapter, and, 16037
prior to the death of the decedent, the trust became irrevocable 16038
while the decedent was domiciled in this state for the purposes 16039
of this chapter. 16040

(ii) The transfer is made to a trust to which the 16041
decedent, prior to the decedent's death, had directly or 16042
indirectly transferred assets, net of any related liabilities, 16043
while the decedent was domiciled in this state for the purposes 16044
of this chapter, and prior to the death of the decedent the 16045

trust became irrevocable while the decedent was domiciled in 16046
this state for the purposes of this chapter. 16047

(iii) The transfer is made on account of a contractual 16048
relationship existing directly or indirectly between the 16049
transferor and either the decedent or the estate of the decedent 16050
at any time prior to the date of the decedent's death, and the 16051
decedent was domiciled in this state at the time of death for 16052
purposes of the taxes levied under Chapter 5731. of the Revised 16053
Code. 16054

(iv) The transfer is made to a trust on account of a 16055
contractual relationship existing directly or indirectly between 16056
the transferor and another person who at the time of the 16057
decedent's death was domiciled in this state for purposes of 16058
this chapter. 16059

(v) The transfer is made to a trust on account of the will 16060
of a testator who was domiciled in this state at the time of the 16061
testator's death for purposes of the taxes levied under Chapter 16062
5731. of the Revised Code. 16063

(vi) The transfer is made to a trust created by or caused 16064
to be created by a court, and the trust was directly or 16065
indirectly created in connection with or as a result of the 16066
death of an individual who, for purposes of the taxes levied 16067
under Chapter 5731. of the Revised Code, was domiciled in this 16068
state at the time of the individual's death. 16069

(g) The tax commissioner may adopt rules to ascertain the 16070
part of a trust residing in this state. 16071

(J) "Nonresident" means an individual or estate that is 16072
not a resident. An individual who is a resident for only part of 16073
a taxable year is a nonresident for the remainder of that 16074

taxable year. 16075

(K) "Pass-through entity" has the same meaning as in 16076
section 5733.04 of the Revised Code. 16077

(L) "Return" means the notifications and reports required 16078
to be filed pursuant to this chapter for the purpose of 16079
reporting the tax due and includes declarations of estimated tax 16080
when so required. 16081

(M) "Taxable year" means the calendar year or the 16082
taxpayer's fiscal year ending during the calendar year, or 16083
fractional part thereof, upon which the adjusted gross income is 16084
calculated pursuant to this chapter. 16085

(N) "Taxpayer" means any person subject to the tax imposed 16086
by section 5747.02 of the Revised Code or any pass-through 16087
entity that makes the election under division (D) of section 16088
5747.08 of the Revised Code. 16089

(O) "Dependents" means one of the following: 16090

(1) For taxable years beginning on or after January 1, 16091
2018, and before January 1, 2026, dependents as defined in the 16092
Internal Revenue Code; 16093

(2) For all other taxable years, dependents as defined in 16094
the Internal Revenue Code and as claimed in the taxpayer's 16095
federal income tax return for the taxable year or which the 16096
taxpayer would have been permitted to claim had the taxpayer 16097
filed a federal income tax return. 16098

(P) "Principal county of employment" means, in the case of 16099
a nonresident, the county within the state in which a taxpayer 16100
performs services for an employer or, if those services are 16101
performed in more than one county, the county in which the major 16102

portion of the services are performed. 16103

(Q) As used in sections 5747.50 to 5747.55 of the Revised 16104
Code: 16105

(1) "Subdivision" means any county, municipal corporation, 16106
park district, or township. 16107

(2) "Essential local government purposes" includes all 16108
functions that any subdivision is required by general law to 16109
exercise, including like functions that are exercised under a 16110
charter adopted pursuant to the Ohio Constitution. 16111

(R) "Overpayment" means any amount already paid that 16112
exceeds the figure determined to be the correct amount of the 16113
tax. 16114

(S) "Taxable income" or "Ohio taxable income" applies only 16115
to estates and trusts, and means federal taxable income, as 16116
defined and used in the Internal Revenue Code, adjusted as 16117
follows: 16118

(1) Add interest or dividends, net of ordinary, necessary, 16119
and reasonable expenses not deducted in computing federal 16120
taxable income, on obligations or securities of any state or of 16121
any political subdivision or authority of any state, other than 16122
this state and its subdivisions and authorities, but only to the 16123
extent that such net amount is not otherwise includible in Ohio 16124
taxable income and is described in either division (S) (1) (a) or 16125
(b) of this section: 16126

(a) The net amount is not attributable to the S portion of 16127
an electing small business trust and has not been distributed to 16128
beneficiaries for the taxable year; 16129

(b) The net amount is attributable to the S portion of an 16130

electing small business trust for the taxable year. 16131

(2) Add interest or dividends, net of ordinary, necessary, 16132
and reasonable expenses not deducted in computing federal 16133
taxable income, on obligations of any authority, commission, 16134
instrumentality, territory, or possession of the United States 16135
to the extent that the interest or dividends are exempt from 16136
federal income taxes but not from state income taxes, but only 16137
to the extent that such net amount is not otherwise includible 16138
in Ohio taxable income and is described in either division (S) 16139
(1) (a) or (b) of this section; 16140

(3) Add the amount of personal exemption allowed to the 16141
estate pursuant to section 642(b) of the Internal Revenue Code; 16142

(4) Deduct interest or dividends, net of related expenses 16143
deducted in computing federal taxable income, on obligations of 16144
the United States and its territories and possessions or of any 16145
authority, commission, or instrumentality of the United States 16146
to the extent that the interest or dividends are exempt from 16147
state taxes under the laws of the United States, but only to the 16148
extent that such amount is included in federal taxable income 16149
and is described in either division (S) (1) (a) or (b) of this 16150
section; 16151

(5) Deduct the amount of wages and salaries, if any, not 16152
otherwise allowable as a deduction but that would have been 16153
allowable as a deduction in computing federal taxable income for 16154
the taxable year, had the targeted jobs credit allowed under 16155
sections 38, 51, and 52 of the Internal Revenue Code not been in 16156
effect, but only to the extent such amount relates either to 16157
income included in federal taxable income for the taxable year 16158
or to income of the S portion of an electing small business 16159
trust for the taxable year; 16160

(6) Deduct any interest or interest equivalent, net of 16161
related expenses deducted in computing federal taxable income, 16162
on public obligations and purchase obligations, but only to the 16163
extent that such net amount relates either to income included in 16164
federal taxable income for the taxable year or to income of the 16165
S portion of an electing small business trust for the taxable 16166
year; 16167

(7) Add any loss or deduct any gain resulting from sale, 16168
exchange, or other disposition of public obligations to the 16169
extent that such loss has been deducted or such gain has been 16170
included in computing either federal taxable income or income of 16171
the S portion of an electing small business trust for the 16172
taxable year; 16173

(8) Except in the case of the final return of an estate, 16174
add any amount deducted by the taxpayer on both its Ohio estate 16175
tax return pursuant to section 5731.14 of the Revised Code, and 16176
on its federal income tax return in determining federal taxable 16177
income; 16178

(9) (a) Deduct any amount included in federal taxable 16179
income solely because the amount represents a reimbursement or 16180
refund of expenses that in a previous year the decedent had 16181
deducted as an itemized deduction pursuant to section 63 of the 16182
Internal Revenue Code and applicable treasury regulations. The 16183
deduction otherwise allowed under division (S) (9) (a) of this 16184
section shall be reduced to the extent the reimbursement is 16185
attributable to an amount the taxpayer or decedent deducted 16186
under this section in any taxable year. 16187

(b) Add any amount not otherwise included in Ohio taxable 16188
income for any taxable year to the extent that the amount is 16189
attributable to the recovery during the taxable year of any 16190

amount deducted or excluded in computing federal or Ohio taxable 16191
income in any taxable year, but only to the extent such amount 16192
has not been distributed to beneficiaries for the taxable year. 16193

(10) Deduct any portion of the deduction described in 16194
section 1341(a)(2) of the Internal Revenue Code, for repaying 16195
previously reported income received under a claim of right, that 16196
meets both of the following requirements: 16197

(a) It is allowable for repayment of an item that was 16198
included in the taxpayer's taxable income or the decedent's 16199
adjusted gross income for a prior taxable year and did not 16200
qualify for a credit under division (A) or (B) of section 16201
5747.05 of the Revised Code for that year. 16202

(b) It does not otherwise reduce the taxpayer's taxable 16203
income or the decedent's adjusted gross income for the current 16204
or any other taxable year. 16205

(11) Add any amount claimed as a credit under section 16206
5747.059 of the Revised Code to the extent that the amount 16207
satisfies either of the following: 16208

(a) The amount was deducted or excluded from the 16209
computation of the taxpayer's federal taxable income as required 16210
to be reported for the taxpayer's taxable year under the 16211
Internal Revenue Code; 16212

(b) The amount resulted in a reduction in the taxpayer's 16213
federal taxable income as required to be reported for any of the 16214
taxpayer's taxable years under the Internal Revenue Code. 16215

(12) Deduct any amount, net of related expenses deducted 16216
in computing federal taxable income, that a trust is required to 16217
report as farm income on its federal income tax return, but only 16218
if the assets of the trust include at least ten acres of land 16219

satisfying the definition of "land devoted exclusively to
agricultural use" under section 5713.30 of the Revised Code,
regardless of whether the land is valued for tax purposes as
such land under sections 5713.30 to 5713.38 of the Revised Code.
If the trust is a pass-through entity investor, section 5747.231
of the Revised Code applies in ascertaining if the trust is
eligible to claim the deduction provided by division (S)(12) of
this section in connection with the pass-through entity's farm
income.

Except for farm income attributable to the S portion of an
electing small business trust, the deduction provided by
division (S)(12) of this section is allowed only to the extent
that the trust has not distributed such farm income. ~~Division~~
~~(S)(12) of this section applies only to taxable years of a trust~~
~~beginning in 2002 or thereafter.~~

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

(14) Add or deduct the amount the taxpayer would be
required to add or deduct under division ~~(A)(20)~~ (A)(17) or ~~(21)~~
(18) of this section if the taxpayer's Ohio taxable income were
computed in the same manner as an individual's Ohio adjusted
gross income is computed under this section. ~~In the case of a~~
~~trust, division (S)(14) of this section applies only to any of~~
~~the trust's taxable years beginning in 2002 or thereafter.~~

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

(U) As used in divisions ~~(A)(8)~~ (A)(7), ~~(A)(9)~~ (A)(8), (S)

(6), and (S) (7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

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

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

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

(Y) "Month" means a calendar month.

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

(AA) (1) ~~"Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.~~

~~(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary~~

~~education. If the individual is a part time student, "qualified~~ 16278
~~tuition and fees" includes tuition and fees paid for the~~ 16279
~~academic equivalent of the first two years of post-secondary~~ 16280
~~education during a maximum of five taxable years, not exceeding~~ 16281
~~a total of five thousand dollars. "Qualified tuition and fees"~~ 16282
~~does not include:~~ 16283

~~(a) Expenses for any course or activity involving sports,~~ 16284
~~games, or hobbies unless the course or activity is part of the~~ 16285
~~individual's degree or diploma program;~~ 16286

~~(b) The cost of books, room and board, student activity~~ 16287
~~fees, athletic fees, insurance expenses, or other expenses~~ 16288
~~unrelated to the individual's academic course of instruction;~~ 16289

~~(c) Tuition, fees, or other expenses paid or reimbursed~~ 16290
~~through an employer, scholarship, grant in aid, or other~~ 16291
~~educational benefit program.~~ 16292

~~(BB) (1)~~ "Modified business income" means the business 16293
income included in a trust's Ohio taxable income after such 16294
taxable income is first reduced by the qualifying trust amount, 16295
if any. 16296

(2) "Qualifying trust amount" of a trust means capital 16297
gains and losses from the sale, exchange, or other disposition 16298
of equity or ownership interests in, or debt obligations of, a 16299
qualifying investee to the extent included in the trust's Ohio 16300
taxable income, but only if the following requirements are 16301
satisfied: 16302

(a) The book value of the qualifying investee's physical 16303
assets in this state and everywhere, as of the last day of the 16304
qualifying investee's fiscal or calendar year ending immediately 16305
prior to the date on which the trust recognizes the gain or 16306

loss, is available to the trust. 16307

(b) The requirements of section 5747.011 of the Revised 16308
Code are satisfied for the trust's taxable year in which the 16309
trust recognizes the gain or loss. 16310

Any gain or loss that is not a qualifying trust amount is 16311
modified business income, qualifying investment income, or 16312
modified nonbusiness income, as the case may be. 16313

(3) "Modified nonbusiness income" means a trust's Ohio 16314
taxable income other than modified business income, other than 16315
the qualifying trust amount, and other than qualifying 16316
investment income, as defined in section 5747.012 of the Revised 16317
Code, to the extent such qualifying investment income is not 16318
otherwise part of modified business income. 16319

(4) "Modified Ohio taxable income" applies only to trusts, 16320
and means the sum of the amounts described in divisions ~~(BB)(4)~~ 16321
~~(a)-(AA)(4)(a)~~ to (c) of this section: 16322

(a) The fraction, calculated under section 5747.013, and 16323
applying section 5747.231 of the Revised Code, multiplied by the 16324
sum of the following amounts: 16325

(i) The trust's modified business income; 16326

(ii) The trust's qualifying investment income, as defined 16327
in section 5747.012 of the Revised Code, but only to the extent 16328
the qualifying investment income does not otherwise constitute 16329
modified business income and does not otherwise constitute a 16330
qualifying trust amount. 16331

(b) The qualifying trust amount multiplied by a fraction, 16332
the numerator of which is the sum of the book value of the 16333
qualifying investee's physical assets in this state on the last 16334

day of the qualifying investee's fiscal or calendar year ending 16335
immediately prior to the day on which the trust recognizes the 16336
qualifying trust amount, and the denominator of which is the sum 16337
of the book value of the qualifying investee's total physical 16338
assets everywhere on the last day of the qualifying investee's 16339
fiscal or calendar year ending immediately prior to the day on 16340
which the trust recognizes the qualifying trust amount. If, for 16341
a taxable year, the trust recognizes a qualifying trust amount 16342
with respect to more than one qualifying investee, the amount 16343
described in division ~~(BB) (4) (b)~~ (AA) (4) (b) of this section 16344
shall equal the sum of the products so computed for each such 16345
qualifying investee. 16346

(c) (i) With respect to a trust or portion of a trust that 16347
is a resident as ascertained in accordance with division (I) (3) 16348
(d) of this section, its modified nonbusiness income. 16349

(ii) With respect to a trust or portion of a trust that is 16350
not a resident as ascertained in accordance with division (I) (3) 16351
(d) of this section, the amount of its modified nonbusiness 16352
income satisfying the descriptions in divisions (B) (2) to (5) of 16353
section 5747.20 of the Revised Code, except as otherwise 16354
provided in division ~~(BB) (4) (c) (ii)~~ (AA) (4) (c) (ii) of this 16355
section. With respect to a trust or portion of a trust that is 16356
not a resident as ascertained in accordance with division (I) (3) 16357
(d) of this section, the trust's portion of modified nonbusiness 16358
income recognized from the sale, exchange, or other disposition 16359
of a debt interest in or equity interest in a section 5747.212 16360
entity, as defined in section 5747.212 of the Revised Code, 16361
without regard to division (A) of that section, shall not be 16362
allocated to this state in accordance with section 5747.20 of 16363
the Revised Code but shall be apportioned to this state in 16364
accordance with division (B) of section 5747.212 of the Revised 16365

Code without regard to division (A) of that section. 16366

If the allocation and apportionment of a trust's income 16367
under divisions ~~(BB) (4) (a)~~ (AA) (4) (a) and (c) of this section do 16368
not fairly represent the modified Ohio taxable income of the 16369
trust in this state, the alternative methods described in 16370
division (C) of section 5747.21 of the Revised Code may be 16371
applied in the manner and to the same extent provided in that 16372
section. 16373

(5) (a) Except as set forth in division ~~(BB) (5) (b)~~ (AA) (5) 16374
(b) of this section, "qualifying investee" means a person in 16375
which a trust has an equity or ownership interest, or a person 16376
or unit of government the debt obligations of either of which 16377
are owned by a trust. For the purposes of division ~~(BB) (2) (a)~~ 16378
(AA) (2) (a) of this section and for the purpose of computing the 16379
fraction described in division ~~(BB) (4) (b)~~ (AA) (4) (b) of this 16380
section, all of the following apply: 16381

(i) If the qualifying investee is a member of a qualifying 16382
controlled group on the last day of the qualifying investee's 16383
fiscal or calendar year ending immediately prior to the date on 16384
which the trust recognizes the gain or loss, then "qualifying 16385
investee" includes all persons in the qualifying controlled 16386
group on such last day. 16387

(ii) If the qualifying investee, or if the qualifying 16388
investee and any members of the qualifying controlled group of 16389
which the qualifying investee is a member on the last day of the 16390
qualifying investee's fiscal or calendar year ending immediately 16391
prior to the date on which the trust recognizes the gain or 16392
loss, separately or cumulatively own, directly or indirectly, on 16393
the last day of the qualifying investee's fiscal or calendar 16394
year ending immediately prior to the date on which the trust 16395

recognizes the qualifying trust amount, more than fifty per cent 16396
of the equity of a pass-through entity, then the qualifying 16397
investee and the other members are deemed to own the 16398
proportionate share of the pass-through entity's physical assets 16399
which the pass-through entity directly or indirectly owns on the 16400
last day of the pass-through entity's calendar or fiscal year 16401
ending within or with the last day of the qualifying investee's 16402
fiscal or calendar year ending immediately prior to the date on 16403
which the trust recognizes the qualifying trust amount. 16404

(iii) For the purposes of division ~~(BB) (5) (a) (iii)~~ (AA) (5) 16405
(a) (iii) of this section, "upper level pass-through entity" 16406
means a pass-through entity directly or indirectly owning any 16407
equity of another pass-through entity, and "lower level pass- 16408
through entity" means that other pass-through entity. 16409

An upper level pass-through entity, whether or not it is 16410
also a qualifying investee, is deemed to own, on the last day of 16411
the upper level pass-through entity's calendar or fiscal year, 16412
the proportionate share of the lower level pass-through entity's 16413
physical assets that the lower level pass-through entity 16414
directly or indirectly owns on the last day of the lower level 16415
pass-through entity's calendar or fiscal year ending within or 16416
with the last day of the upper level pass-through entity's 16417
fiscal or calendar year. If the upper level pass-through entity 16418
directly and indirectly owns less than fifty per cent of the 16419
equity of the lower level pass-through entity on each day of the 16420
upper level pass-through entity's calendar or fiscal year in 16421
which or with which ends the calendar or fiscal year of the 16422
lower level pass-through entity and if, based upon clear and 16423
convincing evidence, complete information about the location and 16424
cost of the physical assets of the lower pass-through entity is 16425
not available to the upper level pass-through entity, then 16426

solely for purposes of ascertaining if a gain or loss 16427
constitutes a qualifying trust amount, the upper level pass- 16428
through entity shall be deemed as owning no equity of the lower 16429
level pass-through entity for each day during the upper level 16430
pass-through entity's calendar or fiscal year in which or with 16431
which ends the lower level pass-through entity's calendar or 16432
fiscal year. Nothing in division ~~(BB) (5) (a) (iii)~~ (AA) (5) (a) (iii) 16433
of this section shall be construed to provide for any deduction 16434
or exclusion in computing any trust's Ohio taxable income. 16435

(b) With respect to a trust that is not a resident for the 16436
taxable year and with respect to a part of a trust that is not a 16437
resident for the taxable year, "qualifying investee" for that 16438
taxable year does not include a C corporation if both of the 16439
following apply: 16440

(i) During the taxable year the trust or part of the trust 16441
recognizes a gain or loss from the sale, exchange, or other 16442
disposition of equity or ownership interests in, or debt 16443
obligations of, the C corporation. 16444

(ii) Such gain or loss constitutes nonbusiness income. 16445

(6) "Available" means information is such that a person is 16446
able to learn of the information by the due date plus 16447
extensions, if any, for filing the return for the taxable year 16448
in which the trust recognizes the gain or loss. 16449

~~(CC)~~ (BB) "Qualifying controlled group" has the same 16450
meaning as in section 5733.04 of the Revised Code. 16451

~~(DD)~~ (CC) "Related member" has the same meaning as in 16452
section 5733.042 of the Revised Code. 16453

~~(EE) (1)~~ (DD) (1) For the purposes of division ~~(EE)~~ (DD) of 16454
this section: 16455

(a) "Qualifying person" means any person other than a 16456
qualifying corporation. 16457

(b) "Qualifying corporation" means any person classified 16458
for federal income tax purposes as an association taxable as a 16459
corporation, except either of the following: 16460

(i) A corporation that has made an election under 16461
subchapter S, chapter one, subtitle A, of the Internal Revenue 16462
Code for its taxable year ending within, or on the last day of, 16463
the investor's taxable year; 16464

(ii) A subsidiary that is wholly owned by any corporation 16465
that has made an election under subchapter S, chapter one, 16466
subtitle A of the Internal Revenue Code for its taxable year 16467
ending within, or on the last day of, the investor's taxable 16468
year. 16469

(2) For the purposes of this chapter, unless expressly 16470
stated otherwise, no qualifying person indirectly owns any asset 16471
directly or indirectly owned by any qualifying corporation. 16472

~~(FF)~~ (EE) For purposes of this chapter and Chapter 5751. 16473
of the Revised Code: 16474

(1) "Trust" does not include a qualified pre-income tax 16475
trust. 16476

(2) A "qualified pre-income tax trust" is any pre-income 16477
tax trust that makes a qualifying pre-income tax trust election 16478
as described in division ~~(FF) (3)~~ (EE) (3) of this section. 16479

(3) A "qualifying pre-income tax trust election" is an 16480
election by a pre-income tax trust to subject to the tax imposed 16481
by section 5751.02 of the Revised Code the pre-income tax trust 16482
and all pass-through entities of which the trust owns or 16483

controls, directly, indirectly, or constructively through 16484
related interests, five per cent or more of the ownership or 16485
equity interests. The trustee shall notify the tax commissioner 16486
in writing of the election on or before April 15, 2006. The 16487
election, if timely made, shall be effective on and after 16488
January 1, 2006, and shall apply for all tax periods and tax 16489
years until revoked by the trustee of the trust. 16490

(4) A "pre-income tax trust" is a trust that satisfies all 16491
of the following requirements: 16492

(a) The document or instrument creating the trust was 16493
executed by the grantor before January 1, 1972; 16494

(b) The trust became irrevocable upon the creation of the 16495
trust; and 16496

(c) The grantor was domiciled in this state at the time 16497
the trust was created. 16498

~~(GG)~~ (FF) "Uniformed services" has the same meaning as in 16499
10 U.S.C. 101. 16500

~~(HH)~~ (GG) "Taxable business income" means the amount by 16501
which an individual's eligible business income that is included 16502
in federal adjusted gross income exceeds the amount of eligible 16503
business income the individual is authorized to deduct under 16504
division ~~(A) (31)~~ (A) (28) of this section for the taxable year. 16505

~~(II)~~ (HH) "Employer" does not include a franchisor with 16506
respect to the franchisor's relationship with a franchisee or an 16507
employee of a franchisee, unless the franchisor agrees to assume 16508
that role in writing or a court of competent jurisdiction 16509
determines that the franchisor exercises a type or degree of 16510
control over the franchisee or the franchisee's employees that 16511
is not customarily exercised by a franchisor for the purpose of 16512

protecting the franchisor's trademark, brand, or both. For 16513
purposes of this division, "franchisor" and "franchisee" have 16514
the same meanings as in 16 C.F.R. 436.1. 16515

~~(JJ)~~ (II) "Modified adjusted gross income" means Ohio 16516
adjusted gross income plus any amount deducted under division 16517
~~(A) (31)~~ (A) (28) of this section for the taxable year. 16518

Sec. 5747.011. (A) As used in this section: 16519

(1) "Qualifying closely-held C corporation" means a person 16520
classified for federal income tax purposes as an association 16521
taxed as a corporation and that has more than fifty per cent of 16522
the value of its outstanding stock or equity owned, directly or 16523
indirectly, by or for not more than five qualifying persons. For 16524
the purposes of this division, the ownership of stock shall be 16525
determined under the rules set forth in section 544 of the 16526
Internal Revenue Code. 16527

(2) "Qualifying person" means an individual; an 16528
organization described in section 401(a), 501(c) (17), or 509(a) 16529
of the Internal Revenue Code; or a portion of a trust 16530
permanently set aside or to be used exclusively for the purposes 16531
described in section 642(c) of the Internal Revenue Code or a 16532
corresponding provision of a prior federal income tax law. 16533

(3) "Qualifying limited liability company" means a limited 16534
liability company that is not classified for federal income tax 16535
purposes as an association taxed as a corporation. 16536

(4) "Ownership interest" means the equity or ownership 16537
interest in, or debt obligation of, a "qualifying investee" as 16538
defined in section 5747.01 of the Revised Code. 16539

(5) "Qualifying individual beneficiary" has the same 16540
meaning as qualifying beneficiary as used in division (I) (3) (c) 16541

of section 5747.01 of the Revised Code, but is limited to 16542
individuals. 16543

(6) "Family" of an individual means only the individual's 16544
spouse; the individual's ancestors, limited to the individual's 16545
parents, grandparents, and great grandparents; the siblings of 16546
such ancestors, whether by the whole or half blood or by legal 16547
adoption; the lineal descendants of such ancestors and siblings; 16548
persons legally adopted by such ancestors or by such siblings; 16549
and the spouses of such ancestors, siblings, legally adopted 16550
persons, and lineal descendants. 16551

(B) The requirements of this division apply for purposes 16552
of division ~~(BB)~~(AA) (2) (b) of section 5747.01 of the Revised 16553
Code and for the purposes of division (D) of section 5747.012 of 16554
the Revised Code. Gain or loss included in a trust's Ohio 16555
taxable income is not a qualifying trust amount unless the 16556
trust's ownership interest in the qualifying investee is at 16557
least five per cent of the total outstanding ownership interests 16558
in such qualifying investee at any time during the ten-year 16559
period ending on the last day of the trust's taxable year in 16560
which the sale, exchange, or other disposition occurs. Nothing 16561
in this section negates the requirements in division ~~(BB)~~(AA) (2) 16562
of section 5747.01 of the Revised Code. 16563

For the purpose of ascertaining whether the trust's 16564
ownership interest in a qualifying investee is at least five per 16565
cent of the total outstanding ownership interests in such 16566
qualifying investee, the following apply: 16567

(1) On each day, an ownership interest owned, directly or 16568
indirectly, by or for a qualifying closely-held C corporation, 16569
an S corporation, a partnership other than a publicly traded 16570
partnership, a qualifying limited liability company, an estate, 16571

or a trust that is irrevocable as defined in division (I) (3) (b) 16572
of section 5747.01 of the Revised Code is considered as being 16573
owned proportionately on the same day by the equity investors of 16574
such qualifying closely-held C corporation, S corporation, 16575
partnership, or qualifying limited liability company, or by the 16576
beneficiaries of such estate or trust, as the case may be. For 16577
the purposes of division (B) (1) of this section, a beneficiary's 16578
proportionate share of an ownership interest held by a trust 16579
shall be ascertained in accordance with section 544(a) (1) of the 16580
Internal Revenue Code. 16581

(2) On each day, a trust, hereinafter referred to as the 16582
first trust, is considered as owning any ownership interest 16583
owned, directly or indirectly, by or for another trust, 16584
hereinafter referred to as the second trust, if on the same day 16585
the second trust has at least one individual trustee who is 16586
either (a) a trustee of the first trust, or (b) a member of a 16587
family that includes at least one of the trustees of the first 16588
trust. 16589

(3) On each day, a trust, hereinafter referred to as the 16590
first trust, is considered as owning any ownership interest 16591
owned, directly or indirectly, by or for another trust, 16592
hereinafter referred to as the second trust, if on the same day 16593
the second trust has at least one qualifying individual 16594
beneficiary who is either (a) a qualifying individual 16595
beneficiary of the first trust or (b) a member of a family which 16596
includes a qualifying individual beneficiary of the first trust. 16597

(4) An ownership interest constructively owned by a person 16598
by reason of the application of division (B) (1) of this section 16599
shall, for the purpose of applying divisions (B) (1) to (3) of 16600
this section, be treated as actually owned by that person. 16601

(5) An ownership interest constructively owned by a trust 16602
by reason of the application of division (B) (2) or (3) of this 16603
section shall not be treated as actually owned by that trust for 16604
purposes of applying divisions (B) (1) to (3) of this section. 16605

(6) If an ownership interest may be considered as owned by 16606
a trust under division (B) (1) or (2) of this section, the 16607
ownership interest shall be considered owned by that trust under 16608
division (B) (2) of this section. 16609

(7) If an ownership interest may be considered as owned by 16610
a trust under division (B) (1) or (3) of this section, the 16611
ownership interest shall be considered owned by that trust under 16612
division (B) (3) of this section. 16613

Sec. 5747.012. This section applies for the purposes of 16614
divisions ~~(BB)~~(AA) (3) and ~~(BB)~~ (4) (a) (ii) of section 5747.01 of 16615
the Revised Code. 16616

(A) As used in this section: 16617

(1) (a) Except as set forth in division (A) (1) (b) of this 16618
section, "qualifying investment income" means the portion of a 16619
qualifying investment pass-through entity's net income 16620
attributable to transaction fees in connection with the 16621
acquisition, ownership, or disposition of intangible property; 16622
loan fees; financing fees; consent fees; waiver fees; 16623
application fees; net management fees; dividend income; interest 16624
income; net capital gains from the sale or exchange or other 16625
disposition of intangible property; and all types and 16626
classifications of income attributable to distributive shares of 16627
income from other pass-through entities. 16628

(b) (i) Notwithstanding division (A) (1) (a) of this section, 16629
"qualifying investment income" does not include any part of the 16630

qualifying investment pass-through entity's net capital gain 16631
which, after the application of section 5747.231 of the Revised 16632
Code with respect to a trust, would also constitute a qualifying 16633
trust amount. 16634

(ii) Notwithstanding division (A)(1)(a) of this section, 16635
"qualifying investment income" does not include any part of the 16636
qualifying investment pass-through entity's net income 16637
attributable to the portion of a distributive share of income 16638
directly or indirectly from another pass-through entity to the 16639
extent such portion constitutes the other pass-through entity's 16640
net capital gain which, after the application of section 16641
5747.231 of the Revised Code with respect to a trust, would also 16642
constitute a qualifying trust amount. 16643

(2) "Qualifying investment pass-through entity" means an 16644
investment pass-through entity, as defined in section 5733.401 16645
of the Revised Code, subject to the following qualifications: 16646

(a) "Forty per cent" shall be substituted for "ninety per 16647
cent" wherever "ninety per cent" appears in section 5733.401 of 16648
the Revised Code. 16649

(b) The pass-through entity must have been formed or 16650
organized as an entity prior to June 5, 2002, and must exist as 16651
a pass-through entity for all of the taxable year of the trust. 16652

(c) The qualifying section 5747.012 trust or related 16653
persons to the qualifying section 5747.012 trust must directly 16654
or indirectly own at least five per cent of the equity of the 16655
investment pass-through entity each day of the entity's fiscal 16656
or calendar year ending within or with the last day of the 16657
qualifying section 5747.012 trust's taxable year; 16658

(d) During the investment pass-through entity's calendar 16659

or fiscal year ending within or with the last day of the 16660
qualifying section 5747.012 trust's taxable year, the qualifying 16661
section 5747.012 trust or related persons of or to the 16662
qualifying section 5747.012 trust must, on each day of the 16663
investment pass-through entity's year, own directly, or own 16664
through equity investments in other pass-through entities, more 16665
than sixty per cent of the equity of the investment pass-through 16666
entity. 16667

(B) "Qualifying section 5747.012 trust" means a trust 16668
satisfying one of the following: 16669

(1) The trust was created prior to, and was irrevocable 16670
on, June 5, 2002; or 16671

(2) If the trust was created after June 4, 2002, or if the 16672
trust became irrevocable after June 4, 2002, then at least 16673
eighty per cent of the assets transferred to the trust must have 16674
been previously owned by related persons to the trust or by a 16675
trust created prior to June 5, 2002, under which the creator did 16676
not retain the power to change beneficiaries, amend the trust, 16677
or revoke the trust. For purposes of division (B) (2) of this 16678
section, the power to substitute property of equal value shall 16679
not be considered to be a power to change beneficiaries, amend 16680
the trust, or revoke the trust. 16681

(C) For the purposes of this section, "related persons" 16682
means the family of a qualifying individual beneficiary, as 16683
defined in division (A) (5) of section 5747.011 of the Revised 16684
Code. For the purposes of this division, "family" has the same 16685
meaning as in division (A) (6) of section 5747.011 of the Revised 16686
Code. 16687

(D) For the purposes of applying divisions (A) (2) (c), (A) 16688

(2) (d), and (B) (2) of this section, the related persons or the 16689
qualifying section 5747.012 trust, as the case may be, shall be 16690
deemed to own the equity of the investment pass-through entity 16691
after the application of division (B) of section 5747.011 of the 16692
Revised Code. 16693

(E) "Irrevocable" has the same meaning as in division (I) 16694
(3) (b) of section 5747.01 of the Revised Code. 16695

(F) Nothing in this section requires any item of income, 16696
gain, or loss not satisfying the definition of qualifying 16697
investment income to be treated as modified nonbusiness income. 16698
Any item of income, gain, or loss that is not qualifying 16699
investment income is modified business income, modified 16700
nonbusiness income, or a qualifying trust amount, as the case 16701
may be. 16702

Sec. 5747.013. (A) As used in this section: 16703

(1) "Electric company," "combined company," and "telephone 16704
company" have the same meanings as in section 5727.01 of the 16705
Revised Code. 16706

(2) "Qualified research" means laboratory research, 16707
experimental research, and other similar types of research; 16708
research in developing or improving a product; or research in 16709
developing or improving the means of producing a product. It 16710
does not include market research, consumer surveys, efficiency 16711
surveys, management studies, ordinary testing or inspection of 16712
material or products for quality control, historical research, 16713
or literary research. "Product," as used in this paragraph, does 16714
not include services or intangible property. 16715

(B) The fraction to be used in calculating a trust's 16716
modified Ohio taxable income under division ~~(BB)~~ (AA) (4) (a) of 16717

section 5747.01 of the Revised Code shall be determined as 16718
follows: The numerator of the fraction is the sum of the 16719
following products: the property factor multiplied by twenty, 16720
the payroll factor multiplied by twenty, and the sales factor 16721
multiplied by sixty. The denominator of the fraction is one 16722
hundred, provided that the denominator shall be reduced by 16723
twenty if the property factor has a denominator of zero, by 16724
twenty if the payroll factor has a denominator of zero, and by 16725
sixty if the sales factor has a denominator of zero. 16726

The property, payroll, and sales factors shall be 16727
determined as follows: 16728

(1) The property factor is a fraction the numerator of 16729
which is the average value of the trust's real and tangible 16730
personal property owned or rented and used in the trade or 16731
business in this state during the taxable year, and the 16732
denominator of which is the average value of all the trust's 16733
real and tangible personal property owned or rented and used in 16734
the trade or business everywhere during such year. Real and 16735
tangible personal property that is owned but leased to a lessee 16736
to be used in the lessee's trade or business shall not be 16737
included in the property factor of the owner. There shall be 16738
excluded from the numerator and denominator of the fraction the 16739
original cost of all of the following property within Ohio: 16740
property with respect to which a "pollution control facility" 16741
certificate has been issued pursuant to section 5709.21 of the 16742
Revised Code; property with respect to which an "industrial 16743
water pollution control certificate" has been issued pursuant to 16744
that section or former section 6111.31 of the Revised Code; and 16745
property used exclusively during the taxable year for qualified 16746
research. 16747

(a) Property owned by the trust is valued at its original 16748
cost. Property rented by the trust is valued at eight times the 16749
net annual rental rate. "Net annual rental rate" means the 16750
annual rental rate paid by the trust less any annual rental rate 16751
received by the trust from subrentals. 16752

(b) The average value of property shall be determined by 16753
averaging the values at the beginning and the end of the taxable 16754
year, but the tax commissioner may require the averaging of 16755
monthly values during the taxable year, if reasonably required 16756
to reflect properly the average value of the trust's property. 16757

(2) The payroll factor is a fraction the numerator of 16758
which is the total amount paid in this state during the taxable 16759
year by the trust for compensation, and the denominator of which 16760
is the total compensation paid everywhere by the trust during 16761
such year. There shall be excluded from the numerator and the 16762
denominator of the payroll factor the total compensation paid in 16763
this state to employees who are primarily engaged in qualified 16764
research. 16765

(a) Compensation is paid in this state if: (i) the 16766
recipient's service is performed entirely within this state; 16767
(ii) the recipient's service is performed both within and 16768
without this state, but the service performed without this state 16769
is incidental to the recipient's service within this state; or 16770
(iii) some of the service is performed within this state and 16771
either the base of operations, or if there is no base of 16772
operations, the place from which the service is directed or 16773
controlled, is within this state, or the base of operations or 16774
the place from which the service is directed or controlled is 16775
not in any state in which some part of the service is performed, 16776
but the recipient's residence is in this state. 16777

(b) Compensation is paid in this state to any employee of 16778
a common or contract motor carrier corporation, who performs the 16779
employee's regularly assigned duties on a motor vehicle in more 16780
than one state, in the same ratio by which the mileage traveled 16781
by such employee within the state bears to the total mileage 16782
traveled by such employee everywhere during the taxable year. 16783

(3) The sales factor is a fraction the numerator of which 16784
is the total sales in this state by the trust during the taxable 16785
year, and the denominator of which is the total sales by the 16786
trust everywhere during such year. In determining the numerator 16787
and denominator of the fraction, receipts from the sale or other 16788
disposal of a capital asset or an asset described in section 16789
1231 of the Internal Revenue Code shall be eliminated. Also, in 16790
determining the numerator and denominator of the sales factor, 16791
in the case of a trust owning at least eighty per cent of the 16792
issued and outstanding common stock of one or more insurance 16793
companies or public utilities, except an electric company and a 16794
combined company, and, for tax years 2005 and thereafter, a 16795
telephone company, or owning at least twenty-five per cent of 16796
the issued and outstanding common stock of one or more financial 16797
institutions, receipts received by the trust from such insurance 16798
companies, utilities, and financial institutions shall be 16799
eliminated. 16800

For the purpose of this section and section 5747.08 of the 16801
Revised Code, sales of tangible personal property are in this 16802
state where such property is received in this state by the 16803
purchaser. In the case of delivery of tangible personal property 16804
by common carrier or by other means of transportation, the place 16805
at which such property is ultimately received after all 16806
transportation has been completed shall be considered as the 16807
place at which such property is received by the purchaser. 16808

Direct delivery in this state, other than for purposes of 16809
transportation, to a person or firm designated by a purchaser 16810
constitutes delivery to the purchaser in this state, and direct 16811
delivery outside this state to a person or firm designated by a 16812
purchaser does not constitute delivery to the purchaser in this 16813
state, regardless of where title passes or other conditions of 16814
sale. 16815

Sales, other than sales of tangible personal property, are 16816
in this state if either: 16817

(a) The income-producing activity is performed solely in 16818
this state; or 16819

(b) The income-producing activity is performed both within 16820
and without this state and a greater proportion of the seller's 16821
income-producing activity is performed within this state than in 16822
any other state, based on costs of performance. 16823

Sec. 5747.02. (A) For the purpose of providing revenue for 16824
the support of schools and local government functions, to 16825
provide relief to property taxpayers, to provide revenue for the 16826
general revenue fund, and to meet the expenses of administering 16827
the tax levied by this chapter, there is hereby levied on every 16828
individual, trust, and estate residing in or earning or 16829
receiving income in this state, on every individual, trust, and 16830
estate earning or receiving lottery winnings, prizes, or awards 16831
pursuant to Chapter 3770. of the Revised Code, on every 16832
individual, trust, and estate earning or receiving winnings on 16833
casino gaming, and on every individual, trust, and estate 16834
otherwise having nexus with or in this state under the 16835
Constitution of the United States, an annual tax measured as 16836
prescribed in divisions (A)(1) to (4) of this section. 16837

(1) In the case of trusts, the tax imposed by this section 16838
shall be measured by modified Ohio taxable income under division 16839
(D) of this section and levied in the same amount as the tax is 16840
imposed on estates as prescribed in division (A) (2) of this 16841
section. 16842

(2) In the case of estates, the tax imposed by this 16843
section shall be measured by Ohio taxable income. The tax shall 16844
be levied at the rate of one and forty-two thousand seven 16845
hundred forty-four hundred-thousandths per cent for the first 16846
twenty-one thousand seven hundred fifty dollars of such income 16847
and, for income in excess of that amount, the tax shall be 16848
levied at the same rates prescribed in division (A) (3) of this 16849
section for individuals. 16850

(3) In the case of individuals, the tax imposed by this 16851
section on income other than taxable business income shall be 16852
measured by Ohio adjusted gross income, less taxable business 16853
income and less an exemption for the taxpayer, the taxpayer's 16854
spouse, and each dependent as provided in section 5747.025 of 16855
the Revised Code. If the balance thus obtained is equal to or 16856
less than twenty-one thousand seven hundred fifty dollars, no 16857
tax shall be imposed on that balance. If the balance thus 16858
obtained is greater than twenty-one thousand seven hundred fifty 16859
dollars, the tax is hereby levied as follows: 16860

16861

1

2

A OHIO ADJUSTED GROSS INCOME
LESS TAXABLE BUSINESS INCOME
AND EXEMPTIONS (INDIVIDUALS)

TAX

OR MODIFIED OHIO TAXABLE
INCOME (TRUSTS) OR OHIO
TAXABLE INCOME (ESTATES)

B	More than \$21,750 but not more than \$43,450	\$310.47 plus 2.850% of the amount in excess of \$21,750
C	More than \$43,450 but not more than \$86,900	\$928.92 plus 3.326% of the amount in excess of \$43,450
D	More than \$86,900 but not more than \$108,700	\$2,374.07 plus 3.802% of the amount in excess of \$86,900
E	More than \$108,700 but not more than \$217,400	\$3,202.91 plus 4.413% of the amount in excess of \$108,700
F	More than \$217,400	\$7,999.84 plus 4.797% of the amount in excess of \$217,400

(4) (a) In the case of individuals, the tax imposed by this section on taxable business income shall equal three per cent of the result obtained by subtracting any amount allowed under division (A) (4) (b) of this section from the individual's taxable business income.

(b) If the exemptions allowed to an individual under division (A) (3) of this section exceed the taxpayer's Ohio adjusted gross income less taxable business income, the excess shall be deducted from taxable business income before computing the tax under division (A) (4) (a) of this section.

(5) Except as otherwise provided in this division, in August of each year, the tax commissioner shall make a new adjustment to the income amounts prescribed in divisions (A) (2)

and (3) of this section by multiplying the percentage increase 16875
in the gross domestic product deflator computed that year under 16876
section 5747.025 of the Revised Code by each of the income 16877
amounts resulting from the adjustment under this division in the 16878
preceding year, adding the resulting product to the 16879
corresponding income amount resulting from the adjustment in the 16880
preceding year, and rounding the resulting sum to the nearest 16881
multiple of fifty dollars. The tax commissioner also shall 16882
recompute each of the tax dollar amounts to the extent necessary 16883
to reflect the new adjustment of the income amounts. To 16884
recompute the tax dollar amount corresponding to the lowest tax 16885
rate in division (A) (3) of this section, the commissioner shall 16886
multiply the tax rate prescribed in division (A) (2) of this 16887
section by the income amount specified in that division and as 16888
adjusted according to this paragraph. The rates of taxation 16889
shall not be adjusted. 16890

The adjusted amounts apply to taxable years beginning in 16891
the calendar year in which the adjustments are made and to 16892
taxable years beginning in each ensuing calendar year until a 16893
calendar year in which a new adjustment is made pursuant to this 16894
division. The tax commissioner shall not make a new adjustment 16895
in any year in which the amount resulting from the adjustment 16896
would be less than the amount resulting from the adjustment in 16897
the preceding year. 16898

(B) If the director of budget and management makes a 16899
certification to the tax commissioner under division (B) of 16900
section 131.44 of the Revised Code, the amount of tax as 16901
determined under divisions (A) (1) to (3) of this section shall 16902
be reduced by the percentage prescribed in that certification 16903
for taxable years beginning in the calendar year in which that 16904
certification is made. 16905

~~(C) The levy of this tax on income does not prevent a~~ 16906
~~municipal corporation, a joint economic development zone created~~ 16907
~~under section 715.691, or a joint economic development district~~ 16908
~~created under section 715.70, 715.71, or 715.72 of the Revised~~ 16909
~~Code from levying a tax on income.~~ 16910

~~(D) This division applies only to taxable years of a trust~~ 16911
~~beginning in 2002 or thereafter.~~ 16912

(1) The tax imposed by this section on a trust shall be 16913
computed by multiplying the Ohio modified taxable income of the 16914
trust by the rates prescribed by division (A) of this section. 16915

(2) A resident trust may claim a credit against the tax 16916
computed under division ~~(D)~~ (C) of this section equal to the 16917
lesser of (a) the tax paid to another state or the District of 16918
Columbia on the resident trust's modified nonbusiness income, 16919
other than the portion of the resident trust's nonbusiness 16920
income that is qualifying investment income as defined in 16921
section 5747.012 of the Revised Code, or (b) the effective tax 16922
rate, based on modified Ohio taxable income, multiplied by the 16923
resident trust's modified nonbusiness income other than the 16924
portion of the resident trust's nonbusiness income that is 16925
qualifying investment income. The credit applies before any 16926
other applicable credits. 16927

(3) The credits authorized by the following sections of 16928
the Revised Code do not apply to a trust subject to division ~~(D)~~ 16929
(C) of this section: section 5747.022, 5747.05, 5747.054, 16930
5747.055, 5747.27, 5747.37, 5747.66, or 5747.71 of the Revised 16931
Code. Any other credit authorized against the tax imposed by 16932
this section applies to a trust subject to division ~~(D)~~ (C) of 16933
this section that otherwise qualifies for such a credit. To the 16934
extent that the trust distributes income for the taxable year 16935

for which a credit is available to the trust, the credit shall 16936
be shared by the trust and its beneficiaries. The tax 16937
commissioner and the trust shall be guided by applicable 16938
regulations of the United States treasury regarding the sharing 16939
of credits. 16940

~~(E)~~ (D) For the purposes of this section, "trust" means 16941
any trust described in Subchapter J of Chapter 1 of the Internal 16942
Revenue Code, excluding trusts that are not irrevocable as 16943
defined in division (I) (3) (b) of section 5747.01 of the Revised 16944
Code and that have no modified Ohio taxable income for the 16945
taxable year, charitable remainder trusts, qualified funeral 16946
trusts and preneed funeral contract trusts established pursuant 16947
to sections 4717.31 to 4717.38 of the Revised Code that are not 16948
qualified funeral trusts, endowment and perpetual care trusts, 16949
qualified settlement trusts and funds, designated settlement 16950
trusts and funds, and trusts exempted from taxation under 16951
section 501(a) of the Internal Revenue Code. 16952

~~(F)~~ (E) Nothing in division (A) (3) of this section shall 16953
prohibit an individual with an Ohio adjusted gross income, less 16954
taxable business income and exemptions, of twenty-one thousand 16955
seven hundred fifty dollars or less from filing a return under 16956
this chapter to receive a refund of taxes withheld or to claim 16957
any refundable credit allowed under this chapter. 16958

Sec. 5747.058. (A) A refundable income tax credit granted 16959
by the tax credit authority under section 122.17 or former 16960
division (B) (2) or (3) of section 122.171 of the Revised Code, 16961
as those divisions existed before the effective date of the 16962
amendment of this section by H.B. 64 of the 131st general 16963
assembly, September 29, 2015, may be claimed under this chapter, 16964
in the order required under section 5747.98 of the Revised Code. 16965

For purposes of making tax payments under this chapter, taxes 16966
equal to the amount of the refundable credit shall be considered 16967
to be paid to this state on the first day of the taxable year. 16968
The refundable credit shall not be claimed for any taxable years 16969
ending with or following the calendar year in which a relocation 16970
of employment positions occurs in violation of an agreement 16971
entered into under section 122.17 or 122.171 of the Revised 16972
Code. 16973

(B) A nonrefundable income tax credit granted by the tax 16974
credit authority under division (B) of section 122.171 of the 16975
Revised Code may be claimed under this chapter, in the order 16976
required under section 5747.98 of the Revised Code. 16977

Sec. 5747.061. (A) As used in this section: 16978

(1) "State agency" means the general assembly, all courts, 16979
any department, division, institution, board, commission, 16980
authority, bureau, or other instrumentality of the state. 16981

(2) "Political subdivision" means a county, municipal 16982
corporation, township, school district, or other body corporate 16983
and politic responsible for governmental activities in a 16984
geographic area smaller than that of the state. 16985

(3) "Legislative authority" means the board of county 16986
commissioners, the legislative authority of a municipal 16987
corporation, the board of township trustees, the board of 16988
education, or the board, council, commission, or other governing 16989
body of any other political subdivision. 16990

(4) "Fiscal officer" means the county auditor, the 16991
treasurer of the municipal corporation, the clerk-treasurer of a 16992
village, or the officer who, by virtue of the charter, has the 16993
duties of the treasurer or clerk-treasurer, the township fiscal 16994

officer, the treasurer of the board of education, or, in the 16995
case of any state agency or other subdivision, the officer or 16996
person responsible for deducting and withholding from the 16997
compensation paid to an employee who is a taxpayer the amount of 16998
tax required to be withheld by section 5747.06 of the Revised 16999
Code. 17000

(B) (1) The director or other chief administrator of any 17001
state agency, in accordance with rules adopted by the department 17002
of administrative services, may direct its fiscal officer to 17003
deduct and withhold from the compensation paid to an employee 17004
who is a resident of a state with which the commissioner has 17005
entered into an agreement under division (A) ~~(3)~~ (2) of section 17006
5747.05 of the Revised Code, a tax computed in such a manner as 17007
to result, as far as practicable, in withholding from the 17008
compensation of the employee during each calendar year an amount 17009
substantially equivalent to the tax reasonably estimated to be 17010
due under the income tax laws of the state of residence of the 17011
employee with respect to the amount of such compensation 17012
included in gross income during the calendar year under those 17013
laws. 17014

(2) The legislative authority of a political subdivision 17015
may adopt a rule, ordinance, or resolution requiring the fiscal 17016
officer of the political subdivision to deduct and withhold from 17017
the compensation paid to an employee who is a resident of a 17018
state with which the tax commissioner has entered into an 17019
agreement under division (A) ~~(3)~~ (2) of section 5747.05 of the 17020
Revised Code, a tax computed in such a manner as to result, as 17021
far as practicable, in withholding from the compensation of the 17022
employee during each calendar year an amount substantially 17023
equivalent to the tax reasonably estimated to be due under the 17024
income tax laws of the state of residence of the employee with 17025

respect to the amount of such compensation included in gross 17026
income during the calendar year under those laws. 17027

(3) Upon direction of the director or other chief 17028
administrator of a state agency, or adoption of a rule, 17029
ordinance, or resolution by a political subdivision under this 17030
division, the fiscal officer shall obtain from the official 17031
responsible for administering the income tax laws of the state 17032
of residence of the employee, information necessary to enable 17033
the fiscal officer to withhold the proper amount of tax from the 17034
compensation of the employee for the calendar year. 17035

(C) A fiscal officer who deducts and withholds tax from 17036
the compensation of a nonresident employee shall file a 17037
withholding return or other report and pay the full amount of 17038
the tax deducted and withheld as required by the income tax laws 17039
of the state of residence of the employee. 17040

(D) A fiscal officer who deducts and withholds tax from 17041
the compensation of a nonresident employee shall furnish to that 17042
employee and to the official who is responsible for 17043
administering the income tax laws of the state of residence of 17044
the employee, a written statement showing the amount of 17045
compensation paid to the employee and the amount deducted and 17046
withheld from the compensation of the employee during the 17047
calendar year. The statement shall be furnished on or before the 17048
last day of January of the succeeding year, except that, with 17049
respect to an employee whose employment is terminated, the 17050
statement for the calendar year in which the last payment of 17051
compensation is made shall be furnished within thirty days from 17052
the date the last payment of compensation is made. 17053

Sec. 5747.07. (A) As used in this section: 17054

(1) "Partial weekly withholding period" means a period 17055
during which an employer directly, indirectly, or constructively 17056
pays compensation to, or credits compensation to the benefit of, 17057
an employee, and that consists of a consecutive Saturday, 17058
Sunday, Monday, and Tuesday or a consecutive Wednesday, 17059
Thursday, and Friday. There are two partial weekly withholding 17060
periods each week, except that a partial weekly withholding 17061
period cannot extend from one calendar year into the next 17062
calendar year; if the first day of January falls on a day other 17063
than Saturday or Wednesday, the partial weekly withholding 17064
period ends on the thirty-first day of December and there are 17065
three partial weekly withholding periods during that week. 17066

(2) "Undeposited taxes" means the taxes an employer is 17067
required to deduct and withhold from an employee's compensation 17068
pursuant to section 5747.06 of the Revised Code that have not 17069
been remitted to the tax commissioner pursuant to this section 17070
or to the treasurer of state pursuant to section 5747.072 of the 17071
Revised Code. 17072

(3) A "week" begins on Saturday and concludes at the end 17073
of the following Friday. 17074

(4) "Client employer," "professional employer 17075
organization," "professional employer organization agreement," 17076
and "professional employer organization reporting entity" have 17077
the same meanings as in section 4125.01 of the Revised Code. 17078

(B) Except as provided in divisions (C) and (D) of this 17079
section and in division (A) of section 5747.072 of the Revised 17080
Code, every employer required to deduct and withhold any amount 17081
under section 5747.06 of the Revised Code shall file a return 17082
and shall pay the amount required by law as follows: 17083

(1) An employer who accumulates or is required to
accumulate undeposited taxes of one hundred thousand dollars or
more during a partial weekly withholding period shall make the
payment of the undeposited taxes by the close of the first
banking day after the day on which the accumulation reaches one
hundred thousand dollars. If required under division (I) of this
section, the payment shall be made by electronic funds transfer
under section 5747.072 of the Revised Code.

(2) ~~(a)~~ Except as required by division (B)(1) of this
section, an employer ~~described in division (B)(2)(b) of this~~
~~section whose actual or required payments under this section~~
~~were at least eighty-four thousand dollars during the twelve-~~
~~month period ending on the thirtieth day of June of the~~
~~preceding calendar year~~ shall make the payment of undeposited
taxes within three banking days after the close of a partial
weekly withholding period during which the employer was required
to deduct and withhold any amount under this chapter. If
required under division (I) of this section, the payment shall
be made by electronic funds transfer under section 5747.072 of
the Revised Code.

~~(b) For amounts required to be deducted and withheld~~
~~during 1994, an employer described in division (B)(2)(b) of this~~
~~section is one whose actual or required payments under this~~
~~section exceeded one hundred eighty thousand dollars during the~~
~~twelve month period ending June 30, 1993. For amounts required~~
~~to be deducted and withheld during 1995 and each year~~
~~thereafter, an employer described in division (B)(2)(b) of this~~
~~section is one whose actual or required payments under this~~
~~section were at least eighty four thousand dollars during the~~
~~twelve month period ending on the thirtieth day of June of the~~
~~preceding calendar year.~~

(3) Except as required by divisions (B)(1) and (2) of this section, if an employer's actual or required payments were more than two thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year, the employer shall make the payment of undeposited taxes for each month during which they were required to be withheld no later than fifteen days following the last day of that month. The employer shall file the return prescribed by the tax commissioner with the payment.

(4) Except as required by divisions (B)(1), (2), and (3) of this section, an employer shall make the payment of undeposited taxes for each calendar quarter during which they were required to be withheld no later than the last day of the month following the last day of March, June, September, and December each year. The employer shall file the return prescribed by the tax commissioner with the payment.

(C) The return and payment schedules prescribed by divisions (B)(1) and (2) of this section do not apply to the return and payment of undeposited school district income taxes arising from taxes levied pursuant to Chapter 5748. of the Revised Code. Undeposited school district income taxes shall be returned and paid pursuant to divisions (B)(3) and (4) of this section, as applicable.

(D)(1) The requirements of division (B) of this section are met if the amount paid is not less than ninety-five per cent of the actual tax withheld or required to be withheld for the prior quarterly, monthly, or partial weekly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid within thirty days of the date on which the withheld tax was due without regard to

division (D) (1) of this section. An employer described in 17145
division (B) (1) or (2) of this section shall make the payment by 17146
electronic funds transfer under section 5747.072 of the Revised 17147
Code. 17148

(2) If the tax commissioner believes that quarterly or 17149
monthly payments would result in a delay that might jeopardize 17150
the remittance of withholding payments, the commissioner may 17151
order that the payments be made weekly, or more frequently if 17152
necessary, and the payments shall be made no later than three 17153
banking days following the close of the period for which the 17154
jeopardy order is made. An order requiring weekly or more 17155
frequent payments shall be delivered to the employer personally 17156
or by certified mail and remains in effect until the 17157
commissioner notifies the employer to the contrary. 17158

(3) If compelling circumstances exist concerning the 17159
remittance of undeposited taxes, the commissioner may order the 17160
employer to make payments under any of the payment schedules 17161
under division (B) of this section. The order shall be delivered 17162
to the employer personally or by certified mail and shall remain 17163
in effect until the commissioner notifies the employer to the 17164
contrary. For purposes of division (D) (3) of this section, 17165
"compelling circumstances" exist if either or both of the 17166
following are true: 17167

(a) Based upon annualization of payments made or required 17168
to be made during the preceding calendar year and during the 17169
current calendar year, the employer would be required for the 17170
next calendar year to make payments under division (B) (2) of 17171
this section. 17172

(b) Based upon annualization of payments made or required 17173
to be made during the current calendar year, the employer would 17174

be required for the next calendar year to make payments under 17175
division (B) (2) of this section. 17176

(E) (1) An employer described in division (B) (1) or (2) of 17177
this section shall file, not later than the last day of the 17178
month following the end of each calendar quarter, a return 17179
covering, but not limited to, both the actual amount deducted 17180
and withheld and the amount required to be deducted and withheld 17181
for the tax imposed under section 5747.02 of the Revised Code 17182
during each partial weekly withholding period or portion of a 17183
partial weekly withholding period during that quarter. The 17184
employer shall file the quarterly return even if the aggregate 17185
amount required to be deducted and withheld for the quarter is 17186
zero dollars. At the time of filing the return, the employer 17187
shall pay any amounts of undeposited taxes for the quarter, 17188
whether actually deducted and withheld or required to be 17189
deducted and withheld, that have not been previously paid. If 17190
required under division (I) of this section, the payment shall 17191
be made by electronic funds transfer. The tax commissioner shall 17192
prescribe the form and other requirements of the quarterly 17193
return. 17194

(2) In addition to other returns required to be filed and 17195
payments required to be made under this section, every employer 17196
required to deduct and withhold taxes shall file, not later than 17197
the thirty-first day of January of each year, an annual return 17198
covering, but not limited to, both the aggregate amount deducted 17199
and withheld and the aggregate amount required to be deducted 17200
and withheld during the entire preceding year for the tax 17201
imposed under section 5747.02 of the Revised Code and for each 17202
tax imposed under Chapter 5748. of the Revised Code. At the time 17203
of filing that return, the employer shall pay over any amounts 17204
of undeposited taxes for the preceding year, whether actually 17205

deducted and withheld or required to be deducted and withheld, 17206
that have not been previously paid. The employer shall make the 17207
annual report, to each employee and to the tax commissioner, of 17208
the compensation paid and each tax withheld, as the commissioner 17209
by rule may prescribe. 17210

Each employer required to deduct and withhold any tax is 17211
liable for the payment of that amount required to be deducted 17212
and withheld, whether or not the tax has in fact been withheld, 17213
unless the failure to withhold was based upon the employer's 17214
good faith in reliance upon the statement of the employee as to 17215
liability, and the amount shall be deemed to be a special fund 17216
in trust for the general revenue fund. 17217

(F) Each employer shall file with the employer's annual 17218
return the following items of information on employees for whom 17219
withholding is required under section 5747.06 of the Revised 17220
Code: 17221

(1) The full name of each employee, the employee's 17222
address, the employee's school district of residence, and in the 17223
case of a nonresident employee, the employee's principal county 17224
of employment; 17225

(2) The social security number of each employee; 17226

(3) The total amount of compensation paid before any 17227
deductions to each employee for the period for which the annual 17228
return is made; 17229

(4) The amount of the tax imposed by section 5747.02 of 17230
the Revised Code and the amount of each tax imposed under 17231
Chapter 5748. of the Revised Code withheld from the compensation 17232
of the employee for the period for which the annual return is 17233
made. The commissioner may extend upon good cause the period for 17234

filing any notice or return required to be filed under this 17235
section and may adopt rules relating to extensions of time. If 17236
the extension results in an extension of time for the payment of 17237
the amounts withheld with respect to which the return is filed, 17238
the employer shall pay, at the time the amount withheld is paid, 17239
an amount of interest computed at the rate per annum prescribed 17240
by section 5703.47 of the Revised Code on that amount withheld, 17241
from the day that amount was originally required to be paid to 17242
the day of actual payment or to the day an assessment is issued 17243
under section 5747.13 of the Revised Code, whichever occurs 17244
first. 17245

(5) In addition to all other interest charges and 17246
penalties imposed, all amounts of taxes withheld or required to 17247
be withheld and remaining unpaid after the day the amounts are 17248
required to be paid shall bear interest from the date prescribed 17249
for payment at the rate per annum prescribed by section 5703.47 17250
of the Revised Code on the amount unpaid, in addition to the 17251
amount withheld, until paid or until the day an assessment is 17252
issued under section 5747.13 of the Revised Code, whichever 17253
occurs first. 17254

(G) An employee of a corporation, limited liability 17255
company, or business trust having control or supervision of or 17256
charged with the responsibility of filing the report and making 17257
payment, or an officer, member, manager, or trustee of a 17258
corporation, limited liability company, or business trust who is 17259
responsible for the execution of the corporation's, limited 17260
liability company's, or business trust's fiscal 17261
responsibilities, shall be personally liable for failure to file 17262
the report or pay the tax due as required by this section. The 17263
dissolution, termination, or bankruptcy of a corporation, 17264
limited liability company, or business trust does not discharge 17265

a responsible officer's, member's, manager's, employee's, or 17266
trustee's liability for a failure of the corporation, limited 17267
liability company, or business trust to file returns or pay tax 17268
due. 17269

(H) If an employer required to deduct and withhold income 17270
tax from compensation and to pay that tax to the state under 17271
sections 5747.06 and 5747.07 of the Revised Code sells the 17272
employer's business or stock of merchandise or quits the 17273
employer's business, the taxes required to be deducted and 17274
withheld and paid to the state pursuant to those sections prior 17275
to that time, together with any interest and penalties imposed 17276
on those taxes, become due and payable immediately, and that 17277
person shall make a final return within fifteen days after the 17278
date of selling or quitting business. The employer's successor 17279
shall withhold a sufficient amount of the purchase money to 17280
cover the amount of the taxes, interest, and penalties due and 17281
unpaid, until the former owner produces a receipt from the tax 17282
commissioner showing that the taxes, interest, and penalties 17283
have been paid or a certificate indicating that no such taxes 17284
are due. If the purchaser of the business or stock of 17285
merchandise fails to withhold purchase money, the purchaser 17286
shall be personally liable for the payment of the taxes, 17287
interest, and penalties accrued and unpaid during the operation 17288
of the business by the former owner. If the amount of taxes, 17289
interest, and penalties outstanding at the time of the purchase 17290
exceeds the total purchase money, the tax commissioner in the 17291
commissioner's discretion may adjust the liability of the seller 17292
or the responsibility of the purchaser to pay that liability to 17293
maximize the collection of withholding tax revenue. 17294

(I) ~~(1) An employer described in division (I) (2) of this~~ 17295
~~section whose actual or required payments under this section~~ 17296

exceeded eighty-four thousand dollars during the twelve-month 17297
period ending on the thirtieth day of June of the preceding 17298
calendar year shall make all payments required by this section 17299
for the year by electronic funds transfer under section 5747.072 17300
of the Revised Code. 17301

~~(2) (a) For 1994, an employer described in division (I) (2)~~ 17302
~~of this section is one whose actual or required payments under~~ 17303
~~this section exceeded five hundred thousand dollars during the~~ 17304
~~twelve month period ending June 30, 1993.~~ 17305

~~(b) For 1995, an employer described in division (I) (2) of~~ 17306
~~this section is one whose actual or required payments under this~~ 17307
~~section exceeded five hundred thousand dollars during the~~ 17308
~~twelve month period ending June 30, 1994.~~ 17309

~~(c) For 1996, an employer described in division (I) (2) of~~ 17310
~~this section is one whose actual or required payments under this~~ 17311
~~section exceeded three hundred thousand dollars during the~~ 17312
~~twelve month period ending June 30, 1995.~~ 17313

~~(d) For 1997 through 2000, an employer described in~~ 17314
~~division (I) (2) of this section is one whose actual or required~~ 17315
~~payments under this section exceeded one hundred eighty thousand~~ 17316
~~dollars during the twelve month period ending on the thirtieth~~ 17317
~~day of June of the preceding calendar year.~~ 17318

~~(e) For 2001 and thereafter, an employer described in~~ 17319
~~division (I) (2) of this section is one whose actual or required~~ 17320
~~payments under this section exceeded eighty four thousand~~ 17321
~~dollars during the twelve month period ending on the thirtieth~~ 17322
~~day of June of the preceding calendar year.~~ 17323

(J) (1) Every professional employer organization and every 17324
professional employer organization reporting entity shall file a 17325

report with the tax commissioner within thirty days after 17326
commencing business in this state ~~or within thirty days after~~ 17327
~~the effective date of this amendment, whichever is later,~~ that 17328
includes all of the following information: 17329

(a) The name, address, number the employer receives from 17330
the secretary of state to do business in this state, if 17331
applicable, and federal employer identification number of each 17332
client employer of the professional employer organization or 17333
professional employer organization reporting entity; 17334

(b) The date that each client employer became a client of 17335
the professional employer organization or professional employer 17336
organization reporting entity; 17337

(c) The names and mailing addresses of the chief executive 17338
officer and the chief financial officer of each client employer 17339
for taxation of the client employer. 17340

(2) Beginning with the calendar quarter ending after a 17341
professional employer organization or professional employer 17342
organization reporting entity files the report required under 17343
division (J)(1) of this section, and every calendar quarter 17344
thereafter, the professional employer organization or the 17345
professional employer organization reporting entity shall file 17346
an updated report with the tax commissioner. The professional 17347
employer organization or professional employer organization 17348
reporting entity shall file the updated report not later than 17349
the last day of the month following the end of the calendar 17350
quarter and shall include all of the following information in 17351
the report: 17352

(a) If an entity became a client employer of the 17353
professional employer organization or professional employer 17354

organization reporting entity at any time during the calendar 17355
quarter, all of the information required under division (J) (1) 17356
of this section for each new client employer; 17357

(b) If an entity terminated the professional employer 17358
organization agreement between the professional employer 17359
organization or professional employer organization reporting 17360
entity and the entity at any time during the calendar quarter, 17361
the information described in division (J) (1) (a) of this section 17362
for that entity, the date during the calendar quarter that the 17363
entity ceased being a client of the professional employer 17364
organization or professional employer organization reporting 17365
entity, if applicable, or the date the entity ceased business 17366
operations in this state, if applicable; 17367

(c) If the name or mailing address of the chief executive 17368
officer or the chief financial officer of a client employer has 17369
changed since the professional employer organization or 17370
professional employer organization reporting entity previously 17371
submitted a report under division (J) (1) or (2) of this section, 17372
the updated name or mailing address, or both, of the chief 17373
executive officer or the chief financial officer, as applicable; 17374

(d) If none of the events described in divisions (J) (2) (a) 17375
to (c) of this section occurred during the calendar quarter, a 17376
statement of that fact. 17377

Sec. 5747.082. (A) As used in this section: 17378

(1) "Electronic technology" means electronic technology 17379
acceptable to the tax commissioner under division (B) of this 17380
section. 17381

(2) "Original tax return" means any report, return, or 17382
other tax document required to be filed under this chapter for 17383

the purpose of reporting the taxes due under, and withholdings 17384
required by, this chapter. "Original tax return" does not 17385
include an amended return or any declaration or form required by 17386
or filed in connection with section 5747.09 of the Revised Code. 17387

(3) "Related member" has the same meaning as in section 17388
5733.042 of the Revised Code. 17389

(4) "Tax return preparer" means any person that operates a 17390
business that prepares, or directly or indirectly employs 17391
another person to prepare, for a taxpayer an original tax return 17392
in exchange for compensation or remuneration from the taxpayer 17393
or the taxpayer's related member. With respect to the 17394
preparation of a return or application for refund under this 17395
chapter, "tax return preparer" does not include an individual 17396
who performs only one or more of the following activities: 17397

(a) Furnishes typing, reproducing, or other mechanical 17398
assistance; 17399

(b) Prepares an application for refund or a return on 17400
behalf of an employer by whom the individual is regularly and 17401
continuously employed, or on behalf of an officer or employee of 17402
that employer; 17403

(c) Prepares as a fiduciary an application for refund or a 17404
return; 17405

(d) Prepares an application for refund or a return for a 17406
taxpayer in response to a notice of deficiency issued to the 17407
taxpayer or the taxpayer's related member, or in response to a 17408
waiver of restriction after the commencement of an audit of the 17409
taxpayer or the taxpayer's related member. 17410

(B) Divisions (C) and (D) of this section apply to the 17411
filing of original tax returns that are due in a calendar year 17412

only if the tax commissioner, by the last day of the calendar 17413
year immediately preceding the calendar year in which such 17414
returns are due, has published on the department of taxation's 17415
official internet web site at least one method of electronic 17416
technology acceptable to the commissioner for filing such 17417
returns. 17418

(C) A tax return preparer that prepares more than ~~seventy-~~ 17419
~~five original tax returns during any calendar year that ends~~ 17420
~~before January 1, 2013, or that prepares more than eleven~~ 17421
original tax returns during any calendar year ~~that begins on or~~ 17422
~~after January 1, 2013,~~ shall use electronic technology to file 17423
with the tax commissioner all original tax returns prepared by 17424
the tax return preparer. ~~This division does not apply to a tax-~~ 17425
~~return preparer in any calendar year that ends before January 1,~~ 17426
~~2013, if, during the previous calendar year, the tax return-~~ 17427
~~preparer prepared no more than twenty five original tax returns.~~ 17428
This division does not apply to a tax return preparer in any 17429
calendar year ~~that begins on or after January 1, 2013, if,~~ 17430
during the previous calendar year, the tax return preparer 17431
prepared not more than ten original tax returns. 17432

(D) If a tax return preparer required by this section to 17433
submit original tax returns by electronic technology files an 17434
original tax return by some means other than by electronic 17435
technology, the tax commissioner shall impose a penalty of fifty 17436
dollars for each return ~~, in excess of seventy five in calendar~~ 17437
~~year 2010, 2011, or 2012, or~~ in excess of eleven in any 17438
calendar year ~~thereafter,~~ that is not filed by electronic 17439
technology. Upon good cause shown by the tax return preparer, 17440
the tax commissioner may waive all or any portion of the penalty 17441
or may refund all or any portion of the penalty the tax return 17442
preparer has paid. 17443

Sec. 5747.11. (A) The tax commissioner shall refund to 17444
employers, qualifying entities, or taxpayers subject to a tax 17445
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 17446
5748. of the Revised Code the amount of any overpayment of such 17447
tax. 17448

(B) Except as otherwise provided under divisions (D) and 17449
(E) of this section, applications for refund shall be filed with 17450
the tax commissioner, on the form prescribed by the 17451
commissioner, within four years from the date of the illegal, 17452
erroneous, or excessive payment of the tax, or within any 17453
additional period allowed by division (B)(3)(b) of section 17454
5747.05, division (E) of section 5747.10, division (A) of 17455
section 5747.13, or division (C) of section 5747.45 of the 17456
Revised Code. 17457

On filing of the refund application, the commissioner 17458
shall determine the amount of refund due and, if that amount 17459
exceeds one dollar, certify such amount to the director of 17460
budget and management and treasurer of state for payment from 17461
the tax refund fund created by section 5703.052 of the Revised 17462
Code. Payment shall be made as provided in division (C) of 17463
section 126.35 of the Revised Code. 17464

(C) (1) Interest shall be allowed and paid at the rate per 17465
annum prescribed by section 5703.47 of the Revised Code on 17466
amounts refunded with respect to the tax imposed under section 17467
5747.02 or Chapter 5748. of the Revised Code from the date of 17468
the overpayment until the date of the refund of the overpayment, 17469
except that if any overpayment is refunded within ninety days 17470
after the final filing date of the annual return or ninety days 17471
after the return is filed, whichever is later, no interest shall 17472
be allowed on such overpayment. If the overpayment results from 17473

the carryback of a net operating loss or net capital loss to a 17474
previous taxable year, the overpayment is deemed not to have 17475
been made prior to the filing date, including any extension 17476
thereof, for the taxable year in which the net operating loss or 17477
net capital loss arises. For purposes of the payment of interest 17478
on overpayments, no amount of tax, for any taxable year, shall 17479
be treated as having been paid before the date on which the tax 17480
return for that year was due without regard to any extension of 17481
time for filing such return. 17482

(2) Interest shall be allowed at the rate per annum 17483
prescribed by section 5703.47 of the Revised Code on amounts 17484
refunded with respect to the taxes imposed under sections 17485
5733.41 and 5747.41 of the Revised Code. The interest shall run 17486
from whichever of the following days is the latest until the day 17487
the refund is paid: the day the illegal, erroneous, or excessive 17488
payment was made; the ninetieth day after the final day the 17489
annual report was required to be filed under section 5747.42 of 17490
the Revised Code; or the ninetieth day after the day that report 17491
was filed. 17492

(D) "Ninety days" shall be substituted for "four years" in 17493
division (B) of this section if the taxpayer satisfies both of 17494
the following conditions: 17495

(1) The taxpayer has applied for a refund based in whole 17496
or in part upon section 5747.059 of the Revised Code; 17497

(2) The taxpayer asserts that either the imposition or 17498
collection of the tax imposed or charged by this chapter or any 17499
portion of such tax violates the Constitution of the United 17500
States or the Constitution of Ohio. 17501

(E) (1) Division (E) (2) of this section applies only if all 17502

of the following conditions are satisfied: 17503

(a) A qualifying entity pays an amount of the tax imposed 17504
by section 5733.41 or 5747.41 of the Revised Code; 17505

(b) The taxpayer is a qualifying investor as to that 17506
qualifying entity; 17507

(c) The taxpayer did not claim the credit provided for in 17508
section 5747.059 of the Revised Code as to the tax described in 17509
division (E) (1) (a) of this section; 17510

(d) The four-year period described in division (B) of this 17511
section has ended as to the taxable year for which the taxpayer 17512
otherwise would have claimed that credit. 17513

(2) A taxpayer shall file an application for refund 17514
pursuant to division (E) of this section within one year after 17515
the date the payment described in division (E) (1) (a) of this 17516
section is made. An application filed under division (E) (2) of 17517
this section shall claim refund only of overpayments resulting 17518
from the taxpayer's failure to claim the credit described in 17519
division (E) (1) (c) of this section. Nothing in division (E) of 17520
this section shall be construed to relieve a taxpayer from 17521
complying with division ~~(A) (16)~~ (A) (15) of section 5747.01 of 17522
the Revised Code. 17523

Sec. 5747.231. As used in this section, "adjusted 17524
qualifying amount" has the same meaning as in section 5733.40 of 17525
the Revised Code. 17526

This section does not apply to division ~~(BB)~~ (AA) (5) (a) (ii) 17527
of section 5747.01 of the Revised Code. 17528

Except as set forth in this section and except as 17529
otherwise provided in divisions (A) and (B) of section 5733.401 17530

of the Revised Code, in making all apportionment, allocation, 17531
income, gain, loss, deduction, tax, and credit computations 17532
under this chapter, each person shall include in that person's 17533
items of business income, nonbusiness income, adjusted 17534
qualifying amounts, allocable income or loss, apportionable 17535
income or loss, property, compensation, and sales, the person's 17536
entire distributive share or proportionate share of the items of 17537
business income, nonbusiness income, adjusted qualifying 17538
amounts, allocable income or loss, apportionable income or loss, 17539
property, compensation, and sales of any pass-through entity in 17540
which the person has a direct or indirect ownership interest at 17541
any time during the person's taxable year. A pass-through 17542
entity's direct or indirect distributive share or proportionate 17543
share of any other pass-through entity's items of business 17544
income, nonbusiness income, adjusted qualifying amounts, 17545
allocable income or loss, apportionable income or loss, 17546
property, compensation, and sales shall be included for the 17547
purposes of computing the person's distributive share or 17548
proportionate share of the pass-through entity's items of 17549
business income, nonbusiness income, adjusted qualifying 17550
amounts, allocable income or loss, apportionable income or loss, 17551
property, compensation, and sales under this section. Those 17552
items shall be in the same form as was recognized by the pass- 17553
through entity. 17554

Sec. 5747.41. For the same purposes for which the tax is 17555
levied under section 5747.02 of the Revised Code, there is 17556
hereby levied a withholding tax on every qualifying pass-through 17557
entity having at least one qualifying investor who is an 17558
individual and on every qualifying trust having at least one 17559
qualifying beneficiary who is an individual. The withholding tax 17560
imposed by this section is imposed on the sum of the adjusted 17561

qualifying amounts of a qualifying pass-through entity's 17562
qualifying investors who are individuals and on the sum of the 17563
adjusted qualifying amounts of a qualifying trust's qualifying 17564
beneficiaries, at the rate of five per cent of that sum. 17565

The tax imposed by this section applies only if the 17566
qualifying entity has nexus with this state under the 17567
Constitution of the United States for any portion of the 17568
qualifying entity's qualifying taxable year, and the sum of the 17569
qualifying entity's adjusted qualifying amounts exceeds one 17570
thousand dollars for the qualifying entity's qualifying taxable 17571
year. 17572

~~The levy of the tax under this section does not prevent a 17573
municipal corporation or a joint economic development district 17574
created under section 715.70, 715.71, or 715.72 of the Revised 17575
Code from levying a tax on income. 17576~~

Sec. 5747.51. (A) On or before the twenty-fifth day of 17577
July of each year, the tax commissioner shall make and certify 17578
to the county auditor of each county an estimate of the amount 17579
of the local government fund to be allocated to the undivided 17580
local government fund of each county for the ensuing calendar 17581
year, adjusting the total as required to account for 17582
subdivisions receiving local government funds under section 17583
5747.502 of the Revised Code. 17584

(B) At each annual regular session of the county budget 17585
commission convened pursuant to section 5705.27 of the Revised 17586
Code, each auditor shall present to the commission the 17587
certificate of the commissioner, the annual tax budget and 17588
estimates, and the records showing the action of the commission 17589
in its last preceding regular session. The commission, after 17590
extending to the representatives of each subdivision an 17591

opportunity to be heard, under oath administered by any member 17592
of the commission, and considering all the facts and information 17593
presented to it by the auditor, shall determine the amount of 17594
the undivided local government fund needed by and to be 17595
apportioned to each subdivision for current operating expenses, 17596
as shown in the tax budget of the subdivision. This 17597
determination shall be made pursuant to divisions (C) to (I) of 17598
this section, unless the commission has provided for a formula 17599
pursuant to section 5747.53 of the Revised Code. The 17600
commissioner shall reduce the amount of funds from the undivided 17601
local government fund to a subdivision required to receive 17602
reduced funds under section 5747.502 of the Revised Code. 17603

Nothing in this section prevents the budget commission, 17604
for the purpose of apportioning the undivided local government 17605
fund, from inquiring into the claimed needs of any subdivision 17606
as stated in its tax budget, or from adjusting claimed needs to 17607
reflect actual needs. For the purposes of this section, "current 17608
operating expenses" means the lawful expenditures of a 17609
subdivision, except those for permanent improvements and except 17610
payments for interest, sinking fund, and retirement of bonds, 17611
notes, and certificates of indebtedness of the subdivision. 17612

(C) The commission shall determine the combined total of 17613
the estimated expenditures, including transfers, from the 17614
general fund and any special funds other than special funds 17615
established for road and bridge; street construction, 17616
maintenance, and repair; state highway improvement; and gas, 17617
water, sewer, and electric public utilities operated by a 17618
subdivision, as shown in the subdivision's tax budget for the 17619
ensuing calendar year. 17620

(D) From the combined total of expenditures calculated 17621

pursuant to division (C) of this section, the commission shall 17622
deduct the following expenditures, if included in these funds in 17623
the tax budget: 17624

(1) Expenditures for permanent improvements as defined in 17625
division (E) of section 5705.01 of the Revised Code; 17626

(2) In the case of counties and townships, transfers to 17627
the road and bridge fund, and in the case of municipalities, 17628
transfers to the street construction, maintenance, and repair 17629
fund and the state highway improvement fund; 17630

(3) Expenditures for the payment of debt charges; 17631

(4) Expenditures for the payment of judgments. 17632

(E) In addition to the deductions made pursuant to 17633
division (D) of this section, revenues accruing to the general 17634
fund and any special fund considered under division (C) of this 17635
section from the following sources shall be deducted from the 17636
combined total of expenditures calculated pursuant to division 17637
(C) of this section: 17638

(1) Taxes levied within the ten-mill limitation, as 17639
defined in section 5705.02 of the Revised Code; 17640

(2) The budget commission allocation of estimated county 17641
public library fund revenues to be distributed pursuant to 17642
section 5747.48 of the Revised Code; 17643

(3) Estimated unencumbered balances as shown on the tax 17644
budget as of the thirty-first day of December of the current 17645
year in the general fund, but not any estimated balance in any 17646
special fund considered in division (C) of this section; 17647

(4) Revenue, including transfers, shown in the general 17648
fund and any special funds other than special funds established 17649

for road and bridge; street construction, maintenance, and 17650
repair; state highway improvement; and gas, water, sewer, and 17651
electric public utilities, from all other sources except those 17652
that a subdivision receives from an additional tax or service 17653
charge voted by its electorate or receives from special 17654
assessment or revenue bond collection. For the purposes of this 17655
division, where the charter of a municipal corporation prohibits 17656
the levy of an income tax, an income tax levied by the 17657
legislative authority of such municipal corporation pursuant to 17658
an amendment of the charter of that municipal corporation to 17659
authorize such a levy represents an additional tax voted by the 17660
electorate of that municipal corporation. For the purposes of 17661
this division, any measure adopted by a board of county 17662
commissioners pursuant to section 322.02, 4504.02, or 5739.021 17663
of the Revised Code, including those measures upheld by the 17664
electorate in a referendum conducted pursuant to section 17665
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 17666
considered an additional tax voted by the electorate. 17667

Subject to division ~~(G)~~ (F) of section 5705.29 of the 17668
Revised Code, money in a reserve balance account established by 17669
a county, township, or municipal corporation under section 17670
5705.13 of the Revised Code shall not be considered an 17671
unencumbered balance or revenue under division (E) (3) or (4) of 17672
this section. Money in a reserve balance account established by 17673
a township under section 5705.132 of the Revised Code shall not 17674
be considered an unencumbered balance or revenue under division 17675
(E) (3) or (4) of this section. 17676

If a county, township, or municipal corporation has 17677
created and maintains a nonexpendable trust fund under section 17678
5705.131 of the Revised Code, the principal of the fund, and any 17679
additions to the principal arising from sources other than the 17680

reinvestment of investment earnings arising from such a fund, 17681
shall not be considered an unencumbered balance or revenue under 17682
division (E) (3) or (4) of this section. Only investment earnings 17683
arising from investment of the principal or investment of such 17684
additions to principal may be considered an unencumbered balance 17685
or revenue under those divisions. 17686

(F) The total expenditures calculated pursuant to division 17687
(C) of this section, less the deductions authorized in divisions 17688
(D) and (E) of this section, shall be known as the "relative 17689
need" of the subdivision, for the purposes of this section. 17690

(G) The budget commission shall total the relative need of 17691
all participating subdivisions in the county, and shall compute 17692
a relative need factor by dividing the total estimate of the 17693
undivided local government fund by the total relative need of 17694
all participating subdivisions. 17695

(H) The relative need of each subdivision shall be 17696
multiplied by the relative need factor to determine the 17697
proportionate share of the subdivision in the undivided local 17698
government fund of the county; provided, that the maximum 17699
proportionate share of a county shall not exceed the following 17700
maximum percentages of the total estimate of the undivided local 17701
government fund governed by the relationship of the percentage 17702
of the population of the county that resides within municipal 17703
corporations within the county to the total population of the 17704
county as reported in the reports on population in Ohio by the 17705
department of development as of the twentieth day of July of the 17706
year in which the tax budget is filed with the budget 17707
commission: 17708

17709

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A	Percentage of municipal population within the county:	Percentage share of the county shall not exceed:
B	Less than forty-one per cent	Sixty per cent
C	Forty-one per cent or more but less than eighty-one per cent	Fifty per cent
D	Eighty-one per cent or more	Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.

(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section ~~5735.23-5739.23~~ of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount

for the calendar year 1970 shall be the amount actually 17729
allocated to the county in 1970 from the state collected 17730
intangible tax as levied by section 5707.03 of the Revised Code 17731
and distributed pursuant to section 5725.24 of the Revised Code, 17732
plus the amount received by the county in the calendar year 1970 17733
pursuant to division (B)(1) of former section 5739.21 of the 17734
Revised Code, and distributed pursuant to former section 5739.22 17735
of the Revised Code. If the total amount of the undivided local 17736
government fund for any calendar year is less than the amount of 17737
the undivided local government fund apportioned pursuant to 17738
former section 5739.23 of the Revised Code for the calendar year 17739
1970, the minimum amount guaranteed to each subdivision for that 17740
calendar year pursuant to this division shall be reduced on a 17741
basis proportionate to the amount by which the amount of the 17742
undivided local government fund for that calendar year is less 17743
than the amount of the undivided local government fund 17744
apportioned for the calendar year 1970. 17745

(J) On the basis of such apportionment, the county auditor 17746
shall compute the percentage share of each such subdivision in 17747
the undivided local government fund and shall at the same time 17748
certify to the tax commissioner the percentage share of the 17749
county as a subdivision. No payment shall be made from the 17750
undivided local government fund, except in accordance with such 17751
percentage shares. 17752

Within ten days after the budget commission has made its 17753
apportionment, whether conducted pursuant to section 5747.51 or 17754
5747.53 of the Revised Code, the auditor shall publish a list of 17755
the subdivisions and the amount each is to receive from the 17756
undivided local government fund and the percentage share of each 17757
subdivision, in a newspaper or newspapers of countywide 17758
circulation, and send a copy of such allocation to the tax 17759

commissioner. 17760

The county auditor shall also send a copy of such 17761
allocation by ordinary or electronic mail to the fiscal officer 17762
of each subdivision entitled to participate in the allocation of 17763
the undivided local government fund of the county. This copy 17764
shall constitute the official notice of the commission action 17765
referred to in section 5705.37 of the Revised Code. 17766

All money received into the treasury of a subdivision from 17767
the undivided local government fund in a county treasury shall 17768
be paid into the general fund and used for the current operating 17769
expenses of the subdivision. 17770

If a municipal corporation maintains a municipal 17771
university, such municipal university, when the board of 17772
trustees so requests the legislative authority of the municipal 17773
corporation, shall participate in the money apportioned to such 17774
municipal corporation from the total local government fund, 17775
however created and constituted, in such amount as requested by 17776
the board of trustees, provided such sum does not exceed nine 17777
per cent of the total amount paid to the municipal corporation. 17778

If any public official fails to maintain the records 17779
required by sections 5747.50 to 5747.55 of the Revised Code or 17780
by the rules issued by the tax commissioner, the auditor of 17781
state, or the treasurer of state pursuant to such sections, or 17782
fails to comply with any law relating to the enforcement of such 17783
sections, the local government fund money allocated to the 17784
county may be withheld until such time as the public official 17785
has complied with such sections or such law or the rules issued 17786
pursuant thereto. 17787

Sec. 5747.52. The form used by the county budget 17788

commission to calculate subdivision shares of the undivided	17789
local government fund as apportioned pursuant to section 5747.51	17790
of the Revised Code shall be as follows:	17791

Calculation of (name of subdivision) share of undivided local	17792
government fund for (name of county) county	17793

17794

1

2

A	Authorized expenditure for subdivision	Total
B	1. Estimated expenditures from general fund	.....
C	2. Estimated expenditures from special funds other than those established for road and bridge, street construction, maintenance, and state highway improvement, and for gas, water, sewer, and electric public utilities	.....
D	3. Total	.....
E	Deductions from authorized expenditures	
F	4. Expenditures for permanent improvements	.....
G	5. Transfers to road and bridge fund (counties and townships only)	.....
H	6. Transfers to street construction, maintenance, and repair, and state highway improvements funds	.....
I	7. Expenditures for the payment of debt charges	.....
J	8. Expenditures for the payment of judgments	.....

K	9. Taxes levied inside the "ten-mill limitation"	.....
L	10. Budget commission allocation of estimated county public library fund revenues	.....
M	11. Estimated unencumbered <u>unencumbered</u> balances as of December 31 of current year in the general funds as stated in the tax budget	.....
N	12. Revenue, including transfers, shown in the general fund or any special funds other than special funds established for road and bridge, street construction, maintenance, and repair, and state highway improvement, and for gas, water, sewer, and electric public utilities, from all other sources except those from additional taxes or service charges voted by electorate as defined in division (E) (4) of section 5747.51 of the Revised Code, and except revenue from special assessment and revenue bond collections	.....
O	13. Total	.....
P	Calculation of subdivision share	
Q	14. Relative need of subdivision (line 3 less line 13)	.....
R	15. Relative need factor for county (total estimate of undivided local government fund divided by total relative need of all participating subdivisions)	.....
S	16. Proportionate share of subdivision (relative need of subdivision multiplied by relative need factor)	.....
T	17. After any adjustments necessary to comply with	.....

statutory maximum share allowable to county

U 18. After any adjustments necessary to comply with
statutory minimum share allowable to townships

V 19. After any adjustments necessary to comply with minimum
guarantee in division (I) of section 5747.51 of the Revised
Code

W 20. Proportionate share of subdivision (line 16, 17, 18, or
19, whichever is appropriate)

Sec. 5747.55. The action of the county budget commission 17795
under ~~sections~~ section 5747.51 and ~~5747.62~~ of the Revised Code 17796
may be appealed to the board of tax appeals in the manner and 17797
with the effect provided in section 5705.37 of the Revised Code, 17798
in accordance with the following rules: 17799

(A) The notice of appeal shall be signed by the authorized 17800
fiscal officer and shall set forth in clear and concise 17801
language: 17802

(1) A statement of the action of the budget commission 17803
appealed from, and the date of the receipt by the subdivision of 17804
the official certificate or notice of such action; 17805

(2) The error or errors the taxing district believes the 17806
budget commission made; 17807

(3) The specific relief sought by the taxing district. 17808

(B) The notice of appeal shall have attached thereto: 17809

(1) A certified copy of the resolution of the taxing 17810
authority authorizing the fiscal officer to file the appeal; 17811

(2) An exact copy of the official certificate, or notice 17812
of the action of the budget commission appealed from; 17813

(3) An exact copy of the budget request filed with the 17814
budget commission by the complaining subdivision, with the date 17815
of filing noted thereon. 17816

(C) There shall also be attached to the notice of appeal a 17817
statement showing: 17818

(1) The name of the fund involved, the total amount in 17819
dollars allocated, and the exact amount in dollars allocated to 17820
each participating subdivision; 17821

(2) The amount in dollars which the complaining 17822
subdivision believes it should have received; 17823

(3) The name of each participating subdivision, as well as 17824
the name and address of the fiscal officer thereof, that the 17825
complaining subdivision believes received more than its proper 17826
share of the allocation, and the exact amount in dollars of such 17827
alleged over-allocation. 17828

(D) Only the participating subdivisions named pursuant to 17829
division (C) of this section are to be considered as appellees 17830
before the board of tax appeals and no change shall, in any 17831
amount, be made in the amount allocated to participating 17832
subdivisions not appellees. 17833

(E) The total of the undivided local government fund or 17834
undivided local government revenue assistance fund to be 17835
allocated by the board of tax appeals upon appeal is the total 17836
of that fund allocated by the budget commission to those 17837
subdivisions which are appellants and appellees before the board 17838
of tax appeals. 17839

Sec. 5747.98. (A) To provide a uniform procedure for 17840
calculating a taxpayer's aggregate tax liability under section 17841
5747.02 of the Revised Code, a taxpayer shall claim any credits 17842
to which the taxpayer is entitled in the following order: 17843

(1) Either the retirement income credit under division (B) 17844
of section 5747.055 of the Revised Code or the lump sum 17845
retirement income credits under divisions (C), (D), and (E) of 17846
that section; 17847

(2) Either the senior citizen credit under division (F) of 17848
section 5747.055 of the Revised Code or the lump sum 17849
distribution credit under division (G) of that section; 17850

(3) The dependent care credit under section 5747.054 of 17851
the Revised Code; 17852

(4) The credit for displaced workers who pay for job 17853
training under section 5747.27 of the Revised Code; 17854

(5) The twenty-dollar personal exemption credit under 17855
section 5747.022 of the Revised Code; 17856

(6) The joint filing credit under division (G) of section 17857
5747.05 of the Revised Code; 17858

(7) The earned income credit under section 5747.71 of the 17859
Revised Code; 17860

(8) The credit for adoption of a minor child under section 17861
5747.37 of the Revised Code; 17862

(9) The nonrefundable job retention credit under division 17863
(B) of section 5747.058 of the Revised Code; 17864

(10) The enterprise zone credit under section 5709.66 of 17865
the Revised Code; 17866

(11) The ethanol plant investment credit under section	17867
5747.75 of the Revised Code;	17868
(12) The credit for purchases of qualifying grape	17869
production property under section 5747.28 of the Revised Code;	17870
(13) <u>(12)</u> The small business investment credit under	17871
section 5747.81 of the Revised Code;	17872
(14) <u>(13)</u> The nonrefundable lead abatement credit under	17873
section 5747.26 of the Revised Code;	17874
(15) <u>(14)</u> The opportunity zone investment credit under	17875
section 122.84 of the Revised Code;	17876
(16) <u>(15)</u> The enterprise zone credits under section	17877
5709.65 of the Revised Code;	17878
(17) <u>(16)</u> The research and development credit under	17879
section 5747.331 of the Revised Code;	17880
(18) <u>(17)</u> The credit for rehabilitating a historic	17881
building under section 5747.76 of the Revised Code;	17882
(19) <u>(18)</u> The nonresident credit under division (A) of	17883
section 5747.05 of the Revised Code;	17884
(20) <u>(19)</u> The credit for a resident's out-of-state income	17885
under division (B) of section 5747.05 of the Revised Code;	17886
(21) <u>(20)</u> The refundable motion picture and Broadway	17887
theatrical production credit under section 5747.66 of the	17888
Revised Code;	17889
(22) <u>(21)</u> The refundable jobs creation credit or job	17890
retention credit under division (A) of section 5747.058 of the	17891
Revised Code;	17892
(23) <u>(22)</u> The refundable credit for taxes paid by a	17893

qualifying entity granted under section 5747.059 of the Revised Code; 17894
17895

~~(24)~~ (23) The refundable credits for taxes paid by a 17896
qualifying pass-through entity granted under division (I) of 17897
section 5747.08 of the Revised Code; 17898

~~(25)~~ (24) The refundable credit under section 5747.80 of 17899
the Revised Code for losses on loans made to the Ohio venture 17900
capital program under sections 150.01 to 150.10 of the Revised 17901
Code; 17902

~~(26)~~ (25) The refundable credit for rehabilitating a 17903
historic building under section 5747.76 of the Revised Code. 17904

(B) For any credit, except the refundable credits 17905
enumerated in this section and the credit granted under division 17906
(H) of section 5747.08 of the Revised Code, the amount of the 17907
credit for a taxable year shall not exceed the taxpayer's 17908
aggregate amount of tax due under section 5747.02 of the Revised 17909
Code, after allowing for any other credit that precedes it in 17910
the order required under this section. Any excess amount of a 17911
particular credit may be carried forward if authorized under the 17912
section creating that credit. Nothing in this chapter shall be 17913
construed to allow a taxpayer to claim, directly or indirectly, 17914
a credit more than once for a taxable year. 17915

Sec. 5748.08. (A) The board of education of a city, local, 17916
or exempted village school district, at any time by a vote of 17917
two-thirds of all its members, may declare by resolution that it 17918
may be necessary for the school district to do all of the 17919
following: 17920

(1) Raise a specified amount of money for school district 17921
purposes by levying an annual tax on school district income; 17922

(2) Issue general obligation bonds for permanent 17923
improvements, stating in the resolution the necessity and 17924
purpose of the bond issue and the amount, approximate date, 17925
estimated rate of interest, and maximum number of years over 17926
which the principal of the bonds may be paid; 17927

(3) Levy a tax outside the ten-mill limitation to pay debt 17928
charges on the bonds and any anticipatory securities; 17929

(4) Submit the question of the school district income tax 17930
and bond issue to the electors of the district at a special 17931
election. 17932

The resolution shall specify whether the income that is to 17933
be subject to the tax is taxable income of individuals and 17934
estates as defined in divisions (E) (1) (a) and (2) of section 17935
5748.01 of the Revised Code or taxable income of individuals as 17936
defined in division (E) (1) (b) of that section. 17937

On adoption of the resolution, the board shall certify a 17938
copy of it to the tax commissioner and the county auditor no 17939
later than one hundred five days prior to the date of the 17940
special election at which the board intends to propose the 17941
income tax and bond issue. Not later than ten days of receipt of 17942
the resolution, the tax commissioner, in the same manner as 17943
required by division (A) of section 5748.02 of the Revised Code, 17944
shall estimate the rates designated in divisions (A) (1) and (2) 17945
of that section and certify them to the board. Not later than 17946
ten days of receipt of the resolution, the county auditor shall 17947
estimate and certify to the board the average annual property 17948
tax rate required throughout the stated maturity of the bonds to 17949
pay debt charges on the bonds, in the same manner as under 17950
division (C) of section 133.18 of the Revised Code. 17951

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on school district income and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E) (1) (a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E) (1) (b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under

division (A) of this section. 17983

(3) The number of years the tax will be levied, or that it 17984
will be levied for a continuing period of time; 17985

(4) The date on which the tax shall take effect, which 17986
shall be the first day of January of any year following the year 17987
in which the question is submitted; 17988

(5) The county auditor's estimate of the average annual 17989
property tax rate required throughout the stated maturity of the 17990
bonds to pay debt charges on the bonds. 17991

(C) A resolution adopted under division (B) of this 17992
section shall go into immediate effect upon its passage, and no 17993
publication of the resolution shall be necessary other than that 17994
provided for in the notice of election. Immediately after its 17995
adoption and at least ninety days prior to the election at which 17996
the question will appear on the ballot, the board of education 17997
shall certify a copy of the resolution, along with copies of the 17998
auditor's estimate and its resolution under division (A) of this 17999
section, to the board of elections of the proper county. The 18000
board of ~~education~~-elections shall make the arrangements for the 18001
submission of the question to the electors of the school 18002
district, and the election shall be conducted, canvassed, and 18003
certified in the same manner as regular elections in the 18004
district for the election of county officers. 18005

The resolution shall be put before the electors as one 18006
ballot question, with a majority vote indicating approval of the 18007
school district income tax, the bond issue, and the levy to pay 18008
debt charges on the bonds and any anticipatory securities. The 18009
board of elections shall publish the notice of the election in a 18010
newspaper of general circulation in the school district once a 18011

week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, it also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

(1) The questions to be submitted to the electors;

(2) The rate of the school district income tax;

(3) The principal amount of the proposed bond issue;

(4) The permanent improvements for which the bonds are to be issued;

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

(6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;

(7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the school district be authorized to do both of the following:

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of

(state the purpose of the tax)? 18039

(2) Issue bonds for the purpose of in the 18040
principal amount of \$....., to be repaid annually over a 18041
maximum period of years, and levy a property tax outside 18042
the ten-mill limitation estimated by the county auditor to 18043
average over the bond repayment period mills for each 18044
one dollar of tax valuation, which amounts to (rate 18045
expressed in cents or dollars and cents, such as "36 cents" or 18046
"\$1.41") for each \$100 of tax valuation, to pay the annual debt 18047
charges on the bonds, and to pay debt charges on any notes 18048
issued in anticipation of those bonds? 18049

18050

	FOR THE INCOME TAX AND BOND ISSUE	"
	AGAINST THE INCOME TAX AND BOND ISSUE	

(E) If the question submitted to electors proposes a 18051
school district income tax only on the taxable income of 18052
individuals as defined in division (E) (1) (b) of section 5748.01 18053
of the Revised Code, the form of the ballot shall be modified by 18054
stating that the tax is to be levied on the "earned income of 18055
individuals residing in the school district" in lieu of the 18056
"school district income of individuals and of estates." 18057

(F) The board of elections promptly shall certify the 18058
results of the election to the tax commissioner and the county 18059
auditor of the county in which the school district is located. 18060
If a majority of the electors voting on the question vote in 18061
favor of it, the income tax and the applicable provisions of 18062
Chapter 5747. of the Revised Code shall take effect on the date 18063

specified in the resolution, and the board of education may 18064
proceed with issuance of the bonds and with the levy and 18065
collection of the property taxes to pay debt charges on the 18066
bonds, at the additional rate or any lesser rate in excess of 18067
the ten-mill limitation. Any securities issued by the board of 18068
education under this section are Chapter 133. securities, as 18069
that term is defined in section 133.01 of the Revised Code. 18070

(G) After approval of a question under this section, the 18071
board of education may anticipate a fraction of the proceeds of 18072
the school district income tax in accordance with section 18073
5748.05 of the Revised Code. Any anticipation notes under this 18074
division shall be issued as provided in section 133.24 of the 18075
Revised Code, shall have principal payments during each year 18076
after the year of their issuance over a period not to exceed 18077
five years, and may have a principal payment in the year of 18078
their issuance. 18079

(H) The question of repeal of a school district income tax 18080
levied for more than five years may be initiated and submitted 18081
in accordance with section 5748.04 of the Revised Code. 18082

(I) No board of education shall submit a question under 18083
this section to the electors of the school district more than 18084
twice in any calendar year. If a board submits the question 18085
twice in any calendar year, one of the elections on the question 18086
shall be held on the date of the general election. 18087

Sec. 5748.09. (A) The board of education of a city, local, 18088
or exempted village school district, at any time by a vote of 18089
two-thirds of all its members, may declare by resolution that it 18090
may be necessary for the school district to do all of the 18091
following: 18092

(1) Raise a specified amount of money for school district
purposes by levying an annual tax on school district income; 18093
18094

(2) Levy an additional property tax in excess of the ten- 18095
mill limitation for the purpose of providing for the necessary 18096
requirements of the district, stating in the resolution the 18097
amount of money to be raised each year for such purpose; 18098

(3) Submit the question of the school district income tax 18099
and property tax to the electors of the district at a special 18100
election. 18101

The resolution shall specify whether the income that is to 18102
be subject to the tax is taxable income of individuals and 18103
estates as defined in divisions (E) (1) (a) and (2) of section 18104
5748.01 of the Revised Code or taxable income of individuals as 18105
defined in division (E) (1) (b) of that section. 18106

On adoption of the resolution, the board shall certify a 18107
copy of it to the tax commissioner and the county auditor not 18108
later than one hundred days prior to the date of the special 18109
election at which the board intends to propose the income tax 18110
and property tax. Not later than ten days after receipt of the 18111
resolution, the tax commissioner, in the same manner as required 18112
by division (A) of section 5748.02 of the Revised Code, shall 18113
estimate the rates designated in divisions (A) (1) and (2) of 18114
that section and certify them to the board. Not later than ten 18115
days after receipt of the resolution, the county auditor, in the 18116
same manner as required by section 5705.195 of the Revised Code, 18117
shall make the calculation specified in that section and certify 18118
it to the board. 18119

(B) On receipt of the tax commissioner's and county 18120
auditor's certifications prepared under division (A) of this 18121

section, the board of education of the city, local, or exempted 18122
village school district, by a vote of two-thirds of all its 18123
members, may adopt a resolution declaring that the amount of 18124
taxes that can be raised by all tax levies the district is 18125
authorized to impose, when combined with state and federal 18126
revenues, will be insufficient to provide an adequate amount for 18127
the present and future requirements of the school district, and 18128
that it is therefore necessary to levy, for a specified number 18129
of years or for a continuing period of time, an annual tax for 18130
school district purposes on school district income, and to levy, 18131
for a specified number of years not exceeding ten or for a 18132
continuing period of time, an additional property tax in excess 18133
of the ten-mill limitation for the purpose of providing for the 18134
necessary requirements of the district, and declaring that the 18135
question of the school district income tax and property tax 18136
shall be submitted to the electors of the school district at a 18137
special election, which shall not be earlier than ninety days 18138
after certification of the resolution to the board of elections, 18139
and the date of which shall be consistent with section 3501.01 18140
of the Revised Code. The resolution shall specify all of the 18141
following: 18142

(1) The purpose for which the school district income tax 18143
is to be imposed and the rate of the tax, which shall be the 18144
rate set forth in the tax commissioner's certification rounded 18145
to the nearest one-fourth of one per cent; 18146

(2) Whether the income that is to be subject to the tax is 18147
taxable income of individuals and estates as defined in 18148
divisions (E) (1) (a) and (2) of section 5748.01 of the Revised 18149
Code or taxable income of individuals as defined in division (E) 18150
(1) (b) of that section. The specification shall be the same as 18151
the specification in the resolution adopted and certified under 18152

division (A) of this section. 18153

(3) The number of years the school district income tax 18154
will be levied, or that it will be levied for a continuing 18155
period of time; 18156

(4) The date on which the school district income tax shall 18157
take effect, which shall be the first day of January of any year 18158
following the year in which the question is submitted; 18159

(5) The amount of money it is necessary to raise for the 18160
purpose of providing for the necessary requirements of the 18161
district for each year the property tax is to be imposed; 18162

(6) The number of years the property tax will be levied, 18163
or that it will be levied for a continuing period of time; 18164

(7) The tax list upon which the property tax shall be 18165
first levied, which may be the current year's tax list; 18166

(8) The amount of the average tax levy, expressed in 18167
dollars and cents for each one hundred dollars of valuation as 18168
well as in mills for each one dollar of valuation, estimated by 18169
the county auditor under division (A) of this section. 18170

(C) A resolution adopted under division (B) of this 18171
section shall go into immediate effect upon its passage, and no 18172
publication of the resolution shall be necessary other than that 18173
provided for in the notice of election. Immediately after its 18174
adoption and at least ninety days prior to the election at which 18175
the question will appear on the ballot, the board of education 18176
shall certify a copy of the resolution, along with copies of the 18177
county auditor's certification and the resolution under division 18178
(A) of this section, to the board of elections of the proper 18179
county. The board of education shall make the arrangements for 18180
the submission of the question to the electors of the school 18181

district, and the election shall be conducted, canvassed, and 18182
certified in the same manner as regular elections in the 18183
district for the election of county officers. 18184

The resolution shall be put before the electors as one 18185
ballot question, with a majority vote indicating approval of the 18186
school district income tax and the property tax. The board of 18187
elections shall publish the notice of the election in a 18188
newspaper of general circulation in the school district once a 18189
week for two consecutive weeks, or as provided in section 7.16 18190
of the Revised Code, prior to the election. If the board of 18191
elections operates and maintains a web site, also shall post 18192
notice of the election on its web site for thirty days prior to 18193
the election. The notice of election shall state all of the 18194
following: 18195

(1) The questions to be submitted to the electors as a 18196
single ballot question; 18197

(2) The rate of the school district income tax; 18198

(3) The number of years the school district income tax 18199
will be levied or that it will be levied for a continuing period 18200
of time; 18201

(4) The annual proceeds of the proposed property tax levy 18202
for the purpose of providing for the necessary requirements of 18203
the district; 18204

(5) The number of years during which the property tax levy 18205
shall be levied, or that it shall be levied for a continuing 18206
period of time; 18207

(6) The estimated average additional tax rate of the 18208
property tax, expressed in dollars and cents for each one 18209
hundred dollars of valuation as well as in mills for each one 18210

dollar of valuation, outside the limitation imposed by Section 2 18211
of Article XII, Ohio Constitution, as certified by the county 18212
auditor; 18213

(7) The time and place of the special election. 18214

(D) The form of the ballot on a question submitted to the 18215
electors under this section shall be as follows: 18216

"Shall the school district be authorized to do both 18217
of the following: 18218

(1) Impose an annual income tax of (state the 18219
proposed rate of tax) on the school district income of 18220
individuals and of estates, for (state the number of 18221
years the tax would be levied, or that it would be levied for a 18222
continuing period of time), beginning (state the date 18223
the tax would first take effect), for the purpose of 18224
(state the purpose of the tax)? 18225

(2) Impose a property tax levy outside of the ten-mill 18226
limitation for the purpose of providing for the necessary 18227
requirements of the district in the sum of 18228
(here insert annual amount the levy is to produce), estimated by 18229
the county auditor to average (here insert 18230
number of mills) mills for each one dollar of valuation, which 18231
amounts to (here insert rate expressed in 18232
dollars and cents) for each one hundred dollars of valuation, 18233
for (state the number of years the tax is to be 18234
imposed or that it will be imposed for a continuing period of 18235
time), commencing in (first year the tax is to be 18236
levied), first due in calendar year (first calendar 18237
year in which the tax shall be due)? 18238

18239

	FOR THE INCOME TAX AND PROPERTY TAX	
	AGAINST THE INCOME TAX AND PROPERTY TAX	"

If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E) (1) (b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it:

(1) The income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution.

(2) The board of education of the school district may make the additional property tax levy necessary to raise the amount specified on the ballot for the purpose of providing for the necessary requirements of the district. The property tax levy shall be included in the next tax budget that is certified to the county budget commission.

(F) (1) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this

division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(2) After the approval of a question under this section and prior to the time when the first tax collection from the property tax levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(G) (1) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(2) A property tax levy for a continuing period of time may be reduced in the manner provided under section 5705.261 of the Revised Code.

(H) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(I) If the electors of the school district approve a

question under this section, and if the last calendar year the 18294
school district income tax is in effect and the last calendar 18295
year of collection of the property tax are the same, the board 18296
of education of the school district may propose to submit under 18297
this section the combined question of a school district income 18298
tax to take effect upon the expiration of the existing income 18299
tax and a property tax to be first collected in the calendar 18300
year after the calendar year of last collection of the existing 18301
property tax, and specify in the resolutions adopted under this 18302
section that the proposed taxes would renew the existing taxes. 18303
The form of the ballot on a question submitted to the electors 18304
under division (I) of this section shall be as follows: 18305

"Shall the school district be authorized to do 18306
both of the following: 18307

(1) Impose an annual income tax of (state the 18308
proposed rate of tax) on the school district income of 18309
individuals and of estates to renew an income tax expiring at 18310
the end of (state the last year the existing income tax 18311
may be levied) for (state the number of years the tax 18312
would be levied, or that it would be levied for a continuing 18313
period of time), beginning (state the date the tax would 18314
first take effect), for the purpose of (state the 18315
purpose of the tax)? 18316

(2) Impose a property tax levy renewing an existing levy 18317
outside of the ten-mill limitation for the purpose of providing 18318
for the necessary requirements of the district in the sum of 18319
..... (here insert annual amount the levy is to 18320
produce), estimated by the county auditor to average 18321
..... (here insert number of mills) mills for each 18322
one dollar of valuation, which amounts to 18323

(here insert rate expressed in dollars and cents) for each one 18324
hundred dollars of valuation, for (state the 18325
number of years the tax is to be imposed or that it will be 18326
imposed for a continuing period of time), commencing in 18327
..... (first year the tax is to be levied), first due in 18328
calendar year (first calendar year in which the tax 18329
shall be due)? 18330

	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

"

If the question submitted to electors proposes a school 18332
district income tax only on the taxable income of individuals as 18333
defined in division (E) (1) (b) of section 5748.01 of the Revised 18334
Code, the form of the ballot shall be modified by stating that 18335
the tax is to be levied on the "earned income of individuals 18336
residing in the school district" in lieu of the "school district 18337
income of individuals and of estates." 18338

The question of a renewal levy under this division shall 18339
not be placed on the ballot unless the question is submitted on 18340
a date on which a special election may be held under section 18341
3501.01 of the Revised Code, except for the first Tuesday after 18342
the first Monday in ~~February and~~ August, during the last year 18343
the property tax levy to be renewed may be extended on the real 18344
and public utility property tax list and duplicate, or at any 18345
election held in the ensuing year. 18346

(J) If the electors of the school district approve a 18347
question under this section, the board of education of the 18348

school district may propose to renew either or both of the 18349
existing taxes as individual ballot questions in accordance with 18350
section 5748.02 of the Revised Code for the school district 18351
income tax, or section 5705.194 of the Revised Code for the 18352
property tax. 18353

Sec. 5751.01. As used in this chapter: 18354

(A) "Person" means, but is not limited to, individuals, 18355
combinations of individuals of any form, receivers, assignees, 18356
trustees in bankruptcy, firms, companies, joint-stock companies, 18357
business trusts, estates, partnerships, limited liability 18358
partnerships, limited liability companies, associations, joint 18359
ventures, clubs, societies, for-profit corporations, S 18360
corporations, qualified subchapter S subsidiaries, qualified 18361
subchapter S trusts, trusts, entities that are disregarded for 18362
federal income tax purposes, and any other entities. 18363

(B) "Consolidated elected taxpayer" means a group of two 18364
or more persons treated as a single taxpayer for purposes of 18365
this chapter as the result of an election made under section 18366
5751.011 of the Revised Code. 18367

(C) "Combined taxpayer" means a group of two or more 18368
persons treated as a single taxpayer for purposes of this 18369
chapter under section 5751.012 of the Revised Code. 18370

(D) "Taxpayer" means any person, or any group of persons 18371
in the case of a consolidated elected taxpayer or combined 18372
taxpayer treated as one taxpayer, required to register or pay 18373
tax under this chapter. "Taxpayer" does not include excluded 18374
persons. 18375

(E) "Excluded person" means any of the following: 18376

(1) Any person with not more than one hundred fifty 18377

thousand dollars of taxable gross receipts during the calendar 18378
year. Division (E) (1) of this section does not apply to a person 18379
that is a member of a consolidated elected taxpayer; 18380

(2) A public utility that paid the excise tax imposed by 18381
section 5727.24 or 5727.30 of the Revised Code based on one or 18382
more measurement periods that include the entire tax period 18383
under this chapter, except that a public utility that is a 18384
combined company is a taxpayer with regard to the following 18385
gross receipts: 18386

(a) Taxable gross receipts directly attributed to a public 18387
utility activity, but not directly attributed to an activity 18388
that is subject to the excise tax imposed by section 5727.24 or 18389
5727.30 of the Revised Code; 18390

(b) Taxable gross receipts that cannot be directly 18391
attributed to any activity, multiplied by a fraction whose 18392
numerator is the taxable gross receipts described in division 18393
(E) (2) (a) of this section and whose denominator is the total 18394
taxable gross receipts that can be directly attributed to any 18395
activity; 18396

(c) Except for any differences resulting from the use of 18397
an accrual basis method of accounting for purposes of 18398
determining gross receipts under this chapter and the use of the 18399
cash basis method of accounting for purposes of determining 18400
gross receipts under section 5727.24 of the Revised Code, the 18401
gross receipts directly attributed to the activity of a natural 18402
gas company shall be determined in a manner consistent with 18403
division (D) of section 5727.03 of the Revised Code. 18404

As used in division (E) (2) of this section, "combined 18405
company" and "public utility" have the same meanings as in 18406

section 5727.01 of the Revised Code. 18407

(3) A financial institution, as defined in section 5726.01 18408
of the Revised Code, that paid the tax imposed by section 18409
5726.02 of the Revised Code based on one or more taxable years 18410
that include the entire tax period under this chapter; 18411

(4) A person directly or indirectly owned by one or more 18412
financial institutions, as defined in section 5726.01 of the 18413
Revised Code, that paid the tax imposed by section 5726.02 of 18414
the Revised Code based on one or more taxable years that include 18415
the entire tax period under this chapter. 18416

For the purposes of division (E)(4) of this section, a 18417
person owns another person under the following circumstances: 18418

(a) In the case of corporations issuing capital stock, one 18419
corporation owns another corporation if it owns fifty per cent 18420
or more of the other corporation's capital stock with current 18421
voting rights; 18422

(b) In the case of a limited liability company, one person 18423
owns the company if that person's membership interest, as 18424
defined in section 1705.01 of the Revised Code, is fifty per 18425
cent or more of the combined membership interests of all persons 18426
owning such interests in the company; 18427

(c) In the case of a partnership, trust, or other 18428
unincorporated business organization other than a limited 18429
liability company, one person owns the organization if, under 18430
the articles of organization or other instrument governing the 18431
affairs of the organization, that person has a beneficial 18432
interest in the organization's profits, surpluses, losses, or 18433
distributions of fifty per cent or more of the combined 18434
beneficial interests of all persons having such an interest in 18435

the organization. 18436

(5) A domestic insurance company or foreign insurance 18437
company, as defined in section 5725.01 of the Revised Code, that 18438
paid the insurance company premiums tax imposed by section 18439
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 18440
insurance company whose gross premiums are subject to tax under 18441
section 3905.36 of the Revised Code based on one or more 18442
measurement periods that include the entire tax period under 18443
this chapter; 18444

(6) A person that solely facilitates or services one or 18445
more securitizations of phase-in-recovery property pursuant to a 18446
final financing order as those terms are defined in section 18447
4928.23 of the Revised Code. For purposes of this division, 18448
"securitization" means transferring one or more assets to one or 18449
more persons and then issuing securities backed by the right to 18450
receive payment from the asset or assets so transferred. 18451

(7) Except as otherwise provided in this division, a pre- 18452
income tax trust as defined in ~~division (FF) (4)~~ of section 18453
5747.01 of the Revised Code and any pass-through entity of which 18454
such pre-income tax trust owns or controls, directly, 18455
indirectly, or constructively through related interests, more 18456
than five per cent of the ownership or equity interests. If the 18457
pre-income tax trust has made a qualifying pre-income tax trust 18458
election under division ~~(FF) (3)~~ (EE) of section 5747.01 of the 18459
Revised Code, then the trust and the pass-through entities of 18460
which it owns or controls, directly, indirectly, or 18461
constructively through related interests, more than five per 18462
cent of the ownership or equity interests, shall not be excluded 18463
persons for purposes of the tax imposed under section 5751.02 of 18464
the Revised Code. 18465

(8) Nonprofit organizations or the state and its agencies, 18466
instrumentalities, or political subdivisions. 18467

(F) Except as otherwise provided in divisions (F) (2), (3), 18468
and (4) of this section, "gross receipts" means the total amount 18469
realized by a person, without deduction for the cost of goods 18470
sold or other expenses incurred, that contributes to the 18471
production of gross income of the person, including the fair 18472
market value of any property and any services received, and any 18473
debt transferred or forgiven as consideration. 18474

(1) The following are examples of gross receipts: 18475

(a) Amounts realized from the sale, exchange, or other 18476
disposition of the taxpayer's property to or with another; 18477

(b) Amounts realized from the taxpayer's performance of 18478
services for another; 18479

(c) Amounts realized from another's use or possession of 18480
the taxpayer's property or capital; 18481

(d) Any combination of the foregoing amounts. 18482

(2) "Gross receipts" excludes the following amounts: 18483

(a) Interest income except interest on credit sales; 18484

(b) Dividends and distributions from corporations, and 18485
distributive or proportionate shares of receipts and income from 18486
a pass-through entity as defined under section 5733.04 of the 18487
Revised Code; 18488

(c) Receipts from the sale, exchange, or other disposition 18489
of an asset described in section 1221 or 1231 of the Internal 18490
Revenue Code, without regard to the length of time the person 18491
held the asset. Notwithstanding section 1221 of the Internal 18492

Revenue Code, receipts from hedging transactions also are 18493
excluded to the extent the transactions are entered into 18494
primarily to protect a financial position, such as managing the 18495
risk of exposure to (i) foreign currency fluctuations that 18496
affect assets, liabilities, profits, losses, equity, or 18497
investments in foreign operations; (ii) interest rate 18498
fluctuations; or (iii) commodity price fluctuations. As used in 18499
division (F)(2)(c) of this section, "hedging transaction" has 18500
the same meaning as used in section 1221 of the Internal Revenue 18501
Code and also includes transactions accorded hedge accounting 18502
treatment under statement of financial accounting standards 18503
number 133 of the financial accounting standards board. For the 18504
purposes of division (F)(2)(c) of this section, the actual 18505
transfer of title of real or tangible personal property to 18506
another entity is not a hedging transaction. 18507

(d) Proceeds received attributable to the repayment, 18508
maturity, or redemption of the principal of a loan, bond, mutual 18509
fund, certificate of deposit, or marketable instrument; 18510

(e) The principal amount received under a repurchase 18511
agreement or on account of any transaction properly 18512
characterized as a loan to the person; 18513

(f) Contributions received by a trust, plan, or other 18514
arrangement, any of which is described in section 501(a) of the 18515
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 18516
1, Subchapter (D) of the Internal Revenue Code applies; 18517

(g) Compensation, whether current or deferred, and whether 18518
in cash or in kind, received or to be received by an employee, 18519
former employee, or the employee's legal successor for services 18520
rendered to or for an employer, including reimbursements 18521
received by or for an individual for medical or education 18522

expenses, health insurance premiums, or employee expenses, or on 18523
account of a dependent care spending account, legal services 18524
plan, any cafeteria plan described in section 125 of the 18525
Internal Revenue Code, or any similar employee reimbursement; 18526

(h) Proceeds received from the issuance of the taxpayer's 18527
own stock, options, warrants, puts, or calls, or from the sale 18528
of the taxpayer's treasury stock; 18529

(i) Proceeds received on the account of payments from 18530
insurance policies, except those proceeds received for the loss 18531
of business revenue; 18532

(j) Gifts or charitable contributions received; membership 18533
dues received by trade, professional, homeowners', or 18534
condominium associations; and payments received for educational 18535
courses, meetings, meals, or similar payments to a trade, 18536
professional, or other similar association; and fundraising 18537
receipts received by any person when any excess receipts are 18538
donated or used exclusively for charitable purposes; 18539

(k) Damages received as the result of litigation in excess 18540
of amounts that, if received without litigation, would be gross 18541
receipts; 18542

(l) Property, money, and other amounts received or 18543
acquired by an agent on behalf of another in excess of the 18544
agent's commission, fee, or other remuneration; 18545

(m) Tax refunds, other tax benefit recoveries, and 18546
reimbursements for the tax imposed under this chapter made by 18547
entities that are part of the same combined taxpayer or 18548
consolidated elected taxpayer group, and reimbursements made by 18549
entities that are not members of a combined taxpayer or 18550
consolidated elected taxpayer group that are required to be made 18551

for economic parity among multiple owners of an entity whose tax 18552
obligation under this chapter is required to be reported and 18553
paid entirely by one owner, pursuant to the requirements of 18554
sections 5751.011 and 5751.012 of the Revised Code; 18555

(n) Pension reversions; 18556

(o) Contributions to capital; 18557

(p) Sales or use taxes collected as a vendor or an out-of- 18558
state seller on behalf of the taxing jurisdiction from a 18559
consumer or other taxes the taxpayer is required by law to 18560
collect directly from a purchaser and remit to a local, state, 18561
or federal tax authority; 18562

(q) In the case of receipts from the sale of cigarettes, 18563
tobacco products, or vapor products by a wholesale dealer, 18564
retail dealer, distributor, manufacturer, vapor distributor, or 18565
seller, all as defined in section 5743.01 of the Revised Code, 18566
an amount equal to the federal and state excise taxes paid by 18567
any person on or for such cigarettes, tobacco products, or vapor 18568
products under subtitle E of the Internal Revenue Code or 18569
Chapter 5743. of the Revised Code; 18570

(r) In the case of receipts from the sale, transfer, 18571
exchange, or other disposition of motor fuel as "motor fuel" is 18572
defined in section 5736.01 of the Revised Code, an amount equal 18573
to the value of the motor fuel, including federal and state 18574
motor fuel excise taxes and receipts from billing or invoicing 18575
the tax imposed under section 5736.02 of the Revised Code to 18576
another person; 18577

(s) In the case of receipts from the sale of beer or 18578
intoxicating liquor, as defined in section 4301.01 of the 18579
Revised Code, by a person holding a permit issued under Chapter 18580

4301. or 4303. of the Revised Code, an amount equal to federal 18581
and state excise taxes paid by any person on or for such beer or 18582
intoxicating liquor under subtitle E of the Internal Revenue 18583
Code or Chapter 4301. or 4305. of the Revised Code; 18584

(t) Receipts realized by a new motor vehicle dealer or 18585
used motor vehicle dealer, as defined in section 4517.01 of the 18586
Revised Code, from the sale or other transfer of a motor 18587
vehicle, as defined in that section, to another motor vehicle 18588
dealer for the purpose of resale by the transferee motor vehicle 18589
dealer, but only if the sale or other transfer was based upon 18590
the transferee's need to meet a specific customer's preference 18591
for a motor vehicle; 18592

(u) Receipts from a financial institution described in 18593
division (E) (3) of this section for services provided to the 18594
financial institution in connection with the issuance, 18595
processing, servicing, and management of loans or credit 18596
accounts, if such financial institution and the recipient of 18597
such receipts have at least fifty per cent of their ownership 18598
interests owned or controlled, directly or constructively 18599
through related interests, by common owners; 18600

(v) Receipts realized from administering anti-neoplastic 18601
drugs and other cancer chemotherapy, biologicals, therapeutic 18602
agents, and supportive drugs in a physician's office to patients 18603
with cancer; 18604

(w) Funds received or used by a mortgage broker that is 18605
not a dealer in intangibles, other than fees or other 18606
consideration, pursuant to a table-funding mortgage loan or 18607
warehouse-lending mortgage loan. Terms used in division (F) (2) 18608
(w) of this section have the same meanings as in section 1322.01 18609
of the Revised Code, except "mortgage broker" means a person 18610

assisting a buyer in obtaining a mortgage loan for a fee or 18611
other consideration paid by the buyer or a lender, or a person 18612
engaged in table-funding or warehouse-lending mortgage loans 18613
that are first lien mortgage loans. 18614

(x) Property, money, and other amounts received by a 18615
professional employer organization, as defined in section 18616
4125.01 of the Revised Code, from a client employer, as defined 18617
in that section, in excess of the administrative fee charged by 18618
the professional employer organization to the client employer; 18619

(y) In the case of amounts retained as commissions by a 18620
permit holder under Chapter 3769. of the Revised Code, an amount 18621
equal to the amounts specified under that chapter that must be 18622
paid to or collected by the tax commissioner as a tax and the 18623
amounts specified under that chapter to be used as purse money; 18624

(z) Qualifying distribution center receipts as determined 18625
under section 5751.40 of the Revised Code. 18626

~~(i) For purposes of division (F) (2) (z) of this section:~~ 18627

~~(I) "Qualifying distribution center receipts" means~~ 18628
~~receipts of a supplier from qualified property that is delivered~~ 18629
~~to a qualified distribution center, multiplied by a quantity~~ 18630
~~that equals one minus the Ohio delivery percentage. If the~~ 18631
~~qualified distribution center is a refining facility, "supplier"~~ 18632
~~includes all dealers, brokers, processors, sellers, vendors,~~ 18633
~~cosigners, and distributors of qualified property.~~ 18634

~~(II) "Qualified property" means tangible personal property~~ 18635
~~delivered to a qualified distribution center that is shipped to~~ 18636
~~that qualified distribution center solely for further shipping~~ 18637
~~by the qualified distribution center to another location in this~~ 18638
~~state or elsewhere or, in the case of gold, silver, platinum, or~~ 18639

~~palladium delivered to a refining facility solely for refining-~~ 18640
~~to a grade and fineness acceptable for delivery to a registered-~~ 18641
~~commodities exchange. "Further shipping" includes storing and-~~ 18642
~~repackaging property into smaller or larger bundles, so long as-~~ 18643
~~the property is not subject to further manufacturing or-~~ 18644
~~processing. "Refining" is limited to extracting impurities from-~~ 18645
~~gold, silver, platinum, or palladium through smelting or some-~~ 18646
~~other process at a refining facility.~~ 18647

~~(III) "Qualified distribution center" means a warehouse, a-~~ 18648
~~facility similar to a warehouse, or a refining facility in this-~~ 18649
~~state that, for the qualifying year, is operated by a person-~~ 18650
~~that is not part of a combined taxpayer group and that has a-~~ 18651
~~qualifying certificate. All warehouses or facilities similar to-~~ 18652
~~warehouses that are operated by persons in the same taxpayer-~~ 18653
~~group and that are located within one mile of each other shall-~~ 18654
~~be treated as one qualified distribution center. All refining-~~ 18655
~~facilities that are operated by persons in the same taxpayer-~~ 18656
~~group and that are located in the same or adjacent counties may-~~ 18657
~~be treated as one qualified distribution center.~~ 18658

~~(IV) "Qualifying year" means the calendar year to which-~~ 18659
~~the qualifying certificate applies.~~ 18660

~~(V) "Qualifying period" means the period of the first day-~~ 18661
~~of July of the second year preceding the qualifying year through-~~ 18662
~~the thirtieth day of June of the year preceding the qualifying-~~ 18663
~~year.~~ 18664

~~(VI) "Qualifying certificate" means the certificate issued-~~ 18665
~~by the tax commissioner after the operator of a distribution-~~ 18666
~~center files an annual application with the commissioner. The-~~ 18667
~~application and annual fee shall be filed and paid for each-~~ 18668
~~qualified distribution center on or before the first day of-~~ 18669

~~September before the qualifying year or within forty five days~~ 18670
~~after the distribution center opens, whichever is later.~~ 18671

~~The applicant must substantiate to the commissioner's~~ 18672
~~satisfaction that, for the qualifying period, all persons~~ 18673
~~operating the distribution center have more than fifty per cent~~ 18674
~~of the cost of the qualified property shipped to a location such~~ 18675
~~that it would be sitused outside this state under the provisions~~ 18676
~~of division (E) of section 5751.033 of the Revised Code. The~~ 18677
~~applicant must also substantiate that the distribution center~~ 18678
~~cumulatively had costs from its suppliers equal to or exceeding~~ 18679
~~five hundred million dollars during the qualifying period. (For~~ 18680
~~purposes of division (F) (2) (z) (i) (VI) of this section,~~ 18681
~~"supplier" excludes any person that is part of the consolidated~~ 18682
~~elected taxpayer group, if applicable, of the operator of the~~ 18683
~~qualified distribution center.) The commissioner may require the~~ 18684
~~applicant to have an independent certified public accountant~~ 18685
~~certify that the calculation of the minimum thresholds required~~ 18686
~~for a qualified distribution center by the operator of a~~ 18687
~~distribution center has been made in accordance with generally~~ 18688
~~accepted accounting principles. The commissioner shall issue or~~ 18689
~~deny the issuance of a certificate within sixty days after the~~ 18690
~~receipt of the application. A denial is subject to appeal under~~ 18691
~~section 5717.02 of the Revised Code. If the operator files a~~ 18692
~~timely appeal under section 5717.02 of the Revised Code, the~~ 18693
~~operator shall be granted a qualifying certificate effective for~~ 18694
~~the remainder of the qualifying year or until the appeal is~~ 18695
~~finalized, whichever is earlier. If the operator does not~~ 18696
~~prevail in the appeal, the operator shall pay the ineligible~~ 18697
~~operator's supplier tax liability.~~ 18698

~~(VII) "Ohio delivery percentage" means the proportion of~~ 18699
~~the total property delivered to a destination inside Ohio from~~ 18700

~~the qualified distribution center during the qualifying period~~ 18701
~~compared with total deliveries from such distribution center~~ 18702
~~everywhere during the qualifying period.~~ 18703

~~(VIII) "Refining facility" means one or more buildings~~ 18704
~~located in a county in the Appalachian region of this state as~~ 18705
~~defined by section 107.21 of the Revised Code and utilized for~~ 18706
~~refining or smelting gold, silver, platinum, or palladium to a~~ 18707
~~grade and fineness acceptable for delivery to a registered~~ 18708
~~commodities exchange.~~ 18709

~~(IX) "Registered commodities exchange" means a board of~~ 18710
~~trade, such as New York mercantile exchange, inc. or commodity~~ 18711
~~exchange, inc., designated as a contract market by the commodity~~ 18712
~~futures trading commission under the "Commodity Exchange Act," 7~~ 18713
~~U.S.C. 1 et seq., as amended.~~ 18714

~~(X) "Ineligible operator's supplier tax liability" means~~ 18715
~~an amount equal to the tax liability of all suppliers of a~~ 18716
~~distribution center had the distribution center not been issued~~ 18717
~~a qualifying certificate for the qualifying year. Ineligible~~ 18718
~~operator's supplier tax liability shall not include interest or~~ 18719
~~penalties. The tax commissioner shall determine an ineligible~~ 18720
~~operator's supplier tax liability based on information that the~~ 18721
~~commissioner may request from the operator of the distribution~~ 18722
~~center. An operator shall provide a list of all suppliers of the~~ 18723
~~distribution center and the corresponding costs of qualified~~ 18724
~~property for the qualifying year at issue within sixty days of a~~ 18725
~~request by the commissioner under this division.~~ 18726

~~(ii) (I) If the distribution center is new and was not open~~ 18727
~~for the entire qualifying period, the operator of the~~ 18728
~~distribution center may request that the commissioner grant a~~ 18729
~~qualifying certificate. If the certificate is granted and it is~~ 18730

~~later determined that more than fifty per cent of the qualified
property during that year was not shipped to a location such
that it would be situated outside of this state under the
provisions of division (E) of section 5751.033 of the Revised
Code or if it is later determined that the person that operates
the distribution center had average monthly costs from its
suppliers of less than forty million dollars during that year,
then the operator of the distribution center shall pay the
ineligible operator's supplier tax liability. (For purposes of
division (F) (2) (z) (ii) of this section, "supplier" excludes any
person that is part of the consolidated elected taxpayer group,
if applicable, of the operator of the qualified distribution
center.)~~

~~(II) The commissioner may grant a qualifying certificate
to a distribution center that does not qualify as a qualified
distribution center for an entire qualifying period if the
operator of the distribution center demonstrates that the
business operations of the distribution center have changed or
will change such that the distribution center will qualify as a
qualified distribution center within thirty six months after the
date the operator first applies for a certificate. If, at the
end of that thirty six month period, the business operations of
the distribution center have not changed such that the
distribution center qualifies as a qualified distribution
center, the operator of the distribution center shall pay the
ineligible operator's supplier tax liability for each year that
the distribution center received a certificate but did not
qualify as a qualified distribution center. For each year the
distribution center receives a certificate under division (F) (2)
(z) (ii) (II) of this section, the distribution center shall pay
all applicable fees required under division (F) (2) (z) of this~~

~~section and shall submit an updated business plan showing the~~ 18762
~~progress the distribution center made toward qualifying as a~~ 18763
~~qualified distribution center during the preceding year.~~ 18764

~~(III) An operator may appeal a determination under~~ 18765
~~division (F) (2) (z) (ii) (I) or (II) of this section that the~~ 18766
~~ineligible operator is liable for the operator's supplier tax~~ 18767
~~liability as a result of not qualifying as a qualified~~ 18768
~~distribution center, as provided in section 5717.02 of the~~ 18769
~~Revised Code.~~ 18770

~~(iii) When filing an application for a qualifying~~ 18771
~~certificate under division (F) (2) (z) (i) (VI) of this section, the~~ 18772
~~operator of a qualified distribution center also shall provide~~ 18773
~~documentation, as the commissioner requires, for the~~ 18774
~~commissioner to ascertain the Ohio delivery percentage. The~~ 18775
~~commissioner, upon issuing the qualifying certificate, also~~ 18776
~~shall certify the Ohio delivery percentage. The operator of the~~ 18777
~~qualified distribution center may appeal the commissioner's~~ 18778
~~certification of the Ohio delivery percentage in the same manner~~ 18779
~~as an appeal is taken from the denial of a qualifying~~ 18780
~~certificate under division (F) (2) (z) (i) (VI) of this section.~~ 18781

~~(iv) (I) In the case where the distribution center is new~~ 18782
~~and not open for the entire qualifying period, the operator~~ 18783
~~shall make a good faith estimate of an Ohio delivery percentage~~ 18784
~~for use by suppliers in their reports of taxable gross receipts~~ 18785
~~for the remainder of the qualifying period. The operator of the~~ 18786
~~facility shall disclose to the suppliers that such Ohio delivery~~ 18787
~~percentage is an estimate and is subject to recalculation. By~~ 18788
~~the due date of the next application for a qualifying~~ 18789
~~certificate, the operator shall determine the actual Ohio~~ 18790
~~delivery percentage for the estimated qualifying period and~~ 18791

~~proceed as provided in division (F) (2) (z) (iii) of this section~~ 18792
~~with respect to the calculation and recalculation of the Ohio~~ 18793
~~delivery percentage. The supplier is required to file, within~~ 18794
~~sixty days after receiving notice from the operator of the~~ 18795
~~qualified distribution center, amended reports for the impacted~~ 18796
~~calendar quarter or quarters or calendar year, whichever the~~ 18797
~~case may be. Any additional tax liability or tax overpayment~~ 18798
~~shall be subject to interest but shall not be subject to the~~ 18799
~~imposition of any penalty so long as the amended returns are~~ 18800
~~timely filed.~~ 18801

~~(II) The operator of a distribution center that receives a~~ 18802
~~qualifying certificate under division (F) (2) (z) (ii) (II) of this~~ 18803
~~section shall make a good faith estimate of the Ohio delivery~~ 18804
~~percentage that the operator estimates will apply to the~~ 18805
~~distribution center at the end of the thirty six month period~~ 18806
~~after the operator first applied for a qualifying certificate~~ 18807
~~under that division. The result of the estimate shall be~~ 18808
~~multiplied by a factor of one and seventy five one hundredths.~~ 18809
~~The product of that calculation shall be the Ohio delivery~~ 18810
~~percentage used by suppliers in their reports of taxable gross~~ 18811
~~receipts for each qualifying year that the distribution center~~ 18812
~~receives a qualifying certificate under division (F) (2) (z) (ii)~~ 18813
~~(II) of this section, except that, if the product is less than~~ 18814
~~five per cent, the Ohio delivery percentage used shall be five~~ 18815
~~per cent and that, if the product exceeds forty nine per cent,~~ 18816
~~the Ohio delivery percentage used shall be forty nine per cent.~~ 18817

~~(v) Qualifying certificates and Ohio delivery percentages~~ 18818
~~issued by the commissioner shall be open to public inspection~~ 18819
~~and shall be timely published by the commissioner. A supplier~~ 18820
~~relying in good faith on a certificate issued under this~~ 18821
~~division shall not be subject to tax on the qualifying~~ 18822

~~distribution center receipts under division (F) (2) (z) of this~~ 18823
~~section. An operator receiving a qualifying certificate is~~ 18824
~~liable for the ineligible operator's supplier tax liability for~~ 18825
~~each year the operator received a certificate but did not~~ 18826
~~qualify as a qualified distribution center.~~ 18827

~~(vi) The annual fee for a qualifying certificate shall be~~ 18828
~~one hundred thousand dollars for each qualified distribution~~ 18829
~~center. If a qualifying certificate is not issued, the annual~~ 18830
~~fee is subject to refund after the exhaustion of all appeals~~ 18831
~~provided for in division (F) (2) (z) (i) (VI) of this section. The~~ 18832
~~first one hundred thousand dollars of the annual application~~ 18833
~~fees collected each calendar year shall be credited to the~~ 18834
~~revenue enhancement fund. The remainder of the annual~~ 18835
~~application fees collected shall be distributed in the same~~ 18836
~~manner required under section 5751.20 of the Revised Code.~~ 18837

~~(vii) The tax commissioner may require that adequate~~ 18838
~~security be posted by the operator of the distribution center on~~ 18839
~~appeal when the commissioner disagrees that the applicant has~~ 18840
~~met the minimum thresholds for a qualified distribution center~~ 18841
~~as set forth in division (F) (2) (z) of this section.~~ 18842

(aa) Receipts of an employer from payroll deductions 18843
relating to the reimbursement of the employer for advancing 18844
moneys to an unrelated third party on an employee's behalf; 18845

(bb) Cash discounts allowed and taken; 18846

(cc) Returns and allowances; 18847

(dd) Bad debts from receipts on the basis of which the tax 18848
imposed by this chapter was paid in a prior quarterly tax 18849
payment period. For the purpose of this division, "bad debts" 18850
means any debts that have become worthless or uncollectible 18851

between the preceding and current quarterly tax payment periods, 18852
have been uncollected for at least six months, and that may be 18853
claimed as a deduction under section 166 of the Internal Revenue 18854
Code and the regulations adopted under that section, or that 18855
could be claimed as such if the taxpayer kept its accounts on 18856
the accrual basis. "Bad debts" does not include repossessed 18857
property, uncollectible amounts on property that remains in the 18858
possession of the taxpayer until the full purchase price is 18859
paid, or expenses in attempting to collect any account 18860
receivable or for any portion of the debt recovered; 18861

(ee) Any amount realized from the sale of an account 18862
receivable to the extent the receipts from the underlying 18863
transaction giving rise to the account receivable were included 18864
in the gross receipts of the taxpayer; 18865

(ff) Any receipts directly attributed to a transfer 18866
agreement or to the enterprise transferred under that agreement 18867
under section 4313.02 of the Revised Code. 18868

(gg)(i) ~~As used in this division:~~ 18869

~~(I) "Qualified uranium receipts" means receipts from the 18870
sale, exchange, lease, loan, production, processing, or other 18871
disposition of uranium within a uranium enrichment zone 18872
certified by the tax commissioner under division (F) (2) (gg) (ii) 18873
of this section. "Qualified uranium receipts" does not include 18874
any receipts with a situs in this state outside a uranium 18875
enrichment zone certified by the tax commissioner under division 18876
(F) (2) (gg) (ii) of this section. 18877~~

~~(II) "Uranium enrichment zone" means all real property 18878
that is part of a uranium enrichment facility licensed by the 18879
United States nuclear regulatory commission and that was or is 18880~~

~~owned or controlled by the United States department of energy or
its successor.~~ 18881
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~~(ii) Any person that owns, leases, or operates real or
tangible personal property constituting or located within a
uranium enrichment zone may apply to the tax commissioner to
have the uranium enrichment zone certified for the purpose of
excluding qualified uranium receipts under division (F) (2) (gg)
of this section. The application shall include such information
that the tax commissioner prescribes. Within sixty days after
receiving the application, the tax commissioner shall certify
the zone for that purpose if the commissioner determines that
the property qualifies as a uranium enrichment zone as defined
in division (F) (2) (gg) of this section, or, if the tax
commissioner determines that the property does not qualify, the
commissioner shall deny the application or request additional
information from the applicant. If the tax commissioner denies
an application, the commissioner shall state the reasons for the
denial. The applicant may appeal the denial of an application to
the board of tax appeals pursuant to section 5717.02 of the
Revised Code. If the applicant files a timely appeal, the tax
commissioner shall conditionally certify the applicant's
property. The conditional certification shall expire when all of
the applicant's appeals are exhausted. Until final resolution of
the appeal, the applicant shall retain the applicant's records
in accordance with section 5751.12 of the Revised Code,
notwithstanding any time limit on the preservation of records
under that section. Qualified uranium receipts as determined
under section 5751.41 of the Revised Code.~~ 18883
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~~(hh) In the case of amounts collected by a licensed casino
operator from casino gaming, amounts in excess of the casino
operator's gross casino revenue. In this division, "casino~~ 18909
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operator" and "casino gaming" have the meanings defined in 18912
section 3772.01 of the Revised Code, and "gross casino revenue" 18913
has the meaning defined in section 5753.01 of the Revised Code. 18914

(ii) Receipts realized from the sale of agricultural 18915
commodities by an agricultural commodity handler, both as 18916
defined in section 926.01 of the Revised Code, that is licensed 18917
by the director of agriculture to handle agricultural 18918
commodities in this state. 18919

(jj) Qualifying integrated supply chain receipts as 18920
determined under section 5751.42 of the Revised Code. 18921

~~As used in division (F) (2) (jj) of this section:~~ 18922

~~(i) "Qualifying integrated supply chain receipts" means~~ 18923
~~receipts of a qualified integrated supply chain vendor from the~~ 18924
~~sale of qualified property delivered to, or integrated supply~~ 18925
~~chain services provided to, another qualified integrated supply~~ 18926
~~chain vendor or to a retailer that is a member of the integrated~~ 18927
~~supply chain. "Qualifying integrated supply chain receipts" does~~ 18928
~~not include receipts of a person that is not a qualified~~ 18929
~~integrated supply chain vendor from the sale of raw materials to~~ 18930
~~a member of an integrated supply chain, or receipts of a member~~ 18931
~~of an integrated supply chain from the sale of qualified~~ 18932
~~property or integrated supply chain services to a person that is~~ 18933
~~not a member of the integrated supply chain.~~ 18934

~~(ii) "Qualified property" means any of the following:~~ 18935

~~(I) Component parts used to hold, contain, package, or~~ 18936
~~dispense qualified products, excluding equipment;~~ 18937

~~(II) Work in process inventory that will become, comprise,~~ 18938
~~or form a component part of a qualified product capable of being~~ 18939
~~sold at retail, excluding equipment, machinery, furniture, and~~ 18940

~~fixtures;~~ 18941

~~(III) Finished goods inventory that is a qualified product~~ 18942
~~capable of being sold at retail in the inventory's present form.~~ 18943

~~(iii) "Qualified integrated supply chain vendor" means a~~ 18944
~~person that is a member of an integrated supply chain and that~~ 18945
~~provides integrated supply chain services within a qualified~~ 18946
~~integrated supply chain district to a retailer that is a member~~ 18947
~~of the integrated supply chain or to another qualified~~ 18948
~~integrated supply chain vendor that is located within the same~~ 18949
~~such district as the person but does not share a common owner~~ 18950
~~with that person.~~ 18951

~~(iv) "Qualified product" means a personal care, health, or~~ 18952
~~beauty product or an aromatic product, including a candle.~~ 18953
~~"Qualified product" does not include a drug that may be~~ 18954
~~dispensed only pursuant to a prescription, durable medical~~ 18955
~~equipment, mobility enhancing equipment, or a prosthetic device,~~ 18956
~~as those terms are defined in section 5739.01 of the Revised~~ 18957
~~Code.~~ 18958

~~(v) "Integrated supply chain" means two or more qualified~~ 18959
~~integrated supply chain vendors certified on the most recent~~ 18960
~~list certified to the tax commissioner under this division that~~ 18961
~~systematically collaborate and coordinate business operations~~ 18962
~~with a retailer on the flow of tangible personal property from~~ 18963
~~material sourcing through manufacturing, assembly, packaging,~~ 18964
~~and delivery to the retailer to improve long term financial~~ 18965
~~performance of each vendor and the supply chain that includes~~ 18966
~~the retailer.~~ 18967

~~For the purpose of the certification required under this~~ 18968
~~division, the reporting person for each retailer, on or before~~ 18969

~~the first day of October of each year, shall certify to the tax- 18970~~
~~commissioner a list of the qualified integrated supply chain- 18971~~
~~vendors providing or receiving integrated supply chain services- 18972~~
~~within a qualified integrated supply chain district for the- 18973~~
~~ensuing calendar year. On or before the following first day of- 18974~~
~~November, the commissioner shall issue a certificate to the- 18975~~
~~retailer and to each vendor certified to the commissioner on- 18976~~
~~that list. The certificate shall include the names of the- 18977~~
~~retailer and of the qualified integrated supply chain vendors. 18978~~

~~The retailer shall notify the commissioner of any changes- 18979~~
~~to the list, including additions to or subtractions from the- 18980~~
~~list or changes in the name or legal entity of vendors certified- 18981~~
~~on the list, within sixty days after the date the retailer- 18982~~
~~becomes aware of the change. Within thirty days after receiving- 18983~~
~~that notification, the commissioner shall issue a revised- 18984~~
~~certificate to the retailer and to each vendor certified on the- 18985~~
~~list. The revised certificate shall include the effective date- 18986~~
~~of the change. 18987~~

~~Each recipient of a certificate issued pursuant to this- 18988~~
~~division shall maintain a copy of the certificate for four years- 18989~~
~~from the date the certificate was received. 18990~~

~~(vi) "Integrated supply chain services" means procuring- 18991~~
~~raw materials or manufacturing, processing, refining, 18992~~
~~assembling, packaging, or repackaging tangible personal property- 18993~~
~~that will become finished goods inventory capable of being sold- 18994~~
~~at retail by a retailer that is a member of an integrated supply- 18995~~
~~chain. 18996~~

~~(vii) "Retailer" means a person primarily engaged in- 18997~~
~~making retail sales and any member of that person's consolidated- 18998~~
~~elected taxpayer group or combined taxpayer group, whether or- 18999~~

~~not that member is primarily engaged in making retail sales.~~ 19000

~~(viii) "Qualified integrated supply chain district" means~~ 19001
~~the parcel or parcels of land from which a retailer's integrated~~ 19002
~~supply chain that existed on September 29, 2015, provides or~~ 19003
~~receives integrated supply chain services, and to which all of~~ 19004
~~the following apply:~~ 19005

~~(I) The parcel or parcels are located wholly in a county~~ 19006
~~having a population of greater than one hundred sixty five~~ 19007
~~thousand but less than one hundred seventy thousand based on the~~ 19008
~~2010 federal decennial census.~~ 19009

~~(II) The parcel or parcels are located wholly in the~~ 19010
~~corporate limits of a municipal corporation with a population~~ 19011
~~greater than seven thousand five hundred and less than eight~~ 19012
~~thousand based on the 2010 federal decennial census that is~~ 19013
~~partly located in the county described in division (F) (2) (jj)~~ 19014
~~(viii) (I) of this section, as those corporate limits existed on~~ 19015
~~September 29, 2015.~~ 19016

~~(III) The aggregate acreage of the parcel or parcels~~ 19017
~~equals or exceeds one hundred acres.~~ 19018

(kk) In the case of a railroad company described in 19019
division (D) (9) of section 5727.01 of the Revised Code that 19020
purchases dyed diesel fuel directly from a supplier as defined 19021
by section 5736.01 of the Revised Code, an amount equal to the 19022
product of the number of gallons of dyed diesel fuel purchased 19023
directly from such a supplier multiplied by the average 19024
wholesale price for a gallon of diesel fuel as determined under 19025
section 5736.02 of the Revised Code for the period during which 19026
the fuel was purchased multiplied by a fraction, the numerator 19027
of which equals the rate of tax levied by section 5736.02 of the 19028

Revised Code less the rate of tax computed in section 5751.03 of 19029
the Revised Code, and the denominator of which equals the rate 19030
of tax computed in section 5751.03 of the Revised Code. 19031

(ll) Receipts realized by an out-of-state disaster 19032
business from disaster work conducted in this state during a 19033
disaster response period pursuant to a qualifying solicitation 19034
received by the business. Terms used in division (F) (2) (ll) of 19035
this section have the same meanings as in section 5703.94 of the 19036
Revised Code. 19037

(mm) Any receipts for which the tax imposed by this 19038
chapter is prohibited by the constitution or laws of the United 19039
States or the constitution of this state. 19040

(3) In the case of a taxpayer when acting as a real estate 19041
broker, "gross receipts" includes only the portion of any fee 19042
for the service of a real estate broker, or service of a real 19043
estate salesperson associated with that broker, that is retained 19044
by the broker and not paid to an associated real estate 19045
salesperson or another real estate broker. For the purposes of 19046
this division, "real estate broker" and "real estate 19047
salesperson" have the same meanings as in section 4735.01 of the 19048
Revised Code. 19049

(4) A taxpayer's method of accounting for gross receipts 19050
for a tax period shall be the same as the taxpayer's method of 19051
accounting for federal income tax purposes for the taxpayer's 19052
federal taxable year that includes the tax period. If a 19053
taxpayer's method of accounting for federal income tax purposes 19054
changes, its method of accounting for gross receipts under this 19055
chapter shall be changed accordingly. 19056

(G) "Taxable gross receipts" means gross receipts sitused 19057

to this state under section 5751.033 of the Revised Code. 19058

(H) A person has "substantial nexus with this state" if 19059
any of the following applies. The person: 19060

(1) Owns or uses a part or all of its capital in this 19061
state; 19062

(2) Holds a certificate of compliance with the laws of 19063
this state authorizing the person to do business in this state; 19064

(3) Has bright-line presence in this state; 19065

(4) Otherwise has nexus with this state to an extent that 19066
the person can be required to remit the tax imposed under this 19067
chapter under the Constitution of the United States. 19068

(I) A person has "bright-line presence" in this state for 19069
a reporting period and for the remaining portion of the calendar 19070
year if any of the following applies. The person: 19071

(1) Has at any time during the calendar year property in 19072
this state with an aggregate value of at least fifty thousand 19073
dollars. For the purpose of division (I)(1) of this section, 19074
owned property is valued at original cost and rented property is 19075
valued at eight times the net annual rental charge. 19076

(2) Has during the calendar year payroll in this state of 19077
at least fifty thousand dollars. Payroll in this state includes 19078
all of the following: 19079

(a) Any amount subject to withholding by the person under 19080
section 5747.06 of the Revised Code; 19081

(b) Any other amount the person pays as compensation to an 19082
individual under the supervision or control of the person for 19083
work done in this state; and 19084

(c) Any amount the person pays for services performed in 19085
this state on its behalf by another. 19086

(3) Has during the calendar year taxable gross receipts of 19087
at least five hundred thousand dollars. 19088

(4) Has at any time during the calendar year within this 19089
state at least twenty-five per cent of the person's total 19090
property, total payroll, or total gross receipts. 19091

(5) Is domiciled in this state as an individual or for 19092
corporate, commercial, or other business purposes. 19093

(J) "Tangible personal property" has the same meaning as 19094
in section 5739.01 of the Revised Code. 19095

(K) "Internal Revenue Code" means the Internal Revenue 19096
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 19097
used in this chapter that is not otherwise defined has the same 19098
meaning as when used in a comparable context in the laws of the 19099
United States relating to federal income taxes unless a 19100
different meaning is clearly required. Any reference in this 19101
chapter to the Internal Revenue Code includes other laws of the 19102
United States relating to federal income taxes. 19103

(L) "Calendar quarter" means a three-month period ending 19104
on the thirty-first day of March, the thirtieth day of June, the 19105
thirtieth day of September, or the thirty-first day of December. 19106

(M) "Tax period" means the calendar quarter or calendar 19107
year on the basis of which a taxpayer is required to pay the tax 19108
imposed under this chapter. 19109

(N) "Calendar year taxpayer" means a taxpayer for which 19110
the tax period is a calendar year. 19111

(O) "Calendar quarter taxpayer" means a taxpayer for which 19112

the tax period is a calendar quarter. 19113

(P) "Agent" means a person authorized by another person to 19114
act on its behalf to undertake a transaction for the other, 19115
including any of the following: 19116

(1) A person receiving a fee to sell financial 19117
instruments; 19118

(2) A person retaining only a commission from a 19119
transaction with the other proceeds from the transaction being 19120
remitted to another person; 19121

(3) A person issuing licenses and permits under section 19122
1533.13 of the Revised Code; 19123

(4) A lottery sales agent holding a valid license issued 19124
under section 3770.05 of the Revised Code; 19125

(5) A person acting as an agent of the division of liquor 19126
control under section 4301.17 of the Revised Code. 19127

(Q) "Received" includes amounts accrued under the accrual 19128
method of accounting. 19129

(R) "Reporting person" means a person in a consolidated 19130
elected taxpayer or combined taxpayer group that is designated 19131
by that group to legally bind the group for all filings and tax 19132
liabilities and to receive all legal notices with respect to 19133
matters under this chapter, or, for the purposes of section 19134
5751.04 of the Revised Code, a separate taxpayer that is not a 19135
member of such a group. 19136

Sec. 5751.08. (A) An application for refund to the 19137
taxpayer of the amount of taxes imposed under this chapter that 19138
are overpaid, paid illegally or erroneously, or paid on any 19139
illegal or erroneous assessment shall be filed by the reporting 19140

person with the tax commissioner, on the form prescribed by the 19141
commissioner, within four years after the date of the illegal or 19142
erroneous payment of the tax, or within any additional period 19143
allowed under division (F) of section 5751.09 of the Revised 19144
Code. The applicant shall provide the amount of the requested 19145
refund along with the claimed reasons for, and documentation to 19146
support, the issuance of a refund. 19147

(B) On the filing of the refund application, the tax 19148
commissioner shall determine the amount of refund to which the 19149
applicant is entitled. If the amount is not less than that 19150
claimed, the commissioner shall certify the amount to the 19151
director of budget and management and treasurer of state for 19152
payment from the tax refund fund created under section 5703.052 19153
of the Revised Code. If the amount is less than that claimed, 19154
the commissioner shall proceed in accordance with section 19155
5703.70 of the Revised Code. 19156

(C) Interest on a refund applied for under this section, 19157
computed at the rate provided for in section 5703.47 of the 19158
Revised Code, shall be allowed from the later of the date the 19159
tax was paid or when the tax payment was due. 19160

(D) A calendar quarter taxpayer with more than one million 19161
dollars in taxable gross receipts in a calendar year other than 19162
calendar year 2005 and that is not able to exclude one million 19163
dollars in taxable gross receipts because of the operation of 19164
the taxpayer's business in that calendar year may file for a 19165
refund under this section to obtain the full exclusion of one 19166
million dollars in taxable gross receipts for that calendar 19167
year. 19168

(E) Except as provided in section 5751.081 of the Revised 19169
Code, the tax commissioner may, with the consent of the 19170

taxpayer, provide for the crediting against tax due for a tax 19171
~~year period~~ the amount of any refund due the taxpayer under this 19172
chapter for a preceding tax ~~year period~~. 19173

Sec. 5751.09. (A) The tax commissioner may make an 19174
assessment, based on any information in the commissioner's 19175
possession, against any person that fails to file a return or 19176
pay any tax as required by this chapter. The commissioner shall 19177
give the person assessed written notice of the assessment as 19178
provided in section 5703.37 of the Revised Code. With the 19179
notice, the commissioner shall provide instructions on the 19180
manner in which to petition for reassessment and request a 19181
hearing with respect to the petition. The commissioner shall 19182
send any assessments against consolidated elected taxpayer and 19183
combined taxpayer groups under section 5751.011 or 5751.012 of 19184
the Revised Code to the taxpayer's "reporting person" ~~as defined~~ 19185
~~under division (R) of section 5751.01 of the Revised Code~~. The 19186
reporting person shall notify all members of the group of the 19187
assessment and all outstanding taxes, interest, and penalties 19188
for which the assessment is issued. 19189

(B) Unless the person assessed, within sixty days after 19190
service of the notice of assessment, files with the tax 19191
commissioner, either personally or by certified mail, a written 19192
petition signed by the person or the person's authorized agent 19193
having knowledge of the facts, the assessment becomes final, and 19194
the amount of the assessment is due and payable from the person 19195
assessed to the treasurer of state. The petition shall indicate 19196
the objections of the person assessed, but additional objections 19197
may be raised in writing if received by the commissioner prior 19198
to the date shown on the final determination. 19199

If a petition for reassessment has been properly filed, 19200

the commissioner shall proceed under section 5703.60 of the 19201
Revised Code. 19202

(C) (1) After an assessment becomes final, if any portion 19203
of the assessment, including accrued interest, remains unpaid, a 19204
certified copy of the tax commissioner's entry making the 19205
assessment final may be filed in the office of the clerk of the 19206
court of common pleas in the county in which the person resides 19207
or has its principal place of business in this state, or in the 19208
office of the clerk of court of common pleas of Franklin county. 19209

(2) Immediately upon the filing of the entry, the clerk 19210
shall enter judgment for the state against the person assessed 19211
in the amount shown on the entry. The judgment may be filed by 19212
the clerk in a loose-leaf book entitled, "special judgments for 19213
the commercial activity tax" and shall have the same effect as 19214
other judgments. Execution shall issue upon the judgment at the 19215
request of the tax commissioner, and all laws applicable to 19216
sales on execution shall apply to sales made under the judgment. 19217

(3) If the assessment is not paid in its entirety within 19218
sixty days after the day the assessment was issued, the portion 19219
of the assessment consisting of tax due shall bear interest at 19220
the rate per annum prescribed by section 5703.47 of the Revised 19221
Code from the day the tax commissioner issues the assessment 19222
until it is paid or until it is certified to the attorney 19223
general for collection under section 131.02 of the Revised Code, 19224
whichever comes first. If the unpaid portion of the assessment 19225
is certified to the attorney general for collection, the entire 19226
unpaid portion of the assessment shall bear interest at the rate 19227
per annum prescribed by section 5703.47 of the Revised Code from 19228
the date of certification until the date it is paid in its 19229
entirety. Interest shall be paid in the same manner as the tax 19230

and may be collected by the issuance of an assessment under this 19231
section. 19232

(D) If the tax commissioner believes that collection of 19233
the tax will be jeopardized unless proceedings to collect or 19234
secure collection of the tax are instituted without delay, the 19235
commissioner may issue a jeopardy assessment against the person 19236
liable for the tax. Immediately upon the issuance of the 19237
jeopardy assessment, the commissioner shall file an entry with 19238
the clerk of the court of common pleas in the manner prescribed 19239
by division (C) of this section. Notice of the jeopardy 19240
assessment shall be served on the person assessed or the 19241
person's authorized agent in the manner provided in section 19242
5703.37 of the Revised Code within five days of the filing of 19243
the entry with the clerk. The total amount assessed is 19244
immediately due and payable, unless the person assessed files a 19245
petition for reassessment in accordance with division (B) of 19246
this section and provides security in a form satisfactory to the 19247
commissioner and in an amount sufficient to satisfy the unpaid 19248
balance of the assessment. Full or partial payment of the 19249
assessment does not prejudice the commissioner's consideration 19250
of the petition for reassessment. 19251

(E) The tax commissioner shall immediately forward to the 19252
treasurer of state all amounts the commissioner receives under 19253
this section, and such amounts shall be considered as revenue 19254
arising from the tax imposed under this chapter. 19255

(F) Except as otherwise provided in this division, no 19256
assessment shall be made or issued against a taxpayer for the 19257
tax imposed under this chapter more than four years after the 19258
due date for the filing of the return for the tax period for 19259
which the tax was reported, or more than four years after the 19260

return for the tax period was filed, whichever is later. The 19261
time limit may be extended if both the taxpayer and the 19262
commissioner consent in writing to the extension or enter into 19263
an agreement waiving or extending the time limit. Any such 19264
extension shall extend the four-year time limit in division (B) 19265
of section 5751.08 of the Revised Code for the same period of 19266
time. Nothing in this division bars an assessment against a 19267
taxpayer that fails to file a return required by this chapter or 19268
that files a fraudulent return. 19269

(G) If the tax commissioner possesses information that 19270
indicates that the amount of tax a taxpayer is required to pay 19271
under this chapter exceeds the amount the taxpayer paid, the tax 19272
commissioner may audit a sample of the taxpayer's gross receipts 19273
over a representative period of time to ascertain the amount of 19274
tax due, and may issue an assessment based on the audit. The tax 19275
commissioner shall make a good faith effort to reach agreement 19276
with the taxpayer in selecting a representative sample. The tax 19277
commissioner may apply a sampling method only if the 19278
commissioner has prescribed the method by rule. 19279

(H) If the whereabouts of a person subject to this chapter 19280
is not known to the tax commissioner, the commissioner shall 19281
follow the procedures under section 5703.37 of the Revised Code. 19282

Sec. 5751.40. (A) As used in this section and division (F) 19283
(2)(z) of section 5751.01 of the Revised Code: 19284

(1) "Qualifying distribution center receipts" means 19285
receipts of a supplier from qualified property that is delivered 19286
to a qualified distribution center, multiplied by a quantity 19287
that equals one minus the Ohio delivery percentage. If the 19288
qualified distribution center is a refining facility, "supplier" 19289
includes all dealers, brokers, processors, sellers, vendors, 19290

cosigners, and distributors of qualified property. 19291

(2) "Qualified property" means tangible personal property 19292
delivered to a qualified distribution center that is shipped to 19293
that qualified distribution center solely for further shipping 19294
by the qualified distribution center to another location in this 19295
state or elsewhere or, in the case of gold, silver, platinum, or 19296
palladium delivered to a refining facility solely for refining 19297
to a grade and fineness acceptable for delivery to a registered 19298
commodities exchange. "Further shipping" includes storing and 19299
repackaging property into smaller or larger bundles, so long as 19300
the property is not subject to further manufacturing or 19301
processing. "Refining" is limited to extracting impurities from 19302
gold, silver, platinum, or palladium through smelting or some 19303
other process at a refining facility. 19304

(3) "Qualified distribution center" means a warehouse, a 19305
facility similar to a warehouse, or a refining facility in this 19306
state that, for the qualifying year, is operated by a person 19307
that is not part of a combined taxpayer group and that has a 19308
qualifying certificate. All warehouses or facilities similar to 19309
warehouses that are operated by persons in the same taxpayer 19310
group and that are located within one mile of each other shall 19311
be treated as one qualified distribution center. All refining 19312
facilities that are operated by persons in the same taxpayer 19313
group and that are located in the same or adjacent counties may 19314
be treated as one qualified distribution center. 19315

(4) "Qualifying year" means the calendar year to which the 19316
qualifying certificate applies. 19317

(5) "Qualifying period" means the period of the first day 19318
of July of the second year preceding the qualifying year through 19319
the thirtieth day of June of the year preceding the qualifying 19320

year. 19321

(6) "Qualifying certificate" means the certificate issued 19322
by the tax commissioner after the operator of a distribution 19323
center files an annual application with the commissioner under 19324
division (B) of this section. 19325

(7) "Ohio delivery percentage" means the proportion of the 19326
total property delivered to a destination inside Ohio from the 19327
qualified distribution center during the qualifying period 19328
compared with total deliveries from such distribution center 19329
everywhere during the qualifying period. 19330

(8) "Refining facility" means one or more buildings 19331
located in a county in the Appalachian region of this state as 19332
defined by section 107.21 of the Revised Code and utilized for 19333
refining or smelting gold, silver, platinum, or palladium to a 19334
grade and fineness acceptable for delivery to a registered 19335
commodities exchange. 19336

(9) "Registered commodities exchange" means a board of 19337
trade, such as New York mercantile exchange, inc. or commodity 19338
exchange, inc., designated as a contract market by the commodity 19339
futures trading commission under the "Commodity Exchange Act," 7 19340
U.S.C. 1 et seq., as amended. 19341

(10) "Ineligible operator's supplier tax liability" means 19342
an amount equal to the tax liability of all suppliers of a 19343
distribution center had the distribution center not been issued 19344
a qualifying certificate for the qualifying year. Ineligible 19345
operator's supplier tax liability shall not include interest or 19346
penalties. 19347

(B) For purposes of division (B) of this section, 19348
"supplier" excludes any person that is part of the consolidated 19349

elected taxpayer group, if applicable, of the operator of the 19350
qualified distribution center. 19351

(1) An application for a qualifying certificate to be a 19352
qualified distribution center shall be filed, and an annual fee 19353
paid, for each qualified distribution center on or before the 19354
first day of September before the qualifying year or within 19355
forty-five days after the distribution center opens, whichever 19356
is later. The applicant must substantiate to the commissioner's 19357
satisfaction that, for the qualifying period, all persons 19358
operating the distribution center have more than fifty per cent 19359
of the cost of the qualified property shipped to a location such 19360
that it would be situated outside this state under the provisions 19361
of division (E) of section 5751.033 of the Revised Code. The 19362
applicant must also substantiate that the distribution center 19363
cumulatively had costs from its suppliers equal to or exceeding 19364
five hundred million dollars during the qualifying period. 19365

The commissioner may require an applicant to have an 19366
independent certified public accountant certify that the 19367
calculation of the minimum thresholds required for a qualified 19368
distribution center by the operator of a distribution center has 19369
been made in accordance with generally accepted accounting 19370
principles. The commissioner shall issue or deny the issuance of 19371
a certificate within sixty days after the receipt of the 19372
application. A denial is subject to appeal under section 5717.02 19373
of the Revised Code. If the operator files a timely appeal under 19374
section 5717.02 of the Revised Code, the operator shall be 19375
granted a qualifying certificate effective for the remainder of 19376
the qualifying year or until the appeal is finalized, whichever 19377
is earlier. If the operator does not prevail in the appeal, the 19378
operator shall pay the ineligible operator's supplier tax 19379
liability. 19380

(2) If the distribution center is new and was not open for 19381
the entire qualifying period, the operator of the distribution 19382
center may request that the commissioner grant a qualifying 19383
certificate. If the certificate is granted and it is later 19384
determined that more than fifty per cent of the qualified 19385
property during that year was not shipped to a location such 19386
that it would be situated outside of this state under the 19387
provisions of division (E) of section 5751.033 of the Revised 19388
Code or if it is later determined that the person that operates 19389
the distribution center had average monthly costs from its 19390
suppliers of less than forty million dollars during that year, 19391
then the operator of the distribution center shall pay the 19392
ineligible operator's supplier tax liability. 19393

(3) The commissioner may grant a qualifying certificate to 19394
a distribution center that does not qualify as a qualified 19395
distribution center for an entire qualifying period if the 19396
operator of the distribution center demonstrates that the 19397
business operations of the distribution center have changed or 19398
will change such that the distribution center will qualify as a 19399
qualified distribution center within thirty-six months after the 19400
date the operator first applies for a certificate. If, at the 19401
end of that thirty-six-month period, the business operations of 19402
the distribution center have not changed such that the 19403
distribution center qualifies as a qualified distribution 19404
center, the operator of the distribution center shall pay the 19405
ineligible operator's supplier tax liability for each year that 19406
the distribution center received a certificate but did not 19407
qualify as a qualified distribution center. For each year the 19408
distribution center receives a certificate under division (B)(3) 19409
of this section, the distribution center shall pay all 19410
applicable fees required under this section and shall submit an 19411

updated business plan showing the progress the distribution 19412
center made toward qualifying as a qualified distribution center 19413
during the preceding year. 19414

(4) An operator may appeal a determination under division 19415
(B) (1) or (2) of this section that the ineligible operator is 19416
liable for the operator's supplier tax liability as a result of 19417
not qualifying as a qualified distribution center, as provided 19418
in section 5717.02 of the Revised Code. 19419

(C) (1) When filing an application for a qualifying 19420
certificate under division (B) (1) of this section, the operator 19421
of a qualified distribution center also shall provide 19422
documentation, as the commissioner requires, for the 19423
commissioner to ascertain the Ohio delivery percentage. The 19424
commissioner, upon issuing the qualifying certificate, also 19425
shall certify the Ohio delivery percentage. The operator of the 19426
qualified distribution center may appeal the commissioner's 19427
certification of the Ohio delivery percentage in the same manner 19428
as an appeal is taken from the denial of a qualifying 19429
certificate under division (B) (1) of this section. 19430

(2) In the case where the distribution center is new and 19431
not open for the entire qualifying period, the operator shall 19432
make a good faith estimate of an Ohio delivery percentage for 19433
use by suppliers in their reports of taxable gross receipts for 19434
the remainder of the qualifying period. The operator of the 19435
facility shall disclose to the suppliers that such Ohio delivery 19436
percentage is an estimate and is subject to recalculation. By 19437
the due date of the next application for a qualifying 19438
certificate, the operator shall determine the actual Ohio 19439
delivery percentage for the estimated qualifying period and 19440
proceed as provided in division (C) (1) of this section with 19441

respect to the calculation and recalculation of the Ohio 19442
delivery percentage. The supplier is required to file, within 19443
sixty days after receiving notice from the operator of the 19444
qualified distribution center, amended reports for the impacted 19445
calendar quarter or quarters or calendar year, whichever the 19446
case may be. Any additional tax liability or tax overpayment 19447
shall be subject to interest but shall not be subject to the 19448
imposition of any penalty so long as the amended returns are 19449
timely filed. 19450

(3) The operator of a distribution center that receives a 19451
qualifying certificate under division (B)(3) of this section 19452
shall make a good faith estimate of the Ohio delivery percentage 19453
that the operator estimates will apply to the distribution 19454
center at the end of the thirty-six-month period after the 19455
operator first applied for a qualifying certificate under that 19456
division. The result of the estimate shall be multiplied by a 19457
factor of one and seventy-five one-hundredths. The product of 19458
that calculation shall be the Ohio delivery percentage used by 19459
suppliers in their reports of taxable gross receipts for each 19460
qualifying year that the distribution center receives a 19461
qualifying certificate under division (B)(3) of this section, 19462
except that, if the product is less than five per cent, the Ohio 19463
delivery percentage used shall be five per cent and that, if the 19464
product exceeds forty-nine per cent, the Ohio delivery 19465
percentage used shall be forty-nine per cent. 19466

(D) Qualifying certificates and Ohio delivery percentages 19467
issued by the commissioner shall be open to public inspection 19468
and shall be timely published by the commissioner. A supplier 19469
relying in good faith on a certificate issued under this section 19470
shall not be subject to tax on the qualifying distribution 19471
center receipts under this section and division (F)(2)(z) of 19472

section 5751.01 of the Revised Code. An operator receiving a 19473
qualifying certificate is liable for the ineligible operator's 19474
supplier tax liability for each year the operator received a 19475
certificate but did not qualify as a qualified distribution 19476
center. 19477

(E) The tax commissioner shall determine an ineligible 19478
operator's supplier tax liability based on information that the 19479
commissioner may request from the operator of the distribution 19480
center. An operator shall provide a list of all suppliers of the 19481
distribution center and the corresponding costs of qualified 19482
property for the qualifying year at issue within sixty days of a 19483
request by the commissioner under this division. 19484

(F) The annual fee for a qualifying certificate shall be 19485
one hundred thousand dollars for each qualified distribution 19486
center. If a qualifying certificate is not issued, the annual 19487
fee is subject to refund after the exhaustion of all appeals 19488
provided for in division (B)(1) of this section. The first one 19489
hundred thousand dollars of the annual application fees 19490
collected each calendar year shall be credited to the revenue 19491
enhancement fund. The remainder of the annual application fees 19492
collected shall be distributed in the same manner required under 19493
section 5751.20 of the Revised Code. 19494

(G) The tax commissioner may require that adequate 19495
security be posted by the operator of the distribution center on 19496
appeal when the commissioner disagrees that the applicant has 19497
met the minimum thresholds for a qualified distribution center 19498
as set forth in this section. 19499

Sec. 5751.41. (A) As used in this section and division (F) 19500
(2) (gg) of section 5751.01 of the Revised Code: 19501

(1) "Qualified uranium receipts" means receipts from the 19502
sale, exchange, lease, loan, production, processing, or other 19503
disposition of uranium within a uranium enrichment zone 19504
certified by the tax commissioner under division (B) of this 19505
section. "Qualified uranium receipts" does not include any 19506
receipts with a situs in this state outside a uranium enrichment 19507
zone certified by the tax commissioner under that division. 19508

(2) "Uranium enrichment zone" means all real property that 19509
is part of a uranium enrichment facility licensed by the United 19510
States nuclear regulatory commission and that was or is owned or 19511
controlled by the United States department of energy or its 19512
successor. 19513

(B) Any person that owns, leases, or operates real or 19514
tangible personal property constituting or located within a 19515
uranium enrichment zone may apply to the tax commissioner to 19516
have the uranium enrichment zone certified for the purpose of 19517
excluding qualified uranium receipts under this section and 19518
division (F) (2) (gg) of section 5751.01 of the Revised Code. The 19519
application shall include such information that the tax 19520
commissioner prescribes. Within sixty days after receiving the 19521
application, the tax commissioner shall certify the zone for 19522
that purpose if the commissioner determines that the property 19523
qualifies as a uranium enrichment zone, or, if the tax 19524
commissioner determines that the property does not qualify, the 19525
commissioner shall deny the application or request additional 19526
information from the applicant. If the tax commissioner denies 19527
an application, the commissioner shall state the reasons for the 19528
denial. The applicant may appeal the denial of an application to 19529
the board of tax appeals pursuant to section 5717.02 of the 19530
Revised Code. If the applicant files a timely appeal, the tax 19531
commissioner shall conditionally certify the applicant's 19532

property. The conditional certification shall expire when all of 19533
the applicant's appeals are exhausted. Until final resolution of 19534
the appeal, the applicant shall retain the applicant's records 19535
in accordance with section 5751.12 of the Revised Code, 19536
notwithstanding any time limit on the preservation of records 19537
under that section. 19538

Sec. 5751.42. (A) As used in this section and division (F) 19539
(2)(jj) of section 5751.01 of the Revised Code: 19540

(1) "Qualifying integrated supply chain receipts" means 19541
receipts of a qualified integrated supply chain vendor from the 19542
sale of qualified property delivered to, or integrated supply 19543
chain services provided to, another qualified integrated supply 19544
chain vendor or to a retailer that is a member of the integrated 19545
supply chain. "Qualifying integrated supply chain receipts" does 19546
not include receipts of a person that is not a qualified 19547
integrated supply chain vendor from the sale of raw materials to 19548
a member of an integrated supply chain, or receipts of a member 19549
of an integrated supply chain from the sale of qualified 19550
property or integrated supply chain services to a person that is 19551
not a member of the integrated supply chain. 19552

(2) "Qualified property" means any of the following: 19553

(a) Component parts used to hold, contain, package, or 19554
dispense qualified products, excluding equipment. 19555

(b) Work-in-process inventory that will become, comprise, 19556
or form a component part of a qualified product capable of being 19557
sold at retail, excluding equipment, machinery, furniture, and 19558
fixtures. 19559

(c) Finished goods inventory that is a qualified product 19560
capable of being sold at retail in the inventory's present form. 19561

(3) "Qualified integrated supply chain vendor" means a 19562
person that is a member of an integrated supply chain and that 19563
provides integrated supply chain services within a qualified 19564
integrated supply chain district to a retailer that is a member 19565
of the integrated supply chain or to another qualified 19566
integrated supply chain vendor that is located within the same 19567
such district as the person but does not share a common owner 19568
with that person. 19569

(4) "Qualified product" means a personal care, health, or 19570
beauty product or an aromatic product, including a candle. 19571
"Qualified product" does not include a drug that may be 19572
dispensed only pursuant to a prescription, durable medical 19573
equipment, mobility enhancing equipment, or a prosthetic device, 19574
as those terms are defined in section 5739.01 of the Revised 19575
Code. 19576

(5) "Integrated supply chain" means two or more qualified 19577
integrated supply chain vendors certified on the most recent 19578
list certified to the tax commissioner under division (B) of 19579
this section that systematically collaborate and coordinate 19580
business operations with a retailer on the flow of tangible 19581
personal property from material sourcing through manufacturing, 19582
assembly, packaging, and delivery to the retailer to improve 19583
long-term financial performance of each vendor and the supply 19584
chain that includes the retailer. 19585

(6) "Integrated supply chain services" means procuring raw 19586
materials or manufacturing, processing, refining, assembling, 19587
packaging, or repackaging tangible personal property that will 19588
become finished goods inventory capable of being sold at retail 19589
by a retailer that is a member of an integrated supply chain. 19590

(7) "Retailer" means a person primarily engaged in making 19591

retail sales and any member of that person's consolidated 19592
elected taxpayer group or combined taxpayer group, whether or 19593
not that member is primarily engaged in making retail sales. 19594

(8) "Qualified integrated supply chain district" means the 19595
parcel or parcels of land from which a retailer's integrated 19596
supply chain that existed on September 29, 2015, provides or 19597
receives integrated supply chain services, and to which all of 19598
the following apply: 19599

(a) The parcel or parcels are located wholly in a county 19600
having a population of greater than one hundred sixty-five 19601
thousand but less than one hundred seventy thousand based on the 19602
2010 federal decennial census. 19603

(b) The parcel or parcels are located wholly in the 19604
corporate limits of a municipal corporation with a population 19605
greater than seven thousand five hundred and less than eight 19606
thousand based on the 2010 federal decennial census that is 19607
partly located in the county described in division (A) (8) (a) of 19608
this section, as those corporate limits existed on September 29, 19609
2015. 19610

(c) The aggregate acreage of the parcel or parcels equals 19611
or exceeds one hundred acres. 19612

(B) For the purpose of the certification under division 19613
(A) (5) of this section, the reporting person for each retailer, 19614
on or before the first day of October of each year, shall 19615
certify to the tax commissioner a list of the qualified 19616
integrated supply chain vendors providing or receiving 19617
integrated supply chain services within a qualified integrated 19618
supply chain district for the ensuing calendar year. On or 19619
before the following first day of November, the commissioner 19620

shall issue a certificate to the retailer and to each vendor 19621
certified to the commissioner on that list. The certificate 19622
shall include the names of the retailer and of the qualified 19623
integrated supply chain vendors. 19624

The retailer shall notify the commissioner of any changes 19625
to the list, including additions to or subtractions from the 19626
list or changes in the name or legal entity of vendors certified 19627
on the list, within sixty days after the date the retailer 19628
becomes aware of the change. Within thirty days after receiving 19629
that notification, the commissioner shall issue a revised 19630
certificate to the retailer and to each vendor certified on the 19631
list. The revised certificate shall include the effective date 19632
of the change. 19633

Each recipient of a certificate issued pursuant to this 19634
division shall maintain a copy of the certificate for four years 19635
from the date the certificate was received. 19636

Sec. 5751.50. (A) For tax periods beginning on or after 19637
January 1, 2008, a refundable credit granted by the tax credit 19638
authority under section 122.17 or former division (B) (2) or (3) 19639
of section 122.171 of the Revised Code, as those divisions 19640
existed before September 29, 2015, the effective date of the 19641
amendment of this section by H.B. 64 of the 131st general 19642
assembly, may be claimed under this chapter in the order 19643
required under section 5751.98 of the Revised Code. For purposes 19644
of making tax payments under this chapter, taxes equal to the 19645
amount of the refundable credit shall be considered to be paid 19646
to this state on the first day of the tax period. A credit 19647
claimed in calendar year 2008 may not be applied against the tax 19648
otherwise due for a tax period beginning before July 1, 2008. 19649
The refundable credit shall not be claimed against the tax 19650

otherwise due for any tax period beginning after the date on 19651
which a relocation of employment positions occurs in violation 19652
of an agreement entered into under section 122.17 or 122.171 of 19653
the Revised Code. 19654

(B) For tax periods beginning on or after January 1, 2008, 19655
a nonrefundable credit granted by the tax credit authority under 19656
division (B) of section 122.171 of the Revised Code may be 19657
claimed under this chapter in the order required under section 19658
5751.98 of the Revised Code. A credit claimed in calendar year 19659
2008 may not be applied against the tax otherwise due under this 19660
chapter for a tax period beginning before July 1, 2008. The 19661
credit shall not be claimed against the tax otherwise due for 19662
any tax period beginning after the date on which a relocation of 19663
employment positions occurs in violation of an agreement entered 19664
into under section 122.17 or 122.171 of the Revised Code. No 19665
credit shall be allowed under this chapter if the credit was 19666
available against the tax imposed by section 5733.06 or 5747.02 19667
of the Revised Code, except to the extent the credit was not 19668
applied against such tax. 19669

Sec. 5751.51. (A) As used in this section, "qualified 19670
research expenses" has the same meaning as in section 41 of the 19671
Internal Revenue Code. 19672

(B) (1) For ~~tax periods~~ calendar years beginning on or 19673
after January 1, 2008, a nonrefundable credit may be claimed 19674
under this chapter equal to seven per cent of the excess of (a) 19675
qualified research expenses incurred in this state by the 19676
taxpayer in the ~~tax period~~ calendar year for which the credit is 19677
claimed over (b) the taxpayer's average annual qualified 19678
research expenses incurred in this state for the three preceding 19679
~~tax periods~~ calendar years. 19680

(2) The taxpayer shall claim the credit allowed under 19681
division (B)(1) of this section in the order required by section 19682
5751.98 of the Revised Code. A credit claimed in ~~tax~~calendar 19683
year 2008 may not be applied against the tax otherwise due under 19684
this chapter for a tax period beginning before July 1, 2008. Any 19685
credit amount in excess of the tax due under section 5751.03 of 19686
the Revised Code, after allowing for any other credits that 19687
precede the credit under this section in the order required 19688
under that section, may be carried forward for seven ~~tax~~ years, 19689
but the amount of the excess credit claimed against the tax for 19690
any tax period shall be deducted from the balance carried 19691
forward to the next tax period. 19692

(3) No credit shall be allowed under this chapter if the 19693
credit was available against the tax imposed by section 5733.06 19694
of the Revised Code, except to the extent the credit was not 19695
applied against such tax. 19696

Sec. 5753.11. (A) As used in this section: 19697

(1) "Public school district" means any city, local, 19698
exempted village, or joint vocational school district, community 19699
school established under Chapter 3314. of the Revised Code, STEM 19700
school established under Chapter 3326. of the Revised Code, or 19701
college-preparatory boarding school established under Chapter 19702
3328. of the Revised Code. "Public school district" does not 19703
include any STEM school operated under section 3326.51 of the 19704
Revised Code. 19705

(2) "Student population" means the number of students 19706
residing in a county who are enrolled in a public school 19707
district in grades kindergarten through twelve and the total 19708
number of preschool children with disabilities on the following 19709
dates: 19710

(a) For the January distribution, the Friday of the first 19711
full school week in October; 19712

(b) For the August distribution, the Friday of the first 19713
full school week in May. 19714

(B) For the purpose of calculating student population, 19715
each public school district shall, twice annually, report to the 19716
department of education the students enrolled in the district on 19717
the days specified in division (A) (2) of this section. A student 19718
shall be considered to be enrolled in a public school district 19719
if the student is participating in education programs of the 19720
public school district and the public school district has not: 19721

(1) Received documentation from a parent terminating 19722
enrollment of the student; 19723

(2) Been provided documentation of a student's enrollment 19724
in another public or private school; or 19725

(3) Ceased to offer education to the student. 19726

If more than one public school district reports a student 19727
as enrolled, the department shall use procedures adopted by the 19728
department for the reconciliation of enrollment to determine the 19729
district of enrollment for purposes of this section. In the case 19730
of the dual enrollment of a student in a joint vocational school 19731
district and another public school district, the student shall 19732
be included in the enrollments for both schools. If the valid 19733
school district or enrollment cannot be determined in time for 19734
the certification, the count of these students shall be divided 19735
equally between the reporting districts. 19736

(C) The department of education shall certify to the 19737
department of taxation the student population for each county 19738
and the student population for each public school district 19739

located in whole or in part in the county on or before the 19740
thirtieth day of December, for the January distribution and on 19741
or before the thirtieth day of July, for the August 19742
distribution. A student shall be included in the school district 19743
enrollment for a county only if a student resides in that 19744
county. The location of each community school shall be the 19745
enrollment area required to be defined by the community school 19746
and its sponsor in accordance with division (A)(19) of section 19747
3314.03 of the Revised Code, the location of each STEM ~~schools~~ 19748
school shall be any county in which its enrolled students 19749
reside, and the location of the college-preparatory boarding 19750
schools shall be the territory of the school district in which 19751
the college-preparatory school is located or the territory of 19752
any city, exempted village, or local school district that has 19753
agreed to be a participating district under section 3328.04 of 19754
the Revised Code. 19755

The student population count certified by the department 19756
of education to the department of taxation is final and shall 19757
not be adjusted by future updates to the counts. 19758

(D) Not later than the thirty-first day of January and the 19759
thirty-first day of August of each year, the tax commissioner 19760
shall distribute funds in the gross casino revenue county 19761
student fund to public school districts. The commissioner shall 19762
calculate the amount of funds to distribute to each public 19763
school district as follows: 19764

(1) The commissioner shall calculate the proportional 19765
share of the funds attributable to each county by dividing the 19766
total student population certified for each county by the sum of 19767
the total student population certified in all counties 19768
statewide. 19769

(2) The commissioner shall multiply the amount in division 19770
(D) (1) of this section by the total amount of funds in the gross 19771
casino revenue county student fund to obtain the share of funds 19772
for each county. 19773

(3) The commissioner shall multiply the amount in division 19774
(D) (2) of this section by the quotient of the student population 19775
certified for each individual district located in the county 19776
divided by the sum of the student population certified for all 19777
public school districts located in the county. 19778

The commissioner shall distribute to each public school 19779
district the amount so calculated for each district. 19780

Section 2. That existing sections 122.075, 125.831, 19781
131.45, 133.01, 133.06, 133.07, 133.18, 135.142, 305.31, 19782
306.322, 307.671, 307.672, 307.674, 307.678, 307.695, 319.301, 19783
321.03, 321.20, 323.154, 351.01, 351.03, 351.141, 718.01, 19784
718.021, 929.01, 1545.041, 1545.21, 1711.15, 1711.16, 3316.03, 19785
3316.06, 3317.01, 4301.20, 4582.024, 4582.26, 4582.56, 5701.08, 19786
5701.12, 5703.04, 5703.211, 5703.54, 5703.94, 5703.95, 5705.03, 19787
5705.13, 5705.19, 5705.195, 5705.213, 5705.252, 5705.29, 19788
5705.315, 5705.34, 5705.35, 5705.36, 5705.49, 5709.201, 5709.43, 19789
5709.48, 5709.53, 5709.61, 5709.80, 5709.85, 5709.93, 5713.03, 19790
5713.30, 5713.351, 5715.13, 5715.36, 5721.06, 5721.191, 5721.39, 19791
5725.98, 5726.50, 5727.02, 5727.11, 5727.23, 5727.32, 5727.33, 19792
5727.80, 5727.83, 5727.84, 5729.98, 5733.042, 5733.05, 5733.052, 19793
5733.055, 5733.40, 5733.98, 5735.026, 5735.06, 5739.01, 19794
5739.011, 5739.02, 5739.021, 5739.028, 5739.03, 5739.034, 19795
5739.05, 5739.08, 5739.09, 5739.21, 5740.02, 5743.05, 5743.08, 19796
5743.33, 5743.65, 5745.14, 5747.01, 5747.011, 5747.012, 19797
5747.013, 5747.02, 5747.058, 5747.061, 5747.07, 5747.082, 19798
5747.11, 5747.231, 5747.41, 5747.51, 5747.52, 5747.55, 5747.98, 19799

5748.08, 5748.09, 5751.01, 5751.08, 5751.09, 5751.50, 5751.51, 19800
and 5753.11 of the Revised Code are hereby repealed. 19801

Section 3. That sections 901.13, 5705.211, 5727.87, 19802
5733.46, 5739.105, 5747.75, and 5751.23 of the Revised Code are 19803
hereby repealed. 19804

Section 4. This act shall be known as the "Tax Code 19805
Streamlining and Correction Act." 19806

Section 5. The General Assembly, applying the principle 19807
stated in division (B) of section 1.52 of the Revised Code that 19808
amendments are to be harmonized if reasonably capable of 19809
simultaneous operation, finds that the following sections, 19810
presented in this act as composites of the sections as amended 19811
by the acts indicated, are the resulting versions of the 19812
sections in effect prior to the effective date of the sections 19813
as presented in this act: 19814

Section 133.18 of the Revised Code as amended by Am. Sub. 19815
H.B. 48 of the 128th General Assembly and Am. Sub. H.B. 153 of 19816
the 129th General Assembly. 19817

Section 5705.19 of the Revised Code as amended by both 19818
Sub. H.B. 122 and Sub. H.B. 500 of the 132nd General Assembly. 19819

Section 5747.01 of the Revised Code as amended by Am. Sub. 19820
H.B. 166 of the 133rd General Assembly and Sub. H.B. 24 and Sub. 19821
S.B. 22 both of the 132nd General Assembly. 19822