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Representative Merrin

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

Senators Brenner, Coley, Eklund, Huffman, M., McColley, Schaffer

A BILL

To amend sections 107.03, 122.17, 3735.65, 3735.67, 1
3735.671, 5703.48, 5703.95, 5709.121, 5709.17, 2
5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 3
5709.91, 5715.19, 5733.41, 5739.02, 5741.02, 4
5747.41, and 5751.01 of the Revised Code to 5
modify the laws governing economic development 6
and state and local tax incentives, exemptions, 7
and procedures. 8

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

Section 1. That sections 107.03, 122.17, 3735.65, 3735.67, 9
3735.671, 5703.48, 5703.95, 5709.121, 5709.17, 5709.61, 5709.62, 10
5709.63, 5709.631, 5709.632, 5709.91, 5715.19, 5733.41, 5739.02, 11
5741.02, 5747.41, and 5751.01 of the Revised Code be amended to 12
read as follows: 13

Sec. 107.03. (A) As used in this section, "transportation 14
budget" means the biennial budget that primarily includes the 15
following: 16

(1) Motor fuel excise tax-related appropriations for the 17
department of transportation, public works commission, and 18
development services agency; 19

(2) Other appropriations that pertain to transportation 20
and infrastructure related to transportation. 21

(B) The governor shall submit a transportation budget to 22
the general assembly not later than four weeks after the general 23
assembly's organization. 24

(C) The governor shall submit to the general assembly, not 25
later than four weeks after its organization, a state budget 26
containing a complete financial plan for the ensuing fiscal 27
biennium, excluding items of revenue and expenditure described 28
in section 126.022 of the Revised Code. However, in years of a 29
new governor's inauguration, this budget shall be submitted not 30
later than the fifteenth day of March. 31

(D) In years of a new governor's inauguration, only the 32
new governor shall submit a budget to the general assembly. In 33
addition to other things required by law, each of the governor's 34
budgets shall contain: 35

(1) A general budget summary by function and agency 36
setting forth the proposed total expenses from each and all 37
funds and the anticipated resources for meeting such expenses; 38
such resources to include any available balances in the several 39
funds at the beginning of the biennium and a classification by 40
totals of all revenue receipts estimated to accrue during the 41
biennium under existing law and proposed legislation. 42

(2) A detailed statement showing the amounts recommended 43
to be appropriated from each fund for each fiscal year of the 44
biennium for current expenses, including, but not limited to, 45

personal services, supplies and materials, equipment, subsidies 46
and revenue distribution, merchandise for resale, transfers, and 47
nonexpense disbursements, obligations, interest on debt, and 48
retirement of debt, and for the biennium for capital outlay, to 49
the respective departments, offices, institutions, as defined in 50
section 121.01 of the Revised Code, and all other public 51
purposes; and, in comparative form, the actual expenses by 52
source of funds during each fiscal year of the previous two 53
bienniums for each such purpose. No alterations shall be made in 54
the requests for the legislative and judicial branches of the 55
state filed with the director of budget and management under 56
section 126.02 of the Revised Code. If any amount of federal 57
money is recommended to be appropriated or has been expended for 58
a purpose for which state money also is recommended to be 59
appropriated or has been expended, the amounts of federal money 60
and state money involved shall be separately identified. 61

(3) A detailed estimate of the revenue receipts in each 62
fund from each source under existing laws during each year of 63
the biennium; and, in comparative form, actual revenue receipts 64
in each fund from each source for each year of the two previous 65
bienniums; 66

(4) The estimated cash balance in each fund at the 67
beginning of the biennium covered by the budget; the estimated 68
liabilities outstanding against each such balance; and the 69
estimated net balance remaining and available for new 70
appropriations; 71

(5) A detailed estimate of the additional revenue receipts 72
in each fund from each source under proposed legislation, if 73
enacted, during each year of the biennium; 74

~~(6) A description of each tax expenditure; a detailed~~ 75

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

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

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

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

(2) "Baseline payroll" means Ohio employee payroll, except
that the applicable measurement period is the twelve months
immediately preceding the date the tax credit authority approves
the taxpayer's application or the date the tax credit authority

receives the recommendation described in division (C) (2) (a) of 106
this section, whichever occurs first, multiplied by the sum of 107
one plus an annual pay increase factor to be determined by the 108
tax credit authority. 109

(3) "Ohio employee payroll" means the amount of 110
compensation used to determine the withholding obligations in 111
division (A) of section 5747.06 of the Revised Code and paid by 112
the employer during the employer's taxable year, or during the 113
calendar year that includes the employer's tax period, to the 114
following: 115

(a) An employee employed in the project who is a resident 116
of this state including a qualifying work-from-home employee not 117
designated as a home-based employee by an applicant under 118
division (C) (1) of this section; 119

(b) An employee employed at the project location who is 120
not a resident and whose compensation is not exempt from the tax 121
imposed under section 5747.02 of the Revised Code pursuant to a 122
reciprocity agreement with another state under division (A) (3) 123
of section 5747.05 of the Revised Code; 124

(c) A home-based employee employed in the project. 125

"Ohio employee payroll" excludes any such compensation to 126
the extent it is used to determine the credit under section 127
122.171 of the Revised Code, and excludes amounts paid before 128
the day the taxpayer becomes eligible for the credit under this 129
section. 130

(4) "Excess payroll" means Ohio employee payroll minus 131
baseline payroll. 132

(5) "Home-based employee" means an employee whose services 133
are performed primarily from the employee's residence in this 134

state exclusively for the benefit of the project and whose rate 135
of pay is at least one hundred thirty-one per cent of the 136
federal minimum wage under 29 U.S.C. 206. 137

(6) "Full-time equivalent employees" means the quotient 138
obtained by dividing the total number of hours for which 139
employees were compensated for employment in the project by two 140
thousand eighty. "Full-time equivalent employees" excludes hours 141
that are counted for a credit under section 122.171 of the 142
Revised Code. 143

(7) "Metric evaluation date" means the date by which the 144
taxpayer must meet all of the commitments included in the 145
agreement. 146

(8) "Qualifying work-from-home employee" means an employee 147
who is a resident of this state and whose services are 148
supervised from the employer's project location and performed 149
primarily from a residence of the employee located in this 150
state. 151

(9) "Resident" or "resident of this state" means an 152
individual who is a resident as defined in section 5747.01 of 153
the Revised Code. 154

(10) "Megaproject" means a project in this state that 155
meets all of the following requirements: 156

(a) The project requires unique sites, extremely robust 157
utility service, and a technically skilled workforce; 158

(b) The megaproject operator of the project compensates 159
the project's employees at an average hourly wage of at least 160
three hundred per cent of the federal minimum wage under 29 161
U.S.C. 206, exclusive of employee benefits, at the time the tax 162
credit authority approves the project for a credit under this 163

section; 164

(c) The project satisfies either of the following by the 165
metric evaluation date applicable to the project: 166

(i) The megaproject operator makes at least one billion 167
dollars, as adjusted under division (U) (1) of this section, in 168
fixed-asset investments in the project; 169

(ii) The megaproject operator creates at least seventy- 170
five million dollars, as adjusted under division (U) (1) of this 171
section, in Ohio employee payroll at the project. 172

(d) If the project satisfies division (A) (10) (c) (ii) of 173
this section, then, on and after the metric evaluation date and 174
until the end of the last year for which the megaproject 175
qualifies for the credit authorized under this section, the 176
megaproject operator maintains at least the amount in Ohio 177
employee payroll at the project required under that division for 178
each year in that period. 179

(11) "Megaproject operator" means a taxpayer that 180
undertakes and operates a megaproject. 181

(12) "Megaproject supplier" means a supplier in this state 182
that sells tangible personal property directly to a megaproject 183
operator and meets all of the following requirements: 184

(a) Satisfies both of the following by the metric 185
evaluation date applicable to the megaproject supplier: 186

(i) Makes at least one hundred million dollars, as 187
adjusted under division (U) (2) of this section, in fixed-asset 188
investments in this state; 189

(ii) Creates at least ten million dollars, as adjusted 190
under division (U) (2) of this section, in Ohio employee payroll. 191

(b) On and after the metric evaluation date, until the end 192
of the last year for which the megaproject supplier qualifies 193
for the credit authorized under this section, maintains at least 194
the amount in Ohio employee payroll required under division (A) 195
(12) (a) (ii) of this section for each year in that period. 196

(B) The tax credit authority may make grants under this 197
section to foster job creation in this state. Such a grant shall 198
take the form of a refundable credit allowed against the tax 199
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 200
or 5747.02 or levied under Chapter 5751. of the Revised Code. 201
The credit shall be claimed for the taxable years or tax periods 202
specified in the taxpayer's agreement with the tax credit 203
authority under division (D) of this section. With respect to 204
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 205
Chapter 5751. of the Revised Code, the credit shall be claimed 206
in the order required under section 5726.98, 5733.98, 5747.98, 207
or 5751.98 of the Revised Code. The amount of the credit 208
available for a taxable year or for a calendar year that 209
includes a tax period equals the excess payroll for that year 210
multiplied by the percentage specified in the agreement with the 211
tax credit authority. 212

(C) (1) A taxpayer or potential taxpayer who proposes a 213
project to create new jobs in this state may apply to the tax 214
credit authority to enter into an agreement for a tax credit 215
under this section. 216

An application shall not propose to include both home- 217
based employees and employees who are not home-based employees 218
in the computation of Ohio employee payroll for the purposes of 219
the same tax credit agreement, except that a qualifying work- 220
from-home employee shall not be considered to be a home-based 221

employee unless so designated by the applicant. If a taxpayer or 222
potential taxpayer employs both home-based employees and 223
employees who are not home-based employees in a project, the 224
taxpayer shall submit separate applications for separate tax 225
credit agreements for the project, one of which shall include 226
home-based employees in the computation of Ohio employee payroll 227
and one of which shall include all other employees in the 228
computation of Ohio employee payroll. 229

The director of development services shall prescribe the 230
form of the application. After receipt of an application, the 231
authority may enter into an agreement with the taxpayer for a 232
credit under this section if it determines all of the following: 233

(a) The taxpayer's project will increase payroll; 234

(b) The taxpayer's project is economically sound and will 235
benefit the people of this state by increasing opportunities for 236
employment and strengthening the economy of this state; 237

(c) Receiving the tax credit is a major factor in the 238
taxpayer's decision to go forward with the project. 239

(2) (a) A taxpayer that chooses to begin the project prior 240
to receiving the determination of the authority may, upon 241
submitting the taxpayer's application to the authority, request 242
that the chief investment officer of the nonprofit corporation 243
formed under section 187.01 of the Revised Code and the director 244
review the taxpayer's application and recommend to the authority 245
that the taxpayer's application be considered. As soon as 246
possible after receiving such a request, the chief investment 247
officer and the director shall review the taxpayer's application 248
and, if they determine that the application warrants 249
consideration by the authority, make that recommendation to the 250

authority not later than six months after the application is 251
received by the authority. 252

(b) The authority shall consider any taxpayer's 253
application for which it receives a recommendation under 254
division (C)(2)(a) of this section. If the authority determines 255
that the taxpayer does not meet all of the criteria set forth in 256
division (C)(1) of this section, the authority and the 257
development services agency shall proceed in accordance with 258
rules adopted by the director pursuant to division (I) of this 259
section. 260

(D) An agreement under this section shall include all of 261
the following: 262

(1) A detailed description of the project that is the 263
subject of the agreement; 264

(2)(a) The term of the tax credit, which, except as 265
provided in division (D)(2)(b) or (c) of this section, shall not 266
exceed fifteen years, and the first taxable year, or first 267
calendar year that includes a tax period, for which the credit 268
may be claimed; 269

(b) If the tax credit is computed on the basis of home- 270
based employees, the term of the credit shall expire on or 271
before the last day of the taxable or calendar year ending 272
before the beginning of the seventh year after September 6, 273
2012, the effective date of H.B. 327 of the 129th general 274
assembly; 275

(c) If the taxpayer is a megaproject operator or a 276
megaproject supplier, the term of the tax credit shall not 277
exceed thirty years. 278

(3) A requirement that the taxpayer shall maintain 279

operations at the project location for at least the greater of 280
seven years or the term of the credit plus three years; 281

(4) The percentage, as determined by the tax credit 282
authority, of excess payroll that will be allowed as the amount 283
of the credit for each taxable year or for each calendar year 284
that includes a tax period; 285

(5) The pay increase factor to be applied to the 286
taxpayer's baseline payroll; 287

(6) A requirement that the taxpayer annually shall report 288
to the director of development services full-time equivalent 289
employees, payroll, Ohio employee payroll, investment, the 290
provision of health care benefits and tuition reimbursement if 291
required in the agreement, and other information the director 292
needs to perform the director's duties under this section; 293

(7) A requirement that the director of development 294
services annually review the information reported under division 295
(D) (6) of this section and verify compliance with the agreement; 296
if the taxpayer is in compliance, a requirement that the 297
director issue a certificate to the taxpayer stating that the 298
information has been verified and identifying the amount of the 299
credit that may be claimed for the taxable or calendar year~~r~~. If 300
the taxpayer is a megaproject supplier, the director shall issue 301
such a certificate to the supplier and to any megaproject 302
operator (a) to which the supplier directly sells tangible 303
personal property and (b) that is authorized to claim the credit 304
pursuant to division (D) (10) of this section. 305

(8) A provision providing that the taxpayer may not 306
relocate a substantial number of employment positions from 307
elsewhere in this state to the project location unless the 308

director of development services determines that the legislative 309
authority of the county, township, or municipal corporation from 310
which the employment positions would be relocated has been 311
notified by the taxpayer of the relocation. 312

For purposes of this section, the movement of an 313
employment position from one political subdivision to another 314
political subdivision shall be considered a relocation of an 315
employment position unless the employment position in the first 316
political subdivision is replaced. The movement of a qualifying 317
work-from-home employee to a different residence located in this 318
state or to the project location shall not be considered a 319
relocation of an employment position. 320

(9) If the tax credit is computed on the basis of home- 321
based employees, that the tax credit may not be claimed by the 322
taxpayer until the taxable year or tax period in which the 323
taxpayer employs at least two hundred employees more than the 324
number of employees the taxpayer employed on June 30, 2011. 325

(10) If the taxpayer is a megaproject supplier, the 326
percentage of the annual tax credit certified under division (D) 327
(7) of this section, up to one hundred per cent, that may be 328
claimed by each megaproject operator to which the supplier 329
directly sells tangible personal property, rather than by that 330
supplier, on the condition that the megaproject operator 331
continues to qualify as a megaproject operator. 332

(11) If the taxpayer is a megaproject operator or 333
megaproject supplier, a requirement that the taxpayer continue 334
to qualify as a megaproject operator or megaproject supplier, 335
respectively, until the end of the last year for which the 336
taxpayer qualifies for the credit authorized under this section. 337

(E) If a taxpayer fails to meet or comply with any 338
condition or requirement set forth in a tax credit agreement, 339
the tax credit authority may amend the agreement to reduce the 340
percentage or term of the tax credit. The reduction of the 341
percentage or term may take effect in the current taxable or 342
calendar year. 343

(F) Projects that consist solely of point-of-final- 344
purchase retail facilities are not eligible for a tax credit 345
under this section. If a project consists of both point-of- 346
final-purchase retail facilities and nonretail facilities, only 347
the portion of the project consisting of the nonretail 348
facilities is eligible for a tax credit and only the excess 349
payroll from the nonretail facilities shall be considered when 350
computing the amount of the tax credit. If a warehouse facility 351
is part of a point-of-final-purchase retail facility and 352
supplies only that facility, the warehouse facility is not 353
eligible for a tax credit. Catalog distribution centers are not 354
considered point-of-final-purchase retail facilities for the 355
purposes of this division, and are eligible for tax credits 356
under this section. 357

(G) Financial statements and other information submitted 358
to the development services agency or the tax credit authority 359
by an applicant or recipient of a tax credit under this section, 360
and any information taken for any purpose from such statements 361
or information, are not public records subject to section 149.43 362
of the Revised Code. However, the chairperson of the authority 363
may make use of the statements and other information for 364
purposes of issuing public reports or in connection with court 365
proceedings concerning tax credit agreements under this section. 366
Upon the request of the tax commissioner or, if the applicant or 367
recipient is an insurance company, upon the request of the 368

superintendent of insurance, the chairperson of the authority 369
shall provide to the commissioner or superintendent any 370
statement or information submitted by an applicant or recipient 371
of a tax credit in connection with the credit. The commissioner 372
or superintendent shall preserve the confidentiality of the 373
statement or information. 374

(H) A taxpayer claiming a credit under this section shall 375
submit to the tax commissioner or, if the taxpayer is an 376
insurance company, to the superintendent of insurance, a copy of 377
the director of development services' certificate of 378
verification under division (D) (7) of this section with the 379
taxpayer's tax report or return for the taxable year or for the 380
calendar year that includes the tax period. Failure to submit a 381
copy of the certificate with the report or return does not 382
invalidate a claim for a credit if the taxpayer submits a copy 383
of the certificate to the commissioner or superintendent within 384
the time prescribed by section 5703.0510 of the Revised Code or 385
within thirty days after the commissioner or superintendent 386
requests it. 387

(I) The director of development services, after 388
consultation with the tax commissioner and the superintendent of 389
insurance and in accordance with Chapter 119. of the Revised 390
Code, shall adopt rules necessary to implement this section, 391
including rules that establish a procedure to be followed by the 392
tax credit authority and the development services agency in the 393
event the authority considers a taxpayer's application for which 394
it receives a recommendation under division (C) (2) (a) of this 395
section but does not approve it. The rules may provide for 396
recipients of tax credits under this section to be charged fees 397
to cover administrative costs of the tax credit program. For the 398
purposes of these rules, a qualifying work-from-home employee 399

shall be considered to be an employee employed at the 400
applicant's project location. The fees collected shall be 401
credited to the tax incentives operating fund created in section 402
122.174 of the Revised Code. At the time the director gives 403
public notice under division (A) of section 119.03 of the 404
Revised Code of the adoption of the rules, the director shall 405
submit copies of the proposed rules to the chairpersons of the 406
standing committees on economic development in the senate and 407
the house of representatives. 408

(J) For the purposes of this section, a taxpayer may 409
include a partnership, a corporation that has made an election 410
under subchapter S of chapter one of subtitle A of the Internal 411
Revenue Code, or any other business entity through which income 412
flows as a distributive share to its owners. A partnership, S- 413
corporation, or other such business entity may elect to pass the 414
credit received under this section through to the persons to 415
whom the income or profit of the partnership, S-corporation, or 416
other entity is distributed. The election shall be made on the 417
annual report required under division (D)(6) of this section. 418
The election applies to and is irrevocable for the credit for 419
which the report is submitted. If the election is made, the 420
credit shall be apportioned among those persons in the same 421
proportions as those in which the income or profit is 422
distributed. 423

(K) (1) If the director of development services determines 424
that a taxpayer who has received a credit under this section is 425
not complying with the requirements of the agreement, the 426
director shall notify the tax credit authority of the 427
noncompliance. After receiving such a notice, and after giving 428
the taxpayer an opportunity to explain the noncompliance, the 429
tax credit authority may require the taxpayer to refund to this 430

state a portion of the credit in accordance with the following: 431

(a) If the taxpayer fails to comply with the requirement 432
under division (D) (3) of this section, an amount determined in 433
accordance with the following: 434

(i) If the taxpayer maintained operations at the project 435
location for a period less than or equal to the term of the 436
credit, an amount not exceeding one hundred per cent of the sum 437
of any credits allowed and received under this section; 438

(ii) If the taxpayer maintained operations at the project 439
location for a period longer than the term of the credit, but 440
less than the greater of seven years or the term of the credit 441
plus three years, an amount not exceeding seventy-five per cent 442
of the sum of any credits allowed and received under this 443
section. 444

(b) If, on the metric evaluation date, the taxpayer fails 445
to substantially meet the job creation, payroll, or investment 446
requirements included in the agreement, an amount determined at 447
the discretion of the authority; 448

(c) If the taxpayer fails to substantially maintain the 449
number of new full-time equivalent employees or amount of 450
payroll required under the agreement at any time during the term 451
of the agreement after the metric evaluation date, an amount 452
determined at the discretion of the authority. 453

(2) If a taxpayer files for bankruptcy and fails as 454
described in division (K) (1) (a), (b), or (c) of this section, 455
the director may immediately commence an action to recoup an 456
amount not exceeding one hundred per cent of the sum of any 457
credits received by the taxpayer under this section. 458

(3) In determining the portion of the tax credit to be 459

refunded to this state, the tax credit authority shall consider 460
the effect of market conditions on the taxpayer's project and 461
whether the taxpayer continues to maintain other operations in 462
this state. After making the determination, the authority shall 463
certify the amount to be refunded to the tax commissioner or 464
superintendent of insurance, as appropriate. If the amount is 465
certified to the commissioner, the commissioner shall make an 466
assessment for that amount against the taxpayer under Chapter 467
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 468
amount is certified to the superintendent, the superintendent 469
shall make an assessment for that amount against the taxpayer 470
under Chapter 5725. or 5729. of the Revised Code. The time 471
limitations on assessments under those chapters do not apply to 472
an assessment under this division, but the commissioner or 473
superintendent, as appropriate, shall make the assessment within 474
one year after the date the authority certifies to the 475
commissioner or superintendent the amount to be refunded. 476

(L) On or before the first day of August each year, the 477
director of development services shall submit a report to the 478
governor, the president of the senate, and the speaker of the 479
house of representatives on the tax credit program under this 480
section. The report shall include information on the number of 481
agreements that were entered into under this section during the 482
preceding calendar year, a description of the project that is 483
the subject of each such agreement, and an update on the status 484
of projects under agreements entered into before the preceding 485
calendar year. 486

(M) There is hereby created the tax credit authority, 487
which consists of the director of development services and four 488
other members appointed as follows: the governor, the president 489
of the senate, and the speaker of the house of representatives 490

each shall appoint one member who shall be a specialist in 491
economic development; the governor also shall appoint a member 492
who is a specialist in taxation. Terms of office shall be for 493
four years. Each member shall serve on the authority until the 494
end of the term for which the member was appointed. Vacancies 495
shall be filled in the same manner provided for original 496
appointments. Any member appointed to fill a vacancy occurring 497
prior to the expiration of the term for which the member's 498
predecessor was appointed shall hold office for the remainder of 499
that term. Members may be reappointed to the authority. Members 500
of the authority shall receive their necessary and actual 501
expenses while engaged in the business of the authority. The 502
director of development services shall serve as chairperson of 503
the authority, and the members annually shall elect a vice- 504
chairperson from among themselves. Three members of the 505
authority constitute a quorum to transact and vote on the 506
business of the authority. The majority vote of the membership 507
of the authority is necessary to approve any such business, 508
including the election of the vice-chairperson. 509

The director of development services may appoint a 510
professional employee of the development services agency to 511
serve as the director's substitute at a meeting of the 512
authority. The director shall make the appointment in writing. 513
In the absence of the director from a meeting of the authority, 514
the appointed substitute shall serve as chairperson. In the 515
absence of both the director and the director's substitute from 516
a meeting, the vice-chairperson shall serve as chairperson. 517

(N) For purposes of the credits granted by this section 518
against the taxes imposed under sections 5725.18 and 5729.03 of 519
the Revised Code, "taxable year" means the period covered by the 520
taxpayer's annual statement to the superintendent of insurance. 521

(O) On or before the first day of March of each of the 522
five calendar years beginning with 2014, each taxpayer subject 523
to an agreement with the tax credit authority under this section 524
on the basis of home-based employees shall report the number of 525
home-based employees and other employees employed by the 526
taxpayer in this state to the development services agency. 527

(P) On or before the first day of January of 2019, the 528
director of development services shall submit a report to the 529
governor, the president of the senate, and the speaker of the 530
house of representatives on the effect of agreements entered 531
into under this section in which the taxpayer included home- 532
based employees in the computation of income tax revenue, as 533
that term was defined in this section prior to the amendment of 534
this section by H.B. 64 of the 131st general assembly. The 535
report shall include information on the number of such 536
agreements that were entered into in the preceding six years, a 537
description of the projects that were the subjects of such 538
agreements, and an analysis of nationwide home-based employment 539
trends, including the number of home-based jobs created from 540
July 1, 2011, through June 30, 2017, and a description of any 541
home-based employment tax incentives provided by other states 542
during that time. 543

(Q) The director of development services may require any 544
agreement entered into under this section for a tax credit 545
computed on the basis of home-based employees to contain a 546
provision that the taxpayer makes available health care benefits 547
and tuition reimbursement to all employees. 548

(R) Original agreements approved by the tax credit 549
authority under this section in 2014 or 2015 before September 550
29, 2015, may be revised at the request of the taxpayer to 551

conform with the amendments to this section and sections 552
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 553
H.B. 64 of the 131st general assembly, upon mutual agreement of 554
the taxpayer and the development services agency, and approval 555
by the tax credit authority. 556

(S) (1) As used in division (S) of this section: 557

(a) "Eligible agreement" means an agreement approved by 558
the tax credit authority under this section on or before 559
December 31, 2013. 560

(b) "Reporting period" means a period corresponding to the 561
annual report required under division (D) (6) of this section. 562

(c) "Income tax revenue" has the same meaning as under 563
this section as it existed before September 29, 2015, the 564
effective date of the amendment of this section by H.B. 64 of 565
the 131st general assembly. 566

(2) In calendar year 2016 and thereafter, the tax credit 567
authority shall annually determine a withholding adjustment 568
factor to be used in the computation of income tax revenue for 569
eligible agreements. The withholding adjustment factor shall be 570
a numerical percentage that equals the percentage that employer 571
income tax withholding rates have been increased or decreased as 572
a result of changes in the income tax rates prescribed by 573
section 5747.02 of the Revised Code by amendment of that section 574
taking effect on or after June 29, 2013. 575

(3) Except as provided in division (S) (4) of this section, 576
for reporting periods ending in 2015 and thereafter for 577
taxpayers subject to eligible agreements, the tax credit 578
authority shall adjust the income tax revenue reported on the 579
taxpayer's annual report by multiplying the withholding 580

adjustment factor by the taxpayer's income tax revenue and doing 581
one of the following: 582

(a) If the income tax rates prescribed by section 5747.02 583
of the Revised Code have decreased by amendment of that section 584
taking effect on or after June 29, 2013, add the product to the 585
taxpayer's income tax revenue. 586

(b) If the income tax rates prescribed by section 5747.02 587
of the Revised Code have increased by amendment of that section 588
taking effect on or after June 29, 2013, subtract the product 589
from the taxpayer's income tax revenue. 590

(4) Division (S) (3) of this section shall not apply unless 591
all of the following apply for the reporting period with respect 592
to the eligible agreement: 593

(a) The taxpayer has achieved one hundred per cent of the 594
new employment commitment identified in the agreement. 595

(b) If applicable, the taxpayer has achieved one hundred 596
per cent of the new payroll commitment identified in the 597
agreement. 598

(c) If applicable, the taxpayer has achieved one hundred 599
per cent of the investment commitment identified in the 600
agreement. 601

(5) Failure by a taxpayer to have achieved any of the 602
applicable commitments described in divisions (S) (4) (a) to (c) 603
of this section in a reporting period does not disqualify the 604
taxpayer for the adjustment under division (S) of this section 605
for an ensuing reporting period. 606

(T) The director of development services shall notify the 607
tax commissioner if the director determines that a megaproject 608

operator or megaproject supplier is not in compliance with the 609
agreement pursuant to a review conducted under division (D) (7) 610
of this section. 611

(U) Beginning in 2025 and in each fifth calendar year 612
thereafter, the tax commissioner shall adjust the following 613
amounts in September of that year: 614

(1) The fixed-asset investment threshold described in 615
division (A) (10) (c) (i) of this section and the Ohio employee 616
payroll threshold described in division (A) (10) (c) (ii) of this 617
section by completing the following calculations: 618

(a) Determine the percentage increase in the gross 619
domestic product deflator determined by the bureau of economic 620
analysis of the United States department of commerce from the 621
first day of January of the fifth preceding calendar year to the 622
last day of December of the preceding calendar year; 623

(b) Multiply that percentage increase by the fixed-asset 624
investment threshold and the Ohio employee payroll threshold for 625
the current year; 626

(c) Add the resulting products to the corresponding fixed- 627
asset investment threshold and Ohio employee payroll threshold 628
for the current year; 629

(d) Round the resulting fixed-asset investment sum to the 630
nearest multiple of ten million dollars and the Ohio employee 631
payroll sum to the nearest multiple of one million dollars. 632

(2) The fixed-asset investment threshold described in 633
division (A) (12) (a) (i) of this section and the Ohio employee 634
payroll threshold described in division (A) (12) (a) (ii) of this 635
section by completing the calculations described in divisions 636
(U) (1) (a) to (c) of this section and rounding the resulting 637

fixed-asset investment sum to the nearest multiple of one 638
million dollars and the Ohio employee payroll sum to the nearest 639
multiple of one hundred thousand dollars. 640

The commissioner shall certify the amount of the 641
adjustments under divisions (U) (1) and (2) of this section to 642
the director of development services and to the tax credit 643
authority not later than the first day of December of the year 644
the commissioner computes the adjustment. Each certified amount 645
applies to the ensuing calendar year and each calendar year 646
thereafter until the tax commissioner makes a new adjustment. 647
The tax commissioner shall not calculate a new adjustment in any 648
year in which the resulting amount from the adjustment would be 649
less than the corresponding amount for the current year. 650

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of 651
the Revised Code: 652

(A) "Housing officer" means an officer or agency of a 653
municipal corporation or county designated by the legislative 654
authority of the municipal corporation or county, pursuant to 655
section 3735.66 of the Revised Code, for each community 656
reinvestment area to administer sections 3735.65 to 3735.69 of 657
the Revised Code. One officer or agency may be designated as the 658
housing officer for more than one community reinvestment area. 659

(B) "Community reinvestment area" means an area within a 660
municipal corporation or unincorporated area of a county for 661
which the legislative authority of the municipal corporation or, 662
for the unincorporated area, of the county, has adopted a 663
resolution under section 3735.66 of the Revised Code describing 664
the boundaries of the area and containing a statement of finding 665
that the area included in the description is one in which 666
housing facilities or structures of historical significance are 667

located and new housing construction and repair of existing 668
facilities or structures are discouraged. 669

(C) "Remodeling" means any change made in a structure for 670
the purpose of making it structurally more sound, more 671
habitable, or for the purpose of improving its appearance. 672

(D) "Structure of historical or architectural 673
significance" means those designated as such by resolution of 674
the legislative authority of a municipal corporation, for those 675
located in a municipal corporation, or the county, for those 676
located in the unincorporated area of the county based on age, 677
rarity, architectural quality, or because of a previous 678
designation by a historical society, association, or agency. 679

(E) "Megaproject," "megaproject operator," and 680
"megaproject supplier" have the same meanings as in section 681
122.17 of the Revised Code. 682

Sec. 3735.67. (A) The owner of real property located in a 683
community reinvestment area and eligible for exemption from 684
taxation under a resolution adopted pursuant to section 3735.66 685
of the Revised Code may file an application for an exemption 686
from real property taxation of a percentage of the assessed 687
valuation of a new structure, or of the increased assessed 688
valuation of an existing structure after remodeling began, if 689
the new structure or remodeling is completed after the effective 690
date of the resolution adopted pursuant to section 3735.66 of 691
the Revised Code. The application shall be filed with the 692
housing officer designated for the community reinvestment area 693
in which the property is located. If any part of the new 694
structure or remodeled structure that would be exempted is of 695
real property to be used for commercial or industrial purposes, 696
the legislative authority and the owner of the property shall 697

enter into a written agreement pursuant to section 3735.671 of 698
the Revised Code prior to commencement of construction or 699
remodeling; if such an agreement is subject to approval by the 700
board of education of the school district within the territory 701
of which the property is or will be located, the agreement shall 702
not be formally approved by the legislative authority until the 703
board of education approves the agreement in the manner 704
prescribed by that section. 705

(B) The housing officer shall verify the construction of 706
the new structure or the cost of the remodeling of the existing 707
structure and the facts asserted in the application. The housing 708
officer shall determine whether the construction or remodeling 709
meets the requirements for an exemption under this section. In 710
cases involving a structure of historical or architectural 711
significance, the housing officer shall not determine whether 712
the remodeling meets the requirements for a tax exemption unless 713
the appropriateness of the remodeling has been certified, in 714
writing, by the society, association, agency, or legislative 715
authority that has designated the structure or by any 716
organization or person authorized, in writing, by such society, 717
association, agency, or legislative authority to certify the 718
appropriateness of the remodeling. 719

(C) If the construction or remodeling meets the 720
requirements for exemption, the housing officer shall forward 721
the application to the county auditor with a certification as to 722
the division of this section under which the exemption is 723
granted, and the period and percentage of the exemption as 724
determined by the legislative authority pursuant to that 725
division. If the construction or remodeling is of commercial or 726
industrial property and the legislative authority is not 727
required to certify a copy of a resolution under section 728

3735.671 of the Revised Code, the housing officer shall comply 729
with the notice requirements prescribed under section 5709.83 of 730
the Revised Code, unless the board has adopted a resolution 731
under that section waiving its right to receive such a notice. 732

(D) Except as provided in division (F) of this section, 733
the tax exemption shall first apply in the year the construction 734
or remodeling would first be taxable but for this section. In 735
the case of remodeling that qualifies for exemption, a 736
percentage, not to exceed one hundred per cent, of the increased 737
assessed valuation of an existing structure after remodeling 738
began shall be exempted from real property taxation. In the case 739
of construction of a structure that qualifies for exemption, a 740
percentage, not to exceed one hundred per cent, of the assessed 741
value of the structure shall be exempted from real property 742
taxation. In either case, the percentage shall be the percentage 743
set forth in the agreement if the structure or remodeling is to 744
be used for commercial or industrial purposes, or the percentage 745
set forth in the resolution describing the community 746
reinvestment area if the structure or remodeling is to be used 747
for residential purposes. 748

The construction of new structures and the remodeling of 749
existing structures are hereby declared to be a public purpose 750
for which exemptions from real property taxation may be granted 751
for the following periods: 752

(1) For every dwelling and commercial or industrial 753
properties, located within the same community reinvestment area, 754
upon which the cost of remodeling is at least two thousand five 755
hundred dollars in the case of a dwelling containing not more 756
than two family units or at least five thousand dollars in the 757
case of all other property, a period to be determined by the 758

legislative authority adopting the resolution, but not exceeding 759
fifteen years. The period of exemption for a dwelling described 760
in division (D) (1) of this section may be extended by a 761
legislative authority for up to an additional ten years if the 762
dwelling is a structure of historical or architectural 763
significance, is a certified historic structure that has been 764
subject to federal tax treatment under 26 U.S.C. 47 and 170(h), 765
and units within the structure have been leased to individual 766
tenants for five consecutive years; 767

(2) Except as provided in division (F) of this section, 768
for construction of every dwelling, and commercial or industrial 769
structure located within the same community reinvestment area, a 770
period to be determined by the legislative authority adopting 771
the resolution, but not exceeding fifteen years. The period of 772
exemption for construction of a commercial or industrial 773
structure may be extended by a legislative authority for up to 774
an additional fifteen years if the structure is situated on the 775
site of a megaproject or is owned and occupied by a megaproject 776
supplier. 777

(E) Any person, board, or officer authorized by section 778
5715.19 of the Revised Code to file complaints with the county 779
board of revision may file a complaint with the housing officer 780
challenging the continued exemption of any property granted an 781
exemption under this section. A complaint against exemption 782
shall be filed prior to the thirty-first day of December of the 783
tax year for which taxation of the property is requested. The 784
housing officer shall determine whether the property continues 785
to meet the requirements for exemption and shall certify the 786
housing officer's findings to the complainant. If the housing 787
officer determines that the property does not meet the 788
requirements for exemption, the housing officer shall notify the 789

county auditor, who shall correct the tax list and duplicate 790
accordingly. 791

(F) The owner of a dwelling constructed in a community 792
reinvestment area may file an application for an exemption after 793
the year the construction first became subject to taxation. The 794
application shall be processed in accordance with the procedures 795
prescribed under this section and shall be granted if the 796
construction that is the subject of the application otherwise 797
meets the requirements for an exemption under this section. If 798
approved, the exemption sought in the application first applies 799
in the year the application is filed. An exemption approved 800
pursuant to this division continues only for those years 801
remaining in the period described in division (D) (2) of this 802
section. No exemption may be claimed for any year in that period 803
that precedes the year in which the application is filed. 804

Sec. 3735.671. (A) If construction or remodeling of 805
commercial or industrial property is to be exempted from 806
taxation pursuant to section 3735.67 of the Revised Code, the 807
legislative authority and the owner of the property, prior to 808
the commencement of construction or remodeling, shall enter into 809
a written agreement, binding on both parties for a period of 810
time that does not end prior to the end of the period of the 811
exemption, that includes all of the information and statements 812
prescribed by this section. Agreements may include terms not 813
prescribed by this section, but such terms shall in no way 814
derogate from the information and statements prescribed by this 815
section. 816

(1) Except as otherwise provided in division (A) (2) or (3) 817
of this section, an agreement entered into under this section 818
shall not be approved by the legislative authority unless the 819

board of education of the city, local, or exempted village 820
school district within the territory of which the property is or 821
will be located approves the agreement. For the purpose of 822
obtaining such approval, the legislative authority shall certify 823
a copy of the agreement to the board of education not later than 824
forty-five days prior to approving the agreement, excluding 825
Saturday, Sunday, and a legal holiday as defined in section 1.14 826
of the Revised Code. The board of education, by resolution 827
adopted by a majority of the board, shall approve or disapprove 828
the agreement and certify a copy of the resolution to the 829
legislative authority not later than fourteen days prior to the 830
date stipulated by the legislative authority as the date upon 831
which approval of the agreement is to be formally considered by 832
the legislative authority. The board of education may include in 833
the resolution conditions under which the board would approve 834
the agreement. The legislative authority may approve an 835
agreement at any time after the board of education certifies its 836
resolution approving the agreement to the legislative authority, 837
or, if the board approves the agreement conditionally, at any 838
time after the conditions are agreed to by the board and the 839
legislative authority. 840

(2) Approval of an agreement by the board of education is 841
not required under division (A)(1) of this section if, for each 842
tax year the real property is exempted from taxation, the sum of 843
the following quantities, as estimated at or prior to the time 844
the agreement is formally approved by the legislative authority, 845
equals or exceeds fifty per cent of the amount of taxes, as 846
estimated at or prior to that time, that would have been charged 847
and payable that year upon the real property had that property 848
not been exempted from taxation: 849

(a) The amount of taxes charged and payable on any portion 850

of the assessed valuation of the new structure or of the 851
increased assessed valuation of an existing structure after 852
remodeling began that will not be exempted from taxation under 853
the agreement; 854

(b) The amount of taxes charged and payable on tangible 855
personal property located on the premises of the new structure 856
or of the structure to be remodeled under the agreement, whether 857
payable by the owner of the structure or by a related member, as 858
defined in section 5733.042 of the Revised Code without regard 859
to division (B) of that section. 860

(c) The amount of any cash payment by the owner of the new 861
structure or structure to be remodeled to the school district, 862
the dollar value, as mutually agreed to by the owner and the 863
board of education, of any property or services provided by the 864
owner of the property to the school district, whether by gift, 865
loan, or otherwise, and any payment by the legislative authority 866
to the school district pursuant to section 5709.82 of the 867
Revised Code. 868

The estimates of quantities used for purposes of division 869
(A) (2) of this section shall be estimated by the legislative 870
authority. The legislative authority shall certify to the board 871
of education that the estimates have been made in good faith. 872
Departures of the actual quantities from the estimates 873
subsequent to approval of the agreement by the board of 874
education do not invalidate the agreement. 875

(3) If a board of education has adopted a resolution 876
waiving its right to approve agreements and the resolution 877
remains in effect, approval of an agreement by the board is not 878
required under this division. If a board of education has 879
adopted a resolution allowing a legislative authority to deliver 880

the notice required under this division fewer than forty-five 881
business days prior to the legislative authority's execution of 882
the agreement, the legislative authority shall deliver the 883
notice to the board not later than the number of days prior to 884
such execution as prescribed by the board in its resolution. If 885
a board of education adopts a resolution waiving its right to 886
approve agreements or shortening the notification period, the 887
board shall certify a copy of the resolution to the legislative 888
authority. If the board of education rescinds such a resolution, 889
it shall certify notice of the rescission to the legislative 890
authority. 891

(B) Each agreement shall include the following 892
information: 893

(1) The names of all parties to the agreement; 894

(2) A description of the remodeling or construction, 895
whether or not to be exempted from taxation, including existing 896
or new structure size and cost thereof; the value of machinery, 897
equipment, furniture, and fixtures, including an itemization of 898
the value of machinery, equipment, furniture, and fixtures used 899
at another location in this state prior to the agreement and 900
relocated or to be relocated from that location to the property, 901
and the value of machinery, equipment, furniture, and fixtures 902
at the facility prior to the execution of the agreement; the 903
value of inventory at the property, including an itemization of 904
the value of inventory held at another location in this state 905
prior to the agreement and relocated or to be relocated from 906
that location to the property, and the value of inventory held 907
at the property prior to the execution of the agreement; 908

(3) The scheduled starting and completion dates of 909
remodeling or construction of real property or of investments 910

made in machinery, equipment, furniture, fixtures, and 911
inventory; 912

(4) Estimates of the number of employee positions to be 913
created each year of the agreement and of the number of employee 914
positions retained by the owner due to the remodeling or 915
construction, itemized as to the number of full-time, part-time, 916
permanent, and temporary positions; 917

(5) Estimates of the dollar amount of payroll attributable 918
to the positions set forth in division (B)(4) of this section, 919
similarly itemized; 920

(6) The number of employee positions, if any, at the 921
property and at any other location in this state at the time the 922
agreement is executed, itemized as to the number of full-time, 923
part-time, permanent, and temporary positions. 924

(C) Each agreement shall set forth the following 925
information and incorporate the following statements: 926

(1) A description of real property to be exempted from 927
taxation under the agreement, the percentage of the assessed 928
valuation of the real property exempted from taxation, and the 929
period for which the exemption is granted, accompanied by the 930
statement: "The exemption commences the first year for which the 931
real property would first be taxable were that property not 932
exempted from taxation. No exemption shall commence after 933
_____ (insert date) nor extend beyond _____ (insert 934
date)." 935

(2) "_____ (insert name of owner) shall pay such real 936
property taxes as are not exempted under this agreement and are 937
charged against such property and shall file all tax reports and 938
returns as required by law. If _____ (insert name of owner) 939

fails to pay such taxes or file such returns and reports, 940
exemptions from taxation granted under this agreement are 941
rescinded beginning with the year for which such taxes are 942
charged or such reports or returns are required to be filed and 943
thereafter." 944

(3) "_____ (insert name of owner) hereby certifies 945
that at the time this agreement is executed, _____ (insert 946
name of owner) does not owe any delinquent real or tangible 947
personal property taxes to any taxing authority of the State of 948
Ohio, and does not owe delinquent taxes for which _____ 949
(insert name of owner) is liable under Chapter 5733., 5735., 950
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, 951
or, if such delinquent taxes are owed, _____ (insert name 952
of owner) currently is paying the delinquent taxes pursuant to 953
an undertaking enforceable by the State of Ohio or an agent or 954
instrumentality thereof, has filed a petition in bankruptcy 955
under 11 U.S.C.A. 101, et seq., or such a petition has been 956
filed against _____ (insert name of owner). For the 957
purposes of this certification, delinquent taxes are taxes that 958
remain unpaid on the latest day prescribed for payment without 959
penalty under the chapter of the Revised Code governing payment 960
of those taxes." 961

(4) "_____ (insert name of municipal corporation or 962
county) shall perform such acts as are reasonably necessary or 963
appropriate to effect, claim, reserve, and maintain exemptions 964
from taxation granted under this agreement including, without 965
limitation, joining in the execution of all documentation and 966
providing any necessary certificates required in connection with 967
such exemptions." 968

(5) "If for any reason _____ (insert name of 969

municipal corporation or county) revokes the designation of the 970
area, entitlements granted under this agreement shall continue 971
for the number of years specified under this agreement, unless 972
_____ (insert name of owner) materially fails to fulfill 973
its obligations under this agreement and _____ 974
(insert name of municipal corporation or county) terminates or 975
modifies the exemptions from taxation pursuant to this 976
agreement." 977

(6) "If _____ (insert name of owner) materially fails 978
to fulfill its obligations under this agreement, or if 979
_____ (insert name of municipal corporation or county) 980
determines that the certification as to delinquent taxes 981
required by this agreement is fraudulent, _____ (insert 982
name of municipal corporation or county) may terminate or modify 983
the exemptions from taxation granted under this agreement." 984

(7) " _____ (insert name of owner) shall provide to 985
the proper tax incentive review council any information 986
reasonably required by the council to evaluate the applicant's 987
compliance with the agreement, including returns filed pursuant 988
to section 5711.02 of the Ohio Revised Code if requested by the 989
council." 990

(8) "This agreement is not transferable or assignable 991
without the express, written approval of _____ (insert name 992
of municipal corporation or county)." 993

(9) "Exemptions from taxation granted under this agreement 994
shall be revoked if it is determined that _____ (insert 995
name of owner), any successor to that person, or any related 996
member (as those terms are defined in division (E) of section 997
3735.671 of the Ohio Revised Code) has violated the prohibition 998
against entering into this agreement under division (E) of 999

section 3735.671 or section 5709.62 or 5709.63 of the Ohio
Revised Code prior to the time prescribed by that division or
either of those sections."

(10) " _____ (insert name of owner) and _____
(insert name of municipal corporation or county) acknowledge
that this agreement must be approved by formal action of the
legislative authority of _____ (insert name of municipal
corporation or county) as a condition for the agreement to take
effect. This agreement takes effect upon such approval."

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

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

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

The statement described in division (C)(6) of this section
may include the following statement, appended at the end of the
statement: ", and may require the repayment of the amount of
taxes that would have been payable had the property not been
exempted from taxation under this agreement." If the agreement

includes a statement requiring repayment of exempted taxes, it 1029
also may authorize the legislative authority to secure repayment 1030
of such taxes by a lien on the exempted property in the amount 1031
required to be repaid. Such a lien shall attach, and may be 1032
perfected, collected, and enforced, in the same manner as a 1033
mortgage lien on real property, and shall otherwise have the 1034
same force and effect as a mortgage lien on real property. 1035

(D) Except as otherwise provided in this division, an 1036
agreement entered into under this section shall require that the 1037
owner pay an annual fee equal to the greater of one per cent of 1038
the amount of taxes exempted under the agreement or five hundred 1039
dollars; provided, however, that if the value of the incentives 1040
exceeds two hundred fifty thousand dollars, the fee shall not 1041
exceed two thousand five hundred dollars. The fee shall be 1042
payable to the legislative authority once per year for each year 1043
the agreement is effective on the days and in the form specified 1044
in the agreement. Fees paid shall be deposited in a special fund 1045
created for such purpose by the legislative authority and shall 1046
be used by the legislative authority exclusively for the purpose 1047
of complying with section 3735.672 of the Revised Code and by 1048
the tax incentive review council created under section 5709.85 1049
of the Revised Code exclusively for the purposes of performing 1050
the duties prescribed under that section. The legislative 1051
authority may waive or reduce the amount of the fee, but such 1052
waiver or reduction does not affect the obligations of the 1053
legislative authority or the tax incentive review council to 1054
comply with section 3735.672 or 5709.85 of the Revised Code. 1055

(E) If any person that is party to an agreement granting 1056
an exemption from taxation discontinues operations at the 1057
structure to which that exemption applies prior to the 1058
expiration of the term of the agreement, that person, any 1059

successor to that person, and any related member shall not enter 1060
into an agreement under this section or section 5709.62, 1061
5709.63, or 5709.632 of the Revised Code, and no legislative 1062
authority shall enter into such an agreement with such a person, 1063
successor, or related member, prior to the expiration of five 1064
years after the discontinuation of operations. As used in this 1065
division, "successor" means a person to which the assets or 1066
equity of another person has been transferred, which transfer 1067
resulted in the full or partial nonrecognition of gain or loss, 1068
or resulted in a carryover basis, both as determined by rule 1069
adopted by the tax commissioner. "Related member" has the same 1070
meaning as defined in section 5733.042 of the Revised Code 1071
without regard to division (B) of that section. 1072

The director of development services shall review all 1073
agreements submitted to the director under division (F) of this 1074
section for the purpose of enforcing this division. If the 1075
director determines there has been a violation of this division, 1076
the director shall notify the legislative authority of such 1077
violation, and the legislative authority immediately shall 1078
revoke the exemption granted under the agreement. 1079

(F) When an agreement is entered into under this section, 1080
the legislative authority authorizing the agreement shall 1081
forward a copy of the agreement to the director of development 1082
services within fifteen days after the agreement is entered 1083
into. 1084

Sec. 5703.48. (A) As used in this section ~~and section~~ 1085
~~107.03 of the Revised Code, "tax:~~ 1086

(1) "Tax expenditure" means a tax provision in the Revised 1087
Code that exempts, either in whole or in part, certain persons, 1088
income, goods, services, or property from the effect of taxes 1089

levied by the state, including, but not limited to, tax 1090
deductions, exemptions, deferrals, exclusions, allowances, 1091
credits, reimbursements, and preferential tax rates, provided 1092
all of the following apply to the provision: 1093

~~(1)~~ (a) The provision reduces, or has the potential to 1094
reduce, revenue to the general revenue fund; 1095

~~(2)~~ (b) The persons, income, goods, services, or property 1096
exempted by the provision would have been part of a defined tax 1097
base; 1098

~~(3)~~ (c) The persons, income, goods, services, or property 1099
exempted by the provision are not subject to an alternate tax 1100
levied by the state; 1101

~~(4)~~ (d) The provision is subject to modification or repeal 1102
by an act of the general assembly. 1103

(2) "Property tax exemption" means a provision in the 1104
Revised Code that exempts or authorizes a subdivision to exempt 1105
from taxation all or a portion of the value of real property, as 1106
reported on forms otherwise prescribed by the tax commissioner 1107
and as categorized by the tax commissioner for purposes of this 1108
section as: 1109

(a) Charitable and public worship; 1110

(b) Public and educational; 1111

(c) Local economic development; 1112

(d) Other exemptions. 1113

(B) The department of taxation shall prepare and submit to 1114
the governor not later than the first day of November in each 1115
even-numbered year a report ~~describing the effect of~~ containing 1116

certain information about tax expenditures on the general- 1117
revenue fund and property tax exemptions. The report shall 1118
contain ~~a~~ each of the following: 1119

(1) A description of each existing tax expenditure under- 1120
existing laws and, in and property tax exemption; 1121

(2) In comparative form, a detailed estimate of the 1122
approximate amount of revenue not available to the state general 1123
revenue fund in each fiscal year of the current and ensuing 1124
fiscal bienniums as a result of the operation of each tax 1125
expenditure; 1126

(3) The aggregate true value of real property exempted in 1127
this state for the preceding tax year as the result of the 1128
operation of each property tax exemption; 1129

(4) The amount of revenue paid from the general revenue 1130
fund in the preceding calendar year to reimburse subdivisions 1131
for each property tax exemption for which such reimbursement is 1132
required. ~~The~~ 1133

The report shall be prepared in such a manner as to 1134
facilitate the inclusion of the information provided by the 1135
report in the governor's budget. 1136

Sec. 5703.95. (A) As used in this section, "tax 1137
expenditure" ~~has~~ and "property tax exemption" have the same 1138
meaning meanings as in section 5703.48 of the Revised Code. 1139

(B) There is hereby created the tax expenditure review 1140
committee, consisting of seven members, composed of the 1141
following: 1142

(1) Three members of the house of representatives 1143
appointed by the speaker of the house of representatives in 1144

consultation with the minority leader of the house of 1145
representatives. Members described in division (B) (1) of this 1146
section shall not all be members of the same party and should be 1147
members of the house of representatives committee that deals 1148
primarily with tax legislation; 1149

(2) Three members of the senate appointed by the president 1150
of the senate in consultation with the minority leader of the 1151
senate. Members described in division (B) (2) of this section 1152
shall not all be members of the same party and should be members 1153
of the senate committee that deals primarily with tax 1154
legislation; 1155

(3) The tax commissioner or the tax commissioner's 1156
designee. The member described in division (B) (3) of this 1157
section shall be a nonvoting member. 1158

The speaker of the house of representatives and the 1159
president of the senate shall make initial appointments to the 1160
committee not later than thirty days after March 21, 2017. 1161
Thereafter, the terms of the office for appointed members shall 1162
be the same as the term of each general assembly. Members may be 1163
reappointed, provided the member continues to meet all other 1164
eligibility requirements. Vacancies shall be filled in the 1165
manner provided for original appointments. Any member appointed 1166
to fill a vacancy before the expiration of the term for which 1167
the predecessor was appointed shall hold office as a member for 1168
the remainder of that term. Appointed members of the committee 1169
serve at the pleasure of the member's appointing authority and 1170
may be removed only by the appointing authority. 1171

(C) The tax expenditure review committee shall hold its 1172
first meeting within ninety days after March 21, 2017. At the 1173
first meeting, the members shall elect a chairperson, who shall 1174

be one of the members described in division (B) (1) or (2) of 1175
this section. Thereafter, the committee shall meet at least once 1176
during the first year of each fiscal biennium to review existing 1177
tax expenditures and property tax exemptions pursuant to 1178
division (D) of this section, provided the committee shall hold, 1179
for any such expenditure and exemption, at least one meeting at 1180
which a person may present to the committee evidence or 1181
testimony related to that expenditure or exemption. Any person 1182
may submit to the chairperson a request that the committee meet 1183
to accept evidence or testimony on a tax expenditure or property 1184
tax exemption. The committee is a public body for the purposes 1185
of section 121.22 of the Revised Code. 1186

The chairperson of the committee shall serve until the 1187
thirty-first day of December of each even-numbered year. 1188
Thereafter, members shall elect a new chairperson. If the 1189
preceding chairperson was a member described in division (B) (1) 1190
of this section, the new chairperson shall be a member described 1191
in division (B) (2) of this section. If the preceding chairperson 1192
was a member described in division (B) (2) of this section, the 1193
new chairperson shall be a member described in division (B) (1) 1194
of this section. 1195

A vacancy on the committee does not impair the right of 1196
the other members to exercise all the functions of the 1197
committee. The presence of a majority of the voting members of 1198
the committee constitutes a quorum for the conduct of business 1199
of the committee. The concurrence of at least a majority of the 1200
voting members of the committee is necessary for any action to 1201
be taken by the committee. 1202

Upon the committee's request, a county auditor or county 1203
treasurer or the department of taxation, development services 1204

agency, office of budget and management, or other state agency 1205
shall provide any information in its possession that the 1206
committee requires to perform its duties. 1207

The staff of the legislative service commission shall 1208
assist the committee as directed by the committee. 1209

(D) The committee shall establish a schedule for review 1210
for each tax expenditure and each property tax exemption so that 1211
each expenditure and exemption is reviewed at least once every 1212
eight years. The schedule may provide for the review of each tax 1213
expenditure and exemption in the order the expenditures and 1214
exemptions were enacted or modified, beginning with the least 1215
recently enacted or modified ~~tax~~ expenditure or exemption. 1216
Alternatively, the review schedule may group tax expenditures 1217
and property tax exemptions by the individuals or industries 1218
benefiting from the ~~expenditures~~ expenditure or exemption, the 1219
objectives of each expenditure or exemption, or the policy 1220
rationale of each expenditure or exemption. In its review, the 1221
committee shall make recommendations as to whether each tax 1222
expenditure and property tax exemption should be continued 1223
without modification, modified, scheduled for further review at 1224
a future date to consider repealing the expenditure or 1225
exemption, or repealed outright. For each expenditure and 1226
exemption reviewed, the committee may recommend accountability 1227
standards for the future review of the expenditure or exemption. 1228
The committee may consider, when reviewing a tax expenditure or 1229
property tax exemption, any of the relevant factors described in 1230
division (E) of this section. 1231

(E) In conducting reviews pursuant to division (D) of this 1232
section, the committee may consider the following factors: 1233

(1) The number and classes of persons, organizations, 1234

businesses, or types of industries that would receive the direct 1235
benefit or consequences of the tax expenditure or property tax 1236
exemption; 1237

(2) The fiscal impact of the tax expenditure or property 1238
tax exemption on state and local taxing authorities and 1239
subdivisions, including any past fiscal effects and expected 1240
future fiscal impacts of the ~~tax~~-expenditure or exemption in the 1241
following eight-year period; 1242

(3) Public policy objectives that might support the tax 1243
expenditure or property tax exemption. In researching such 1244
objectives, the committee may consider the expenditure's or 1245
exemption's legislative history, the ~~tax~~-expenditure's or 1246
exemption's sponsor's intent in proposing the ~~tax~~-expenditure or 1247
exemption, or the extent to which the ~~tax~~-expenditure or 1248
exemption encourages or would encourage business growth or 1249
relocation into the state, promotes or would promote growth or 1250
retention of high-wage jobs in the state, or aids or would aid 1251
community stabilization. 1252

(4) Whether the tax expenditure or property tax exemption 1253
successfully accomplishes any of the objectives identified in 1254
division (E) (3) of this section; 1255

(5) Whether the objectives identified in division (E) (3) 1256
of this section would or could have been accomplished 1257
successfully in the absence of the tax expenditure or property 1258
tax exemption or with less cost to the state or local 1259
governments; 1260

(6) Whether the objectives identified in division (E) (3) 1261
of this section could have been accomplished successfully 1262
through a program that requires legislative appropriations for 1263

funding; 1264

(7) The extent to which the tax expenditure or property tax exemption may provide unintended benefits to an individual, organization, or industry other than those the general assembly or sponsor intended or creates an unfair competitive advantage for its recipient with respect to other businesses in the state; 1265
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(8) The extent to which terminating the tax expenditure or property tax exemption may have negative effects on taxpayers that currently benefit from the tax expenditure; 1270
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(9) The extent to which terminating the tax expenditure or property tax exemption may have negative or positive effects on the state's employment and economy; 1273
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(10) The feasibility of modifying the tax expenditure or property tax exemption to provide for adjustment or recapture of the proceeds of the ~~tax~~-expenditure or exemption if the objectives of the ~~tax~~-expenditure or exemption are not fulfilled by the recipient of the ~~tax~~-expenditure or exemption. 1276
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(F) The committee shall prepare a report of its determinations under division (D) of this section and, not later than the first day of July of each even-numbered year, submit a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leader of the house of representatives, and the minority leader of the senate. The first report shall be submitted either in 2017 or 2018. If the committee maintains a web site, the committee shall cause a copy of the report to be posted on the web site in a form enabling access to the report by the public within thirty days after the report is submitted under this division. If the committee does not maintain a web site, the 1281
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committee shall request that the president of the senate and the 1293
speaker of the house of representatives cause the report to be 1294
posted on the web site of the general assembly. 1295

(G) Any bill introduced in the house of representatives or 1296
the senate that proposes to enact or modify one or more tax 1297
expenditures or property tax exemptions should include a 1298
statement explaining the objectives of the ~~tax~~-expenditure or 1299
exemption or its modification and the sponsor's intent in 1300
proposing the ~~tax~~-expenditure or exemption or its modification. 1301

Sec. 5709.121. (A) Real property and tangible personal 1302
property belonging to a charitable or educational institution or 1303
to the state or a political subdivision, shall be considered as 1304
used exclusively for charitable or public purposes by such 1305
institution, the state, or political subdivision, if it meets 1306
one of the following requirements: 1307

(1) It is used by such institution, the state, or 1308
political subdivision, or by one or more other such 1309
institutions, the state, or political subdivisions under a 1310
lease, sublease, or other contractual arrangement: 1311

(a) As a community or area center in which presentations 1312
in music, dramatics, the arts, and related fields are made in 1313
order to foster public interest and education therein; 1314

(b) As a children's, science, history, or natural history 1315
museum that is open to the general public; 1316

(c) For other charitable, educational, or public purposes. 1317

(2) It is made available under the direction or control of 1318
such institution, the state, or political subdivision for use in 1319
furtherance of or incidental to its charitable, educational, or 1320
public purposes and not with the view to profit. 1321

(3) It is used by an organization described in division 1322
(D) of section 5709.12 of the Revised Code. If the organization 1323
is a corporation that receives a grant under the Thomas Alva 1324
Edison grant program authorized by division (C) of section 1325
122.33 of the Revised Code at any time during the tax year, 1326
"used," for the purposes of this division, includes holding 1327
property for lease or resale to others. 1328

(B) (1) Property described in division (A) (1) (a) or (b) of 1329
this section shall continue to be considered as used exclusively 1330
for charitable or public purposes even if the property is 1331
conveyed through one conveyance or a series of conveyances to an 1332
entity that is not a charitable or educational institution and 1333
is not the state or a political subdivision, provided that all 1334
of the following conditions apply with respect to that property: 1335

(a) The property was listed as exempt on the county 1336
auditor's tax list and duplicate for the county in which it is 1337
located for the tax year immediately preceding the year in which 1338
the property is conveyed through one conveyance or a series of 1339
conveyances; 1340

(b) The property is conveyed through one conveyance or a 1341
series of conveyances to an entity that does any of the 1342
following: 1343

(i) Leases at least forty-five per cent of the property, 1344
through one lease or a series of leases, to the entity that 1345
owned or occupied the property for the tax year immediately 1346
preceding the year in which the property is conveyed or to an 1347
affiliate of that entity; 1348

(ii) Contracts, directly or indirectly to have renovations 1349
performed as described in division (B) (1) (d) of this section and 1350

is at least partially owned by a nonprofit organization 1351
described in section 501(c)(3) of the Internal Revenue Code that 1352
is exempt from taxation under section 501(a) of that code. 1353

(c) The property includes improvements that are at least 1354
fifty years old; 1355

(d) The property is being renovated in connection with a 1356
claim for historic preservation tax credits available under 1357
federal law; 1358

(e) All or a portion of the property continues to be used 1359
for the purposes described in division (A)(1)(a) or (b) of this 1360
section after its conveyance; and 1361

(f) The property is certified by the United States 1362
secretary of the interior as a "certified historic structure" or 1363
certified as part of a certified historic structure. 1364

(2) Notwithstanding section 5715.27 of the Revised Code, 1365
an application for exemption from taxation of property described 1366
in division (B)(1) of this section may be filed by either the 1367
owner of the property or an occupant. 1368

(C) For purposes of this section, an institution that 1369
meets all of the following requirements is conclusively presumed 1370
to be a charitable institution: 1371

(1) The institution is a nonprofit corporation or 1372
association, no part of the net earnings of which inures to the 1373
benefit of any private shareholder or individual; 1374

(2) The institution is exempt from federal income taxation 1375
under section 501(a) of the Internal Revenue Code; 1376

(3) The majority of the institution's board of directors 1377
are appointed by the mayor or legislative authority of a 1378

municipal corporation or a board of county commissioners, or a combination thereof;

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

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

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

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

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

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

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

(a) The property is used by the institution described in

division (E) (1) of this section for the purpose described in 1407
division (E) (1) (b) of this section. 1408

(b) The property is leased or otherwise provided by the 1409
institution described in division (E) (1) of this section to 1410
individuals with developmental disabilities and used by those 1411
individuals as housing. 1412

(c) The property is leased or otherwise provided by the 1413
institution described in division (E) (1) of this section to 1414
another charitable institution, and that charitable institution 1415
uses the property exclusively for charitable purposes. 1416

(F) (1) Qualifying real property owned by an institution 1417
that meets all of the following requirements shall be considered 1418
as used exclusively for charitable purposes, and the institution 1419
shall be considered a charitable institution for purposes of 1420
this section and section 5709.12 of the Revised Code: 1421

(a) The institution is either (i) an organization 1422
described under section 501(c) (3) of the Internal Revenue Code 1423
and exempt from federal income taxation under section 501(a) of 1424
the Internal Revenue Code that has as a primary purpose to 1425
acquire, develop, lease, or otherwise provide suitable 1426
supportive housing to individuals diagnosed with mental illness 1427
or substance use disorder and to families residing with such 1428
individuals or (ii) a limited liability company or limited 1429
partnership whose controlling or managing member or partner 1430
either is an organization described in division (F) (1) (a) (i) of 1431
this section or is wholly owned by one or more such 1432
organizations. 1433

(b) One or more of the tax-exempt organizations identified 1434
in division (F) (1) (a) of this section receives at least a 1435

portion of its funding to assist in the organization's primary 1436
purpose described in division (F) (1) (a) (i) of this section from 1437
the department of mental health and addiction services; one or 1438
more county boards of alcohol, drug addiction, and mental health 1439
services; or a local continuum of care program governed by 42 1440
U.S.C. 11381, et seq. and 24 C.F.R. part 578. 1441

(2) As used in division (F) of this section, "qualifying 1442
real property" means real property that is used primarily in one 1443
of the following manners: 1444

(a) The property is used by the institution described in 1445
division (F) (1) of this section for the purpose described in 1446
division (F) (1) (a) (i) of this section. 1447

(b) The institution (i) leases or otherwise provides the 1448
property to individuals diagnosed with mental illness or 1449
substance use disorder and to the families residing with such 1450
individuals and (ii) makes supportive services available to such 1451
individuals and families. 1452

(c) The property is leased or otherwise provided by that 1453
institution to another charitable institution, and that 1454
charitable institution uses the property exclusively for 1455
charitable purposes. 1456

Sec. 5709.17. The following property shall be exempted 1457
from taxation: 1458

(A) Real estate held or occupied by an association or 1459
corporation, organized or incorporated under the laws of this 1460
state relative to soldiers' memorial associations or monumental 1461
building associations and that, in the opinion of the trustees, 1462
directors, or managers thereof, is necessary and proper to carry 1463
out the object intended for such association or corporation; 1464

(B) Real estate and tangible personal property held or 1465
occupied by a qualifying veterans' organization and used 1466
primarily for meetings and administration of the qualifying 1467
veterans' organization or for providing, on a not-for-profit 1468
basis, programs and supportive services to past or present 1469
members of the armed forces of the United States and their 1470
families, except real estate held by such an organization for 1471
the production of rental income in excess of thirty-six thousand 1472
dollars in a tax year, before accounting for any cost or expense 1473
incurred in the production of such income. For the purposes of 1474
this division, rental income includes only income arising 1475
directly from renting the real estate to others for 1476
consideration, but does not include income arising from renting 1477
the real estate to a qualifying veterans' organization. 1478

As used in this division, "qualifying veterans' 1479
organization" means an organization that is incorporated under 1480
the laws of this state or the United States and that meets 1481
either of the following requirements: 1482

(1) The organization qualifies for exemption from taxation 1483
under section 501(c)(19) or 501(c)(23) of the Internal Revenue 1484
Code. 1485

(2) The organization meets the criteria for exemption 1486
under section 501(c)(19) of the Internal Revenue Code and 1487
regulations adopted pursuant thereto, but is exempt from 1488
taxation under section 501(c)(4) of the Internal Revenue Code. 1489

(C) Tangible personal property held by a corporation 1490
chartered under 112 Stat. 1335, 36 U.S.C. 40701, described in 1491
section 501(c)(3) of the Internal Revenue Code, and exempt from 1492
taxation under section 501(a) of the Internal Revenue Code shall 1493
be exempt from taxation if it is property obtained as described 1494

in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407. 1495

(D) Real estate held or occupied by a fraternal 1496
organization and used primarily for meetings of and the 1497
administration of the fraternal organization or for providing, 1498
on a not-for-profit basis, educational or health services, 1499
except real estate held by such an organization for the 1500
production of rental income in excess of thirty-six thousand 1501
dollars in a tax year before accounting for any cost or expense 1502
incurred in the production of such income. For the purposes of 1503
this division, rental income includes only income arising 1504
directly from renting the real estate to others for 1505
consideration, but does not include income arising from renting 1506
the real estate to any fraternal organization for use primarily 1507
for meetings of and the administration of such fraternal 1508
organization or for providing, on a not-for-profit basis, 1509
educational or health services. As used in this division, 1510
"fraternal organization" means a domestic fraternal society, 1511
order, or association operating under the lodge, council, or 1512
grange system that qualifies for exemption from taxation under 1513
section 501(c) (5), 501(c) (8), or 501(c) (10) of the "Internal 1514
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended; 1515
that provides financial support for charitable purposes, as 1516
defined in division (B) (12) of section 5739.02 of the Revised 1517
Code; and that operates under either a state or national 1518
governing body that has been operating in this state for at 1519
least eighty-five years. 1520

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 1521
the Revised Code: 1522

(A) "Enterprise zone" or "zone" means any of the 1523
following: 1524

(1) An area with a single continuous boundary designated 1525
in the manner set forth in section 5709.62 or 5709.63 of the 1526
Revised Code and certified by the director of development as 1527
having a population of at least four thousand according to the 1528
best and most recent data available to the director and having 1529
at least two of the following characteristics: 1530

(a) It is located in a municipal corporation defined by 1531
the United States office of management and budget as a principal 1532
city of a metropolitan statistical area; 1533

(b) It is located in a county designated as being in the 1534
"Appalachian region" under the "Appalachian Regional Development 1535
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 1536

(c) Its average rate of unemployment, during the most 1537
recent twelve-month period for which data are available, is 1538
equal to at least one hundred twenty-five per cent of the 1539
average rate of unemployment for the state of Ohio for the same 1540
period; 1541

(d) There is a prevalence of commercial or industrial 1542
structures in the area that are vacant or demolished, or are 1543
vacant and the taxes charged thereon are delinquent, and 1544
certification of the area as an enterprise zone would likely 1545
result in the reduction of the rate of vacant or demolished 1546
structures or the rate of tax delinquency in the area; 1547

(e) The population of all census tracts in the area, 1548
according to the federal census of 2000, decreased by at least 1549
ten per cent between the years 1980 and 2000; 1550

(f) At least fifty-one per cent of the residents of the 1551
area have incomes of less than eighty per cent of the median 1552
income of residents of the municipal corporation or municipal 1553

corporations in which the area is located, as determined in the 1554
same manner specified under section 119(b) of the "Housing and 1555
Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 1556
5318, as amended; 1557

(g) The area contains structures previously used for 1558
industrial purposes, but currently not so used due to age, 1559
obsolescence, deterioration, relocation of the former occupant's 1560
operations, or cessation of operations resulting from 1561
unfavorable economic conditions either generally or in a 1562
specific economic sector; 1563

(h) It is located within one or more adjacent city, local, 1564
or exempted village school districts, the income-weighted tax 1565
capacity of each of which is less than seventy per cent of the 1566
average of the income-weighted tax capacity of all city, local, 1567
or exempted village school districts in the state according to 1568
the most recent data available to the director from the 1569
department of taxation. 1570

The director of development shall adopt rules in 1571
accordance with Chapter 119. of the Revised Code establishing 1572
conditions constituting the characteristics described in 1573
divisions (A) (1) (d), (g), and (h) of this section. 1574

If an area could not be certified as an enterprise zone 1575
unless it satisfied division (A) (1) (g) of this section, the 1576
legislative authority may enter into agreements in that zone 1577
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 1578
only if such agreements result in the development of the 1579
facilities described in that division, the parcel of land on 1580
which such facilities are situated, or adjacent parcels. The 1581
director of development annually shall review all agreements in 1582
such zones to determine whether the agreements have resulted in 1583

such development; if the director determines that the agreements 1584
have not resulted in such development, the director immediately 1585
shall revoke certification of the zone and notify the 1586
legislative authority of such revocation. Any agreements entered 1587
into prior to revocation under this paragraph shall continue in 1588
effect for the period provided in the agreement. 1589

(2) An area with a single continuous boundary designated 1590
in the manner set forth in section 5709.63 of the Revised Code 1591
and certified by the director of development as having all of 1592
the following characteristics: 1593

(a) Being located within a county that contains a 1594
population of three hundred thousand or less; 1595

(b) Having a population of at least one thousand according 1596
to the best and most recent data available to the director; 1597

(c) Having at least two of the characteristics described 1598
in divisions (A) (1) (b) to (h) of this section. 1599

(3) An area with a single continuous boundary designated 1600
in the manner set forth under division (A) (1) of section 1601
5709.632 of the Revised Code and certified by the director of 1602
development as having a population of at least four thousand, or 1603
under division (A) (2) of that section and certified as having a 1604
population of at least one thousand, according to the best and 1605
most recent data available to the director. 1606

(B) "Enterprise" means any form of business organization 1607
including, but not limited to, any partnership, sole 1608
proprietorship, or corporation, including an S corporation as 1609
defined in section 1361 of the Internal Revenue Code and any 1610
corporation that is majority worker-owned either directly 1611
through the ownership of stock or indirectly through 1612

participation in an employee stock ownership plan. 1613

(C) "Facility" means an enterprise's place of business in 1614
a zone, including land, buildings, machinery, equipment, and 1615
other materials, except inventory, used in business. "Facility" 1616
includes land, buildings, machinery, production and station 1617
equipment, other equipment, and other materials, except 1618
inventory, used in business to generate electricity, provided 1619
that, for purposes of sections 5709.61 to 5709.69 of the Revised 1620
Code, the value of the property at such a facility shall be 1621
reduced by the value, if any, that is not apportioned under 1622
section 5727.15 of the Revised Code to the taxing district in 1623
which the facility is physically located. In the case of such a 1624
facility that is physically located in two adjacent taxing 1625
districts, the property located in each taxing district 1626
constitutes a separate facility. 1627

"Facility" does not include any portion of an enterprise's 1628
place of business used primarily for making retail sales unless 1629
the place of business is located in an impacted city as defined 1630
in section 1728.01 of the Revised Code or the board of education 1631
of the city, local, or exempted village school district within 1632
the territory of which the place of business is located adopts a 1633
resolution waiving the exclusion of retail facilities under 1634
section 5709.634 of the Revised Code. 1635

(D) "Vacant facility" means a facility that has been 1636
vacant for at least ninety days immediately preceding the date 1637
on which an agreement is entered into under section 5709.62 or 1638
5709.63 of the Revised Code. 1639

(E) "Expand" means to make expenditures to add land, 1640
buildings, machinery, equipment, or other materials, except 1641
inventory, to a facility that equal at least ten per cent of the 1642

market value of the facility prior to such expenditures, as 1643
determined for the purposes of local property taxation. 1644

(F) "Renovate" means to make expenditures to alter or 1645
repair a facility that equal at least fifty per cent of the 1646
market value of the facility prior to such expenditures, as 1647
determined for the purposes of local property taxation. 1648

(G) "Occupy" means to make expenditures to alter or repair 1649
a vacant facility equal to at least twenty per cent of the 1650
market value of the facility prior to such expenditures, as 1651
determined for the purposes of local property taxation. 1652

(H) "Project site" means all or any part of a facility 1653
that is newly constructed, expanded, renovated, or occupied by 1654
an enterprise. 1655

(I) "Project" means any undertaking by an enterprise to 1656
establish a facility or to improve a project site by expansion, 1657
renovation, or occupancy. 1658

(J) "Position" means the position of one full-time 1659
employee performing a particular set of tasks and duties. 1660

(K) "Full-time employee" means an individual who is 1661
employed for consideration by an enterprise for at least thirty- 1662
five hours a week, or who renders any other standard of service 1663
generally accepted by custom or specified by contract as full- 1664
time employment. 1665

(L) "New employee" means a full-time employee first 1666
employed by an enterprise at a facility that is a project site 1667
after the enterprise enters an agreement under section 5709.62 1668
or 5709.63 of the Revised Code. "New employee" does not include 1669
an employee if, immediately prior to being employed by the 1670
enterprise, the employee was employed by an enterprise that is a 1671

related member or predecessor enterprise of that enterprise. 1672

(M) "Unemployed person" means any person who is totally 1673
unemployed in this state, as that term is defined in division 1674
(M) of section 4141.01 of the Revised Code, for at least ten 1675
consecutive weeks immediately preceding that person's employment 1676
at a facility that is a project site, or who is so unemployed 1677
for at least twenty-six of the fifty-two weeks immediately 1678
preceding that person's employment at such a facility. 1679

(N) "JTPA eligible employee" means any individual who is 1680
eligible for employment or training under the "Job Training 1681
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 1682
amended. 1683

(O) "First used in business" means that the property 1684
referred to has not been used in business in this state by the 1685
enterprise that owns it, or by an enterprise that is a related 1686
member or predecessor enterprise of such an enterprise, other 1687
than as inventory, prior to being used in business at a facility 1688
as the result of a project. 1689

(P) "Training program" means any noncredit training 1690
program or course of study that is offered by any state college 1691
or university; university branch district; community college; 1692
technical college; nonprofit college or university certified 1693
under section 1713.02 of the Revised Code; school district; 1694
joint vocational school district; school registered and 1695
authorized to offer programs under section 3332.05 of the 1696
Revised Code; an entity administering any federal, state, or 1697
local adult education and training program; or any enterprise; 1698
and that meets all of the following requirements: 1699

(1) It is approved by the director of development; 1700

(2) It is established or operated to satisfy the need of a particular industry or enterprise for skilled or semi-skilled employees;

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

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

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

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

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

(S) "Business cycle" means the cycle of business activity 1730
usually regarded as passing through alternating stages of 1731
prosperity and depression. 1732

(T) "Making retail sales" means the effecting of point-of- 1733
final-purchase transactions at a facility open to the consuming 1734
public, wherein one party is obligated to pay the price and the 1735
other party is obligated to provide a service or to transfer 1736
title to or possession of the item sold. 1737

(U) "Environmentally contaminated" means that hazardous 1738
substances exist at a facility under conditions that have caused 1739
or would cause the facility to be identified as contaminated by 1740
the state or federal environmental protection agency. These may 1741
include facilities located at sites identified in the master 1742
sites list or similar database maintained by the state 1743
environmental protection agency if the sites have been 1744
investigated by the agency and found to be contaminated. 1745

(V) "Remediate" means to make expenditures to clean up an 1746
environmentally contaminated facility so that it is no longer 1747
environmentally contaminated that equal at least ten per cent of 1748
the real property market value of the facility prior to such 1749
expenditures as determined for the purposes of property 1750
taxation. 1751

(W) "Related member" has the same meaning as defined in 1752
section 5733.042 of the Revised Code without regard to division 1753
(B) of that section, except that it is used with respect to an 1754
enterprise rather than a taxpayer. 1755

(X) "Predecessor enterprise" means an enterprise from 1756
which the assets or equity of another enterprise has been 1757
transferred, which transfer resulted in the full or partial 1758

nonrecognition of gain or loss, or resulted in a carryover 1759
basis, both as determined by rule adopted by the tax 1760
commissioner. 1761

(Y) "Successor enterprise" means an enterprise to which 1762
the assets or equity of another enterprise has been transferred, 1763
which transfer resulted in the full or partial nonrecognition of 1764
gain or loss, or resulted in a carryover basis, both as 1765
determined by rule adopted by the tax commissioner. 1766

(Z) "Megaproject," "megaproject operator," and 1767
"megaproject supplier" have the same meanings as in section 1768
122.17 of the Revised Code. 1769

Sec. 5709.62. (A) In any municipal corporation that is 1770
defined by the United States office of management and budget as 1771
a principal city of a metropolitan statistical area, the 1772
legislative authority of the municipal corporation may designate 1773
one or more areas within its municipal corporation as proposed 1774
enterprise zones. Upon designating an area, the legislative 1775
authority shall petition the director of development services 1776
for certification of the area as having the characteristics set 1777
forth in division (A)(1) of section 5709.61 of the Revised Code 1778
as amended by Substitute Senate Bill No. 19 of the 120th general 1779
assembly. Except as otherwise provided in division (E) of this 1780
section, on and after July 1, 1994, legislative authorities 1781
shall not enter into agreements under this section unless the 1782
legislative authority has petitioned the director and the 1783
director has certified the zone under this section as amended by 1784
that act; however, all agreements entered into under this 1785
section as it existed prior to July 1, 1994, and the incentives 1786
granted under those agreements shall remain in effect for the 1787
period agreed to under those agreements. Within sixty days after 1788

receiving such a petition, the director shall determine whether 1789
the area has the characteristics set forth in division (A) (1) of 1790
section 5709.61 of the Revised Code, and shall forward the 1791
findings to the legislative authority of the municipal 1792
corporation. If the director certifies the area as having those 1793
characteristics, and thereby certifies it as a zone, the 1794
legislative authority may enter into an agreement with an 1795
enterprise under division (C) of this section. 1796

(B) Any enterprise that wishes to enter into an agreement 1797
with a municipal corporation under division (C) of this section 1798
shall submit a proposal to the legislative authority of the 1799
municipal corporation on a form prescribed by the director of 1800
development services, together with the application fee 1801
established under section 5709.68 of the Revised Code. The form 1802
shall require the following information: 1803

(1) An estimate of the number of new employees whom the 1804
enterprise intends to hire, or of the number of employees whom 1805
the enterprise intends to retain, within the zone at a facility 1806
that is a project site, and an estimate of the amount of payroll 1807
of the enterprise attributable to these employees; 1808

(2) An estimate of the amount to be invested by the 1809
enterprise to establish, expand, renovate, or occupy a facility, 1810
including investment in new buildings, additions or improvements 1811
to existing buildings, machinery, equipment, furniture, 1812
fixtures, and inventory; 1813

(3) A listing of the enterprise's current investment, if 1814
any, in a facility as of the date of the proposal's submission. 1815

The enterprise shall review and update the listings 1816
required under this division to reflect material changes, and 1817

any agreement entered into under division (C) of this section 1818
shall set forth final estimates and listings as of the time the 1819
agreement is entered into. The legislative authority may, on a 1820
separate form and at any time, require any additional 1821
information necessary to determine whether an enterprise is in 1822
compliance with an agreement and to collect the information 1823
required to be reported under section 5709.68 of the Revised 1824
Code. 1825

(C) Upon receipt and investigation of a proposal under 1826
division (B) of this section, if the legislative authority finds 1827
that the enterprise submitting the proposal is qualified by 1828
financial responsibility and business experience to create and 1829
preserve employment opportunities in the zone and improve the 1830
economic climate of the municipal corporation, the legislative 1831
authority may do one of the following: 1832

(1) Enter into an agreement with the enterprise under 1833
which the enterprise agrees to establish, expand, renovate, or 1834
occupy a facility and hire new employees, or preserve employment 1835
opportunities for existing employees, in return for one or more 1836
of the following incentives: 1837

(a) Exemption for a specified number of years, not to 1838
exceed fifteen, of a specified portion, up to seventy-five per 1839
cent, of the assessed value of tangible personal property first 1840
used in business at the project site as a result of the 1841
agreement. If an exemption for inventory is specifically granted 1842
in the agreement pursuant to this division, the exemption 1843
applies to inventory required to be listed pursuant to sections 1844
5711.15 and 5711.16 of the Revised Code, except that, in the 1845
instance of an expansion or other situations in which an 1846
enterprise was in business at the facility prior to the 1847

establishment of the zone, the inventory that is exempt is that 1848
amount or value of inventory in excess of the amount or value of 1849
inventory required to be listed in the personal property tax 1850
return of the enterprise in the return for the tax year in which 1851
the agreement is entered into. 1852

(b) Exemption for a specified number of years, not to 1853
exceed fifteen, of a specified portion, up to seventy-five per 1854
cent, of the increase in the assessed valuation of real property 1855
constituting the project site subsequent to formal approval of 1856
the agreement by the legislative authority; 1857

(c) Provision for a specified number of years, not to 1858
exceed fifteen, of any optional services or assistance that the 1859
municipal corporation is authorized to provide with regard to 1860
the project site. 1861

(2) Enter into an agreement under which the enterprise 1862
agrees to remediate an environmentally contaminated facility, to 1863
spend an amount equal to at least two hundred fifty per cent of 1864
the true value in money of the real property of the facility 1865
prior to remediation as determined for the purposes of property 1866
taxation to establish, expand, renovate, or occupy the 1867
remediated facility, and to hire new employees or preserve 1868
employment opportunities for existing employees at the 1869
remediated facility, in return for one or more of the following 1870
incentives: 1871

(a) Exemption for a specified number of years, not to 1872
exceed fifteen, of a specified portion, not to exceed fifty per 1873
cent, of the assessed valuation of the real property of the 1874
facility prior to remediation; 1875

(b) Exemption for a specified number of years, not to 1876

exceed fifteen, of a specified portion, not to exceed one 1877
hundred per cent, of the increase in the assessed valuation of 1878
the real property of the facility during or after remediation; 1879

(c) The incentive under division (C) (1) (a) of this 1880
section, except that the percentage of the assessed value of 1881
such property exempted from taxation shall not exceed one 1882
hundred per cent; 1883

(d) The incentive under division (C) (1) (c) of this 1884
section. 1885

(3) Enter into an agreement with an enterprise that plans 1886
to purchase and operate a large manufacturing facility that has 1887
ceased operation or announced its intention to cease operation, 1888
in return for exemption for a specified number of years, not to 1889
exceed fifteen, of a specified portion, up to one hundred per 1890
cent, of the assessed value of tangible personal property used 1891
in business at the project site as a result of the agreement, or 1892
of the assessed valuation of real property constituting the 1893
project site, or both. 1894

(4) Enter into an agreement with an enterprise that either 1895
is the owner of real property constituting the site of a 1896
megaproject or is a megaproject supplier in return for an 1897
exemption for a specified number of years, not to exceed thirty, 1898
of a specified portion, up to one hundred per cent, of the 1899
increase in the assessed value of real property constituting the 1900
site of a megaproject or real property owned and occupied by the 1901
megaproject supplier, respectively, beginning after the tax year 1902
in which the agreement is formally approved by the legislative 1903
authority. 1904

(D) (1) Notwithstanding divisions (C) (1) (a) and (b) of this 1905

section, the portion of the assessed value of tangible personal 1906
property or of the increase in the assessed valuation of real 1907
property exempted from taxation under those divisions may exceed 1908
seventy-five per cent in any year for which that portion is 1909
exempted if the average percentage exempted for all years in 1910
which the agreement is in effect does not exceed sixty per cent, 1911
or if the board of education of the city, local, or exempted 1912
village school district within the territory of which the 1913
property is or will be located approves a percentage in excess 1914
of seventy-five per cent. 1915

(2) Notwithstanding any provision of the Revised Code to 1916
the contrary, the exemptions described in divisions (C) (1) (a), 1917
(b), and (c), (C) (2) (a), (b), and (c), and (C) (3) of this 1918
section may be for up to fifteen years and the exemption 1919
described in division (C) (4) of this section may be for up to 1920
thirty years if the board of education of the city, local, or 1921
exempted village school district within the territory of which 1922
the property is or will be located approves a number of years in 1923
excess of ten. 1924

(3) For the purpose of obtaining the approval of a city, 1925
local, or exempted village school district under division (D) (1) 1926
or (2) of this section, the legislative authority shall deliver 1927
to the board of education a notice not later than forty-five 1928
days prior to approving the agreement, excluding Saturdays, 1929
Sundays, and legal holidays as defined in section 1.14 of the 1930
Revised Code. The notice shall state the percentage to be 1931
exempted, an estimate of the true value of the property to be 1932
exempted, and the number of years the property is to be 1933
exempted. The board of education, by resolution adopted by a 1934
majority of the board, shall approve or disapprove the agreement 1935
and certify a copy of the resolution to the legislative 1936

authority not later than fourteen days prior to the date 1937
stipulated by the legislative authority as the date upon which 1938
approval of the agreement is to be formally considered by the 1939
legislative authority. The board of education may include in the 1940
resolution conditions under which the board would approve the 1941
agreement, including the execution of an agreement to compensate 1942
the school district under division (B) of section 5709.82 of the 1943
Revised Code. The legislative authority may approve the 1944
agreement at any time after the board of education certifies its 1945
resolution approving the agreement to the legislative authority, 1946
or, if the board approves the agreement conditionally, at any 1947
time after the conditions are agreed to by the board and the 1948
legislative authority. 1949

If a board of education has adopted a resolution waiving 1950
its right to approve agreements and the resolution remains in 1951
effect, approval of an agreement by the board is not required 1952
under this division. If a board of education has adopted a 1953
resolution allowing a legislative authority to deliver the 1954
notice required under this division fewer than forty-five 1955
business days prior to the legislative authority's approval of 1956
the agreement, the legislative authority shall deliver the 1957
notice to the board not later than the number of days prior to 1958
such approval as prescribed by the board in its resolution. If a 1959
board of education adopts a resolution waiving its right to 1960
approve agreements or shortening the notification period, the 1961
board shall certify a copy of the resolution to the legislative 1962
authority. If the board of education rescinds such a resolution, 1963
it shall certify notice of the rescission to the legislative 1964
authority. 1965

(4) The legislative authority shall comply with section 1966
5709.83 of the Revised Code unless the board of education has 1967

adopted a resolution under that section waiving its right to receive such notice. 1968
1969

(E) This division applies to zones certified by the director of development services under this section prior to July 22, 1994. 1970
1971
1972

The legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E) (1) to (5) of this section: 1973
1974
1975
1976
1977

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone; 1978
1979
1980

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state; 1981
1982
1983
1984
1985

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone; 1986
1987
1988

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates; 1989
1990
1991

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code. 1992
1993
1994
1995
1996

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but

such a waiver or reduction does not affect the obligations of 2028
the legislative authority or the tax incentive review council to 2029
comply with section 5709.68 or 5709.85 of the Revised Code. 2030

(H) When an agreement is entered into pursuant to this 2031
section, the legislative authority authorizing the agreement 2032
shall forward a copy of the agreement to the director of 2033
development services and to the tax commissioner within fifteen 2034
days after the agreement is entered into. If any agreement 2035
includes terms not provided for in section 5709.631 of the 2036
Revised Code affecting the revenue of a city, local, or exempted 2037
village school district or causing revenue to be forgone by the 2038
district, including any compensation to be paid to the school 2039
district pursuant to section 5709.82 of the Revised Code, those 2040
terms also shall be forwarded in writing to the director of 2041
development services along with the copy of the agreement 2042
forwarded under this division. 2043

(I) After an agreement is entered into, the enterprise 2044
shall file with each personal property tax return required to be 2045
filed, or annual report required to be filed under section 2046
5727.08 of the Revised Code, while the agreement is in effect, 2047
an informational return, on a form prescribed by the tax 2048
commissioner for that purpose, setting forth separately the 2049
property, and related costs and values, exempted from taxation 2050
under the agreement. 2051

(J) Enterprises may agree to give preference to residents 2052
of the zone within which the agreement applies relative to 2053
residents of this state who do not reside in the zone when 2054
hiring new employees under the agreement. 2055

(K) An agreement entered into under this section may 2056
include a provision requiring the enterprise to create one or 2057

more temporary internship positions for students enrolled in a 2058
course of study at a school or other educational institution in 2059
the vicinity, and to create a scholarship or provide another 2060
form of educational financial assistance for students holding 2061
such a position in exchange for the student's commitment to work 2062
for the enterprise at the completion of the internship. 2063

(L) The tax commissioner's authority in determining the 2064
accuracy of any exemption granted by an agreement entered into 2065
under this section is limited to divisions (C) (1) (a) and (b), 2066
(C) (2) (a), (b), and (c), (C) (3) and (4), (D), and (I) of this 2067
section and divisions (B) (1) to (10) of section 5709.631 of the 2068
Revised Code and, as authorized by law, to enforcing any 2069
modification to, or revocation of, that agreement by the 2070
legislative authority of a municipal corporation or the director 2071
of development services. 2072

Sec. 5709.63. (A) With the consent of the legislative 2073
authority of each affected municipal corporation or of a board 2074
of township trustees, a board of county commissioners may, in 2075
the manner set forth in section 5709.62 of the Revised Code, 2076
designate one or more areas in one or more municipal 2077
corporations or in unincorporated areas of the county as 2078
proposed enterprise zones. A board of county commissioners may 2079
designate no more than one area within a township, or within 2080
adjacent townships, as a proposed enterprise zone. The board 2081
shall petition the director of development services for 2082
certification of the area as having the characteristics set 2083
forth in division (A) (1) or (2) of section 5709.61 of the 2084
Revised Code as amended by Substitute Senate Bill No. 19 of the 2085
120th general assembly. Except as otherwise provided in division 2086
(D) of this section, on and after July 1, 1994, boards of county 2087
commissioners shall not enter into agreements under this section 2088

unless the board has petitioned the director and the director 2089
has certified the zone under this section as amended by that 2090
act; however, all agreements entered into under this section as 2091
it existed prior to July 1, 1994, and the incentives granted 2092
under those agreements shall remain in effect for the period 2093
agreed to under those agreements. The director shall make the 2094
determination in the manner provided under section 5709.62 of 2095
the Revised Code. 2096

Any enterprise wishing to enter into an agreement with the 2097
board under division (B) or (D) of this section shall submit a 2098
proposal to the board on the form and accompanied by the 2099
application fee prescribed under division (B) of section 5709.62 2100
of the Revised Code. The enterprise shall review and update the 2101
estimates and listings required by the form in the manner 2102
required under that division. The board may, on a separate form 2103
and at any time, require any additional information necessary to 2104
determine whether an enterprise is in compliance with an 2105
agreement and to collect the information required to be reported 2106
under section 5709.68 of the Revised Code. 2107

(B) If the board of county commissioners finds that an 2108
enterprise submitting a proposal is qualified by financial 2109
responsibility and business experience to create and preserve 2110
employment opportunities in the zone and to improve the economic 2111
climate of the municipal corporation or municipal corporations 2112
or the unincorporated areas in which the zone is located and to 2113
which the proposal applies, the board, with the consent of the 2114
legislative authority of each affected municipal corporation or 2115
of the board of township trustees, may do ~~either~~ one of the 2116
following: 2117

(1) Enter into an agreement with the enterprise under 2118

which the enterprise agrees to establish, expand, renovate, or 2119
occupy a facility in the zone and hire new employees, or 2120
preserve employment opportunities for existing employees, in 2121
return for the following incentives: 2122

(a) When the facility is located in a municipal 2123
corporation, the board may enter into an agreement for one or 2124
more of the incentives provided in division (C) of section 2125
5709.62 of the Revised Code, subject to division (D) of that 2126
section; 2127

(b) When the facility is located in an unincorporated 2128
area, the board may enter into an agreement for one or more of 2129
the following incentives: 2130

(i) Exemption for a specified number of years, not to 2131
exceed fifteen, of a specified portion, up to sixty per cent, of 2132
the assessed value of tangible personal property first used in 2133
business at a project site as a result of the agreement. If an 2134
exemption for inventory is specifically granted in the agreement 2135
pursuant to this division, the exemption applies to inventory 2136
required to be listed pursuant to sections 5711.15 and 5711.16 2137
of the Revised Code, except, in the instance of an expansion or 2138
other situations in which an enterprise was in business at the 2139
facility prior to the establishment of the zone, the inventory 2140
that is exempt is that amount or value of inventory in excess of 2141
the amount or value of inventory required to be listed in the 2142
personal property tax return of the enterprise in the return for 2143
the tax year in which the agreement is entered into. 2144

(ii) Exemption for a specified number of years, not to 2145
exceed fifteen, of a specified portion, up to sixty per cent, of 2146
the increase in the assessed valuation of real property 2147
constituting the project site subsequent to formal approval of 2148

the agreement by the board; 2149

(iii) Provision for a specified number of years, not to 2150
exceed fifteen, of any optional services or assistance the board 2151
is authorized to provide with regard to the project site; 2152

(iv) The incentive described in division (C) (2) of section 2153
5709.62 of the Revised Code. 2154

(2) Enter into an agreement with an enterprise that plans 2155
to purchase and operate a large manufacturing facility that has 2156
ceased operation or has announced its intention to cease 2157
operation, in return for exemption for a specified number of 2158
years, not to exceed fifteen, of a specified portion, up to one 2159
hundred per cent, of tangible personal property used in business 2160
at the project site as a result of the agreement, or of real 2161
property constituting the project site, or both. 2162

(3) Enter into an agreement with an enterprise that either 2163
is the owner of real property constituting the site of a 2164
megaproject or is a megaproject supplier in return for an 2165
exemption for a specified number of years, not to exceed thirty, 2166
of a specified portion, up to one hundred per cent, of the 2167
increase in the assessed value of real property constituting the 2168
site of a megaproject or real property owned and occupied by the 2169
megaproject supplier, respectively, beginning after the tax year 2170
in which the agreement is formally approved by the legislative 2171
authority. 2172

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 2173
of this section, the portion of the assessed value of tangible 2174
personal property or of the increase in the assessed valuation 2175
of real property exempted from taxation under those divisions 2176
may exceed sixty per cent in any year for which that portion is 2177

exempted if the average percentage exempted for all years in 2178
which the agreement is in effect does not exceed fifty per cent, 2179
or if the board of education of the city, local, or exempted 2180
village school district within the territory of which the 2181
property is or will be located approves a percentage in excess 2182
of sixty per cent. 2183

(b) Notwithstanding any provision of the Revised Code to 2184
the contrary, the exemptions described in divisions (B) (1) (b) 2185
(i), (ii), (iii), and (iv) and (B) (2) of this section may be for 2186
up to fifteen years and the exemption described in division (B) 2187
(3) of this section may be for up to thirty years if the board 2188
of education of the city, local, or exempted village school 2189
district within the territory of which the property is or will 2190
be located approves a number of years in excess of ten. 2191

(c) For the purpose of obtaining the approval of a city, 2192
local, or exempted village school district under division (C) (1) 2193
(a) or (b) of this section, the board of county commissioners 2194
shall deliver to the board of education a notice not later than 2195
forty-five days prior to approving the agreement, excluding 2196
Saturdays, Sundays, and legal holidays as defined in section 2197
1.14 of the Revised Code. The notice shall state the percentage 2198
to be exempted, an estimate of the true value of the property to 2199
be exempted, and the number of years the property is to be 2200
exempted. The board of education, by resolution adopted by a 2201
majority of the board, shall approve or disapprove the agreement 2202
and certify a copy of the resolution to the board of county 2203
commissioners not later than fourteen days prior to the date 2204
stipulated by the board of county commissioners as the date upon 2205
which approval of the agreement is to be formally considered by 2206
the board of county commissioners. The board of education may 2207
include in the resolution conditions under which the board would 2208

approve the agreement, including the execution of an agreement 2209
to compensate the school district under division (B) of section 2210
5709.82 of the Revised Code. The board of county commissioners 2211
may approve the agreement at any time after the board of 2212
education certifies its resolution approving the agreement to 2213
the board of county commissioners, or, if the board of education 2214
approves the agreement conditionally, at any time after the 2215
conditions are agreed to by the board of education and the board 2216
of county commissioners. 2217

If a board of education has adopted a resolution waiving 2218
its right to approve agreements and the resolution remains in 2219
effect, approval of an agreement by the board of education is 2220
not required under division (C) of this section. If a board of 2221
education has adopted a resolution allowing a board of county 2222
commissioners to deliver the notice required under this division 2223
fewer than forty-five business days prior to approval of the 2224
agreement by the board of county commissioners, the board of 2225
county commissioners shall deliver the notice to the board of 2226
education not later than the number of days prior to such 2227
approval as prescribed by the board of education in its 2228
resolution. If a board of education adopts a resolution waiving 2229
its right to approve agreements or shortening the notification 2230
period, the board of education shall certify a copy of the 2231
resolution to the board of county commissioners. If the board of 2232
education rescinds such a resolution, it shall certify notice of 2233
the rescission to the board of county commissioners. 2234

(2) The board of county commissioners shall comply with 2235
section 5709.83 of the Revised Code unless the board of 2236
education has adopted a resolution under that section waiving 2237
its right to receive such notice. 2238

(D) This division applies to zones certified by the 2239
director of development services under this section prior to 2240
July 22, 1994. 2241

With the consent of the legislative authority of each 2242
affected municipal corporation or board of township trustees of 2243
each affected township, the board of county commissioners that 2244
designated a zone to which this division applies may enter into 2245
an agreement with an enterprise if the board finds that the 2246
enterprise satisfies one of the criteria described in divisions 2247
(D) (1) to (5) of this section: 2248

(1) The enterprise currently has no operations in this 2249
state and, subject to approval of the agreement, intends to 2250
establish operations in the zone; 2251

(2) The enterprise currently has operations in this state 2252
and, subject to approval of the agreement, intends to establish 2253
operations at a new location in the zone that would not result 2254
in a reduction in the number of employee positions at any of the 2255
enterprise's other locations in this state; 2256

(3) The enterprise, subject to approval of the agreement, 2257
intends to relocate operations, currently located in another 2258
state, to the zone; 2259

(4) The enterprise, subject to approval of the agreement, 2260
intends to expand operations at an existing site in the zone 2261
that the enterprise currently operates; 2262

(5) The enterprise, subject to approval of the agreement, 2263
intends to relocate operations, currently located in this state, 2264
to the zone, and the director of development services has issued 2265
a waiver for the enterprise under division (B) of section 2266
5709.633 of the Revised Code. 2267

The agreement shall require the enterprise to agree to 2268
establish, expand, renovate, or occupy a facility in the zone 2269
and hire new employees, or preserve employment opportunities for 2270
existing employees, in return for one or more of the incentives 2271
described in division (B) of this section. 2272

(E) All agreements entered into under this section shall 2273
be in the form prescribed under section 5709.631 of the Revised 2274
Code. After an agreement under this section is entered into, if 2275
the board of county commissioners revokes its designation of a 2276
zone, or if the director of development services revokes a 2277
zone's certification, any entitlements granted under the 2278
agreement shall continue for the number of years specified in 2279
the agreement. 2280

(F) Except as otherwise provided in this division, an 2281
agreement entered into under this section shall require that the 2282
enterprise pay an annual fee equal to the greater of one per 2283
cent of the dollar value of incentives offered under the 2284
agreement or five hundred dollars; provided, however, that if 2285
the value of the incentives exceeds two hundred fifty thousand 2286
dollars, the fee shall not exceed two thousand five hundred 2287
dollars. The fee shall be payable to the board of county 2288
commissioners once per year for each year the agreement is 2289
effective on the days and in the form specified in the 2290
agreement. Fees paid shall be deposited in a special fund 2291
created for such purpose by the board and shall be used by the 2292
board exclusively for the purpose of complying with section 2293
5709.68 of the Revised Code and by the tax incentive review 2294
council created under section 5709.85 of the Revised Code 2295
exclusively for the purposes of performing the duties prescribed 2296
under that section. The board may waive or reduce the amount of 2297
the fee charged against an enterprise, but such waiver or 2298

reduction does not affect the obligations of the board or the 2299
tax incentive review council to comply with section 5709.68 or 2300
5709.85 of the Revised Code, respectively. 2301

(G) With the approval of the legislative authority of a 2302
municipal corporation or the board of township trustees of a 2303
township in which a zone is designated under division (A) of 2304
this section, the board of county commissioners may delegate to 2305
that legislative authority or board any powers and duties of the 2306
board of county commissioners to negotiate and administer 2307
agreements with regard to that zone under this section. 2308

(H) When an agreement is entered into pursuant to this 2309
section, the board of county commissioners authorizing the 2310
agreement or the legislative authority or board of township 2311
trustees that negotiates and administers the agreement shall 2312
forward a copy of the agreement to the director of development 2313
services and to the tax commissioner within fifteen days after 2314
the agreement is entered into. If any agreement includes terms 2315
not provided for in section 5709.631 of the Revised Code 2316
affecting the revenue of a city, local, or exempted village 2317
school district or causing revenue to be foregone by the 2318
district, including any compensation to be paid to the school 2319
district pursuant to section 5709.82 of the Revised Code, those 2320
terms also shall be forwarded in writing to the director of 2321
development services along with the copy of the agreement 2322
forwarded under this division. 2323

(I) After an agreement is entered into, the enterprise 2324
shall file with each personal property tax return required to be 2325
filed, or annual report that is required to be filed under 2326
section 5727.08 of the Revised Code, while the agreement is in 2327
effect, an informational return, on a form prescribed by the tax 2328

commissioner for that purpose, setting forth separately the 2329
property, and related costs and values, exempted from taxation 2330
under the agreement. 2331

(J) Enterprises may agree to give preference to residents 2332
of the zone within which the agreement applies relative to 2333
residents of this state who do not reside in the zone when 2334
hiring new employees under the agreement. 2335

(K) An agreement entered into under this section may 2336
include a provision requiring the enterprise to create one or 2337
more temporary internship positions for students enrolled in a 2338
course of study at a school or other educational institution in 2339
the vicinity, and to create a scholarship or provide another 2340
form of educational financial assistance for students holding 2341
such a position in exchange for the student's commitment to work 2342
for the enterprise at the completion of the internship. 2343

(L) The tax commissioner's authority in determining the 2344
accuracy of any exemption granted by an agreement entered into 2345
under this section is limited to divisions (B) (1) (b) (i) and 2346
(ii), (B) (2) and (3), (C), and (I) of this section, division (B) 2347
(1) (b) (iv) of this section as it pertains to divisions (C) (2) 2348
(a), (b), and (c) of section 5709.62 of the Revised Code, and 2349
divisions (B) (1) to (10) of section 5709.631 of the Revised Code 2350
and, as authorized by law, to enforcing any modification to, or 2351
revocation of, that agreement by the board of county 2352
commissioners or the director of development services or, if the 2353
board's powers and duties are delegated under division (G) of 2354
this section, by the legislative authority of a municipal 2355
corporation or board of township trustees. 2356

Sec. 5709.631. Each agreement entered into under sections 2357
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 2358

April 1, 1994, shall be in writing and shall include all of the 2359
information and statements prescribed by this section. 2360
Agreements may include terms not prescribed by this section, but 2361
such terms shall in no way derogate from the information and 2362
statements prescribed by this section. 2363

(A) Each agreement shall include the following 2364
information: 2365

(1) The names of all parties to the agreement; 2366

(2) A description of the investments to be made by the 2367
applicant enterprise or by another party at the facility whether 2368
or not the investments are exempted from taxation, including 2369
existing or new building size and cost thereof; the value of 2370
machinery, equipment, furniture, and fixtures, including an 2371
itemization of the value of machinery, equipment, furniture, and 2372
fixtures used at another location in this state prior to the 2373
agreement and relocated or to be relocated from that location to 2374
the facility and the value of machinery, equipment, furniture, 2375
and fixtures at the facility prior to the execution of the 2376
agreement that will not be exempted from taxation; the value of 2377
inventory at the facility, including an itemization of the value 2378
of inventory held at another location in this state prior to the 2379
agreement and relocated or to be relocated from that location to 2380
the facility, and the value of inventory held at the facility 2381
prior to the execution of the agreement that will not be 2382
exempted from taxation; 2383

(3) The scheduled starting and completion dates of 2384
investments made in building, machinery, equipment, furniture, 2385
fixtures, and inventory; 2386

(4) Estimates of the number of employee positions to be 2387

created each year of the agreement and of the number of employee 2388
positions retained by the applicant enterprise due to the 2389
project, itemized as to the number of full-time, part-time, 2390
permanent, and temporary positions; 2391

(5) Estimates of the dollar amount of payroll attributable 2392
to the positions set forth in division (A) (4) of this section, 2393
similarly itemized; 2394

(6) The number of employee positions, if any, at the 2395
project site and at any other location in the state at the time 2396
the agreement is executed, itemized as to the number of full- 2397
time, part-time, permanent, and temporary positions. 2398

(B) Each agreement shall set forth the following 2399
information and incorporate the following statements: 2400

(1) A description of real property to be exempted from 2401
taxation under the agreement, the percentage of the assessed 2402
valuation of the real property exempted from taxation, and the 2403
period for which the exemption is granted, accompanied by the 2404
statement: "The exemption commences the first year for which the 2405
real property would first be taxable were that property not 2406
exempted from taxation. No exemption shall commence after 2407
_____ (insert date) nor extend beyond _____ (insert 2408
date)." The tax commissioner shall adopt rules prescribing the 2409
form the description of such property shall assume to ensure 2410
that the property to be exempted from taxation under the 2411
agreement is distinguishable from property that is not to be 2412
exempted under that agreement. 2413

(2) A description of tangible personal property to be 2414
exempted from taxation under the agreement, the percentage of 2415
the assessed value of the tangible personal property exempted 2416

from taxation, and the period for which the exemption is 2417
granted, accompanied by the statement: "The minimum investment 2418
for tangible personal property to qualify for the exemption is 2419
\$_____ (insert dollar amount) to purchase machinery and 2420
equipment first used in business at the facility as a result of 2421
the project, \$_____ (insert dollar amount) for furniture 2422
and fixtures and other noninventory personal property first used 2423
in business at the facility as a result of the project, and 2424
\$_____ (insert dollar amount) for new inventory. The 2425
maximum investment for tangible personal property to qualify for 2426
the exemption is \$_____ (insert dollar amount) to purchase 2427
machinery and equipment first used in business at the facility 2428
as a result of the project, \$_____ (insert dollar amount) 2429
for furniture and fixtures and other noninventory personal 2430
property first used in business at the facility as a result of 2431
the project, and \$_____ (insert dollar amount) for new 2432
inventory. The exemption commences the first year for which the 2433
tangible personal property would first be taxable were that 2434
property not exempted from taxation. No exemption shall commence 2435
after tax return year _____ (insert year) nor extend beyond 2436
tax return year _____ (insert year). In no instance shall 2437
any tangible personal property be exempted from taxation for 2438
more than ten return years unless, under division (D) (2) of 2439
section 5709.62 or under division (C) (1) (b) of section 5709.63 2440
of the Revised Code, the board of education approves exemption 2441
for a number of years in excess of ten, in which case the 2442
tangible personal property may be exempted from taxation for 2443
that number of years, not to exceed fifteen return years." No 2444
exemption shall be allowed for any type of tangible personal 2445
property if the total investment is less than the minimum dollar 2446
amount specified for that type of property. If, for a type of 2447
tangible personal property, there are no minimum or maximum 2448

investment dollar amounts specified in the statement or the 2449
dollar amounts are designated in the statement as not 2450
applicable, the exemption shall apply to the total cost of that 2451
type of tangible personal property first used in business at the 2452
facility as a result of the project. The tax commissioner shall 2453
adopt rules prescribing the form the description of such 2454
property shall assume to ensure that the property to be exempted 2455
from taxation under the agreement is distinguishable from 2456
property that is not to be exempted under that agreement. 2457

(3) " _____ (insert name of enterprise) shall pay such 2458
real and tangible personal property taxes as are not exempted 2459
under this agreement and are charged against such property and 2460
shall file all tax reports and returns as required by law. If 2461
_____ (insert name of enterprise) fails to pay such taxes 2462
or file such returns and reports, all incentives granted under 2463
this agreement are rescinded beginning with the year for which 2464
such taxes are charged or such reports or returns are required 2465
to be filed and thereafter." 2466

(4) " _____ (insert name of enterprise) hereby 2467
certifies that at the time this agreement is executed, 2468
_____ (insert name of enterprise) does not owe any 2469
delinquent real or tangible personal property taxes to any 2470
taxing authority of the State of Ohio, and does not owe 2471
delinquent taxes for which _____ (insert name of 2472
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 2473
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 2474
delinquent taxes are owed, _____ (insert name of 2475
enterprise) currently is paying the delinquent taxes pursuant to 2476
a delinquent tax contract enforceable by the State of Ohio or an 2477
agent or instrumentality thereof, has filed a petition in 2478
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 2479

has been filed against _____ (insert name of enterprise). 2480
For the purposes of the certification, delinquent taxes are 2481
taxes that remain unpaid on the latest day prescribed for 2482
payment without penalty under the chapter of the Revised Code 2483
governing payment of those taxes." 2484

(5) "_____ (insert name of municipal corporation or 2485
county) shall perform such acts as are reasonably necessary or 2486
appropriate to effect, claim, reserve, and maintain exemptions 2487
from taxation granted under this agreement including, without 2488
limitation, joining in the execution of all documentation and 2489
providing any necessary certificates required in connection with 2490
such exemptions." 2491

(6) "If for any reason the enterprise zone designation 2492
expires, the Director of the Ohio Department of Development 2493
revokes certification of the zone, or _____ (insert name of 2494
municipal corporation or county) revokes the designation of the 2495
zone, entitlements granted under this agreement shall continue 2496
for the number of years specified under this agreement, unless 2497
_____ (insert name of enterprise) materially fails to 2498
fulfill its obligations under this agreement and _____ 2499
(insert name of municipal corporation or county) terminates or 2500
modifies the exemptions from taxation granted under this 2501
agreement." 2502

(7) "If _____ (insert name of enterprise) materially 2503
fails to fulfill its obligations under this agreement, other 2504
than with respect to the number of employee positions estimated 2505
to be created or retained under this agreement, or if _____ 2506
(insert name of municipal corporation or county) determines that 2507
the certification as to delinquent taxes required by this 2508
agreement is fraudulent, _____ (insert name of municipal 2509

corporation or county) may terminate or modify the exemptions 2510
from taxation granted under this agreement." 2511

(8) " _____ (insert name of enterprise) shall provide 2512
to the proper tax incentive review council any information 2513
reasonably required by the council to evaluate the enterprise's 2514
compliance with the agreement, including returns or annual 2515
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 2516
Revised Code if requested by the council." 2517

(9) " _____ (insert name of enterprise) and _____ 2518
(insert name of municipal corporation or county) acknowledge 2519
that this agreement must be approved by formal action of the 2520
legislative authority of _____ (insert name of municipal 2521
corporation or county) as a condition for the agreement to take 2522
effect. This agreement takes effect upon such approval." 2523

(10) "This agreement is not transferable or assignable 2524
without the express, written approval of _____ (insert name 2525
of municipal corporation or county)." 2526

(11) "Exemptions from taxation granted under this 2527
agreement shall be revoked if it is determined that 2528
_____ (insert name of enterprise), any successor 2529
enterprise, or any related member (as those terms are defined in 2530
section 5709.61 of the Ohio Revised Code) has violated the 2531
prohibition against entering into this agreement under division 2532
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 2533
of the Ohio Revised Code prior to the time prescribed by that 2534
division or either of those sections." 2535

(12) "In any three-year period during which this agreement 2536
is in effect, if the actual number of employee positions created 2537
or retained by (insert name of enterprise) is 2538

not equal to or greater than seventy-five per cent of the number 2539
of employee positions estimated to be created or retained under 2540
this agreement during that three-year period, 2541
(insert name of enterprise) shall repay the amount of taxes on 2542
property that would have been payable had the property not been 2543
exempted from taxation under this agreement during that three- 2544
year period. In addition, the (insert name of 2545
municipal corporation or county) may terminate or modify the 2546
exemptions from taxation granted under this agreement." 2547

(13) If the enterprise is the owner of real property 2548
constituting the site of a megaproject or is a megaproject 2549
supplier, both of the following: 2550

(a) A requirement that the enterprise annually certify to 2551
the legislative authority whether the megaproject operator or 2552
megaproject supplier, as applicable, holds a certificate issued 2553
under division (D) (7) of section 122.17 of the Revised Code on 2554
the first day of the current tax year; 2555

(b) A provision authorizing the legislative authority to 2556
terminate the exemption for current and subsequent tax years if 2557
the megaproject operator or megaproject supplier, as applicable, 2558
does not hold a certificate issued under division (D) (7) of 2559
section 122.17 of the Revised Code on the first day of the 2560
current tax year. 2561

The statement described in division (B) (7) of this section 2562
may include the following statement, appended at the end of the 2563
statement: "and may require the repayment of the amount of taxes 2564
that would have been payable had the property not been exempted 2565
from taxation under this agreement." If the agreement includes a 2566
statement requiring repayment of exempted taxes, it also may 2567
authorize the legislative authority to secure repayment of such 2568

taxes by a lien on the exempted property in the amount required 2569
to be repaid. Such a lien on exempted real property shall 2570
attach, and may be perfected, collected, and enforced, in the 2571
same manner as a mortgage lien on real property, and shall 2572
otherwise have the same force and effect as a mortgage lien on 2573
real property. Notwithstanding section 5719.01 of the Revised 2574
Code, such a lien on exempted tangible personal property shall 2575
attach, and may be perfected, collected, and enforced, in the 2576
same manner as a security interest in goods under Chapter 1309. 2577
of the Revised Code, and shall otherwise have the same force and 2578
effect as such a security interest. 2579

(C) If the director of development had to issue a waiver 2580
under section 5709.633 of the Revised Code as a condition for 2581
the agreement to be executed, the agreement shall include the 2582
following statement: 2583

"Continuation of this agreement is subject to the validity 2584
of the circumstance upon which _____ (insert name of 2585
enterprise) applied for, and the Director of the Ohio Department 2586
of Development issued, the waiver pursuant to section 5709.633 2587
of the Ohio Revised Code. If, after formal approval of this 2588
agreement by _____ (insert name of municipal corporation or 2589
county), the Director or _____ (insert name of municipal 2590
corporation or county) discovers that such a circumstance did 2591
not exist, _____ (insert name of enterprise) shall be 2592
deemed to have materially failed to comply with this agreement." 2593

If the director issued a waiver on the basis of the 2594
circumstance described in division (B) (3) of section 5709.633 of 2595
the Ohio Revised Code, the conditions enumerated in divisions 2596
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2597
section shall be incorporated in the information described in 2598

divisions (A) (2), (3), and (4) of this section. 2599

Sec. 5709.632. (A) (1) The legislative authority of a 2600
municipal corporation defined by the United States office of 2601
management and budget as a principal city of a metropolitan 2602
statistical area may, in the manner set forth in section 5709.62 2603
of the Revised Code, designate one or more areas in the 2604
municipal corporation as a proposed enterprise zone. 2605

(2) With the consent of the legislative authority of each 2606
affected municipal corporation or of a board of township 2607
trustees, a board of county commissioners may, in the manner set 2608
forth in section 5709.62 of the Revised Code, designate one or 2609
more areas in one or more municipal corporations or in 2610
unincorporated areas of the county as proposed urban jobs and 2611
enterprise zones, except that a board of county commissioners 2612
may designate no more than one area within a township, or within 2613
adjacent townships, as a proposed urban jobs and enterprise 2614
zone. 2615

(3) The legislative authority or board of county 2616
commissioners may petition the director of development services 2617
for certification of the area as having the characteristics set 2618
forth in division (A) (3) of section 5709.61 of the Revised Code. 2619
Within sixty days after receiving such a petition, the director 2620
shall determine whether the area has the characteristics set 2621
forth in that division and forward the findings to the 2622
legislative authority or board of county commissioners. If the 2623
director certifies the area as having those characteristics and 2624
thereby certifies it as a zone, the legislative authority or 2625
board may enter into agreements with enterprises under division 2626
(B) of this section. Any enterprise wishing to enter into an 2627
agreement with a legislative authority or board of county 2628

commissioners under this section and satisfying one of the 2629
criteria described in divisions (B)(1) to (5) of this section 2630
shall submit a proposal to the legislative authority or board on 2631
the form prescribed under division (B) of section 5709.62 of the 2632
Revised Code and shall review and update the estimates and 2633
listings required by the form in the manner required under that 2634
division. The legislative authority or board may, on a separate 2635
form and at any time, require any additional information 2636
necessary to determine whether an enterprise is in compliance 2637
with an agreement and to collect the information required to be 2638
reported under section 5709.68 of the Revised Code. 2639

(B) Prior to entering into an agreement with an 2640
enterprise, the legislative authority or board of county 2641
commissioners shall determine whether the enterprise submitting 2642
the proposal is qualified by financial responsibility and 2643
business experience to create and preserve employment 2644
opportunities in the zone and to improve the economic climate of 2645
the municipal corporation or municipal corporations or the 2646
unincorporated areas in which the zone is located and to which 2647
the proposal applies, and whether the enterprise satisfies one 2648
of the following criteria: 2649

(1) The enterprise currently has no operations in this 2650
state and, subject to approval of the agreement, intends to 2651
establish operations in the zone; 2652

(2) The enterprise currently has operations in this state 2653
and, subject to approval of the agreement, intends to establish 2654
operations at a new location in the zone that would not result 2655
in a reduction in the number of employee positions at any of the 2656
enterprise's other locations in this state; 2657

(3) The enterprise, subject to approval of the agreement, 2658

intends to relocate operations, currently located in another 2659
state, to the zone; 2660

(4) The enterprise, subject to approval of the agreement, 2661
intends to expand operations at an existing site in the zone 2662
that the enterprise currently operates; 2663

(5) The enterprise, subject to approval of the agreement, 2664
intends to relocate operations, currently located in this state, 2665
to the zone, and the director of development services has issued 2666
a waiver for the enterprise under division (B) of section 2667
5709.633 of the Revised Code. 2668

(C) If the legislative authority or board determines that 2669
the enterprise is so qualified and satisfies one of the criteria 2670
described in divisions (B) (1) to (5) of this section, the 2671
legislative authority or board may, after complying with section 2672
5709.83 of the Revised Code and, in the case of a board of 2673
commissioners, with the consent of the legislative authority of 2674
each affected municipal corporation or of the board of township 2675
trustees, enter into an agreement with the enterprise under 2676
which the enterprise agrees to establish, expand, renovate, or 2677
occupy a facility in the zone and hire new employees, or 2678
preserve employment opportunities for existing employees, in 2679
return for the following incentives: 2680

(1) When the facility is located in a municipal 2681
corporation, a legislative authority or board of commissioners 2682
may enter into an agreement for one or more of the incentives 2683
provided in ~~division~~ divisions (C) (1), (2), and (3) of section 2684
5709.62 of the Revised Code, subject to division (D) of that 2685
section, or for the incentive provided in division (C) (4) of 2686
that section if the enterprise is the owner of real property 2687
constituting the site of a megaproject or is a megaproject 2688

supplier; 2689

(2) When the facility is located in an unincorporated 2690
area, a board of commissioners may enter into an agreement for 2691
one or more of the incentives provided in divisions (B) (1) (b),
and (B) (2), and (B) (3) of section 5709.63 of the Revised Code, 2692
subject to division (C) of that section, or for the incentive 2693
provided in division (B) (3) of that section if the enterprise is 2694
the owner of real property constituting the site of a 2695
megaproject or is a megaproject supplier. 2696
2697

(D) All agreements entered into under this section shall 2698
be in the form prescribed under section 5709.631 of the Revised 2699
Code. After an agreement under this section is entered into, if 2700
the legislative authority or board of county commissioners 2701
revokes its designation of the zone, or if the director of 2702
development services revokes the zone's certification, any 2703
entitlements granted under the agreement shall continue for the 2704
number of years specified in the agreement. 2705

(E) Except as otherwise provided in this division, an 2706
agreement entered into under this section shall require that the 2707
enterprise pay an annual fee equal to the greater of one per 2708
cent of the dollar value of incentives offered under the 2709
agreement or five hundred dollars; provided, however, that if 2710
the value of the incentives exceeds two hundred fifty thousand 2711
dollars, the fee shall not exceed two thousand five hundred 2712
dollars. The fee shall be payable to the legislative authority 2713
or board of commissioners once per year for each year the 2714
agreement is effective on the days and in the form specified in 2715
the agreement. Fees paid shall be deposited in a special fund 2716
created for such purpose by the legislative authority or board 2717
and shall be used by the legislative authority or board 2718

exclusively for the purpose of complying with section 5709.68 of 2719
the Revised Code and by the tax incentive review council created 2720
under section 5709.85 of the Revised Code exclusively for the 2721
purposes of performing the duties prescribed under that section. 2722
The legislative authority or board may waive or reduce the 2723
amount of the fee charged against an enterprise, but such waiver 2724
or reduction does not affect the obligations of the legislative 2725
authority or board or the tax incentive review council to comply 2726
with section 5709.68 or 5709.85 of the Revised Code, 2727
respectively. 2728

(F) With the approval of the legislative authority of a 2729
municipal corporation or the board of township trustees of a 2730
township in which a zone is designated under division (A) (2) of 2731
this section, the board of county commissioners may delegate to 2732
that legislative authority or board any powers and duties of the 2733
board to negotiate and administer agreements with regard to that 2734
zone under this section. 2735

(G) When an agreement is entered into pursuant to this 2736
section, the legislative authority or board of commissioners 2737
authorizing the agreement shall forward a copy of the agreement 2738
to the director of development services and to the tax 2739
commissioner within fifteen days after the agreement is entered 2740
into. If any agreement includes terms not provided for in 2741
section 5709.631 of the Revised Code affecting the revenue of a 2742
city, local, or exempted village school district or causing 2743
revenue to be forgone by the district, including any 2744
compensation to be paid to the school district pursuant to 2745
section 5709.82 of the Revised Code, those terms also shall be 2746
forwarded in writing to the director of development services 2747
along with the copy of the agreement forwarded under this 2748
division. 2749

(H) After an agreement is entered into, the enterprise 2750
shall file with each personal property tax return required to be 2751
filed while the agreement is in effect, an informational return, 2752
on a form prescribed by the tax commissioner for that purpose, 2753
setting forth separately the property, and related costs and 2754
values, exempted from taxation under the agreement. 2755

(I) An agreement entered into under this section may 2756
include a provision requiring the enterprise to create one or 2757
more temporary internship positions for students enrolled in a 2758
course of study at a school or other educational institution in 2759
the vicinity, and to create a scholarship or provide another 2760
form of educational financial assistance for students holding 2761
such a position in exchange for the student's commitment to work 2762
for the enterprise at the completion of the internship. 2763

Sec. 5709.91. (A) Service payments in lieu of taxes 2764
required under sections 725.04, 5709.42, 5709.46, 5709.74, and 2765
5709.79 of the Revised Code, minimum service payment 2766
obligations, and service charges in lieu of taxes required under 2767
sections 1728.11 and 1728.111 of the Revised Code, shall be 2768
treated in the same manner as taxes, as defined in section 2769
323.01 of the Revised Code, for all purposes of the lien 2770
described in section 323.11 of the Revised Code, including, but 2771
not limited to, the priority and enforcement of the lien and the 2772
collection of the service payments, minimum service payment 2773
obligations, or service charges secured by the lien. ~~For~~ 2774

(B) Any covenant or agreement in an instrument whereby a 2775
property owner agrees to a minimum service payment obligation 2776
shall be a covenant running with the land. Upon the proper 2777
recording of the instrument with the county recorder, the 2778
covenant is fully binding on behalf of and enforceable by the 2779

county, township, or municipal corporation against the property 2780
owner and any person acquiring an interest in the land and all 2781
successors and assigns. If any such minimum service payment 2782
obligation becomes delinquent according to such covenant or 2783
agreement, the county, township, or municipal corporation may 2784
enforce the delinquent minimum service payment obligation in the 2785
manner provided under division (A) of this section or in the 2786
manner otherwise provided in the instrument. A minimum service 2787
payment obligation is an insurable interest with respect to 2788
title insurance under Chapter 3953. of the Revised Code. 2789

(C) A county, township, or municipal corporation may 2790
certify a minimum service payment obligation that is a covenant 2791
under division (B) of this section to the county auditor, who 2792
shall enter the obligation on the tax list of real property 2793
opposite the parcel against which it is charged, and certify the 2794
minimum service payment obligation to the county treasurer. An 2795
unpaid minimum service payment obligation is a lien on property 2796
against which it is charged from the date the obligation is 2797
entered on the tax list, and shall be collected in the manner 2798
provided for collection of real property taxes. Once the minimum 2799
service payment obligation is collected, it shall be paid 2800
immediately to the county, township, or municipal corporation. 2801

(D) For the purposes of this section, a "minimum service 2802
payment obligation" is an obligation, including a contingent 2803
obligation, for a ~~person~~ property owner to make a payment to a 2804
county, township, or municipal corporation ~~to ensure sufficient~~ 2805
~~funds to finance public infrastructure improvements or, if~~ 2806
~~applicable, housing renovations, pursuant to an agreement~~ 2807
between ~~that person~~ the property owner and the county, township, 2808
or municipal corporation ~~for the purposes of to ensure~~ 2809
sufficient funds to finance the expenditures authorized under 2810

sections 725.04, 1728.11, 1728.111, 5709.40 to 5709.43, 5709.45 2811
to 5709.47, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the 2812
Revised Code. "Minimum service payment obligation" does not 2813
include service payments in lieu of taxes required under section 2814
725.04, 5709.42, 5709.46, 5709.74, or 5709.79 of the Revised 2815
Code or service charges in lieu of taxes required under section 2816
1728.11 or 1728.111 of the Revised Code. 2817

Sec. 5715.19. (A) As used in this section, "member" has 2818
the same meaning as in section 1705.01 of the Revised Code, and 2819
"internet identifier of record" has the same meaning as in 2820
section 9.312 of the Revised Code. 2821

(1) Subject to division (A)(2) of this section, a 2822
complaint against any of the following determinations for the 2823
current tax year shall be filed with the county auditor on or 2824
before the thirty-first day of March of the ensuing tax year or 2825
the date of closing of the collection for the first half of real 2826
and public utility property taxes for the current tax year, 2827
whichever is later: 2828

(a) Any classification made under section 5713.041 of the 2829
Revised Code; 2830

(b) Any determination made under section 5713.32 or 2831
5713.35 of the Revised Code; 2832

(c) Any recoupment charge levied under section 5713.35 of 2833
the Revised Code; 2834

(d) The determination of the total valuation or assessment 2835
of any parcel that appears on the tax list, except parcels 2836
assessed by the tax commissioner pursuant to section 5727.06 of 2837
the Revised Code; 2838

(e) The determination of the total valuation of any parcel 2839

that appears on the agricultural land tax list, except parcels 2840
assessed by the tax commissioner pursuant to section 5727.06 of 2841
the Revised Code; 2842

(f) Any determination made under division (A) of section 2843
319.302 of the Revised Code. 2844

If such a complaint is filed by mail or certified mail, 2845
the date of the United States postmark placed on the envelope or 2846
sender's receipt by the postal service shall be treated as the 2847
date of filing. A private meter postmark on an envelope is not a 2848
valid postmark for purposes of establishing the filing date. 2849

Any person owning taxable real property in the county or 2850
in a taxing district with territory in the county; such a 2851
person's spouse; a tenant of the property owner, if the property 2852
is classified as to use for tax purposes as commercial or 2853
industrial, the lease requires the tenant to pay the entire 2854
amount of taxes charged against the property, and the lease 2855
allows, or the property owner otherwise authorizes, the tenant 2856
to file such a complaint with respect to the property; an 2857
individual who is retained by such a person or tenant and who 2858
holds a designation from a professional assessment organization, 2859
such as the institute for professionals in taxation, the 2860
national council of property taxation, or the international 2861
association of assessing officers; a public accountant who holds 2862
a permit under section 4701.10 of the Revised Code, a general or 2863
residential real estate appraiser licensed or certified under 2864
Chapter 4763. of the Revised Code, or a real estate broker 2865
licensed under Chapter 4735. of the Revised Code, who is 2866
retained by such a person or tenant; if the person or tenant is 2867
a firm, company, association, partnership, limited liability 2868
company, or corporation, an officer, a salaried employee, a 2869

partner, or a member of that person or tenant; if the person or 2870
tenant is a trust, a trustee of the trust; ~~the board of county~~ 2871
~~commissioners~~; the prosecuting attorney or treasurer of the 2872
county; ~~the board of township trustees of any township with~~ 2873
~~territory within the county~~; the board of education of any 2874
school district with any territory in the county; or the mayor- 2875
or legislative authority of any municipal corporation with any 2876
territory in the county or, subject to division (A) (6) of this 2877
section, the legislative authority of a political subdivision or 2878
the mayor of a municipal corporation may file such a complaint 2879
regarding any such determination affecting any real property in 2880
the county, except that a person owning taxable real property in 2881
another county may file such a complaint only with regard to any 2882
such determination affecting real property in the county that is 2883
located in the same taxing district as that person's real 2884
property is located. The county auditor shall present to the 2885
county board of revision all complaints filed with the auditor. 2886

(2) ~~As used in division (A) (2) of this section, "interim~~ 2887
~~period" means, for each county, the tax year to which section~~ 2888
~~5715.24 of the Revised Code applies and each subsequent tax year~~ 2889
~~until the tax year in which that section applies again.~~ 2890

No person, ~~board~~ legislative authority, or officer shall 2891
file a complaint against the valuation or assessment of any 2892
parcel that appears on the tax list if it filed a complaint 2893
against the valuation or assessment of that parcel for any prior 2894
tax year in the same interim period, unless the person, 2895
~~board~~ legislative authority, or officer alleges that the 2896
valuation or assessment should be changed due to one or more of 2897
the following circumstances that occurred after the tax lien 2898
date for the tax year for which the prior complaint was filed 2899
and that the circumstances were not taken into consideration 2900

with respect to the prior complaint: 2901

(a) The property was sold in an arm's length transaction, 2902
as described in section 5713.03 of the Revised Code; 2903

(b) The property lost value due to some casualty; 2904

(c) Substantial improvement was added to the property; 2905

(d) An increase or decrease of at least fifteen per cent 2906
in the property's occupancy has had a substantial economic 2907
impact on the property. 2908

(3) If a county board of revision, the board of tax 2909
appeals, or any court dismisses a complaint filed under this 2910
section or section 5715.13 of the Revised Code for the reason 2911
that the act of filing the complaint was the unauthorized 2912
practice of law or the person filing the complaint was engaged 2913
in the unauthorized practice of law, the party affected by a 2914
decrease in valuation or the party's agent, or the person owning 2915
taxable real property in the county or in a taxing district with 2916
territory in the county, may refile the complaint, 2917
notwithstanding division (A) (2) of this section. 2918

(4) (a) No complaint filed under this section or section 2919
5715.13 of the Revised Code shall be dismissed for the reason 2920
that the complaint fails to accurately identify the owner of the 2921
property that is the subject of the complaint. 2922

(b) If a complaint fails to accurately identify the owner 2923
of the property that is the subject of the complaint, the board 2924
of revision shall exercise due diligence to ensure the correct 2925
property owner is notified as required by divisions (B) and (C) 2926
of this section. 2927

(5) Notwithstanding division (A) (2) of this section, a 2928

person, ~~board~~legislative authority, or officer may file a 2929
complaint against the valuation or assessment of any parcel that 2930
appears on the tax list if it filed a complaint against the 2931
valuation or assessment of that parcel for any prior tax year in 2932
the same interim period if the person, ~~board~~legislative 2933
authority, or officer withdrew the complaint before the 2934
complaint was heard by the board. 2935

(6) Except for a counter-complaint supporting or objecting 2936
to a previously filed valuation complaint as authorized under 2937
division (B) of this section, the legislative authority of a 2938
political subdivision or the mayor of a municipal corporation 2939
with territory in the county may not file a valuation complaint 2940
with respect to property the political subdivision does not own 2941
unless the following conditions are met: 2942

(a) The legislative authority or, in the case of a mayor, 2943
the legislative authority of the municipal corporation, first 2944
adopts a resolution authorizing the filing of the valuation 2945
complaint at a public meeting of the legislative authority. 2946

(b) If the property is residential property, either of the 2947
following circumstances apply: 2948

(i) The property was sold within fifteen months after the 2949
tax lien date for the tax year for which the complaint is to be 2950
filed, and the sale price was at least seventy-five thousand 2951
dollars more than the true value in money of the property as 2952
listed for taxation for that tax year. 2953

(ii) The property was subject to a reappraisal or 2954
triennial update within the preceding fifteen months, and the 2955
legislative authority or mayor determines that the true value in 2956
money of the property is at least seventy-five thousand dollars 2957

more than the true value of the property as listed for taxation 2958
upon the reappraisal or triennial update. 2959

If the basis for the complaint is a determination made 2960
under division (A)(6)(b)(ii) of this section, the legislative 2961
authority shall mail a written notice, by certified mail, to the 2962
last known tax-mailing address of at least one of the record 2963
owners of the parcel or parcels identified in the resolution, 2964
stating the intent of the legislative authority in adopting the 2965
resolution, the proposed date of adoption, and the basis for the 2966
complaint under divisions (A)(1)(a) to (f) of this section 2967
relative to each parcel identified in the resolution. The notice 2968
shall be postmarked at least seven business days before the 2969
legislative authority adopts the resolution. As used in this 2970
paragraph, "business day" means a day of the week excluding 2971
Saturday, Sunday, and a legal holiday as defined under section 2972
1.14 of the Revised Code. 2973

A resolution adopted under division (A)(6) of this section 2974
shall identify each of the parcels that are the subject of the 2975
valuation complaint by street address, if available from online 2976
records of the county auditor, by permanent parcel number, and 2977
by the name of at least one of the record owners of the parcel. 2978
The failure to accurately identify the street address or the 2979
name of the record owners of the parcel in the resolution shall 2980
not invalidate the resolution nor be a cause for dismissal of 2981
the complaint. 2982

A legislative authority may not adopt a resolution under 2983
division (A)(6) of this section that identifies more than one 2984
parcel, except that a single resolution may identify more than 2985
one parcel if all the parcels identified in the resolution are 2986
to be included in a single complaint. A resolution required 2987

under division (A) (6) of this section shall not include any 2988
other matter. The legislative authority may adopt multiple 2989
resolutions required under division (A) (6) of this section by a 2990
single vote, provided that the vote is separate from the 2991
question of whether to adopt any resolution that was not adopted 2992
under division (A) (6) of this section, and except that a 2993
resolution based on a determination made under division (A) (6) 2994
(b) (ii) of this section must be adopted by a separate vote from 2995
any other resolution. 2996

A board of revision has jurisdiction to consider a 2997
valuation complaint filed pursuant to a resolution adopted under 2998
division (A) (6) of this section only if the legislative 2999
authority files a copy of the resolution with the valuation 3000
complaint or causes the resolution to be certified to the board 3001
of revision within thirty days after the last date such a 3002
complaint could be filed. 3003

(7) A complaint form prescribed by a board of revision or 3004
the tax commissioner for the purposes of this section shall 3005
include both of the following: 3006

(a) The following statement: 3007

"If the valuation complaint states a net overvaluation, 3008
undervaluation, discriminatory valuation, illegal valuation, or 3009
incorrect determination of \$26,250 or more in taxable value, 3010
notice of the valuation complaint will be delivered to the 3011
school district in which the property is located, which may 3012
become a party to the valuation complaint by filing a counter- 3013
complaint." 3014

(b) A box that a legislative authority or mayor, when 3015
filing a valuation complaint, must check indicating that a 3016

resolution authorizing the complaint was adopted in accordance 3017
with division (A) (6) of this section and that, when required 3018
under that division, notice was provided before adoption of the 3019
resolution to at least one of the record owners of the property 3020
that is the subject of the complaint. 3021

(B) (1) Within thirty days after the last date such 3022
complaints may be filed, the auditor shall give notice of each 3023
complaint ~~in which the stated amount of~~ to the following 3024
parties: 3025

(a) For a valuation complaint that states a net 3026
overvaluation, undervaluation, discriminatory valuation, illegal 3027
valuation, or incorrect determination ~~is at least in the taxable~~ 3028
value of all parcels listed on the valuation complaint of 3029
seventeen thousand five hundred dollars or more, to each 3030
property owner whose property is the subject of the complaint, 3031
if the complaint was not filed by the owner or the owner's 3032
spouse, ~~and;~~ 3033

(b) For a valuation complaint that states a net 3034
overvaluation, undervaluation, discriminatory valuation, illegal 3035
valuation, or incorrect determination in the taxable value for 3036
all parcels listed on the valuation complaint of twenty-six 3037
thousand two hundred fifty dollars or more, to each board of 3038
education whose school district may be affected by the valuation 3039
complaint. For the purposes of this division and division (B) (3) 3040
of this section, separate complaints filed with respect to 3041
parcels which together form an economic unit shall be treated as 3042
if the parcels were included on a single complaint. 3043

(2) Within thirty days after receiving ~~such the~~ notice 3044
required under division (B) (1) of this section, a board of 3045
education; a property owner; the owner's spouse; a tenant of the 3046

owner, if that tenant would be eligible to file a complaint 3047
under division (A) of this section with respect to the property; 3048
an individual who is retained by such an owner or tenant and who 3049
holds a designation from a professional assessment organization, 3050
such as the institute for professionals in taxation, the 3051
national council of property taxation, or the international 3052
association of assessing officers; a public accountant who holds 3053
a permit under section 4701.10 of the Revised Code, a general or 3054
residential real estate appraiser licensed or certified under 3055
Chapter 4763. of the Revised Code, or a real estate broker 3056
licensed under Chapter 4735. of the Revised Code, who is 3057
retained by such ~~a person~~ an owner or tenant; or, if the ~~property~~ 3058
owner or tenant is a firm, company, association, partnership, 3059
limited liability company, corporation, or trust, an officer, a 3060
salaried employee, a partner, a member, or trustee of that 3061
~~property owner or tenant~~, may file a ~~complaint~~ counter-complaint 3062
in support of or objecting to the amount of alleged 3063
overvaluation, undervaluation, discriminatory valuation, illegal 3064
valuation, or incorrect determination stated in a previously 3065
filed complaint or objecting to the current valuation. Upon the 3066
filing of a ~~complaint~~ counter-complaint under this division, the 3067
board of education ~~or the~~, property owner, or tenant shall be 3068
made a party to the action. 3069

(3) If a property owner or tenant files a valuation 3070
complaint that states a net overvaluation, undervaluation, 3071
discriminatory valuation, illegal valuation, or incorrect 3072
determination in the taxable value for all parcels listed on the 3073
complaint that is less than twenty-six thousand two hundred 3074
fifty dollars, but subsequently requests a net overvaluation, 3075
undervaluation, discriminatory valuation, illegal valuation, or 3076
incorrect determination in the taxable value for all such 3077

parcels equal to or in excess of that amount on that complaint, 3078
the board of revision shall suspend the hearing on the complaint 3079
and the county auditor shall give notice of the complaint to 3080
each board of education whose school district may be affected by 3081
the complaint. Within thirty days after receiving the notice, a 3082
board of education may file a counter-complaint in support of or 3083
objecting to the amount of alleged overvaluation, 3084
undervaluation, discriminatory valuation, illegal valuation, or 3085
incorrect determination stated in the valuation complaint or 3086
objecting to the current valuation. Upon the board of 3087
education's filing of such a counter-complaint, the board of 3088
education shall be made a party to the action. 3089

Thirty days after such a notice was received by the board 3090
of education or after the board of education files a counter- 3091
complaint, the board of revision shall continue the hearing on 3092
the valuation complaint. The board of revision shall render its 3093
decision on the valuation complaint within ninety days after the 3094
earlier of the date of such continuation or filing. 3095

(4) The board of education of a school district may not 3096
file a counter-complaint under this section unless the board is 3097
required to receive notice of the valuation complaint from the 3098
county auditor in accordance with division (B) (1) (b) or (3) of 3099
this section. 3100

(C) Each board of revision shall notify any complainant 3101
and counter-complainant, and also the property owner, if the 3102
property owner's address is known, when a complaint is filed by 3103
one other than the property owner, not less than ten days prior 3104
to the hearing, either by certified mail or, if the board has 3105
record of an internet identifier of record associated with the 3106
owner, by ordinary mail and by that internet identifier of 3107

record of the time and place the same will be heard. ~~The~~ Except 3108
as otherwise provided in this section, the board of revision 3109
shall hear and render its decision on a complaint within ninety 3110
days after the filing thereof with the board, ~~except that~~. But 3111
if a ~~complaint~~ counter-complaint is filed within thirty days 3112
after receiving notice from the auditor as provided in division 3113
(B) (2) of this section, the board shall hear and render its 3114
decision within ninety days after such filing. 3115

(D) The determination of any such complaint or counter- 3116
complaint shall relate back to the date when the lien for taxes 3117
or recoupment charges for the current year attached or the date 3118
as of which liability for such year was determined. Liability 3119
for taxes and recoupment charges for such year and each 3120
succeeding year ~~until occurring in the same interim period in~~ 3121
which the complaint is filed and beginning before the complaint 3122
is finally determined and for any penalty and interest for 3123
nonpayment thereof within the time required by law shall be 3124
based upon the determination, valuation, or assessment as 3125
finally determined. Each complaint shall state the amount of 3126
overvaluation, undervaluation, discriminatory valuation, illegal 3127
valuation, or incorrect classification or determination upon 3128
which the complaint is based. The treasurer shall accept any 3129
amount tendered as taxes or recoupment charge upon property 3130
concerning which a complaint is then pending, computed upon the 3131
claimed valuation as set forth in the complaint. If a complaint 3132
or counter-complaint filed under this section for the current 3133
year is not determined by the board within the time prescribed 3134
for such determination, the complaint, counter-complaint, and 3135
any proceedings in relation thereto shall be continued by the 3136
board as a valid complaint for any ensuing year ~~until occurring~~ 3137
in the same interim period in which the complaint is filed and 3138

beginning before such complaint or counter-complaint is finally 3139
determined by the board or ~~upon~~ before any determination on an 3140
appeal from a decision of the board. In such case, the original 3141
complaint and counter-complaint shall continue in effect without 3142
further filing by the original taxpayer, the original taxpayer's 3143
assignee, or any other person or entity authorized to file a 3144
complaint under this section. 3145

(E) If a taxpayer files a complaint as to the 3146
classification, valuation, assessment, or any determination 3147
affecting the taxpayer's own property and tenders less than the 3148
full amount of taxes or recoupment charges as finally 3149
determined, an interest charge shall accrue as follows: 3150

(1) If the amount finally determined is less than the 3151
amount billed but more than the amount tendered, the taxpayer 3152
shall pay interest at the rate per annum prescribed by section 3153
5703.47 of the Revised Code, computed from the date that the 3154
taxes were due on the difference between the amount finally 3155
determined and the amount tendered. This interest charge shall 3156
be in lieu of any penalty or interest charge under section 3157
323.121 of the Revised Code unless the taxpayer failed to file a 3158
complaint and tender an amount as taxes or recoupment charges 3159
within the time required by this section, in which case section 3160
323.121 of the Revised Code applies. 3161

(2) If the amount of taxes finally determined is equal to 3162
or greater than the amount billed and more than the amount 3163
tendered, the taxpayer shall pay interest at the rate prescribed 3164
by section 5703.47 of the Revised Code from the date the taxes 3165
were due on the difference between the amount finally determined 3166
and the amount tendered, such interest to be in lieu of any 3167
interest charge but in addition to any penalty prescribed by 3168

section 323.121 of the Revised Code. 3169

(F) Upon request of a complainant, the tax commissioner 3170
shall determine the common level of assessment of real property 3171
in the county for the year stated in the request that is not 3172
valued under section 5713.31 of the Revised Code, which common 3173
level of assessment shall be expressed as a percentage of true 3174
value and the common level of assessment of lands valued under 3175
such section, which common level of assessment shall also be 3176
expressed as a percentage of the current agricultural use value 3177
of such lands. Such determination shall be made on the basis of 3178
the most recent available sales ratio studies of the 3179
commissioner and such other factual data as the commissioner 3180
deems pertinent. 3181

(G) A complainant shall provide to the board of revision 3182
all information or evidence within the complainant's knowledge 3183
or possession that affects the real property that is the subject 3184
of the complaint. A complainant who fails to provide such 3185
information or evidence is precluded from introducing it on 3186
appeal to the board of tax appeals or the court of common pleas, 3187
except that the board of tax appeals or court may admit and 3188
consider the evidence if the complainant shows good cause for 3189
the complainant's failure to provide the information or evidence 3190
to the board of revision. 3191

(H) In case of the pendency of any proceeding in court 3192
based upon an alleged excessive, discriminatory, or illegal 3193
valuation or incorrect classification or determination, the 3194
taxpayer may tender to the treasurer an amount as taxes upon 3195
property computed upon the claimed valuation as set forth in the 3196
complaint to the court. The treasurer may accept the tender. If 3197
the tender is not accepted, no penalty shall be assessed because 3198

of the nonpayment of the full taxes assessed. 3199

(I) As used in this section: 3200

(1) "Valuation complaint" means a complaint against the 3201
valuation or assessment of any parcel of real property. 3202

(2) "Counter-complaint" means a complaint filed under 3203
division (B) of this section. 3204

(3) "Legislative authority of a political subdivision" 3205
means the board of county commissioners, a board of township 3206
trustees of any township with territory in the county, the board 3207
of education of any school district with territory in the 3208
county, or the legislative authority of a municipal corporation 3209
with territory in the county. 3210

(4) "Residential property" means property classified as to 3211
use for residential purposes in accordance with rules adopted by 3212
the tax commissioner under section 5713.041 of the Revised Code. 3213

(5) "Economic unit" means property comprised of multiple 3214
parcels that is united by an economic function such that it will 3215
normally be sold as a single property. An economic unit may be 3216
comprised of parcels that are neither contiguous nor owned by 3217
the same owner, but the parcels must be managed and operated on 3218
a unitary basis and each parcel must make a positive 3219
contribution to the operation of the unit. 3220

(6) "Interim period" means, for each county, the tax year 3221
to which section 5715.24 of the Revised Code applies and each 3222
subsequent tax year until the tax year in which that section 3223
applies again. 3224

Sec. 5733.41. The purpose of the tax imposed by this 3225
section is to complement and to reinforce the tax imposed under 3226

section 5733.06 of the Revised Code. 3227

For the same purposes for which the tax is levied under 3228
section 5733.06 of the Revised Code, there is hereby levied a 3229
tax on every qualifying pass-through entity having at least one 3230
qualifying investor that is not an individual. The tax imposed 3231
by this section is imposed on the sum of the adjusted qualifying 3232
amounts of the qualifying pass-through entity's qualifying 3233
investors, that are ~~not neither~~ individuals ~~as follows: for~~ 3234
~~qualifying investors nor~~ subject to division (G) (2) of section 3235
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 3236
~~for the entity's taxable year ending in 2005, at five and one~~ 3237
~~tenth per cent for the entity's taxable year ending in 2006, at~~ 3238
~~three and four tenths per cent for the entity's taxable year~~ 3239
~~ending in 2007, at one and seven tenths per cent for the~~ 3240
~~entity's taxable year ending in 2008, and at zero per cent for~~ 3241
~~the entity's taxable year ending in 2009 or in subsequent years,~~ 3242
~~and for all other qualifying investors that are not individuals,~~ 3243
~~at the a rate of eight and one half per cent equal to the tax~~ 3244
~~rate imposed on taxable business income under division (A) (4) (a)~~ 3245
~~of section 5747.02 of the Revised Code.~~ 3246

The tax imposed by this section applies only if the 3247
qualifying entity has nexus with this state under the 3248
Constitution of the United States for any portion of the 3249
qualifying entity's qualifying taxable year, and the sum of the 3250
qualifying entity's adjusted qualifying amounts exceeds one 3251
thousand dollars for the qualifying entity's qualifying taxable 3252
year. This section does not apply to a pass-through entity if 3253
all of the partners, shareholders, members, or investors of the 3254
pass-through entity are taxpayers for the purposes of section 3255
5733.04 of the Revised Code without regard to section 5733.09 of 3256
the Revised Code for the entire qualifying taxable year of the 3257

pass-through entity. 3258

If, prior to the due date of the return, a qualifying 3259
pass-through entity receives from an investor a written 3260
representation, under penalties of perjury, that the investor is 3261
described in division (I) (1), (2), (6), (7), (8), or (9) of 3262
section 5733.40 of the Revised Code for the qualifying pass- 3263
through entity's entire qualifying taxable year, the qualifying 3264
pass-through entity is not required to withhold or pay the taxes 3265
or estimated taxes imposed under this section or sections 3266
5747.41 to 5747.453 of the Revised Code with respect to that 3267
investor for that qualifying taxable year, and is not subject to 3268
any interest or interest penalties for failure to withhold or 3269
pay those taxes or estimated taxes with respect to that investor 3270
for that qualifying taxable year. 3271

If, prior to the due date of the return, a qualifying 3272
trust receives from a beneficiary of that trust a written 3273
representation, under penalties of perjury, that the beneficiary 3274
is a resident taxpayer for the purposes of Chapter 5747. of the 3275
Revised Code for the qualifying trust's entire qualifying 3276
taxable year, the qualifying trust is not required to withhold 3277
or pay the taxes or estimated taxes imposed under this section 3278
or sections 5747.41 to 5747.453 of the Revised Code with respect 3279
to that beneficiary for that qualifying taxable year, and is not 3280
subject to any interest or interest penalties for failure to 3281
withhold or pay those taxes or estimated taxes with respect to 3282
that beneficiary for that qualifying taxable year. 3283

The tax commissioner may adopt rules for the purpose of 3284
the tax levied by this section or section 5747.41 of the Revised 3285
Code, including a rule defining "qualifying investor" or 3286
"qualifying beneficiary," and a rule requiring or permitting a 3287

qualifying entity to combine its income with related members and 3288
to pay the tax and estimated tax on a combined basis. 3289

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 3290
Revised Code apply to a qualifying entity subject to the tax 3291
imposed under this section. 3292

The levy of the tax under this section does not prevent a 3293
municipal corporation or a joint economic development district 3294
created under section 715.70, 715.71, or 715.72 of the Revised 3295
Code from levying a tax on income. 3296

Sec. 5739.02. For the purpose of providing revenue with 3297
which to meet the needs of the state, for the use of the general 3298
revenue fund of the state, for the purpose of securing a 3299
thorough and efficient system of common schools throughout the 3300
state, for the purpose of affording revenues, in addition to 3301
those from general property taxes, permitted under 3302
constitutional limitations, and from other sources, for the 3303
support of local governmental functions, and for the purpose of 3304
reimbursing the state for the expense of administering this 3305
chapter, an excise tax is hereby levied on each retail sale made 3306
in this state. 3307

(A) (1) The tax shall be collected as provided in section 3308
5739.025 of the Revised Code. The rate of the tax shall be five 3309
and three-fourths per cent. The tax applies and is collectible 3310
when the sale is made, regardless of the time when the price is 3311
paid or delivered. 3312

(2) In the case of the lease or rental, with a fixed term 3313
of more than thirty days or an indefinite term with a minimum 3314
period of more than thirty days, of any motor vehicles designed 3315
by the manufacturer to carry a load of not more than one ton, 3316

watercraft, outboard motor, or aircraft, or of any tangible 3317
personal property, other than motor vehicles designed by the 3318
manufacturer to carry a load of more than one ton, to be used by 3319
the lessee or renter primarily for business purposes, the tax 3320
shall be collected by the vendor at the time the lease or rental 3321
is consummated and shall be calculated by the vendor on the 3322
basis of the total amount to be paid by the lessee or renter 3323
under the lease agreement. If the total amount of the 3324
consideration for the lease or rental includes amounts that are 3325
not calculated at the time the lease or rental is executed, the 3326
tax shall be calculated and collected by the vendor at the time 3327
such amounts are billed to the lessee or renter. In the case of 3328
an open-end lease or rental, the tax shall be calculated by the 3329
vendor on the basis of the total amount to be paid during the 3330
initial fixed term of the lease or rental, and for each 3331
subsequent renewal period as it comes due. As used in this 3332
division, "motor vehicle" has the same meaning as in section 3333
4501.01 of the Revised Code, and "watercraft" includes an 3334
outdrive unit attached to the watercraft. 3335

A lease with a renewal clause and a termination penalty or 3336
similar provision that applies if the renewal clause is not 3337
exercised is presumed to be a sham transaction. In such a case, 3338
the tax shall be calculated and paid on the basis of the entire 3339
length of the lease period, including any renewal periods, until 3340
the termination penalty or similar provision no longer applies. 3341
The taxpayer shall bear the burden, by a preponderance of the 3342
evidence, that the transaction or series of transactions is not 3343
a sham transaction. 3344

(3) Except as provided in division (A) (2) of this section, 3345
in the case of a sale, the price of which consists in whole or 3346
in part of the lease or rental of tangible personal property, 3347

the tax shall be measured by the installments of that lease or 3348
rental. 3349

(4) In the case of a sale of a physical fitness facility 3350
service or recreation and sports club service, the price of 3351
which consists in whole or in part of a membership for the 3352
receipt of the benefit of the service, the tax applicable to the 3353
sale shall be measured by the installments thereof. 3354

(B) The tax does not apply to the following: 3355

(1) Sales to the state or any of its political 3356
subdivisions, or to any other state or its political 3357
subdivisions if the laws of that state exempt from taxation 3358
sales made to this state and its political subdivisions; 3359

(2) Sales of food for human consumption off the premises 3360
where sold; 3361

(3) Sales of food sold to students only in a cafeteria, 3362
dormitory, fraternity, or sorority maintained in a private, 3363
public, or parochial school, college, or university; 3364

(4) Sales of newspapers and sales or transfers of 3365
magazines distributed as controlled circulation publications; 3366

(5) The furnishing, preparing, or serving of meals without 3367
charge by an employer to an employee provided the employer 3368
records the meals as part compensation for services performed or 3369
work done; 3370

(6) (a) Sales of motor fuel upon receipt, use, 3371
distribution, or sale of which in this state a tax is imposed by 3372
the law of this state, but this exemption shall not apply to the 3373
sale of motor fuel on which a refund of the tax is allowable 3374
under division (A) of section 5735.14 of the Revised Code; and 3375

the tax commissioner may deduct the amount of tax levied by this 3376
section applicable to the price of motor fuel when granting a 3377
refund of motor fuel tax pursuant to division (A) of section 3378
5735.14 of the Revised Code and shall cause the amount deducted 3379
to be paid into the general revenue fund of this state; 3380

(b) Sales of motor fuel other than that described in 3381
division (B) (6) (a) of this section and used for powering a 3382
refrigeration unit on a vehicle other than one used primarily to 3383
provide comfort to the operator or occupants of the vehicle. 3384

(7) Sales of natural gas by a natural gas company or 3385
municipal gas utility, of water by a water-works company, or of 3386
steam by a heating company, if in each case the thing sold is 3387
delivered to consumers through pipes or conduits, and all sales 3388
of communications services by a telegraph company, all terms as 3389
defined in section 5727.01 of the Revised Code, and sales of 3390
electricity delivered through wires; 3391

(8) Casual sales by a person, or auctioneer employed 3392
directly by the person to conduct such sales, except as to such 3393
sales of motor vehicles, watercraft or outboard motors required 3394
to be titled under section 1548.06 of the Revised Code, 3395
watercraft documented with the United States coast guard, 3396
snowmobiles, and all-purpose vehicles as defined in section 3397
4519.01 of the Revised Code; 3398

(9) (a) Sales of services or tangible personal property, 3399
other than motor vehicles, mobile homes, and manufactured homes, 3400
by churches, organizations exempt from taxation under section 3401
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 3402
organizations operated exclusively for charitable purposes as 3403
defined in division (B) (12) of this section, provided that the 3404
number of days on which such tangible personal property or 3405

services, other than items never subject to the tax, are sold 3406
does not exceed six in any calendar year, except as otherwise 3407
provided in division (B) (9) (b) of this section. If the number of 3408
days on which such sales are made exceeds six in any calendar 3409
year, the church or organization shall be considered to be 3410
engaged in business and all subsequent sales by it shall be 3411
subject to the tax. In counting the number of days, all sales by 3412
groups within a church or within an organization shall be 3413
considered to be sales of that church or organization. 3414

(b) The limitation on the number of days on which tax- 3415
exempt sales may be made by a church or organization under 3416
division (B) (9) (a) of this section does not apply to sales made 3417
by student clubs and other groups of students of a primary or 3418
secondary school, or a parent-teacher association, booster 3419
group, or similar organization that raises money to support or 3420
fund curricular or extracurricular activities of a primary or 3421
secondary school. 3422

(c) Divisions (B) (9) (a) and (b) of this section do not 3423
apply to sales by a noncommercial educational radio or 3424
television broadcasting station. 3425

(10) Sales not within the taxing power of this state under 3426
the Constitution or laws of the United States or the 3427
Constitution of this state; 3428

(11) Except for transactions that are sales under division 3429
(B) (3) (r) of section 5739.01 of the Revised Code, the 3430
transportation of persons or property, unless the transportation 3431
is by a private investigation and security service; 3432

(12) Sales of tangible personal property or services to 3433
churches, to organizations exempt from taxation under section 3434

501(c) (3) of the Internal Revenue Code of 1986, and to any other 3435
nonprofit organizations operated exclusively for charitable 3436
purposes in this state, no part of the net income of which 3437
inures to the benefit of any private shareholder or individual, 3438
and no substantial part of the activities of which consists of 3439
carrying on propaganda or otherwise attempting to influence 3440
legislation; sales to offices administering one or more homes 3441
for the aged or one or more hospital facilities exempt under 3442
section 140.08 of the Revised Code; and sales to organizations 3443
described in division (D) of section 5709.12 of the Revised 3444
Code. 3445

"Charitable purposes" means the relief of poverty; the 3446
improvement of health through the alleviation of illness, 3447
disease, or injury; the operation of an organization exclusively 3448
for the provision of professional, laundry, printing, and 3449
purchasing services to hospitals or charitable institutions; the 3450
operation of a home for the aged, as defined in section 5701.13 3451
of the Revised Code; the operation of a radio or television 3452
broadcasting station that is licensed by the federal 3453
communications commission as a noncommercial educational radio 3454
or television station; the operation of a nonprofit animal 3455
adoption service or a county humane society; the promotion of 3456
education by an institution of learning that maintains a faculty 3457
of qualified instructors, teaches regular continuous courses of 3458
study, and confers a recognized diploma upon completion of a 3459
specific curriculum; the operation of a parent-teacher 3460
association, booster group, or similar organization primarily 3461
engaged in the promotion and support of the curricular or 3462
extracurricular activities of a primary or secondary school; the 3463
operation of a community or area center in which presentations 3464
in music, dramatics, the arts, and related fields are made in 3465

order to foster public interest and education therein; the 3466
production of performances in music, dramatics, and the arts; or 3467
the promotion of education by an organization engaged in 3468
carrying on research in, or the dissemination of, scientific and 3469
technological knowledge and information primarily for the 3470
public. 3471

Nothing in this division shall be deemed to exempt sales 3472
to any organization for use in the operation or carrying on of a 3473
trade or business, or sales to a home for the aged for use in 3474
the operation of independent living facilities as defined in 3475
division (A) of section 5709.12 of the Revised Code. 3476

(13) Building and construction materials and services sold 3477
to construction contractors for incorporation into a structure 3478
or improvement to real property under a construction contract 3479
with this state or a political subdivision of this state, or 3480
with the United States government or any of its agencies; 3481
building and construction materials and services sold to 3482
construction contractors for incorporation into a structure or 3483
improvement to real property that are accepted for ownership by 3484
this state or any of its political subdivisions, or by the 3485
United States government or any of its agencies at the time of 3486
completion of the structures or improvements; building and 3487
construction materials sold to construction contractors for 3488
incorporation into a horticulture structure or livestock 3489
structure for a person engaged in the business of horticulture 3490
or producing livestock; building materials and services sold to 3491
a construction contractor for incorporation into a house of 3492
public worship or religious education, or a building used 3493
exclusively for charitable purposes under a construction 3494
contract with an organization whose purpose is as described in 3495
division (B) (12) of this section; building materials and 3496

services sold to a construction contractor for incorporation 3497
into a building under a construction contract with an 3498
organization exempt from taxation under section 501(c)(3) of the 3499
Internal Revenue Code of 1986 when the building is to be used 3500
exclusively for the organization's exempt purposes; building and 3501
construction materials sold for incorporation into the original 3502
construction of a sports facility under section 307.696 of the 3503
Revised Code; building and construction materials and services 3504
sold to a construction contractor for incorporation into real 3505
property outside this state if such materials and services, when 3506
sold to a construction contractor in the state in which the real 3507
property is located for incorporation into real property in that 3508
state, would be exempt from a tax on sales levied by that state; 3509
building and construction materials for incorporation into a 3510
transportation facility pursuant to a public-private agreement 3511
entered into under sections 5501.70 to 5501.83 of the Revised 3512
Code; and, until one calendar year after the construction of a 3513
convention center that qualifies for property tax exemption 3514
under section 5709.084 of the Revised Code is completed, 3515
building and construction materials and services sold to a 3516
construction contractor for incorporation into the real property 3517
comprising that convention center; 3518

(14) Sales of ships or vessels or rail rolling stock used 3519
or to be used principally in interstate or foreign commerce, and 3520
repairs, alterations, fuel, and lubricants for such ships or 3521
vessels or rail rolling stock; 3522

(15) Sales to persons primarily engaged in any of the 3523
activities mentioned in division (B)(42)(a), (g), or (h) of this 3524
section, to persons engaged in making retail sales, or to 3525
persons who purchase for sale from a manufacturer tangible 3526
personal property that was produced by the manufacturer in 3527

accordance with specific designs provided by the purchaser, of 3528
packages, including material, labels, and parts for packages, 3529
and of machinery, equipment, and material for use primarily in 3530
packaging tangible personal property produced for sale, 3531
including any machinery, equipment, and supplies used to make 3532
labels or packages, to prepare packages or products for 3533
labeling, or to label packages or products, by or on the order 3534
of the person doing the packaging, or sold at retail. "Packages" 3535
includes bags, baskets, cartons, crates, boxes, cans, bottles, 3536
bindings, wrappings, and other similar devices and containers, 3537
but does not include motor vehicles or bulk tanks, trailers, or 3538
similar devices attached to motor vehicles. "Packaging" means 3539
placing in a package. Division (B) (15) of this section does not 3540
apply to persons engaged in highway transportation for hire. 3541

(16) Sales of food to persons using supplemental nutrition 3542
assistance program benefits to purchase the food. As used in 3543
this division, "food" has the same meaning as in 7 U.S.C. 2012 3544
and federal regulations adopted pursuant to the Food and 3545
Nutrition Act of 2008. 3546

(17) Sales to persons engaged in farming, agriculture, 3547
horticulture, or floriculture, of tangible personal property for 3548
use or consumption primarily in the production by farming, 3549
agriculture, horticulture, or floriculture of other tangible 3550
personal property for use or consumption primarily in the 3551
production of tangible personal property for sale by farming, 3552
agriculture, horticulture, or floriculture; or material and 3553
parts for incorporation into any such tangible personal property 3554
for use or consumption in production; and of tangible personal 3555
property for such use or consumption in the conditioning or 3556
holding of products produced by and for such use, consumption, 3557
or sale by persons engaged in farming, agriculture, 3558

horticulture, or floriculture, except where such property is 3559
incorporated into real property; 3560

(18) Sales of drugs for a human being that may be 3561
dispensed only pursuant to a prescription; insulin as recognized 3562
in the official United States pharmacopoeia; urine and blood 3563
testing materials when used by diabetics or persons with 3564
hypoglycemia to test for glucose or acetone; hypodermic syringes 3565
and needles when used by diabetics for insulin injections; 3566
epoetin alfa when purchased for use in the treatment of persons 3567
with medical disease; hospital beds when purchased by hospitals, 3568
nursing homes, or other medical facilities; and medical oxygen 3569
and medical oxygen-dispensing equipment when purchased by 3570
hospitals, nursing homes, or other medical facilities; 3571

(19) Sales of prosthetic devices, durable medical 3572
equipment for home use, or mobility enhancing equipment, when 3573
made pursuant to a prescription and when such devices or 3574
equipment are for use by a human being. 3575

(20) Sales of emergency and fire protection vehicles and 3576
equipment to nonprofit organizations for use solely in providing 3577
fire protection and emergency services, including trauma care 3578
and emergency medical services, for political subdivisions of 3579
the state; 3580

(21) Sales of tangible personal property manufactured in 3581
this state, if sold by the manufacturer in this state to a 3582
retailer for use in the retail business of the retailer outside 3583
of this state and if possession is taken from the manufacturer 3584
by the purchaser within this state for the sole purpose of 3585
immediately removing the same from this state in a vehicle owned 3586
by the purchaser; 3587

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	3588 3589 3590 3591 3592
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	3593 3594 3595
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	3596 3597 3598 3599 3600 3601 3602 3603 3604 3605 3606 3607 3608 3609 3610
(25) (a) Sales of water to a consumer for residential use;	3611
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	3612 3613 3614 3615
(26) Fees charged for inspection or reinspection of motor	3616

vehicles under section 3704.14 of the Revised Code;	3617
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	3618
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	3620
	3621
(a) To prepare food for human consumption for sale;	3622
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	3623
	3624
	3625
	3626
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	3627
	3628
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	3629
	3630
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	3631
	3632
	3633
	3634
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	3635
	3636
	3637
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	3638
	3639
	3640
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway	3641
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transportation for hire, except for packages and packaging used 3645
for the transportation of tangible personal property; 3646

(33) Sales to the state headquarters of any veterans' 3647
organization in this state that is either incorporated and 3648
issued a charter by the congress of the United States or is 3649
recognized by the United States veterans administration, for use 3650
by the headquarters; 3651

(34) Sales to a telecommunications service vendor, mobile 3652
telecommunications service vendor, or satellite broadcasting 3653
service vendor of tangible personal property and services used 3654
directly and primarily in transmitting, receiving, switching, or 3655
recording any interactive, one- or two-way electromagnetic 3656
communications, including voice, image, data, and information, 3657
through the use of any medium, including, but not limited to, 3658
poles, wires, cables, switching equipment, computers, and record 3659
storage devices and media, and component parts for the tangible 3660
personal property. The exemption provided in this division shall 3661
be in lieu of all other exemptions under division (B) (42) (a) or 3662
(n) of this section to which the vendor may otherwise be 3663
entitled, based upon the use of the thing purchased in providing 3664
the telecommunications, mobile telecommunications, or satellite 3665
broadcasting service. 3666

(35) (a) Sales where the purpose of the consumer is to use 3667
or consume the things transferred in making retail sales and 3668
consisting of newspaper inserts, catalogues, coupons, flyers, 3669
gift certificates, or other advertising material that prices and 3670
describes tangible personal property offered for retail sale. 3671

(b) Sales to direct marketing vendors of preliminary 3672
materials such as photographs, artwork, and typesetting that 3673
will be used in printing advertising material; and of printed 3674

matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B) (35) (a) of this section;

(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B) (35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales of tangible personal property that is not 3704
required to be registered or licensed under the laws of this 3705
state to a citizen of a foreign nation that is not a citizen of 3706
the United States, provided the property is delivered to a 3707
person in this state that is not a related member of the 3708
purchaser, is physically present in this state for the sole 3709
purpose of temporary storage and package consolidation, and is 3710
subsequently delivered to the purchaser at a delivery address in 3711
a foreign nation. As used in division (B) (38) of this section, 3712
"related member" has the same meaning as in section 5733.042 of 3713
the Revised Code, and "temporary storage" means the storage of 3714
tangible personal property for a period of not more than sixty 3715
days. 3716

(39) Sales of used manufactured homes and used mobile 3717
homes, as defined in section 5739.0210 of the Revised Code, made 3718
on or after January 1, 2000; 3719

(40) Sales of tangible personal property and services to a 3720
provider of electricity used or consumed directly and primarily 3721
in generating, transmitting, or distributing electricity for use 3722
by others, including property that is or is to be incorporated 3723
into and will become a part of the consumer's production, 3724
transmission, or distribution system and that retains its 3725
classification as tangible personal property after 3726
incorporation; fuel or power used in the production, 3727
transmission, or distribution of electricity; energy conversion 3728
equipment as defined in section 5727.01 of the Revised Code; and 3729
tangible personal property and services used in the repair and 3730
maintenance of the production, transmission, or distribution 3731
system, including only those motor vehicles as are specially 3732
designed and equipped for such use. The exemption provided in 3733
this division shall be in lieu of all other exemptions in 3734

division (B) (42) (a) or (n) of this section to which a provider 3735
of electricity may otherwise be entitled based on the use of the 3736
tangible personal property or service purchased in generating, 3737
transmitting, or distributing electricity. 3738

(41) Sales to a person providing services under division 3739
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 3740
personal property and services used directly and primarily in 3741
providing taxable services under that section. 3742

(42) Sales where the purpose of the purchaser is to do any 3743
of the following: 3744

(a) To incorporate the thing transferred as a material or 3745
a part into tangible personal property to be produced for sale 3746
by manufacturing, assembling, processing, or refining; or to use 3747
or consume the thing transferred directly in producing tangible 3748
personal property for sale by mining, including, without 3749
limitation, the extraction from the earth of all substances that 3750
are classed geologically as minerals, or directly in the 3751
rendition of a public utility service, except that the sales tax 3752
levied by this section shall be collected upon all meals, 3753
drinks, and food for human consumption sold when transporting 3754
persons. This paragraph does not exempt from "retail sale" or 3755
"sales at retail" the sale of tangible personal property that is 3756
to be incorporated into a structure or improvement to real 3757
property. 3758

(b) To hold the thing transferred as security for the 3759
performance of an obligation of the vendor; 3760

(c) To resell, hold, use, or consume the thing transferred 3761
as evidence of a contract of insurance; 3762

(d) To use or consume the thing directly in commercial 3763

fishing; 3764

(e) To incorporate the thing transferred as a material or 3765
a part into, or to use or consume the thing transferred directly 3766
in the production of, magazines distributed as controlled 3767
circulation publications; 3768

(f) To use or consume the thing transferred in the 3769
production and preparation in suitable condition for market and 3770
sale of printed, imprinted, overprinted, lithographic, 3771
multilithic, blueprinted, photostatic, or other productions or 3772
reproductions of written or graphic matter; 3773

(g) To use the thing transferred, as described in section 3774
5739.011 of the Revised Code, primarily in a manufacturing 3775
operation to produce tangible personal property for sale; 3776

(h) To use the benefit of a warranty, maintenance or 3777
service contract, or similar agreement, as described in division 3778
(B) (7) of section 5739.01 of the Revised Code, to repair or 3779
maintain tangible personal property, if all of the property that 3780
is the subject of the warranty, contract, or agreement would not 3781
be subject to the tax imposed by this section; 3782

(i) To use the thing transferred as qualified research and 3783
development equipment; 3784

(j) To use or consume the thing transferred primarily in 3785
storing, transporting, mailing, or otherwise handling purchased 3786
sales inventory in a warehouse, distribution center, or similar 3787
facility when the inventory is primarily distributed outside 3788
this state to retail stores of the person who owns or controls 3789
the warehouse, distribution center, or similar facility, to 3790
retail stores of an affiliated group of which that person is a 3791
member, or by means of direct marketing. This division does not 3792

apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring,

formatting, editing, storing, and disseminating data or 3822
information by electronic publishing; 3823

(p) To provide the thing transferred to the owner or 3824
lessee of a motor vehicle that is being repaired or serviced, if 3825
the thing transferred is a rented motor vehicle and the 3826
purchaser is reimbursed for the cost of the rented motor vehicle 3827
by a manufacturer, warrantor, or provider of a maintenance, 3828
service, or other similar contract or agreement, with respect to 3829
the motor vehicle that is being repaired or serviced; 3830

(q) To use or consume the thing transferred directly in 3831
production of crude oil and natural gas for sale. Persons 3832
engaged in rendering production services for others are deemed 3833
engaged in production. 3834

As used in division (B) (42) (q) of this section, 3835
"production" means operations and tangible personal property 3836
directly used to expose and evaluate an underground reservoir 3837
that may contain hydrocarbon resources, prepare the wellbore for 3838
production, and lift and control all substances yielded by the 3839
reservoir to the surface of the earth. 3840

(i) For the purposes of division (B) (42) (q) of this 3841
section, the "thing transferred" includes, but is not limited 3842
to, any of the following: 3843

(I) Services provided in the construction of permanent 3844
access roads, services provided in the construction of the well 3845
site, and services provided in the construction of temporary 3846
impoundments; 3847

(II) Equipment and rigging used for the specific purpose 3848
of creating with integrity a wellbore pathway to underground 3849
reservoirs; 3850

(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	3851 3852 3853
(IV) Casing, tubulars, and float and centralizing equipment;	3854 3855
(V) Trailers to which production equipment is attached;	3856
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	3857 3858 3859
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	3860 3861 3862
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	3863 3864 3865 3866
(IX) Pressure pumping equipment;	3867
(X) Artificial lift systems equipment;	3868
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	3869 3870 3871
(XII) Tangible personal property directly used to control production equipment.	3872 3873
(ii) For the purposes of division (B)(42)(q) of this section, the "thing transferred" does not include any of the following:	3874 3875 3876
(I) Tangible personal property used primarily in the	3877

exploration and production of any mineral resource regulated	3878
under Chapter 1509. of the Revised Code other than oil or gas;	3879
(II) Tangible personal property used primarily in storing,	3880
holding, or delivering solutions or chemicals used in well	3881
stimulation as defined in section 1509.01 of the Revised Code;	3882
(III) Tangible personal property used primarily in	3883
preparing, installing, or reclaiming foundations for drilling or	3884
pumping equipment or well stimulation material tanks;	3885
(IV) Tangible personal property used primarily in	3886
transporting, delivering, or removing equipment to or from the	3887
well site or storing such equipment before its use at the well	3888
site;	3889
(V) Tangible personal property used primarily in gathering	3890
operations occurring off the well site, including gathering	3891
pipelines transporting hydrocarbon gas or liquids away from a	3892
crude oil or natural gas production facility;	3893
(VI) Tangible personal property that is to be incorporated	3894
into a structure or improvement to real property;	3895
(VII) Well site fencing, lighting, or security systems;	3896
(VIII) Communication devices or services;	3897
(IX) Office supplies;	3898
(X) Trailers used as offices or lodging;	3899
(XI) Motor vehicles of any kind;	3900
(XII) Tangible personal property used primarily for the	3901
storage of drilling byproducts and fuel not used for production;	3902
(XIII) Tangible personal property used primarily as a	3903
safety device;	3904

(XIV) Data collection or monitoring devices;	3905
(XV) Access ladders, stairs, or platforms attached to storage tanks.	3906 3907
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	3908 3909 3910 3911 3912
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	3913 3914 3915 3916
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	3917 3918 3919
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.	3920 3921 3922 3923 3924 3925 3926
(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.	3927 3928 3929 3930 3931 3932
(45) Sales of telecommunications service that is used	3933

directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48) Sales of feminine hygiene products.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B) (49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of

aircraft cockpit. It includes the assemblage of equipment and 3963
computer programs necessary to represent aircraft operations in 3964
ground and flight conditions, a visual system providing an out- 3965
of-the-cockpit view, and a system that provides cues at least 3966
equivalent to those of a three-degree-of-freedom motion system, 3967
and has the full range of capabilities of the systems installed 3968
in the device as described in appendices A and B of part 60 of 3969
chapter 1 of title 14 of the Code of Federal Regulations. 3970

(51) Any transfer or lease of tangible personal property 3971
between the state and JobsOhio in accordance with section 3972
4313.02 of the Revised Code. 3973

(52) (a) Sales to a qualifying corporation. 3974

(b) As used in division (B) (52) of this section: 3975

(i) "Qualifying corporation" means a nonprofit corporation 3976
organized in this state that leases from an eligible county 3977
land, buildings, structures, fixtures, and improvements to the 3978
land that are part of or used in a public recreational facility 3979
used by a major league professional athletic team or a class A 3980
to class AAA minor league affiliate of a major league 3981
professional athletic team for a significant portion of the 3982
team's home schedule, provided the following apply: 3983

(I) The facility is leased from the eligible county 3984
pursuant to a lease that requires substantially all of the 3985
revenue from the operation of the business or activity conducted 3986
by the nonprofit corporation at the facility in excess of 3987
operating costs, capital expenditures, and reserves to be paid 3988
to the eligible county at least once per calendar year. 3989

(II) Upon dissolution and liquidation of the nonprofit 3990
corporation, all of its net assets are distributable to the 3991

board of commissioners of the eligible county from which the corporation leases the facility. 3992
3993

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code. 3994
3995

(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B) (53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code. 3996
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(54) Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that does all of the following: 4006
4007
4008

(a) Accepts direct payments to operate; 4009

(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B) (54) (a) of this section; 4010
4011
4012

(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment. 4013
4014

(55) (a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018: 4015
4016
4017

(i) An item of clothing, the price of which is seventy-five dollars or less; 4018
4019

(ii) An item of school supplies, the price of which is	4020
twenty dollars or less;	4021
(iii) An item of school instructional material, the price	4022
of which is twenty dollars or less.	4023
(b) As used in division (B) (55) of this section:	4024
(i) "Clothing" means all human wearing apparel suitable	4025
for general use. "Clothing" includes, but is not limited to,	4026
aprons, household and shop; athletic supporters; baby receiving	4027
blankets; bathing suits and caps; beach capes and coats; belts	4028
and suspenders; boots; coats and jackets; costumes; diapers,	4029
children and adult, including disposable diapers; earmuffs;	4030
footlets; formal wear; garters and garter belts; girdles; gloves	4031
and mittens for general use; hats and caps; hosiery; insoles for	4032
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	4033
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	4034
sneakers; socks and stockings; steel-toed shoes; underwear;	4035
uniforms, athletic and nonathletic; and wedding apparel.	4036
"Clothing" does not include items purchased for use in a trade	4037
or business; clothing accessories or equipment; protective	4038
equipment; sports or recreational equipment; belt buckles sold	4039
separately; costume masks sold separately; patches and emblems	4040
sold separately; sewing equipment and supplies including, but	4041
not limited to, knitting needles, patterns, pins, scissors,	4042
sewing machines, sewing needles, tape measures, and thimbles;	4043
and sewing materials that become part of "clothing" including,	4044
but not limited to, buttons, fabric, lace, thread, yarn, and	4045
zippers.	4046
(ii) "School supplies" means items commonly used by a	4047
student in a course of study. "School supplies" includes only	4048
the following items: binders; book bags; calculators; cellophane	4049

tape; blackboard chalk; compasses; composition books; crayons; 4050
erasers; folders, expandable, pocket, plastic, and manila; glue, 4051
paste, and paste sticks; highlighters; index cards; index card 4052
boxes; legal pads; lunch boxes; markers; notebooks; paper, 4053
loose-leaf ruled notebook paper, copy paper, graph paper, 4054
tracing paper, manila paper, colored paper, poster board, and 4055
construction paper; pencil boxes and other school supply boxes; 4056
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 4057
and writing tablets. "School supplies" does not include any item 4058
purchased for use in a trade or business. 4059

(iii) "School instructional material" means written 4060
material commonly used by a student in a course of study as a 4061
reference and to learn the subject being taught. "School 4062
instructional material" includes only the following items: 4063
reference books, reference maps and globes, textbooks, and 4064
workbooks. "School instructional material" does not include any 4065
material purchased for use in a trade or business. 4066

(56) (a) Sales of diapers or incontinence underpads sold 4067
pursuant to a prescription, for the benefit of a medicaid 4068
recipient with a diagnosis of incontinence, and by a medicaid 4069
provider that maintains a valid provider agreement under section 4070
5164.30 of the Revised Code with the department of medicaid, 4071
provided that the medicaid program covers diapers or 4072
incontinence underpads as an incontinence garment. 4073

(b) As used in division (B) (56) (a) of this section: 4074

(i) "Diaper" means an absorbent garment worn by humans who 4075
are incapable of, or have difficulty, controlling their bladder 4076
or bowel movements. 4077

(ii) "Incontinence underpad" means an absorbent product, 4078

not worn on the body, designed to protect furniture or other 4079
tangible personal property from soiling or damage due to human 4080
incontinence. 4081

(57) Sales of investment metal bullion and investment 4082
coins. "Investment metal bullion" means any bullion described in 4083
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 4084
whether that bullion is in the physical possession of a trustee. 4085
"Investment coin" means any coin composed primarily of gold, 4086
silver, platinum, or palladium. 4087

(C) For the purpose of the proper administration of this 4088
chapter, and to prevent the evasion of the tax, it is presumed 4089
that all sales made in this state are subject to the tax until 4090
the contrary is established. 4091

(D) The tax collected by the vendor from the consumer 4092
under this chapter is not part of the price, but is a tax 4093
collection for the benefit of the state, and of counties levying 4094
an additional sales tax pursuant to section 5739.021 or 5739.026 4095
of the Revised Code and of transit authorities levying an 4096
additional sales tax pursuant to section 5739.023 of the Revised 4097
Code. Except for the discount authorized under section 5739.12 4098
of the Revised Code and the effects of any rounding pursuant to 4099
section 5703.055 of the Revised Code, no person other than the 4100
state or such a county or transit authority shall derive any 4101
benefit from the collection or payment of the tax levied by this 4102
section or section 5739.021, 5739.023, or 5739.026 of the 4103
Revised Code. 4104

Sec. 5741.02. (A) (1) For the use of the general revenue 4105
fund of the state, an excise tax is hereby levied on the 4106
storage, use, or other consumption in this state of tangible 4107
personal property or the benefit realized in this state of any 4108

service provided. The tax shall be collected as provided in 4109
section 5739.025 of the Revised Code. The rate of the tax shall 4110
be five and three-fourths per cent. 4111

(2) In the case of the lease or rental, with a fixed term 4112
of more than thirty days or an indefinite term with a minimum 4113
period of more than thirty days, of any motor vehicles designed 4114
by the manufacturer to carry a load of not more than one ton, 4115
watercraft, outboard motor, or aircraft, or of any tangible 4116
personal property, other than motor vehicles designed by the 4117
manufacturer to carry a load of more than one ton, to be used by 4118
the lessee or renter primarily for business purposes, the tax 4119
shall be collected by the seller at the time the lease or rental 4120
is consummated and shall be calculated by the seller on the 4121
basis of the total amount to be paid by the lessee or renter 4122
under the lease or rental agreement. If the total amount of the 4123
consideration for the lease or rental includes amounts that are 4124
not calculated at the time the lease or rental is executed, the 4125
tax shall be calculated and collected by the seller at the time 4126
such amounts are billed to the lessee or renter. In the case of 4127
an open-end lease or rental, the tax shall be calculated by the 4128
seller on the basis of the total amount to be paid during the 4129
initial fixed term of the lease or rental, and for each 4130
subsequent renewal period as it comes due. As used in this 4131
division, "motor vehicle" has the same meaning as in section 4132
4501.01 of the Revised Code, and "watercraft" includes an 4133
outdrive unit attached to the watercraft. 4134

(3) Except as provided in division (A) (2) of this section, 4135
in the case of a transaction, the price of which consists in 4136
whole or part of the lease or rental of tangible personal 4137
property, the tax shall be measured by the installments of those 4138
leases or rentals. 4139

(B) Each consumer, storing, using, or otherwise consuming 4140
in this state tangible personal property or realizing in this 4141
state the benefit of any service provided, shall be liable for 4142
the tax, and such liability shall not be extinguished until the 4143
tax has been paid to this state; provided, that the consumer 4144
shall be relieved from further liability for the tax if the tax 4145
has been paid to a seller in accordance with section 5741.04 of 4146
the Revised Code or prepaid by the seller in accordance with 4147
section 5741.06 of the Revised Code. 4148

(C) The tax does not apply to the storage, use, or 4149
consumption in this state of the following described tangible 4150
personal property or services, nor to the storage, use, or 4151
consumption or benefit in this state of tangible personal 4152
property or services purchased under the following described 4153
circumstances: 4154

(1) When the sale of property or service in this state is 4155
subject to the excise tax imposed by sections 5739.01 to 5739.31 4156
of the Revised Code, provided said tax has been paid; 4157

(2) Except as provided in division (D) of this section, 4158
tangible personal property or services, the acquisition of 4159
which, if made in Ohio, would be a sale not subject to the tax 4160
imposed by sections 5739.01 to 5739.31 of the Revised Code; 4161

(3) Property or services, the storage, use, or other 4162
consumption of or benefit from which this state is prohibited 4163
from taxing by the Constitution of the United States, laws of 4164
the United States, or the Constitution of this state. This 4165
exemption shall not exempt from the application of the tax 4166
imposed by this section the storage, use, or consumption of 4167
tangible personal property that was purchased in interstate 4168
commerce, but that has come to rest in this state, provided that 4169

fuel to be used or transported in carrying on interstate 4170
commerce that is stopped within this state pending transfer from 4171
one conveyance to another is exempt from the excise tax imposed 4172
by this section and section 5739.02 of the Revised Code; 4173

(4) Transient use of tangible personal property in this 4174
state by a nonresident tourist or vacationer, or a nonbusiness 4175
use within this state by a nonresident of this state, if the 4176
property so used was purchased outside this state for use 4177
outside this state and is not required to be registered or 4178
licensed under the laws of this state; 4179

(5) Tangible personal property or services rendered, upon 4180
which taxes have been paid to another jurisdiction to the extent 4181
of the amount of the tax paid to such other jurisdiction. Where 4182
the amount of the tax imposed by this section and imposed 4183
pursuant to section 5741.021, 5741.022, or 5741.023 of the 4184
Revised Code exceeds the amount paid to another jurisdiction, 4185
the difference shall be allocated between the tax imposed by 4186
this section and any tax imposed by a county or a transit 4187
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 4188
the Revised Code, in proportion to the respective rates of such 4189
taxes. 4190

As used in this subdivision, "taxes paid to another 4191
jurisdiction" means the total amount of retail sales or use tax 4192
or similar tax based upon the sale, purchase, or use of tangible 4193
personal property or services rendered legally, levied by and 4194
paid to another state or political subdivision thereof, or to 4195
the District of Columbia, where the payment of such tax does not 4196
entitle the taxpayer to any refund or credit for such payment. 4197

(6) The transfer of a used manufactured home or used 4198
mobile home, as defined by section 5739.0210 of the Revised 4199

Code, made on or after January 1, 2000; 4200

(7) Drugs that are or are intended to be distributed free 4201
of charge to a practitioner licensed to prescribe, dispense, and 4202
administer drugs to a human being in the course of a 4203
professional practice and that by law may be dispensed only by 4204
or upon the order of such a practitioner; 4205

(8) Computer equipment and related software leased from a 4206
lessor located outside this state and initially received in this 4207
state on behalf of the consumer by a third party that will 4208
retain possession of such property for not more than ninety days 4209
and that will, within that ninety-day period, deliver such 4210
property to the consumer at a location outside this state. 4211
Division (C) (8) of this section does not provide exemption from 4212
taxation for any otherwise taxable charges associated with such 4213
property while it is in this state or for any subsequent 4214
storage, use, or consumption of such property in this state by 4215
or on behalf of the consumer. 4216

(9) Tangible personal property held for sale by a person 4217
but not for that person's own use and donated by that person, 4218
without charge or other compensation, to either of the 4219
following: 4220

(a) A nonprofit organization operated exclusively for 4221
charitable purposes in this state, no part of the net income of 4222
which inures to the benefit of any private shareholder or 4223
individual and no substantial part of the activities of which 4224
consists of carrying on propaganda or otherwise attempting to 4225
influence legislation; or 4226

(b) This state or any political subdivision of this state, 4227
but only if donated for exclusively public purposes. 4228

For the purposes of division (C) (9) of this section, 4229
"charitable purposes" has the same meaning as in division (B) 4230
(12) of section 5739.02 of the Revised Code. 4231

(10) Equipment stored, used, or otherwise consumed in this 4232
state by an out-of-state disaster business during a disaster 4233
response period during which the business conducts disaster work 4234
pursuant to a qualifying solicitation received by the business, 4235
provided the equipment is removed from the state before the last 4236
day of that period. All terms used in division (C) (10) of this 4237
section have the same meanings as in section 5703.94 of the 4238
Revised Code. 4239

(11) (a) Watercraft, if all of the following apply: 4240

(i) The watercraft is in this state only for storage and 4241
maintenance purposes. 4242

(ii) The watercraft is not used or stored in this state 4243
between the first day of May and the last day of September of 4244
any year. 4245

(iii) The watercraft is not required to be registered in 4246
this state under section 1547.54 of the Revised Code. 4247

(iv) The owner paid taxes to another jurisdiction on the 4248
sale, use, or consumption of the watercraft or paid sales tax on 4249
the watercraft under section 5739.027 of the Revised Code, 4250
unless the watercraft is used and titled or registered in a 4251
jurisdiction that does not impose a sales or use tax or similar 4252
excise tax on the ownership or use of the watercraft. 4253

(b) As used in division (C) (11) of this section: 4254

(i) "Taxes paid to another jurisdiction" has the same 4255
meaning as in division (C) (5) of this section. 4256

(ii) "Maintenance" means any act to preserve or improve the condition or efficiency of a watercraft including cleaning and repairing the watercraft and installing equipment, fixtures, or technology in or on the watercraft. 4257
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(c) Nothing in division (C) (11) of this section exempts sales of storage of watercraft taxable under division (B) (9) of section 5739.01 of the Revised Code or sales of repair or installation of tangible personal property in or on the watercraft taxable under division (B) (3) (a) or (b) of that section. 4261
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(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner. 4267
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(E) (1) (a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B) (1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes. 4274
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(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that 4284
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certificate. If it is determined the exemption was improperly 4287
claimed, the consumer shall be liable for any tax due on that 4288
sale under this chapter. Relief under this division from 4289
liability does not apply to any of the following: 4290

(i) A seller that fraudulently fails to collect tax; 4291

(ii) A seller that solicits consumers to participate in 4292
the unlawful claim of an exemption; 4293

(iii) A seller that accepts an exemption certificate from 4294
a consumer that claims an exemption based on who purchases or 4295
who sells property or a service, when the subject of the 4296
transaction sought to be covered by the exemption certificate is 4297
actually received by the consumer at a location operated by the 4298
seller in this state, and this state has posted to its web site 4299
an exemption certificate form that clearly and affirmatively 4300
indicates that the claimed exemption is not available in this 4301
state; 4302

(iv) A seller that accepts an exemption certificate from a 4303
consumer who claims a multiple points of use exemption under 4304
division (D) of section 5739.033 of the Revised Code, if the 4305
item purchased is tangible personal property, other than 4306
prewritten computer software. 4307

(2) The seller shall maintain records, including exemption 4308
certificates, of all sales on which a consumer has claimed an 4309
exemption, and provide them to the tax commissioner on request. 4310

(3) If no certificate is provided or obtained within 4311
ninety days after the date on which the transaction is 4312
consummated, it shall be presumed that the tax applies. Failure 4313
to have so provided or obtained a certificate shall not preclude 4314
a seller, within one hundred twenty days after the tax 4315

commissioner gives written notice of intent to levy an 4316
assessment, from either establishing that the transaction is not 4317
subject to the tax, or obtaining, in good faith, a fully 4318
completed exemption certificate. 4319

(4) If a transaction is claimed to be exempt under 4320
division (B) (13) of section 5739.02 of the Revised Code, the 4321
contractor shall obtain certification of the claimed exemption 4322
from the contractee. This certification shall be in addition to 4323
an exemption certificate provided by the contractor to the 4324
seller. A contractee that provides a certification under this 4325
division shall be deemed to be the consumer of all items 4326
purchased by the contractor under the claim of exemption, if it 4327
is subsequently determined that the exemption is not properly 4328
claimed. The certification shall be in such form as the tax 4329
commissioner prescribes. 4330

(F) A seller who files a petition for reassessment 4331
contesting the assessment of tax on transactions for which the 4332
seller obtained no valid exemption certificates, and for which 4333
the seller failed to establish that the transactions were not 4334
subject to the tax during the one-hundred-twenty-day period 4335
allowed under division (E) of this section, may present to the 4336
tax commissioner additional evidence to prove that the 4337
transactions were exempt. The seller shall file such evidence 4338
within ninety days of the receipt by the seller of the notice of 4339
assessment, except that, upon application and for reasonable 4340
cause, the tax commissioner may extend the period for submitting 4341
such evidence thirty days. 4342

(G) For the purpose of the proper administration of 4343
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 4344
the evasion of the tax hereby levied, it shall be presumed that 4345

any use, storage, or other consumption of tangible personal 4346
property in this state is subject to the tax until the contrary 4347
is established. 4348

(H) The tax collected by the seller from the consumer 4349
under this chapter is not part of the price, but is a tax 4350
collection for the benefit of the state, and of counties levying 4351
an additional use tax pursuant to section 5741.021 or 5741.023 4352
of the Revised Code and of transit authorities levying an 4353
additional use tax pursuant to section 5741.022 of the Revised 4354
Code. Except for the discount authorized under section 5741.12 4355
of the Revised Code and the effects of any rounding pursuant to 4356
section 5703.055 of the Revised Code, no person other than the 4357
state or such a county or transit authority shall derive any 4358
benefit from the collection of such tax. 4359

Sec. 5747.41. For the same purposes for which the tax is 4360
levied under section 5747.02 of the Revised Code, there is 4361
hereby levied a withholding tax on every qualifying pass-through 4362
entity having at least one qualifying investor who is an 4363
individual and on every qualifying trust having at least one 4364
qualifying beneficiary who is an individual. The withholding tax 4365
imposed by this section is imposed on the sum of the adjusted 4366
qualifying amounts of a qualifying pass-through entity's 4367
qualifying investors who are individuals and on the sum of the 4368
adjusted qualifying amounts of a qualifying trust's qualifying 4369
beneficiaries, at the a rate of five per cent of that sum equal 4370
to the tax rate imposed on taxable business income under 4371
division (A) (4) (a) of section 5747.02 of the Revised Code. 4372

The tax imposed by this section applies only if the 4373
qualifying entity has nexus with this state under the 4374
Constitution of the United States for any portion of the 4375

qualifying entity's qualifying taxable year, and the sum of the 4376
qualifying entity's adjusted qualifying amounts exceeds one 4377
thousand dollars for the qualifying entity's qualifying taxable 4378
year. 4379

Sec. 5751.01. As used in this chapter: 4380

(A) "Person" means, but is not limited to, individuals, 4381
combinations of individuals of any form, receivers, assignees, 4382
trustees in bankruptcy, firms, companies, joint-stock companies, 4383
business trusts, estates, partnerships, limited liability 4384
partnerships, limited liability companies, associations, joint 4385
ventures, clubs, societies, for-profit corporations, S 4386
corporations, qualified subchapter S subsidiaries, qualified 4387
subchapter S trusts, trusts, entities that are disregarded for 4388
federal income tax purposes, and any other entities. 4389

(B) "Consolidated elected taxpayer" means a group of two 4390
or more persons treated as a single taxpayer for purposes of 4391
this chapter as the result of an election made under section 4392
5751.011 of the Revised Code. 4393

(C) "Combined taxpayer" means a group of two or more 4394
persons treated as a single taxpayer for purposes of this 4395
chapter under section 5751.012 of the Revised Code. 4396

(D) "Taxpayer" means any person, or any group of persons 4397
in the case of a consolidated elected taxpayer or combined 4398
taxpayer treated as one taxpayer, required to register or pay 4399
tax under this chapter. "Taxpayer" does not include excluded 4400
persons. 4401

(E) "Excluded person" means any of the following: 4402

(1) Any person with not more than one hundred fifty 4403
thousand dollars of taxable gross receipts during the calendar 4404

year. Division (E) (1) of this section does not apply to a person 4405
that is a member of a consolidated elected taxpayer; 4406

(2) A public utility that paid the excise tax imposed by 4407
section 5727.24 or 5727.30 of the Revised Code based on one or 4408
more measurement periods that include the entire tax period 4409
under this chapter, except that a public utility that is a 4410
combined company is a taxpayer with regard to the following 4411
gross receipts: 4412

(a) Taxable gross receipts directly attributed to a public 4413
utility activity, but not directly attributed to an activity 4414
that is subject to the excise tax imposed by section 5727.24 or 4415
5727.30 of the Revised Code; 4416

(b) Taxable gross receipts that cannot be directly 4417
attributed to any activity, multiplied by a fraction whose 4418
numerator is the taxable gross receipts described in division 4419
(E) (2) (a) of this section and whose denominator is the total 4420
taxable gross receipts that can be directly attributed to any 4421
activity; 4422

(c) Except for any differences resulting from the use of 4423
an accrual basis method of accounting for purposes of 4424
determining gross receipts under this chapter and the use of the 4425
cash basis method of accounting for purposes of determining 4426
gross receipts under section 5727.24 of the Revised Code, the 4427
gross receipts directly attributed to the activity of a natural 4428
gas company shall be determined in a manner consistent with 4429
division (D) of section 5727.03 of the Revised Code. 4430

As used in division (E) (2) of this section, "combined 4431
company" and "public utility" have the same meanings as in 4432
section 5727.01 of the Revised Code. 4433

(3) A financial institution, as defined in section 5726.01 4434
of the Revised Code, that paid the tax imposed by section 4435
5726.02 of the Revised Code based on one or more taxable years 4436
that include the entire tax period under this chapter; 4437

(4) A person directly or indirectly owned by one or more 4438
financial institutions, as defined in section 5726.01 of the 4439
Revised Code, that paid the tax imposed by section 5726.02 of 4440
the Revised Code based on one or more taxable years that include 4441
the entire tax period under this chapter. 4442

For the purposes of division (E) (4) of this section, a 4443
person owns another person under the following circumstances: 4444

(a) In the case of corporations issuing capital stock, one 4445
corporation owns another corporation if it owns fifty per cent 4446
or more of the other corporation's capital stock with current 4447
voting rights; 4448

(b) In the case of a limited liability company, one person 4449
owns the company if that person's membership interest, as 4450
defined in section 1705.01 of the Revised Code, is fifty per 4451
cent or more of the combined membership interests of all persons 4452
owning such interests in the company; 4453

(c) In the case of a partnership, trust, or other 4454
unincorporated business organization other than a limited 4455
liability company, one person owns the organization if, under 4456
the articles of organization or other instrument governing the 4457
affairs of the organization, that person has a beneficial 4458
interest in the organization's profits, surpluses, losses, or 4459
distributions of fifty per cent or more of the combined 4460
beneficial interests of all persons having such an interest in 4461
the organization. 4462

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (EE) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F) (2), (3), 4493
and (4) of this section, "gross receipts" means the total amount 4494
realized by a person, without deduction for the cost of goods 4495
sold or other expenses incurred, that contributes to the 4496
production of gross income of the person, including the fair 4497
market value of any property and any services received, and any 4498
debt transferred or forgiven as consideration. 4499

(1) The following are examples of gross receipts: 4500

(a) Amounts realized from the sale, exchange, or other 4501
disposition of the taxpayer's property to or with another; 4502

(b) Amounts realized from the taxpayer's performance of 4503
services for another; 4504

(c) Amounts realized from another's use or possession of 4505
the taxpayer's property or capital; 4506

(d) Any combination of the foregoing amounts. 4507

(2) "Gross receipts" excludes the following amounts: 4508

(a) Interest income except interest on credit sales; 4509

(b) Dividends and distributions from corporations, and 4510
distributive or proportionate shares of receipts and income from 4511
a pass-through entity as defined under section 5733.04 of the 4512
Revised Code; 4513

(c) Receipts from the sale, exchange, or other disposition 4514
of an asset described in section 1221 or 1231 of the Internal 4515
Revenue Code, without regard to the length of time the person 4516
held the asset. Notwithstanding section 1221 of the Internal 4517
Revenue Code, receipts from hedging transactions also are 4518
excluded to the extent the transactions are entered into 4519
primarily to protect a financial position, such as managing the 4520

risk of exposure to (i) foreign currency fluctuations that 4521
affect assets, liabilities, profits, losses, equity, or 4522
investments in foreign operations; (ii) interest rate 4523
fluctuations; or (iii) commodity price fluctuations. As used in 4524
division (F) (2) (c) of this section, "hedging transaction" has 4525
the same meaning as used in section 1221 of the Internal Revenue 4526
Code and also includes transactions accorded hedge accounting 4527
treatment under statement of financial accounting standards 4528
number 133 of the financial accounting standards board. For the 4529
purposes of division (F) (2) (c) of this section, the actual 4530
transfer of title of real or tangible personal property to 4531
another entity is not a hedging transaction. 4532

(d) Proceeds received attributable to the repayment, 4533
maturity, or redemption of the principal of a loan, bond, mutual 4534
fund, certificate of deposit, or marketable instrument; 4535

(e) The principal amount received under a repurchase 4536
agreement or on account of any transaction properly 4537
characterized as a loan to the person; 4538

(f) Contributions received by a trust, plan, or other 4539
arrangement, any of which is described in section 501(a) of the 4540
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 4541
1, Subchapter (D) of the Internal Revenue Code applies; 4542

(g) Compensation, whether current or deferred, and whether 4543
in cash or in kind, received or to be received by an employee, 4544
former employee, or the employee's legal successor for services 4545
rendered to or for an employer, including reimbursements 4546
received by or for an individual for medical or education 4547
expenses, health insurance premiums, or employee expenses, or on 4548
account of a dependent care spending account, legal services 4549
plan, any cafeteria plan described in section 125 of the 4550

Internal Revenue Code, or any similar employee reimbursement;	4551
(h) Proceeds received from the issuance of the taxpayer's	4552
own stock, options, warrants, puts, or calls, or from the sale	4553
of the taxpayer's treasury stock;	4554
(i) Proceeds received on the account of payments from	4555
insurance policies, except those proceeds received for the loss	4556
of business revenue;	4557
(j) Gifts or charitable contributions received; membership	4558
dues received by trade, professional, homeowners', or	4559
condominium associations; and payments received for educational	4560
courses, meetings, meals, or similar payments to a trade,	4561
professional, or other similar association; and fundraising	4562
receipts received by any person when any excess receipts are	4563
donated or used exclusively for charitable purposes;	4564
(k) Damages received as the result of litigation in excess	4565
of amounts that, if received without litigation, would be gross	4566
receipts;	4567
(l) Property, money, and other amounts received or	4568
acquired by an agent on behalf of another in excess of the	4569
agent's commission, fee, or other remuneration;	4570
(m) Tax refunds, other tax benefit recoveries, and	4571
reimbursements for the tax imposed under this chapter made by	4572
entities that are part of the same combined taxpayer or	4573
consolidated elected taxpayer group, and reimbursements made by	4574
entities that are not members of a combined taxpayer or	4575
consolidated elected taxpayer group that are required to be made	4576
for economic parity among multiple owners of an entity whose tax	4577
obligation under this chapter is required to be reported and	4578
paid entirely by one owner, pursuant to the requirements of	4579

sections 5751.011 and 5751.012 of the Revised Code;	4580
(n) Pension reversions;	4581
(o) Contributions to capital;	4582
(p) Sales or use taxes collected as a vendor or an out-of-	4583
state seller on behalf of the taxing jurisdiction from a	4584
consumer or other taxes the taxpayer is required by law to	4585
collect directly from a purchaser and remit to a local, state,	4586
or federal tax authority;	4587
(q) In the case of receipts from the sale of cigarettes,	4588
tobacco products, or vapor products by a wholesale dealer,	4589
retail dealer, distributor, manufacturer, vapor distributor, or	4590
seller, all as defined in section 5743.01 of the Revised Code,	4591
an amount equal to the federal and state excise taxes paid by	4592
any person on or for such cigarettes, tobacco products, or vapor	4593
products under subtitle E of the Internal Revenue Code or	4594
Chapter 5743. of the Revised Code;	4595
(r) In the case of receipts from the sale, transfer,	4596
exchange, or other disposition of motor fuel as "motor fuel" is	4597
defined in section 5736.01 of the Revised Code, an amount equal	4598
to the value of the motor fuel, including federal and state	4599
motor fuel excise taxes and receipts from billing or invoicing	4600
the tax imposed under section 5736.02 of the Revised Code to	4601
another person;	4602
(s) In the case of receipts from the sale of beer or	4603
intoxicating liquor, as defined in section 4301.01 of the	4604
Revised Code, by a person holding a permit issued under Chapter	4605
4301. or 4303. of the Revised Code, an amount equal to federal	4606
and state excise taxes paid by any person on or for such beer or	4607
intoxicating liquor under subtitle E of the Internal Revenue	4608

Code or Chapter 4301. or 4305. of the Revised Code; 4609

(t) Receipts realized by a new motor vehicle dealer or 4610
used motor vehicle dealer, as defined in section 4517.01 of the 4611
Revised Code, from the sale or other transfer of a motor 4612
vehicle, as defined in that section, to another motor vehicle 4613
dealer for the purpose of resale by the transferee motor vehicle 4614
dealer, but only if the sale or other transfer was based upon 4615
the transferee's need to meet a specific customer's preference 4616
for a motor vehicle; 4617

(u) Receipts from a financial institution described in 4618
division (E) (3) of this section for services provided to the 4619
financial institution in connection with the issuance, 4620
processing, servicing, and management of loans or credit 4621
accounts, if such financial institution and the recipient of 4622
such receipts have at least fifty per cent of their ownership 4623
interests owned or controlled, directly or constructively 4624
through related interests, by common owners; 4625

(v) Receipts realized from administering anti-neoplastic 4626
drugs and other cancer chemotherapy, biologicals, therapeutic 4627
agents, and supportive drugs in a physician's office to patients 4628
with cancer; 4629

(w) Funds received or used by a mortgage broker that is 4630
not a dealer in intangibles, other than fees or other 4631
consideration, pursuant to a table-funding mortgage loan or 4632
warehouse-lending mortgage loan. Terms used in division (F) (2) 4633
(w) of this section have the same meanings as in section 1322.01 4634
of the Revised Code, except "mortgage broker" means a person 4635
assisting a buyer in obtaining a mortgage loan for a fee or 4636
other consideration paid by the buyer or a lender, or a person 4637
engaged in table-funding or warehouse-lending mortgage loans 4638

that are first lien mortgage loans. 4639

(x) Property, money, and other amounts received by a 4640
professional employer organization, as defined in section 4641
4125.01 of the Revised Code, from a client employer, as defined 4642
in that section, in excess of the administrative fee charged by 4643
the professional employer organization to the client employer; 4644

(y) In the case of amounts retained as commissions by a 4645
permit holder under Chapter 3769. of the Revised Code, an amount 4646
equal to the amounts specified under that chapter that must be 4647
paid to or collected by the tax commissioner as a tax and the 4648
amounts specified under that chapter to be used as purse money; 4649

(z) Qualifying distribution center receipts as determined 4650
under section 5751.40 of the Revised Code. 4651

(aa) Receipts of an employer from payroll deductions 4652
relating to the reimbursement of the employer for advancing 4653
moneys to an unrelated third party on an employee's behalf; 4654

(bb) Cash discounts allowed and taken; 4655

(cc) Returns and allowances; 4656

(dd) Bad debts from receipts on the basis of which the tax 4657
imposed by this chapter was paid in a prior quarterly tax 4658
payment period. For the purpose of this division, "bad debts" 4659
means any debts that have become worthless or uncollectible 4660
between the preceding and current quarterly tax payment periods, 4661
have been uncollected for at least six months, and that may be 4662
claimed as a deduction under section 166 of the Internal Revenue 4663
Code and the regulations adopted under that section, or that 4664
could be claimed as such if the taxpayer kept its accounts on 4665
the accrual basis. "Bad debts" does not include repossessed 4666
property, uncollectible amounts on property that remains in the 4667

possession of the taxpayer until the full purchase price is 4668
paid, or expenses in attempting to collect any account 4669
receivable or for any portion of the debt recovered; 4670

(ee) Any amount realized from the sale of an account 4671
receivable to the extent the receipts from the underlying 4672
transaction giving rise to the account receivable were included 4673
in the gross receipts of the taxpayer; 4674

(ff) Any receipts directly attributed to a transfer 4675
agreement or to the enterprise transferred under that agreement 4676
under section 4313.02 of the Revised Code. 4677

(gg) Qualified uranium receipts as determined under 4678
section 5751.41 of the Revised Code. 4679

(hh) In the case of amounts collected by a licensed casino 4680
operator from casino gaming, amounts in excess of the casino 4681
operator's gross casino revenue. In this division, "casino 4682
operator" and "casino gaming" have the meanings defined in 4683
section 3772.01 of the Revised Code, and "gross casino revenue" 4684
has the meaning defined in section 5753.01 of the Revised Code. 4685

(ii) Receipts realized from the sale of agricultural 4686
commodities by an agricultural commodity handler, both as 4687
defined in section 926.01 of the Revised Code, that is licensed 4688
by the director of agriculture to handle agricultural 4689
commodities in this state. 4690

(jj) Qualifying integrated supply chain receipts as 4691
determined under section 5751.42 of the Revised Code. 4692

(kk) In the case of a railroad company described in 4693
division (D)(9) of section 5727.01 of the Revised Code that 4694
purchases dyed diesel fuel directly from a supplier as defined 4695
by section 5736.01 of the Revised Code, an amount equal to the 4696

product of the number of gallons of dyed diesel fuel purchased 4697
directly from such a supplier multiplied by the average 4698
wholesale price for a gallon of diesel fuel as determined under 4699
section 5736.02 of the Revised Code for the period during which 4700
the fuel was purchased multiplied by a fraction, the numerator 4701
of which equals the rate of tax levied by section 5736.02 of the 4702
Revised Code less the rate of tax computed in section 5751.03 of the 4703
the Revised Code, and the denominator of which equals the rate 4704
of tax computed in section 5751.03 of the Revised Code. 4705

(ll) Receipts realized by an out-of-state disaster 4706
business from disaster work conducted in this state during a 4707
disaster response period pursuant to a qualifying solicitation 4708
received by the business. Terms used in division (F) (2) (ll) of 4709
this section have the same meanings as in section 5703.94 of the 4710
Revised Code. 4711

(mm) Receipts of a megaproject supplier that holds a 4712
certificate issued under division (D) (7) of section 122.17 of 4713
the Revised Code from sales of tangible personal property 4714
directly to a megaproject operator in this state. 4715

(nn) Any receipts for which the tax imposed by this 4716
chapter is prohibited by the constitution or laws of the United 4717
States or the constitution of this state. 4718

(3) In the case of a taxpayer when acting as a real estate 4719
broker, "gross receipts" includes only the portion of any fee 4720
for the service of a real estate broker, or service of a real 4721
estate salesperson associated with that broker, that is retained 4722
by the broker and not paid to an associated real estate 4723
salesperson or another real estate broker. For the purposes of 4724
this division, "real estate broker" and "real estate 4725
salesperson" have the same meanings as in section 4735.01 of the 4726

Revised Code. 4727

(4) A taxpayer's method of accounting for gross receipts 4728
for a tax period shall be the same as the taxpayer's method of 4729
accounting for federal income tax purposes for the taxpayer's 4730
federal taxable year that includes the tax period. If a 4731
taxpayer's method of accounting for federal income tax purposes 4732
changes, its method of accounting for gross receipts under this 4733
chapter shall be changed accordingly. 4734

(G) "Taxable gross receipts" means gross receipts situated 4735
to this state under section 5751.033 of the Revised Code. 4736

(H) A person has "substantial nexus with this state" if 4737
any of the following applies. The person: 4738

(1) Owns or uses a part or all of its capital in this 4739
state; 4740

(2) Holds a certificate of compliance with the laws of 4741
this state authorizing the person to do business in this state; 4742

(3) Has bright-line presence in this state; 4743

(4) Otherwise has nexus with this state to an extent that 4744
the person can be required to remit the tax imposed under this 4745
chapter under the Constitution of the United States. 4746

(I) A person has "bright-line presence" in this state for 4747
a reporting period and for the remaining portion of the calendar 4748
year if any of the following applies. The person: 4749

(1) Has at any time during the calendar year property in 4750
this state with an aggregate value of at least fifty thousand 4751
dollars. For the purpose of division (I)(1) of this section, 4752
owned property is valued at original cost and rented property is 4753
valued at eight times the net annual rental charge. 4754

(2) Has during the calendar year payroll in this state of 4755
at least fifty thousand dollars. Payroll in this state includes 4756
all of the following: 4757

(a) Any amount subject to withholding by the person under 4758
section 5747.06 of the Revised Code; 4759

(b) Any other amount the person pays as compensation to an 4760
individual under the supervision or control of the person for 4761
work done in this state; and 4762

(c) Any amount the person pays for services performed in 4763
this state on its behalf by another. 4764

(3) Has during the calendar year taxable gross receipts of 4765
at least five hundred thousand dollars. 4766

(4) Has at any time during the calendar year within this 4767
state at least twenty-five per cent of the person's total 4768
property, total payroll, or total gross receipts. 4769

(5) Is domiciled in this state as an individual or for 4770
corporate, commercial, or other business purposes. 4771

(J) "Tangible personal property" has the same meaning as 4772
in section 5739.01 of the Revised Code. 4773

(K) "Internal Revenue Code" means the Internal Revenue 4774
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 4775
used in this chapter that is not otherwise defined has the same 4776
meaning as when used in a comparable context in the laws of the 4777
United States relating to federal income taxes unless a 4778
different meaning is clearly required. Any reference in this 4779
chapter to the Internal Revenue Code includes other laws of the 4780
United States relating to federal income taxes. 4781

(L) "Calendar quarter" means a three-month period ending 4782

on the thirty-first day of March, the thirtieth day of June, the 4783
thirtieth day of September, or the thirty-first day of December. 4784

(M) "Tax period" means the calendar quarter or calendar 4785
year on the basis of which a taxpayer is required to pay the tax 4786
imposed under this chapter. 4787

(N) "Calendar year taxpayer" means a taxpayer for which 4788
the tax period is a calendar year. 4789

(O) "Calendar quarter taxpayer" means a taxpayer for which 4790
the tax period is a calendar quarter. 4791

(P) "Agent" means a person authorized by another person to 4792
act on its behalf to undertake a transaction for the other, 4793
including any of the following: 4794

(1) A person receiving a fee to sell financial 4795
instruments; 4796

(2) A person retaining only a commission from a 4797
transaction with the other proceeds from the transaction being 4798
remitted to another person; 4799

(3) A person issuing licenses and permits under section 4800
1533.13 of the Revised Code; 4801

(4) A lottery sales agent holding a valid license issued 4802
under section 3770.05 of the Revised Code; 4803

(5) A person acting as an agent of the division of liquor 4804
control under section 4301.17 of the Revised Code. 4805

(Q) "Received" includes amounts accrued under the accrual 4806
method of accounting. 4807

(R) "Reporting person" means a person in a consolidated 4808
elected taxpayer or combined taxpayer group that is designated 4809

by that group to legally bind the group for all filings and tax 4810
liabilities and to receive all legal notices with respect to 4811
matters under this chapter, or, for the purposes of section 4812
5751.04 of the Revised Code, a separate taxpayer that is not a 4813
member of such a group. 4814

(S) "Megaproject," "megaproject operator," and 4815
"megaproject supplier" have the same meanings as in section 4816
122.17 of the Revised Code. 4817

Section 2. That existing sections 107.03, 122.17, 3735.65, 4818
3735.67, 3735.671, 5703.48, 5703.95, 5709.121, 5709.17, 5709.61, 4819
5709.62, 5709.63, 5709.631, 5709.632, 5709.91, 5715.19, 5733.41, 4820
5739.02, 5741.02, 5747.41, and 5751.01 of the Revised Code are 4821
hereby repealed. 4822

Section 3. The amendment by this act of section 5715.19 of 4823
the Revised Code applies to any complaint or counter-complaint 4824
filed against the valuation or assessment of any parcel for tax 4825
year 2021 or any tax year thereafter. 4826

The amendment by this act of section 5709.17 of the 4827
Revised Code applies to tax years ending on or after the 4828
effective date of this section. 4829

The amendment by this act of sections 5733.41 and 5747.41 4830
of the Revised Code applies to qualifying taxable years 4831
beginning on or after January 1, 2023. 4832

The amendment by this act of sections 5739.02 and 5741.02 4833
of the Revised Code applies beginning the first day of the first 4834
month beginning on or after the effective date of this act. 4835

The amendment by this act of section 5709.121 of the 4836
Revised Code applies to tax year 2020 and every tax year 4837
thereafter, as well as to any tax year at issue in an 4838

application for exemption from taxation or any appeal from such 4839
an application pending before the Tax Commissioner, the Board of 4840
Tax Appeals, any court of common pleas or court of appeals, or 4841
the Supreme Court on the effective date of that amendment and to 4842
the property that is the subject of any such application or 4843
appeal. That amendment is remedial in nature and the purpose 4844
thereof is to clarify the intent of the General Assembly that 4845
real property described in division (F) of section 5709.121 of 4846
the Revised Code, as amended by this act, is exempt from 4847
taxation. 4848

Section 4. The amendment by this act of section 5709.91 of 4849
the Revised Code applies to any proceedings commenced or 4850
instruments recorded after the amendment's effective date, and, 4851
so far as the amendment supports the actions taken, also applies 4852
to proceedings that on its effective date are pending, in 4853
progress, or completed, or instruments that have previously been 4854
recorded, notwithstanding the applicable law previously in 4855
effect or any provision to the contrary in a prior resolution, 4856
ordinance, order, advertisement, notice, instrument, or other 4857
proceeding. Any proceedings pending or in progress on the 4858
effective date of the amendment shall be deemed to have been 4859
taken in conformity with the amendment. 4860

The authority provided in the amendment by this act of 4861
section 5709.91 of the Revised Code provides additional and 4862
supplemental provisions for the subject matter that may also be 4863
the subject of other laws, and is supplemental to and not in 4864
derogation of any similar authority provided by, derived from, 4865
or implied by the Ohio Constitution, or any other law, including 4866
laws amended by this act, or any charter, order, resolution, or 4867
ordinance, and no inference shall be drawn to negate the 4868
authority thereunder by reason of express provisions contained 4869

in the amendment by this act of section 5709.91 of the Revised Code. 4870
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Section 5. Pursuant to division (G) of section 5703.95 of the Revised Code, which states that any bill introduced in the House of Representatives or the Senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification: 4872
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The objective of this act in amending section 5741.02 of the Revised Code is to increase business to Ohio's marine industry by removing a disincentive for out-of-state boat owners from coming into Ohio with their business. 4879
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Currently, subjecting boats to use taxes on the value of the boat has resulted in out-of-state boats going elsewhere for winter storage, repair, and refitting work. The charge for winter storage notwithstanding, most winter work orders from customers are estimated to range from fifteen thousand dollars to one hundred thousand dollars. The loss of even one major job, never mind several, could mean the success or failure of a marine business. 4883
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The state of Ohio also suffers significant losses. Virtually everything related to winter storage and work is subject to sales tax, including parts, materials, labor, and storage. When a boat is not winter-stored in Ohio, there are not only no related sales taxes collected, but also no commercial activity taxes and no income taxes. 4891
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