

As Reported by the House Ways and Means Committee

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Sub. S. B. No. 95

Senators Peterson, Kunze

Cosponsors: Senators Wilson, Rulli, Hackett, Huffman, S., Lehner, Terhar, Schaffer, Manning, Schuring, Antonio, Craig, Dolan, Eklund, Fedor, Maharath, O'Brien, Sykes, Uecker, Williams Representative Merrin

A BILL

To amend sections 107.03, 122.17, 3735.65, 3735.67, 1
3735.671, 5703.48, 5703.95, 5709.121, 5709.61, 2
5709.62, 5709.63, 5709.631, 5709.632, 5709.91, 3
5715.19, 5733.41, 5739.02, 5741.02, 5747.41, and 4
5751.01 of the Revised Code to modify the laws 5
governing economic development and state and 6
local tax incentives, exemptions, and 7
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, 5709.61, 5709.62, 5709.63, 10
5709.631, 5709.632, 5709.91, 5715.19, 5733.41, 5739.02, 5741.02, 11
5747.41, and 5751.01 of the Revised Code be amended to read as 12
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

<u>section;</u>	164
<u>(c) The project satisfies either of the following by the</u>	165
<u>metric evaluation date applicable to the project:</u>	166
<u>(i) The megaproject operator makes at least one billion</u>	167
<u>dollars, as adjusted under division (U) (1) of this section, in</u>	168
<u>fixed-asset investments in the project;</u>	169
<u>(ii) The megaproject operator creates at least seventy-</u>	170
<u>five million dollars, as adjusted under division (U) (1) of this</u>	171
<u>section, in Ohio employee payroll at the project.</u>	172
<u>(d) If the project satisfies division (A) (10) (c) (ii) of</u>	173
<u>this section, then, on and after the metric evaluation date and</u>	174
<u>until the end of the last year for which the megaproject</u>	175
<u>qualifies for the credit authorized under this section, the</u>	176
<u>megaproject operator maintains at least the amount in Ohio</u>	177
<u>employee payroll at the project required under that division for</u>	178
<u>each year in that period.</u>	179
<u>(11) "Megaproject operator" means a taxpayer that</u>	180
<u>undertakes and operates a megaproject.</u>	181
<u>(12) "Megaproject supplier" means a supplier in this state</u>	182
<u>that sells tangible personal property directly to a megaproject</u>	183
<u>operator and meets all of the following requirements:</u>	184
<u>(a) Satisfies both of the following by the metric</u>	185
<u>evaluation date applicable to the megaproject supplier:</u>	186
<u>(i) Makes at least one hundred million dollars, as</u>	187
<u>adjusted under division (U) (2) of this section, in fixed-asset</u>	188
<u>investments in this state;</u>	189
<u>(ii) Creates at least ten million dollars, as adjusted</u>	190
<u>under division (U) (2) of this section, in Ohio employee payroll.</u>	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 . <u>If</u>	300
<u>the taxpayer is a megaproject supplier, the director shall issue</u>	301
<u>such a certificate to the supplier and to any megaproject</u>	302
<u>operator (a) to which the supplier directly sells tangible</u>	303
<u>personal property and (b) that is authorized to claim the credit</u>	304
<u>pursuant to division (D) (10) of this section.</u>	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." 1000
1001
1002

(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." 1003
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(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: 1009
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(a) A requirement that the owner of the structure annually certify to the legislative authority whether the megaproject operator of the megaproject upon which the structure is situated or the megaproject supplier, as applicable, holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year; 1013
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(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier does not 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. 1019
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The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement 1024
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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
1274
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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. 5709.61. As used in sections 5709.61 to 5709.69 of 1457
the Revised Code: 1458

(A) "Enterprise zone" or "zone" means any of the 1459
following: 1460

(1) An area with a single continuous boundary designated 1461
in the manner set forth in section 5709.62 or 5709.63 of the 1462
Revised Code and certified by the director of development as 1463
having a population of at least four thousand according to the 1464

best and most recent data available to the director and having 1465
at least two of the following characteristics: 1466

(a) It is located in a municipal corporation defined by 1467
the United States office of management and budget as a principal 1468
city of a metropolitan statistical area; 1469

(b) It is located in a county designated as being in the 1470
"Appalachian region" under the "Appalachian Regional Development 1471
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 1472

(c) Its average rate of unemployment, during the most 1473
recent twelve-month period for which data are available, is 1474
equal to at least one hundred twenty-five per cent of the 1475
average rate of unemployment for the state of Ohio for the same 1476
period; 1477

(d) There is a prevalence of commercial or industrial 1478
structures in the area that are vacant or demolished, or are 1479
vacant and the taxes charged thereon are delinquent, and 1480
certification of the area as an enterprise zone would likely 1481
result in the reduction of the rate of vacant or demolished 1482
structures or the rate of tax delinquency in the area; 1483

(e) The population of all census tracts in the area, 1484
according to the federal census of 2000, decreased by at least 1485
ten per cent between the years 1980 and 2000; 1486

(f) At least fifty-one per cent of the residents of the 1487
area have incomes of less than eighty per cent of the median 1488
income of residents of the municipal corporation or municipal 1489
corporations in which the area is located, as determined in the 1490
same manner specified under section 119(b) of the "Housing and 1491
Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 1492
5318, as amended; 1493

(g) The area contains structures previously used for 1494
industrial purposes, but currently not so used due to age, 1495
obsolescence, deterioration, relocation of the former occupant's 1496
operations, or cessation of operations resulting from 1497
unfavorable economic conditions either generally or in a 1498
specific economic sector; 1499

(h) It is located within one or more adjacent city, local, 1500
or exempted village school districts, the income-weighted tax 1501
capacity of each of which is less than seventy per cent of the 1502
average of the income-weighted tax capacity of all city, local, 1503
or exempted village school districts in the state according to 1504
the most recent data available to the director from the 1505
department of taxation. 1506

The director of development shall adopt rules in 1507
accordance with Chapter 119. of the Revised Code establishing 1508
conditions constituting the characteristics described in 1509
divisions (A) (1) (d), (g), and (h) of this section. 1510

If an area could not be certified as an enterprise zone 1511
unless it satisfied division (A) (1) (g) of this section, the 1512
legislative authority may enter into agreements in that zone 1513
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 1514
only if such agreements result in the development of the 1515
facilities described in that division, the parcel of land on 1516
which such facilities are situated, or adjacent parcels. The 1517
director of development annually shall review all agreements in 1518
such zones to determine whether the agreements have resulted in 1519
such development; if the director determines that the agreements 1520
have not resulted in such development, the director immediately 1521
shall revoke certification of the zone and notify the 1522
legislative authority of such revocation. Any agreements entered 1523

into prior to revocation under this paragraph shall continue in 1524
effect for the period provided in the agreement. 1525

(2) An area with a single continuous boundary designated 1526
in the manner set forth in section 5709.63 of the Revised Code 1527
and certified by the director of development as having all of 1528
the following characteristics: 1529

(a) Being located within a county that contains a 1530
population of three hundred thousand or less; 1531

(b) Having a population of at least one thousand according 1532
to the best and most recent data available to the director; 1533

(c) Having at least two of the characteristics described 1534
in divisions (A) (1) (b) to (h) of this section. 1535

(3) An area with a single continuous boundary designated 1536
in the manner set forth under division (A) (1) of section 1537
5709.632 of the Revised Code and certified by the director of 1538
development as having a population of at least four thousand, or 1539
under division (A) (2) of that section and certified as having a 1540
population of at least one thousand, according to the best and 1541
most recent data available to the director. 1542

(B) "Enterprise" means any form of business organization 1543
including, but not limited to, any partnership, sole 1544
proprietorship, or corporation, including an S corporation as 1545
defined in section 1361 of the Internal Revenue Code and any 1546
corporation that is majority worker-owned either directly 1547
through the ownership of stock or indirectly through 1548
participation in an employee stock ownership plan. 1549

(C) "Facility" means an enterprise's place of business in 1550
a zone, including land, buildings, machinery, equipment, and 1551
other materials, except inventory, used in business. "Facility" 1552

includes land, buildings, machinery, production and station 1553
equipment, other equipment, and other materials, except 1554
inventory, used in business to generate electricity, provided 1555
that, for purposes of sections 5709.61 to 5709.69 of the Revised 1556
Code, the value of the property at such a facility shall be 1557
reduced by the value, if any, that is not apportioned under 1558
section 5727.15 of the Revised Code to the taxing district in 1559
which the facility is physically located. In the case of such a 1560
facility that is physically located in two adjacent taxing 1561
districts, the property located in each taxing district 1562
constitutes a separate facility. 1563

"Facility" does not include any portion of an enterprise's 1564
place of business used primarily for making retail sales unless 1565
the place of business is located in an impacted city as defined 1566
in section 1728.01 of the Revised Code or the board of education 1567
of the city, local, or exempted village school district within 1568
the territory of which the place of business is located adopts a 1569
resolution waiving the exclusion of retail facilities under 1570
section 5709.634 of the Revised Code. 1571

(D) "Vacant facility" means a facility that has been 1572
vacant for at least ninety days immediately preceding the date 1573
on which an agreement is entered into under section 5709.62 or 1574
5709.63 of the Revised Code. 1575

(E) "Expand" means to make expenditures to add land, 1576
buildings, machinery, equipment, or other materials, except 1577
inventory, to a facility that equal at least ten per cent of the 1578
market value of the facility prior to such expenditures, as 1579
determined for the purposes of local property taxation. 1580

(F) "Renovate" means to make expenditures to alter or 1581
repair a facility that equal at least fifty per cent of the 1582

market value of the facility prior to such expenditures, as 1583
determined for the purposes of local property taxation. 1584

(G) "Occupy" means to make expenditures to alter or repair 1585
a vacant facility equal to at least twenty per cent of the 1586
market value of the facility prior to such expenditures, as 1587
determined for the purposes of local property taxation. 1588

(H) "Project site" means all or any part of a facility 1589
that is newly constructed, expanded, renovated, or occupied by 1590
an enterprise. 1591

(I) "Project" means any undertaking by an enterprise to 1592
establish a facility or to improve a project site by expansion, 1593
renovation, or occupancy. 1594

(J) "Position" means the position of one full-time 1595
employee performing a particular set of tasks and duties. 1596

(K) "Full-time employee" means an individual who is 1597
employed for consideration by an enterprise for at least thirty- 1598
five hours a week, or who renders any other standard of service 1599
generally accepted by custom or specified by contract as full- 1600
time employment. 1601

(L) "New employee" means a full-time employee first 1602
employed by an enterprise at a facility that is a project site 1603
after the enterprise enters an agreement under section 5709.62 1604
or 5709.63 of the Revised Code. "New employee" does not include 1605
an employee if, immediately prior to being employed by the 1606
enterprise, the employee was employed by an enterprise that is a 1607
related member or predecessor enterprise of that enterprise. 1608

(M) "Unemployed person" means any person who is totally 1609
unemployed in this state, as that term is defined in division 1610
(M) of section 4141.01 of the Revised Code, for at least ten 1611

consecutive weeks immediately preceding that person's employment 1612
at a facility that is a project site, or who is so unemployed 1613
for at least twenty-six of the fifty-two weeks immediately 1614
preceding that person's employment at such a facility. 1615

(N) "JTPA eligible employee" means any individual who is 1616
eligible for employment or training under the "Job Training 1617
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 1618
amended. 1619

(O) "First used in business" means that the property 1620
referred to has not been used in business in this state by the 1621
enterprise that owns it, or by an enterprise that is a related 1622
member or predecessor enterprise of such an enterprise, other 1623
than as inventory, prior to being used in business at a facility 1624
as the result of a project. 1625

(P) "Training program" means any noncredit training 1626
program or course of study that is offered by any state college 1627
or university; university branch district; community college; 1628
technical college; nonprofit college or university certified 1629
under section 1713.02 of the Revised Code; school district; 1630
joint vocational school district; school registered and 1631
authorized to offer programs under section 3332.05 of the 1632
Revised Code; an entity administering any federal, state, or 1633
local adult education and training program; or any enterprise; 1634
and that meets all of the following requirements: 1635

(1) It is approved by the director of development; 1636

(2) It is established or operated to satisfy the need of a 1637
particular industry or enterprise for skilled or semi-skilled 1638
employees; 1639

(3) An individual is required to complete the course or 1640

program before filling a position at a project site. 1641

(Q) "Development" means to engage in the process of 1642
clearing and grading land, making, installing, or constructing 1643
water distribution systems, sewers, sewage collection systems, 1644
steam, gas, and electric lines, roads, curbs, gutters, 1645
sidewalks, storm drainage facilities, and construction of other 1646
facilities or buildings equal to at least fifty per cent of the 1647
market value of the facility prior to the expenditures, as 1648
determined for the purposes of local property taxation. 1649

(R) "Large manufacturing facility" means a single Ohio 1650
facility that employed an average of at least one thousand 1651
individuals during the five calendar years preceding an 1652
agreement authorized under division (C) (3) of section 5709.62 or 1653
division (B) (2) of section 5709.63 of the Revised Code. For 1654
purposes of this division, both of the following apply: 1655

(1) A single Ohio manufacturing facility employed an 1656
average of at least one thousand individuals during the five 1657
calendar years preceding entering into such an agreement if one- 1658
fifth of the sum of the number of employees employed on the 1659
highest employment day during each of the five calendar years 1660
equals or exceeds one thousand. 1661

(2) The highest employment day is the day or days during a 1662
calendar year on which the number of employees employed at a 1663
single Ohio manufacturing facility was greater than on any other 1664
day during the calendar year. 1665

(S) "Business cycle" means the cycle of business activity 1666
usually regarded as passing through alternating stages of 1667
prosperity and depression. 1668

(T) "Making retail sales" means the effecting of point-of- 1669

final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

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

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

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

(X) "Predecessor enterprise" means an enterprise from which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

(Y) "Successor enterprise" means an enterprise to which

the assets or equity of another enterprise has been transferred, 1699
which transfer resulted in the full or partial nonrecognition of 1700
gain or loss, or resulted in a carryover basis, both as 1701
determined by rule adopted by the tax commissioner. 1702

(Z) "Megaproject," "megaproject operator," and 1703
"megaproject supplier" have the same meanings as in section 1704
122.17 of the Revised Code. 1705

Sec. 5709.62. (A) In any municipal corporation that is 1706
defined by the United States office of management and budget as 1707
a principal city of a metropolitan statistical area, the 1708
legislative authority of the municipal corporation may designate 1709
one or more areas within its municipal corporation as proposed 1710
enterprise zones. Upon designating an area, the legislative 1711
authority shall petition the director of development services 1712
for certification of the area as having the characteristics set 1713
forth in division (A)(1) of section 5709.61 of the Revised Code 1714
as amended by Substitute Senate Bill No. 19 of the 120th general 1715
assembly. Except as otherwise provided in division (E) of this 1716
section, on and after July 1, 1994, legislative authorities 1717
shall not enter into agreements under this section unless the 1718
legislative authority has petitioned the director and the 1719
director has certified the zone under this section as amended by 1720
that act; however, all agreements entered into under this 1721
section as it existed prior to July 1, 1994, and the incentives 1722
granted under those agreements shall remain in effect for the 1723
period agreed to under those agreements. Within sixty days after 1724
receiving such a petition, the director shall determine whether 1725
the area has the characteristics set forth in division (A)(1) of 1726
section 5709.61 of the Revised Code, and shall forward the 1727
findings to the legislative authority of the municipal 1728
corporation. If the director certifies the area as having those 1729

characteristics, and thereby certifies it as a zone, the 1730
legislative authority may enter into an agreement with an 1731
enterprise under division (C) of this section. 1732

(B) Any enterprise that wishes to enter into an agreement 1733
with a municipal corporation under division (C) of this section 1734
shall submit a proposal to the legislative authority of the 1735
municipal corporation on a form prescribed by the director of 1736
development services, together with the application fee 1737
established under section 5709.68 of the Revised Code. The form 1738
shall require the following information: 1739

(1) An estimate of the number of new employees whom the 1740
enterprise intends to hire, or of the number of employees whom 1741
the enterprise intends to retain, within the zone at a facility 1742
that is a project site, and an estimate of the amount of payroll 1743
of the enterprise attributable to these employees; 1744

(2) An estimate of the amount to be invested by the 1745
enterprise to establish, expand, renovate, or occupy a facility, 1746
including investment in new buildings, additions or improvements 1747
to existing buildings, machinery, equipment, furniture, 1748
fixtures, and inventory; 1749

(3) A listing of the enterprise's current investment, if 1750
any, in a facility as of the date of the proposal's submission. 1751

The enterprise shall review and update the listings 1752
required under this division to reflect material changes, and 1753
any agreement entered into under division (C) of this section 1754
shall set forth final estimates and listings as of the time the 1755
agreement is entered into. The legislative authority may, on a 1756
separate form and at any time, require any additional 1757
information necessary to determine whether an enterprise is in 1758

compliance with an agreement and to collect the information 1759
required to be reported under section 5709.68 of the Revised 1760
Code. 1761

(C) Upon receipt and investigation of a proposal under 1762
division (B) of this section, if the legislative authority finds 1763
that the enterprise submitting the proposal is qualified by 1764
financial responsibility and business experience to create and 1765
preserve employment opportunities in the zone and improve the 1766
economic climate of the municipal corporation, the legislative 1767
authority may do one of the following: 1768

(1) Enter into an agreement with the enterprise under 1769
which the enterprise agrees to establish, expand, renovate, or 1770
occupy a facility and hire new employees, or preserve employment 1771
opportunities for existing employees, in return for one or more 1772
of the following incentives: 1773

(a) Exemption for a specified number of years, not to 1774
exceed fifteen, of a specified portion, up to seventy-five per 1775
cent, of the assessed value of tangible personal property first 1776
used in business at the project site as a result of the 1777
agreement. If an exemption for inventory is specifically granted 1778
in the agreement pursuant to this division, the exemption 1779
applies to inventory required to be listed pursuant to sections 1780
5711.15 and 5711.16 of the Revised Code, except that, in the 1781
instance of an expansion or other situations in which an 1782
enterprise was in business at the facility prior to the 1783
establishment of the zone, the inventory that is exempt is that 1784
amount or value of inventory in excess of the amount or value of 1785
inventory required to be listed in the personal property tax 1786
return of the enterprise in the return for the tax year in which 1787
the agreement is entered into. 1788

(b) Exemption for a specified number of years, not to 1789
exceed fifteen, of a specified portion, up to seventy-five per 1790
cent, of the increase in the assessed valuation of real property 1791
constituting the project site subsequent to formal approval of 1792
the agreement by the legislative authority; 1793

(c) Provision for a specified number of years, not to 1794
exceed fifteen, of any optional services or assistance that the 1795
municipal corporation is authorized to provide with regard to 1796
the project site. 1797

(2) Enter into an agreement under which the enterprise 1798
agrees to remediate an environmentally contaminated facility, to 1799
spend an amount equal to at least two hundred fifty per cent of 1800
the true value in money of the real property of the facility 1801
prior to remediation as determined for the purposes of property 1802
taxation to establish, expand, renovate, or occupy the 1803
remediated facility, and to hire new employees or preserve 1804
employment opportunities for existing employees at the 1805
remediated facility, in return for one or more of the following 1806
incentives: 1807

(a) Exemption for a specified number of years, not to 1808
exceed fifteen, of a specified portion, not to exceed fifty per 1809
cent, of the assessed valuation of the real property of the 1810
facility prior to remediation; 1811

(b) Exemption for a specified number of years, not to 1812
exceed fifteen, of a specified portion, not to exceed one 1813
hundred per cent, of the increase in the assessed valuation of 1814
the real property of the facility during or after remediation; 1815

(c) The incentive under division (C) (1) (a) of this 1816
section, except that the percentage of the assessed value of 1817

such property exempted from taxation shall not exceed one 1818
hundred per cent; 1819

(d) The incentive under division (C) (1) (c) of this 1820
section. 1821

(3) Enter into an agreement with an enterprise that plans 1822
to purchase and operate a large manufacturing facility that has 1823
ceased operation or announced its intention to cease operation, 1824
in return for exemption for a specified number of years, not to 1825
exceed fifteen, of a specified portion, up to one hundred per 1826
cent, of the assessed value of tangible personal property used 1827
in business at the project site as a result of the agreement, or 1828
of the assessed valuation of real property constituting the 1829
project site, or both. 1830

(4) Enter into an agreement with an enterprise that either 1831
is the owner of real property constituting the site of a 1832
megaproject or is a megaproject supplier in return for an 1833
exemption for a specified number of years, not to exceed thirty, 1834
of a specified portion, up to one hundred per cent, of the 1835
increase in the assessed value of real property constituting the 1836
site of a megaproject or real property owned and occupied by the 1837
megaproject supplier, respectively, beginning after the tax year 1838
in which the agreement is formally approved by the legislative 1839
authority. 1840

(D) (1) Notwithstanding divisions (C) (1) (a) and (b) of this 1841
section, the portion of the assessed value of tangible personal 1842
property or of the increase in the assessed valuation of real 1843
property exempted from taxation under those divisions may exceed 1844
seventy-five per cent in any year for which that portion is 1845
exempted if the average percentage exempted for all years in 1846
which the agreement is in effect does not exceed sixty per cent, 1847

or if the board of education of the city, local, or exempted 1848
village school district within the territory of which the 1849
property is or will be located approves a percentage in excess 1850
of seventy-five per cent. 1851

(2) Notwithstanding any provision of the Revised Code to 1852
the contrary, the exemptions described in divisions (C) (1) (a), 1853
(b), and (c), (C) (2) (a), (b), and (c), and (C) (3) of this 1854
section may be for up to fifteen years and the exemption 1855
described in division (C) (4) of this section may be for up to 1856
thirty years if the board of education of the city, local, or 1857
exempted village school district within the territory of which 1858
the property is or will be located approves a number of years in 1859
excess of ten. 1860

(3) For the purpose of obtaining the approval of a city, 1861
local, or exempted village school district under division (D) (1) 1862
or (2) of this section, the legislative authority shall deliver 1863
to the board of education a notice not later than forty-five 1864
days prior to approving the agreement, excluding Saturdays, 1865
Sundays, and legal holidays as defined in section 1.14 of the 1866
Revised Code. The notice shall state the percentage to be 1867
exempted, an estimate of the true value of the property to be 1868
exempted, and the number of years the property is to be 1869
exempted. The board of education, by resolution adopted by a 1870
majority of the board, shall approve or disapprove the agreement 1871
and certify a copy of the resolution to the legislative 1872
authority not later than fourteen days prior to the date 1873
stipulated by the legislative authority as the date upon which 1874
approval of the agreement is to be formally considered by the 1875
legislative authority. The board of education may include in the 1876
resolution conditions under which the board would approve the 1877
agreement, including the execution of an agreement to compensate 1878

the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

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

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

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

The legislative authority that designated a zone to which 1909
this division applies may enter into an agreement with an 1910
enterprise if the legislative authority finds that the 1911
enterprise satisfies one of the criteria described in divisions 1912
(E) (1) to (5) of this section: 1913

(1) The enterprise currently has no operations in this 1914
state and, subject to approval of the agreement, intends to 1915
establish operations in the zone; 1916

(2) The enterprise currently has operations in this state 1917
and, subject to approval of the agreement, intends to establish 1918
operations at a new location in the zone that would not result 1919
in a reduction in the number of employee positions at any of the 1920
enterprise's other locations in this state; 1921

(3) The enterprise, subject to approval of the agreement, 1922
intends to relocate operations, currently located in another 1923
state, to the zone; 1924

(4) The enterprise, subject to approval of the agreement, 1925
intends to expand operations at an existing site in the zone 1926
that the enterprise currently operates; 1927

(5) The enterprise, subject to approval of the agreement, 1928
intends to relocate operations, currently located in this state, 1929
to the zone, and the director of development services has issued 1930
a waiver for the enterprise under division (B) of section 1931
5709.633 of the Revised Code. 1932

The agreement shall require the enterprise to agree to 1933
establish, expand, renovate, or occupy a facility in the zone 1934
and hire new employees, or preserve employment opportunities for 1935
existing employees, in return for one or more of the incentives 1936
described in division (C) of this section. 1937

(F) All agreements entered into under this section shall 1938
be in the form prescribed under section 5709.631 of the Revised 1939
Code. After an agreement is entered into under this section, if 1940
the legislative authority revokes its designation of a zone, or 1941
if the director of development services revokes a zone's 1942
certification, any entitlements granted under the agreement 1943
shall continue for the number of years specified in the 1944
agreement. 1945

(G) Except as otherwise provided in this division, an 1946
agreement entered into under this section shall require that the 1947
enterprise pay an annual fee equal to the greater of one per 1948
cent of the dollar value of incentives offered under the 1949
agreement or five hundred dollars; provided, however, that if 1950
the value of the incentives exceeds two hundred fifty thousand 1951
dollars, the fee shall not exceed two thousand five hundred 1952
dollars. The fee shall be payable to the legislative authority 1953
once per year for each year the agreement is effective on the 1954
days and in the form specified in the agreement. Fees paid shall 1955
be deposited in a special fund created for such purpose by the 1956
legislative authority and shall be used by the legislative 1957
authority exclusively for the purpose of complying with section 1958
5709.68 of the Revised Code and by the tax incentive review 1959
council created under section 5709.85 of the Revised Code 1960
exclusively for the purposes of performing the duties prescribed 1961
under that section. The legislative authority may waive or 1962
reduce the amount of the fee charged against an enterprise, but 1963
such a waiver or reduction does not affect the obligations of 1964
the legislative authority or the tax incentive review council to 1965
comply with section 5709.68 or 5709.85 of the Revised Code. 1966

(H) When an agreement is entered into pursuant to this 1967
section, the legislative authority authorizing the agreement 1968

shall forward a copy of the agreement to the director of 1969
development services and to the tax commissioner within fifteen 1970
days after the agreement is entered into. If any agreement 1971
includes terms not provided for in section 5709.631 of the 1972
Revised Code affecting the revenue of a city, local, or exempted 1973
village school district or causing revenue to be forgone by the 1974
district, including any compensation to be paid to the school 1975
district pursuant to section 5709.82 of the Revised Code, those 1976
terms also shall be forwarded in writing to the director of 1977
development services along with the copy of the agreement 1978
forwarded under this division. 1979

(I) After an agreement is entered into, the enterprise 1980
shall file with each personal property tax return required to be 1981
filed, or annual report required to be filed under section 1982
5727.08 of the Revised Code, while the agreement is in effect, 1983
an informational return, on a form prescribed by the tax 1984
commissioner for that purpose, setting forth separately the 1985
property, and related costs and values, exempted from taxation 1986
under the agreement. 1987

(J) Enterprises may agree to give preference to residents 1988
of the zone within which the agreement applies relative to 1989
residents of this state who do not reside in the zone when 1990
hiring new employees under the agreement. 1991

(K) An agreement entered into under this section may 1992
include a provision requiring the enterprise to create one or 1993
more temporary internship positions for students enrolled in a 1994
course of study at a school or other educational institution in 1995
the vicinity, and to create a scholarship or provide another 1996
form of educational financial assistance for students holding 1997
such a position in exchange for the student's commitment to work 1998

for the enterprise at the completion of the internship. 1999

(L) The tax commissioner's authority in determining the 2000
accuracy of any exemption granted by an agreement entered into 2001
under this section is limited to divisions (C)(1)(a) and (b), 2002
(C)(2)(a), (b), and (c), (C)(3) and (4), (D), and (I) of this 2003
section and divisions (B)(1) to (10) of section 5709.631 of the 2004
Revised Code and, as authorized by law, to enforcing any 2005
modification to, or revocation of, that agreement by the 2006
legislative authority of a municipal corporation or the director 2007
of development services. 2008

Sec. 5709.63. (A) With the consent of the legislative 2009
authority of each affected municipal corporation or of a board 2010
of township trustees, a board of county commissioners may, in 2011
the manner set forth in section 5709.62 of the Revised Code, 2012
designate one or more areas in one or more municipal 2013
corporations or in unincorporated areas of the county as 2014
proposed enterprise zones. A board of county commissioners may 2015
designate no more than one area within a township, or within 2016
adjacent townships, as a proposed enterprise zone. The board 2017
shall petition the director of development services for 2018
certification of the area as having the characteristics set 2019
forth in division (A)(1) or (2) of section 5709.61 of the 2020
Revised Code as amended by Substitute Senate Bill No. 19 of the 2021
120th general assembly. Except as otherwise provided in division 2022
(D) of this section, on and after July 1, 1994, boards of county 2023
commissioners shall not enter into agreements under this section 2024
unless the board has petitioned the director and the director 2025
has certified the zone under this section as amended by that 2026
act; however, all agreements entered into under this section as 2027
it existed prior to July 1, 1994, and the incentives granted 2028
under those agreements shall remain in effect for the period 2029

agreed to under those agreements. The director shall make the 2030
determination in the manner provided under section 5709.62 of 2031
the Revised Code. 2032

Any enterprise wishing to enter into an agreement with the 2033
board under division (B) or (D) of this section shall submit a 2034
proposal to the board on the form and accompanied by the 2035
application fee prescribed under division (B) of section 5709.62 2036
of the Revised Code. The enterprise shall review and update the 2037
estimates and listings required by the form in the manner 2038
required under that division. The board may, on a separate form 2039
and at any time, require any additional information necessary to 2040
determine whether an enterprise is in compliance with an 2041
agreement and to collect the information required to be reported 2042
under section 5709.68 of the Revised Code. 2043

(B) If the board of county commissioners finds that an 2044
enterprise submitting a proposal is qualified by financial 2045
responsibility and business experience to create and preserve 2046
employment opportunities in the zone and to improve the economic 2047
climate of the municipal corporation or municipal corporations 2048
or the unincorporated areas in which the zone is located and to 2049
which the proposal applies, the board, with the consent of the 2050
legislative authority of each affected municipal corporation or 2051
of the board of township trustees, may do ~~either~~ one of the 2052
following: 2053

(1) Enter into an agreement with the enterprise under 2054
which the enterprise agrees to establish, expand, renovate, or 2055
occupy a facility in the zone and hire new employees, or 2056
preserve employment opportunities for existing employees, in 2057
return for the following incentives: 2058

(a) When the facility is located in a municipal 2059

corporation, the board may enter into an agreement for one or 2060
more of the incentives provided in division (C) of section 2061
5709.62 of the Revised Code, subject to division (D) of that 2062
section; 2063

(b) When the facility is located in an unincorporated 2064
area, the board may enter into an agreement for one or more of 2065
the following incentives: 2066

(i) Exemption for a specified number of years, not to 2067
exceed fifteen, of a specified portion, up to sixty per cent, of 2068
the assessed value of tangible personal property first used in 2069
business at a project site as a result of the agreement. If an 2070
exemption for inventory is specifically granted in the agreement 2071
pursuant to this division, the exemption applies to inventory 2072
required to be listed pursuant to sections 5711.15 and 5711.16 2073
of the Revised Code, except, in the instance of an expansion or 2074
other situations in which an enterprise was in business at the 2075
facility prior to the establishment of the zone, the inventory 2076
that is exempt is that amount or value of inventory in excess of 2077
the amount or value of inventory required to be listed in the 2078
personal property tax return of the enterprise in the return for 2079
the tax year in which the agreement is entered into. 2080

(ii) Exemption for a specified number of years, not to 2081
exceed fifteen, of a specified portion, up to sixty per cent, of 2082
the increase in the assessed valuation of real property 2083
constituting the project site subsequent to formal approval of 2084
the agreement by the board; 2085

(iii) Provision for a specified number of years, not to 2086
exceed fifteen, of any optional services or assistance the board 2087
is authorized to provide with regard to the project site; 2088

(iv) The incentive described in division (C) (2) of section 2089
5709.62 of the Revised Code. 2090

(2) Enter into an agreement with an enterprise that plans 2091
to purchase and operate a large manufacturing facility that has 2092
ceased operation or has announced its intention to cease 2093
operation, in return for exemption for a specified number of 2094
years, not to exceed fifteen, of a specified portion, up to one 2095
hundred per cent, of tangible personal property used in business 2096
at the project site as a result of the agreement, or of real 2097
property constituting the project site, or both. 2098

(3) Enter into an agreement with an enterprise that either 2099
is the owner of real property constituting the site of a 2100
megaproject or is a megaproject supplier in return for an 2101
exemption for a specified number of years, not to exceed thirty, 2102
of a specified portion, up to one hundred per cent, of the 2103
increase in the assessed value of real property constituting the 2104
site of a megaproject or real property owned and occupied by the 2105
megaproject supplier, respectively, beginning after the tax year 2106
in which the agreement is formally approved by the legislative 2107
authority. 2108

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 2109
of this section, the portion of the assessed value of tangible 2110
personal property or of the increase in the assessed valuation 2111
of real property exempted from taxation under those divisions 2112
may exceed sixty per cent in any year for which that portion is 2113
exempted if the average percentage exempted for all years in 2114
which the agreement is in effect does not exceed fifty per cent, 2115
or if the board of education of the city, local, or exempted 2116
village school district within the territory of which the 2117
property is or will be located approves a percentage in excess 2118

of sixty per cent. 2119

(b) Notwithstanding any provision of the Revised Code to 2120
the contrary, the exemptions described in divisions (B) (1) (b) 2121
(i), (ii), (iii), and (iv) and (B) (2) of this section may be for 2122
up to fifteen years and the exemption described in division (B) 2123
(3) of this section may be for up to thirty years if the board 2124
of education of the city, local, or exempted village school 2125
district within the territory of which the property is or will 2126
be located approves a number of years in excess of ten. 2127

(c) For the purpose of obtaining the approval of a city, 2128
local, or exempted village school district under division (C) (1) 2129
(a) or (b) of this section, the board of county commissioners 2130
shall deliver to the board of education a notice not later than 2131
forty-five days prior to approving the agreement, excluding 2132
Saturdays, Sundays, and legal holidays as defined in section 2133
1.14 of the Revised Code. The notice shall state the percentage 2134
to be exempted, an estimate of the true value of the property to 2135
be exempted, and the number of years the property is to be 2136
exempted. The board of education, by resolution adopted by a 2137
majority of the board, shall approve or disapprove the agreement 2138
and certify a copy of the resolution to the board of county 2139
commissioners not later than fourteen days prior to the date 2140
stipulated by the board of county commissioners as the date upon 2141
which approval of the agreement is to be formally considered by 2142
the board of county commissioners. The board of education may 2143
include in the resolution conditions under which the board would 2144
approve the agreement, including the execution of an agreement 2145
to compensate the school district under division (B) of section 2146
5709.82 of the Revised Code. The board of county commissioners 2147
may approve the agreement at any time after the board of 2148
education certifies its resolution approving the agreement to 2149

the board of county commissioners, or, if the board of education 2150
approves the agreement conditionally, at any time after the 2151
conditions are agreed to by the board of education and the board 2152
of county commissioners. 2153

If a board of education has adopted a resolution waiving 2154
its right to approve agreements and the resolution remains in 2155
effect, approval of an agreement by the board of education is 2156
not required under division (C) of this section. If a board of 2157
education has adopted a resolution allowing a board of county 2158
commissioners to deliver the notice required under this division 2159
fewer than forty-five business days prior to approval of the 2160
agreement by the board of county commissioners, the board of 2161
county commissioners shall deliver the notice to the board of 2162
education not later than the number of days prior to such 2163
approval as prescribed by the board of education in its 2164
resolution. If a board of education adopts a resolution waiving 2165
its right to approve agreements or shortening the notification 2166
period, the board of education shall certify a copy of the 2167
resolution to the board of county commissioners. If the board of 2168
education rescinds such a resolution, it shall certify notice of 2169
the rescission to the board of county commissioners. 2170

(2) The board of county commissioners shall comply with 2171
section 5709.83 of the Revised Code unless the board of 2172
education has adopted a resolution under that section waiving 2173
its right to receive such notice. 2174

(D) This division applies to zones certified by the 2175
director of development services under this section prior to 2176
July 22, 1994. 2177

With the consent of the legislative authority of each 2178
affected municipal corporation or board of township trustees of 2179

each affected township, the board of county commissioners that 2180
designated a zone to which this division applies may enter into 2181
an agreement with an enterprise if the board finds that the 2182
enterprise satisfies one of the criteria described in divisions 2183
(D) (1) to (5) of this section: 2184

(1) The enterprise currently has no operations in this 2185
state and, subject to approval of the agreement, intends to 2186
establish operations in the zone; 2187

(2) The enterprise currently has operations in this state 2188
and, subject to approval of the agreement, intends to establish 2189
operations at a new location in the zone that would not result 2190
in a reduction in the number of employee positions at any of the 2191
enterprise's other locations in this state; 2192

(3) The enterprise, subject to approval of the agreement, 2193
intends to relocate operations, currently located in another 2194
state, to the zone; 2195

(4) The enterprise, subject to approval of the agreement, 2196
intends to expand operations at an existing site in the zone 2197
that the enterprise currently operates; 2198

(5) The enterprise, subject to approval of the agreement, 2199
intends to relocate operations, currently located in this state, 2200
to the zone, and the director of development services has issued 2201
a waiver for the enterprise under division (B) of section 2202
5709.633 of the Revised Code. 2203

The agreement shall require the enterprise to agree to 2204
establish, expand, renovate, or occupy a facility in the zone 2205
and hire new employees, or preserve employment opportunities for 2206
existing employees, in return for one or more of the incentives 2207
described in division (B) of this section. 2208

(E) All agreements entered into under this section shall 2209
be in the form prescribed under section 5709.631 of the Revised 2210
Code. After an agreement under this section is entered into, if 2211
the board of county commissioners revokes its designation of a 2212
zone, or if the director of development services revokes a 2213
zone's certification, any entitlements granted under the 2214
agreement shall continue for the number of years specified in 2215
the agreement. 2216

(F) Except as otherwise provided in this division, an 2217
agreement entered into under this section shall require that the 2218
enterprise pay an annual fee equal to the greater of one per 2219
cent of the dollar value of incentives offered under the 2220
agreement or five hundred dollars; provided, however, that if 2221
the value of the incentives exceeds two hundred fifty thousand 2222
dollars, the fee shall not exceed two thousand five hundred 2223
dollars. The fee shall be payable to the board of county 2224
commissioners once per year for each year the agreement is 2225
effective on the days and in the form specified in the 2226
agreement. Fees paid shall be deposited in a special fund 2227
created for such purpose by the board and shall be used by the 2228
board exclusively for the purpose of complying with section 2229
5709.68 of the Revised Code and by the tax incentive review 2230
council created under section 5709.85 of the Revised Code 2231
exclusively for the purposes of performing the duties prescribed 2232
under that section. The board may waive or reduce the amount of 2233
the fee charged against an enterprise, but such waiver or 2234
reduction does not affect the obligations of the board or the 2235
tax incentive review council to comply with section 5709.68 or 2236
5709.85 of the Revised Code, respectively. 2237

(G) With the approval of the legislative authority of a 2238
municipal corporation or the board of township trustees of a 2239

township in which a zone is designated under division (A) of 2240
this section, the board of county commissioners may delegate to 2241
that legislative authority or board any powers and duties of the 2242
board of county commissioners to negotiate and administer 2243
agreements with regard to that zone under this section. 2244

(H) When an agreement is entered into pursuant to this 2245
section, the board of county commissioners authorizing the 2246
agreement or the legislative authority or board of township 2247
trustees that negotiates and administers the agreement shall 2248
forward a copy of the agreement to the director of development 2249
services and to the tax commissioner within fifteen days after 2250
the agreement is entered into. If any agreement includes terms 2251
not provided for in section 5709.631 of the Revised Code 2252
affecting the revenue of a city, local, or exempted village 2253
school district or causing revenue to be foregone by the 2254
district, including any compensation to be paid to the school 2255
district pursuant to section 5709.82 of the Revised Code, those 2256
terms also shall be forwarded in writing to the director of 2257
development services along with the copy of the agreement 2258
forwarded under this division. 2259

(I) After an agreement is entered into, the enterprise 2260
shall file with each personal property tax return required to be 2261
filed, or annual report that is required to be filed under 2262
section 5727.08 of the Revised Code, while the agreement is in 2263
effect, an informational return, on a form prescribed by the tax 2264
commissioner for that purpose, setting forth separately the 2265
property, and related costs and values, exempted from taxation 2266
under the agreement. 2267

(J) Enterprises may agree to give preference to residents 2268
of the zone within which the agreement applies relative to 2269

residents of this state who do not reside in the zone when 2270
hiring new employees under the agreement. 2271

(K) An agreement entered into under this section may 2272
include a provision requiring the enterprise to create one or 2273
more temporary internship positions for students enrolled in a 2274
course of study at a school or other educational institution in 2275
the vicinity, and to create a scholarship or provide another 2276
form of educational financial assistance for students holding 2277
such a position in exchange for the student's commitment to work 2278
for the enterprise at the completion of the internship. 2279

(L) The tax commissioner's authority in determining the 2280
accuracy of any exemption granted by an agreement entered into 2281
under this section is limited to divisions (B) (1) (b) (i) and 2282
(ii), (B) (2) and (3), (C), and (I) of this section, division (B) 2283
(1) (b) (iv) of this section as it pertains to divisions (C) (2) 2284
(a), (b), and (c) of section 5709.62 of the Revised Code, and 2285
divisions (B) (1) to (10) of section 5709.631 of the Revised Code 2286
and, as authorized by law, to enforcing any modification to, or 2287
revocation of, that agreement by the board of county 2288
commissioners or the director of development services or, if the 2289
board's powers and duties are delegated under division (G) of 2290
this section, by the legislative authority of a municipal 2291
corporation or board of township trustees. 2292

Sec. 5709.631. Each agreement entered into under sections 2293
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 2294
April 1, 1994, shall be in writing and shall include all of the 2295
information and statements prescribed by this section. 2296
Agreements may include terms not prescribed by this section, but 2297
such terms shall in no way derogate from the information and 2298
statements prescribed by this section. 2299

(A) Each agreement shall include the following	2300
information:	2301
(1) The names of all parties to the agreement;	2302
(2) A description of the investments to be made by the	2303
applicant enterprise or by another party at the facility whether	2304
or not the investments are exempted from taxation, including	2305
existing or new building size and cost thereof; the value of	2306
machinery, equipment, furniture, and fixtures, including an	2307
itemization of the value of machinery, equipment, furniture, and	2308
fixtures used at another location in this state prior to the	2309
agreement and relocated or to be relocated from that location to	2310
the facility and the value of machinery, equipment, furniture,	2311
and fixtures at the facility prior to the execution of the	2312
agreement that will not be exempted from taxation; the value of	2313
inventory at the facility, including an itemization of the value	2314
of inventory held at another location in this state prior to the	2315
agreement and relocated or to be relocated from that location to	2316
the facility, and the value of inventory held at the facility	2317
prior to the execution of the agreement that will not be	2318
exempted from taxation;	2319
(3) The scheduled starting and completion dates of	2320
investments made in building, machinery, equipment, furniture,	2321
fixtures, and inventory;	2322
(4) Estimates of the number of employee positions to be	2323
created each year of the agreement and of the number of employee	2324
positions retained by the applicant enterprise due to the	2325
project, itemized as to the number of full-time, part-time,	2326
permanent, and temporary positions;	2327
(5) Estimates of the dollar amount of payroll attributable	2328

to the positions set forth in division (A) (4) of this section, 2329
similarly itemized; 2330

(6) The number of employee positions, if any, at the 2331
project site and at any other location in the state at the time 2332
the agreement is executed, itemized as to the number of full- 2333
time, part-time, permanent, and temporary positions. 2334

(B) Each agreement shall set forth the following 2335
information and incorporate the following statements: 2336

(1) A description of real property to be exempted from 2337
taxation under the agreement, the percentage of the assessed 2338
valuation of the real property exempted from taxation, and the 2339
period for which the exemption is granted, accompanied by the 2340
statement: "The exemption commences the first year for which the 2341
real property would first be taxable were that property not 2342
exempted from taxation. No exemption shall commence after 2343
_____ (insert date) nor extend beyond _____ (insert 2344
date)." The tax commissioner shall adopt rules prescribing the 2345
form the description of such property shall assume to ensure 2346
that the property to be exempted from taxation under the 2347
agreement is distinguishable from property that is not to be 2348
exempted under that agreement. 2349

(2) A description of tangible personal property to be 2350
exempted from taxation under the agreement, the percentage of 2351
the assessed value of the tangible personal property exempted 2352
from taxation, and the period for which the exemption is 2353
granted, accompanied by the statement: "The minimum investment 2354
for tangible personal property to qualify for the exemption is 2355
\$_____ (insert dollar amount) to purchase machinery and 2356
equipment first used in business at the facility as a result of 2357
the project, \$_____ (insert dollar amount) for furniture 2358

and fixtures and other noninventory personal property first used 2359
in business at the facility as a result of the project, and 2360
\$_____ (insert dollar amount) for new inventory. The 2361
maximum investment for tangible personal property to qualify for 2362
the exemption is \$_____ (insert dollar amount) to purchase 2363
machinery and equipment first used in business at the facility 2364
as a result of the project, \$_____ (insert dollar amount) 2365
for furniture and fixtures and other noninventory personal 2366
property first used in business at the facility as a result of 2367
the project, and \$_____ (insert dollar amount) for new 2368
inventory. The exemption commences the first year for which the 2369
tangible personal property would first be taxable were that 2370
property not exempted from taxation. No exemption shall commence 2371
after tax return year _____ (insert year) nor extend beyond 2372
tax return year _____ (insert year). In no instance shall 2373
any tangible personal property be exempted from taxation for 2374
more than ten return years unless, under division (D) (2) of 2375
section 5709.62 or under division (C) (1) (b) of section 5709.63 2376
of the Revised Code, the board of education approves exemption 2377
for a number of years in excess of ten, in which case the 2378
tangible personal property may be exempted from taxation for 2379
that number of years, not to exceed fifteen return years." No 2380
exemption shall be allowed for any type of tangible personal 2381
property if the total investment is less than the minimum dollar 2382
amount specified for that type of property. If, for a type of 2383
tangible personal property, there are no minimum or maximum 2384
investment dollar amounts specified in the statement or the 2385
dollar amounts are designated in the statement as not 2386
applicable, the exemption shall apply to the total cost of that 2387
type of tangible personal property first used in business at the 2388
facility as a result of the project. The tax commissioner shall 2389
adopt rules prescribing the form the description of such 2390

property shall assume to ensure that the property to be exempted 2391
from taxation under the agreement is distinguishable from 2392
property that is not to be exempted under that agreement. 2393

(3) " _____ (insert name of enterprise) shall pay such 2394
real and tangible personal property taxes as are not exempted 2395
under this agreement and are charged against such property and 2396
shall file all tax reports and returns as required by law. If 2397
_____ (insert name of enterprise) fails to pay such taxes 2398
or file such returns and reports, all incentives granted under 2399
this agreement are rescinded beginning with the year for which 2400
such taxes are charged or such reports or returns are required 2401
to be filed and thereafter." 2402

(4) " _____ (insert name of enterprise) hereby 2403
certifies that at the time this agreement is executed, 2404
_____ (insert name of enterprise) does not owe any 2405
delinquent real or tangible personal property taxes to any 2406
taxing authority of the State of Ohio, and does not owe 2407
delinquent taxes for which _____ (insert name of 2408
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 2409
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 2410
delinquent taxes are owed, _____ (insert name of 2411
enterprise) currently is paying the delinquent taxes pursuant to 2412
a delinquent tax contract enforceable by the State of Ohio or an 2413
agent or instrumentality thereof, has filed a petition in 2414
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 2415
has been filed against _____ (insert name of enterprise). 2416
For the purposes of the certification, delinquent taxes are 2417
taxes that remain unpaid on the latest day prescribed for 2418
payment without penalty under the chapter of the Revised Code 2419
governing payment of those taxes." 2420

(5) "_____ (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions." 2421-2427

(6) "If for any reason the enterprise zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or _____ (insert name of municipal corporation or county) revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless _____ (insert name of enterprise) materially fails to fulfill its obligations under this agreement and _____ (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation granted under this agreement." 2428-2438

(7) "If _____ (insert name of enterprise) materially fails to fulfill its obligations under this agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if _____ (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, _____ (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement." 2439-2447

(8) "_____ (insert name of enterprise) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the enterprise's 2448-2450

compliance with the agreement, including returns or annual 2451
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 2452
Revised Code if requested by the council." 2453

(9) " _____ (insert name of enterprise) and _____ 2454
(insert name of municipal corporation or county) acknowledge 2455
that this agreement must be approved by formal action of the 2456
legislative authority of _____ (insert name of municipal 2457
corporation or county) as a condition for the agreement to take 2458
effect. This agreement takes effect upon such approval." 2459

(10) "This agreement is not transferable or assignable 2460
without the express, written approval of _____ (insert name 2461
of municipal corporation or county)." 2462

(11) "Exemptions from taxation granted under this 2463
agreement shall be revoked if it is determined that 2464
_____ (insert name of enterprise), any successor 2465
enterprise, or any related member (as those terms are defined in 2466
section 5709.61 of the Ohio Revised Code) has violated the 2467
prohibition against entering into this agreement under division 2468
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 2469
of the Ohio Revised Code prior to the time prescribed by that 2470
division or either of those sections." 2471

(12) "In any three-year period during which this agreement 2472
is in effect, if the actual number of employee positions created 2473
or retained by (insert name of enterprise) is 2474
not equal to or greater than seventy-five per cent of the number 2475
of employee positions estimated to be created or retained under 2476
this agreement during that three-year period, 2477
(insert name of enterprise) shall repay the amount of taxes on 2478
property that would have been payable had the property not been 2479
exempted from taxation under this agreement during that three- 2480

year period. In addition, the (insert name of 2481
municipal corporation or county) may terminate or modify the 2482
exemptions from taxation granted under this agreement." 2483

(13) If the enterprise is the owner of real property 2484
constituting the site of a megaproject or is a megaproject 2485
supplier, both of the following: 2486

(a) A requirement that the enterprise annually certify to 2487
the legislative authority whether the megaproject operator or 2488
megaproject supplier, as applicable, holds a certificate issued 2489
under division (D) (7) of section 122.17 of the Revised Code on 2490
the first day of the current tax year; 2491

(b) A provision authorizing the legislative authority to 2492
terminate the exemption for current and subsequent tax years if 2493
the megaproject operator or megaproject supplier, as applicable, 2494
does not hold a certificate issued under division (D) (7) of 2495
section 122.17 of the Revised Code on the first day of the 2496
current tax year. 2497

The statement described in division (B) (7) of this section 2498
may include the following statement, appended at the end of the 2499
statement: "and may require the repayment of the amount of taxes 2500
that would have been payable had the property not been exempted 2501
from taxation under this agreement." If the agreement includes a 2502
statement requiring repayment of exempted taxes, it also may 2503
authorize the legislative authority to secure repayment of such 2504
taxes by a lien on the exempted property in the amount required 2505
to be repaid. Such a lien on exempted real property shall 2506
attach, and may be perfected, collected, and enforced, in the 2507
same manner as a mortgage lien on real property, and shall 2508
otherwise have the same force and effect as a mortgage lien on 2509
real property. Notwithstanding section 5719.01 of the Revised 2510

Code, such a lien on exempted tangible personal property shall 2511
attach, and may be perfected, collected, and enforced, in the 2512
same manner as a security interest in goods under Chapter 1309. 2513
of the Revised Code, and shall otherwise have the same force and 2514
effect as such a security interest. 2515

(C) If the director of development had to issue a waiver 2516
under section 5709.633 of the Revised Code as a condition for 2517
the agreement to be executed, the agreement shall include the 2518
following statement: 2519

"Continuation of this agreement is subject to the validity 2520
of the circumstance upon which _____ (insert name of 2521
enterprise) applied for, and the Director of the Ohio Department 2522
of Development issued, the waiver pursuant to section 5709.633 2523
of the Ohio Revised Code. If, after formal approval of this 2524
agreement by _____ (insert name of municipal corporation or 2525
county), the Director or _____ (insert name of municipal 2526
corporation or county) discovers that such a circumstance did 2527
not exist, _____ (insert name of enterprise) shall be 2528
deemed to have materially failed to comply with this agreement." 2529

If the director issued a waiver on the basis of the 2530
circumstance described in division (B) (3) of section 5709.633 of 2531
the Ohio Revised Code, the conditions enumerated in divisions 2532
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2533
section shall be incorporated in the information described in 2534
divisions (A) (2), (3), and (4) of this section. 2535

Sec. 5709.632. (A) (1) The legislative authority of a 2536
municipal corporation defined by the United States office of 2537
management and budget as a principal city of a metropolitan 2538
statistical area may, in the manner set forth in section 5709.62 2539
of the Revised Code, designate one or more areas in the 2540

municipal corporation as a proposed enterprise zone. 2541

(2) With the consent of the legislative authority of each 2542
affected municipal corporation or of a board of township 2543
trustees, a board of county commissioners may, in the manner set 2544
forth in section 5709.62 of the Revised Code, designate one or 2545
more areas in one or more municipal corporations or in 2546
unincorporated areas of the county as proposed urban jobs and 2547
enterprise zones, except that a board of county commissioners 2548
may designate no more than one area within a township, or within 2549
adjacent townships, as a proposed urban jobs and enterprise 2550
zone. 2551

(3) The legislative authority or board of county 2552
commissioners may petition the director of development services 2553
for certification of the area as having the characteristics set 2554
forth in division (A)(3) of section 5709.61 of the Revised Code. 2555
Within sixty days after receiving such a petition, the director 2556
shall determine whether the area has the characteristics set 2557
forth in that division and forward the findings to the 2558
legislative authority or board of county commissioners. If the 2559
director certifies the area as having those characteristics and 2560
thereby certifies it as a zone, the legislative authority or 2561
board may enter into agreements with enterprises under division 2562
(B) of this section. Any enterprise wishing to enter into an 2563
agreement with a legislative authority or board of county 2564
commissioners under this section and satisfying one of the 2565
criteria described in divisions (B)(1) to (5) of this section 2566
shall submit a proposal to the legislative authority or board on 2567
the form prescribed under division (B) of section 5709.62 of the 2568
Revised Code and shall review and update the estimates and 2569
listings required by the form in the manner required under that 2570
division. The legislative authority or board may, on a separate 2571

form and at any time, require any additional information 2572
necessary to determine whether an enterprise is in compliance 2573
with an agreement and to collect the information required to be 2574
reported under section 5709.68 of the Revised Code. 2575

(B) Prior to entering into an agreement with an 2576
enterprise, the legislative authority or board of county 2577
commissioners shall determine whether the enterprise submitting 2578
the proposal is qualified by financial responsibility and 2579
business experience to create and preserve employment 2580
opportunities in the zone and to improve the economic climate of 2581
the municipal corporation or municipal corporations or the 2582
unincorporated areas in which the zone is located and to which 2583
the proposal applies, and whether the enterprise satisfies one 2584
of the following criteria: 2585

(1) The enterprise currently has no operations in this 2586
state and, subject to approval of the agreement, intends to 2587
establish operations in the zone; 2588

(2) The enterprise currently has operations in this state 2589
and, subject to approval of the agreement, intends to establish 2590
operations at a new location in the zone that would not result 2591
in a reduction in the number of employee positions at any of the 2592
enterprise's other locations in this state; 2593

(3) The enterprise, subject to approval of the agreement, 2594
intends to relocate operations, currently located in another 2595
state, to the zone; 2596

(4) The enterprise, subject to approval of the agreement, 2597
intends to expand operations at an existing site in the zone 2598
that the enterprise currently operates; 2599

(5) The enterprise, subject to approval of the agreement, 2600

intends to relocate operations, currently located in this state, 2601
to the zone, and the director of development services has issued 2602
a waiver for the enterprise under division (B) of section 2603
5709.633 of the Revised Code. 2604

(C) If the legislative authority or board determines that 2605
the enterprise is so qualified and satisfies one of the criteria 2606
described in divisions (B) (1) to (5) of this section, the 2607
legislative authority or board may, after complying with section 2608
5709.83 of the Revised Code and, in the case of a board of 2609
commissioners, with the consent of the legislative authority of 2610
each affected municipal corporation or of the board of township 2611
trustees, enter into an agreement with the enterprise under 2612
which the enterprise agrees to establish, expand, renovate, or 2613
occupy a facility in the zone and hire new employees, or 2614
preserve employment opportunities for existing employees, in 2615
return for the following incentives: 2616

(1) When the facility is located in a municipal 2617
corporation, a legislative authority or board of commissioners 2618
may enter into an agreement for one or more of the incentives 2619
provided in ~~division~~divisions (C) (1), (2), and (3) of section 2620
5709.62 of the Revised Code, subject to division (D) of that 2621
section, or for the incentive provided in division (C) (4) of 2622
that section if the enterprise is the owner of real property 2623
constituting the site of a megaproject or is a megaproject 2624
supplier; 2625

(2) When the facility is located in an unincorporated 2626
area, a board of commissioners may enter into an agreement for 2627
one or more of the incentives provided in divisions (B) (1) (b) ~~—~~ 2628
and (B) (2), and (B) (3) of section 5709.63 of the Revised Code, 2629
subject to division (C) of that section, or for the incentive 2630

provided in division (B)(3) of that section if the enterprise is 2631
the owner of real property constituting the site of a 2632
megaproject or is a megaproject supplier. 2633

(D) All agreements entered into under this section shall 2634
be in the form prescribed under section 5709.631 of the Revised 2635
Code. After an agreement under this section is entered into, if 2636
the legislative authority or board of county commissioners 2637
revokes its designation of the zone, or if the director of 2638
development services revokes the zone's certification, any 2639
entitlements granted under the agreement shall continue for the 2640
number of years specified in the agreement. 2641

(E) Except as otherwise provided in this division, an 2642
agreement entered into under this section shall require that the 2643
enterprise pay an annual fee equal to the greater of one per 2644
cent of the dollar value of incentives offered under the 2645
agreement or five hundred dollars; provided, however, that if 2646
the value of the incentives exceeds two hundred fifty thousand 2647
dollars, the fee shall not exceed two thousand five hundred 2648
dollars. The fee shall be payable to the legislative authority 2649
or board of commissioners once per year for each year the 2650
agreement is effective on the days and in the form specified in 2651
the agreement. Fees paid shall be deposited in a special fund 2652
created for such purpose by the legislative authority or board 2653
and shall be used by the legislative authority or board 2654
exclusively for the purpose of complying with section 5709.68 of 2655
the Revised Code and by the tax incentive review council created 2656
under section 5709.85 of the Revised Code exclusively for the 2657
purposes of performing the duties prescribed under that section. 2658
The legislative authority or board may waive or reduce the 2659
amount of the fee charged against an enterprise, but such waiver 2660
or reduction does not affect the obligations of the legislative 2661

authority or board or the tax incentive review council to comply 2662
with section 5709.68 or 5709.85 of the Revised Code, 2663
respectively. 2664

(F) With the approval of the legislative authority of a 2665
municipal corporation or the board of township trustees of a 2666
township in which a zone is designated under division (A) (2) of 2667
this section, the board of county commissioners may delegate to 2668
that legislative authority or board any powers and duties of the 2669
board to negotiate and administer agreements with regard to that 2670
zone under this section. 2671

(G) When an agreement is entered into pursuant to this 2672
section, the legislative authority or board of commissioners 2673
authorizing the agreement shall forward a copy of the agreement 2674
to the director of development services and to the tax 2675
commissioner within fifteen days after the agreement is entered 2676
into. If any agreement includes terms not provided for in 2677
section 5709.631 of the Revised Code affecting the revenue of a 2678
city, local, or exempted village school district or causing 2679
revenue to be forgone by the district, including any 2680
compensation to be paid to the school district pursuant to 2681
section 5709.82 of the Revised Code, those terms also shall be 2682
forwarded in writing to the director of development services 2683
along with the copy of the agreement forwarded under this 2684
division. 2685

(H) After an agreement is entered into, the enterprise 2686
shall file with each personal property tax return required to be 2687
filed while the agreement is in effect, an informational return, 2688
on a form prescribed by the tax commissioner for that purpose, 2689
setting forth separately the property, and related costs and 2690
values, exempted from taxation under the agreement. 2691

(I) An agreement entered into under this section may 2692
include a provision requiring the enterprise to create one or 2693
more temporary internship positions for students enrolled in a 2694
course of study at a school or other educational institution in 2695
the vicinity, and to create a scholarship or provide another 2696
form of educational financial assistance for students holding 2697
such a position in exchange for the student's commitment to work 2698
for the enterprise at the completion of the internship. 2699

Sec. 5709.91. (A) Service payments in lieu of taxes 2700
required under sections 725.04, 5709.42, 5709.46, 5709.74, and 2701
5709.79 of the Revised Code, minimum service payment 2702
obligations, and service charges in lieu of taxes required under 2703
sections 1728.11 and 1728.111 of the Revised Code, shall be 2704
treated in the same manner as taxes, as defined in section 2705
323.01 of the Revised Code, for all purposes of the lien 2706
described in section 323.11 of the Revised Code, including, but 2707
not limited to, the priority and enforcement of the lien and the 2708
collection of the service payments, minimum service payment 2709
obligations, or service charges secured by the lien. ~~For~~ 2710

(B) Any covenant or agreement in an instrument whereby a 2711
property owner agrees to a minimum service payment obligation 2712
shall be a covenant running with the land. Upon the proper 2713
recording of the instrument with the county recorder, the 2714
covenant is fully binding on behalf of and enforceable by the 2715
county, township, or municipal corporation against the property 2716
owner and any person acquiring an interest in the land and all 2717
successors and assigns. If any such minimum service payment 2718
obligation becomes delinquent according to such covenant or 2719
agreement, the county, township, or municipal corporation may 2720
enforce the delinquent minimum service payment obligation in the 2721
manner provided under division (A) of this section or in the 2722

manner otherwise provided in the instrument. A minimum service 2723
payment obligation is an insurable interest with respect to 2724
title insurance under Chapter 3953. of the Revised Code. 2725

(C) A county, township, or municipal corporation may 2726
certify a minimum service payment obligation that is a covenant 2727
under division (B) of this section to the county auditor, who 2728
shall enter the obligation on the tax list of real property 2729
opposite the parcel against which it is charged, and certify the 2730
minimum service payment obligation to the county treasurer. An 2731
unpaid minimum service payment obligation is a lien on property 2732
against which it is charged from the date the obligation is 2733
entered on the tax list, and shall be collected in the manner 2734
provided for collection of real property taxes. Once the minimum 2735
service payment obligation is collected, it shall be paid 2736
immediately to the county, township, or municipal corporation. 2737

(D) For the purposes of this section, a "minimum service 2738
payment obligation" is an obligation, including a contingent 2739
obligation, for a ~~person~~ property owner to make a payment to a 2740
county, township, or municipal corporation ~~to ensure sufficient~~ 2741
~~funds to finance public infrastructure improvements or, if~~ 2742
~~applicable, housing renovations, pursuant to an agreement~~ 2743
between ~~that person~~ the property owner and the county, township, 2744
or municipal corporation ~~for the purposes of to ensure~~ 2745
sufficient funds to finance the expenditures authorized under 2746
sections 725.04, 1728.11, 1728.111, 5709.40 to 5709.43, 5709.45 2747
to 5709.47, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the 2748
Revised Code. "Minimum service payment obligation" does not 2749
include service payments in lieu of taxes required under section 2750
725.04, 5709.42, 5709.46, 5709.74, or 5709.79 of the Revised 2751
Code or service charges in lieu of taxes required under section 2752
1728.11 or 1728.111 of the Revised Code. 2753

Sec. 5715.19. (A) As used in this section, "member" has 2754
the same meaning as in section 1705.01 of the Revised Code, ~~and~~ 2755
"internet identifier of record" has the same meaning as in 2756
section 9.312 of the Revised Code, and "interim period" means, 2757
for each county, the tax year to which section 5715.24 of the 2758
Revised Code applies and each subsequent tax year until the tax 2759
year in which that section applies again. 2760

(1) Subject to division (A)(2) of this section, a 2761
complaint against any of the following determinations for the 2762
current tax year shall be filed with the county auditor on or 2763
before the thirty-first day of March of the ensuing tax year or 2764
the date of closing of the collection for the first half of real 2765
and public utility property taxes for the current tax year, 2766
whichever is later: 2767

(a) Any classification made under section 5713.041 of the 2768
Revised Code; 2769

(b) Any determination made under section 5713.32 or 2770
5713.35 of the Revised Code; 2771

(c) Any recoupment charge levied under section 5713.35 of 2772
the Revised Code; 2773

(d) The determination of the total valuation or assessment 2774
of any parcel that appears on the tax list, except parcels 2775
assessed by the tax commissioner pursuant to section 5727.06 of 2776
the Revised Code; 2777

(e) The determination of the total valuation of any parcel 2778
that appears on the agricultural land tax list, except parcels 2779
assessed by the tax commissioner pursuant to section 5727.06 of 2780
the Revised Code; 2781

(f) Any determination made under division (A) of section 2782

319.302 of the Revised Code. 2783

If such a complaint is filed by mail or certified mail, 2784
the date of the United States postmark placed on the envelope or 2785
sender's receipt by the postal service shall be treated as the 2786
date of filing. A private meter postmark on an envelope is not a 2787
valid postmark for purposes of establishing the filing date. 2788

Any person owning taxable real property in the county or 2789
in a taxing district with territory in the county; such a 2790
person's spouse; a tenant of the property owner, if the property 2791
is classified as to use for tax purposes as commercial or 2792
industrial, the lease requires the tenant to pay the entire 2793
amount of taxes charged against the property, and the lease 2794
allows, or the property owner otherwise authorizes, the tenant 2795
to file such a complaint with respect to the property; an 2796
individual who is retained by such a person or tenant and who 2797
holds a designation from a professional assessment organization, 2798
such as the institute for professionals in taxation, the 2799
national council of property taxation, or the international 2800
association of assessing officers; a public accountant who holds 2801
a permit under section 4701.10 of the Revised Code, a general or 2802
residential real estate appraiser licensed or certified under 2803
Chapter 4763. of the Revised Code, or a real estate broker 2804
licensed under Chapter 4735. of the Revised Code, who is 2805
retained by such a person or tenant; if the person or tenant is 2806
a firm, company, association, partnership, limited liability 2807
company, or corporation, an officer, a salaried employee, a 2808
partner, or a member of that person or tenant; if the person or 2809
tenant is a trust, a trustee of the trust; the board of county 2810
commissioners; the prosecuting attorney or treasurer of the 2811
county; the board of township trustees of any township with 2812
territory within the county; the board of education of any 2813

school district with any territory in the county; or the mayor 2814
or legislative authority of any municipal corporation with any 2815
territory in the county may file such a complaint regarding any 2816
such determination affecting any real property in the county, 2817
except that a person owning taxable real property in another 2818
county may file such a complaint only with regard to any such 2819
determination affecting real property in the county that is 2820
located in the same taxing district as that person's real 2821
property is located. The county auditor shall present to the 2822
county board of revision all complaints filed with the auditor. 2823

~~(2) As used in division (A) (2) of this section, "interim 2824
period" means, for each county, the tax year to which section 2825
5715.24 of the Revised Code applies and each subsequent tax year 2826
until the tax year in which that section applies again. 2827~~

No person, board, or officer shall file a complaint 2828
against the valuation or assessment of any parcel that appears 2829
on the tax list if it filed a complaint against the valuation or 2830
assessment of that parcel for any prior tax year in the same 2831
interim period, unless the person, board, or officer alleges 2832
that the valuation or assessment should be changed due to one or 2833
more of the following circumstances that occurred after the tax 2834
lien date for the tax year for which the prior complaint was 2835
filed and that the circumstances were not taken into 2836
consideration with respect to the prior complaint: 2837

(a) The property was sold in an arm's length transaction, 2838
as described in section 5713.03 of the Revised Code; 2839

(b) The property lost value due to some casualty; 2840

(c) Substantial improvement was added to the property; 2841

(d) An increase or decrease of at least fifteen per cent 2842

in the property's occupancy has had a substantial economic 2843
impact on the property. 2844

(3) If a county board of revision, the board of tax 2845
appeals, or any court dismisses a complaint filed under this 2846
section or section 5715.13 of the Revised Code for the reason 2847
that the act of filing the complaint was the unauthorized 2848
practice of law or the person filing the complaint was engaged 2849
in the unauthorized practice of law, the party affected by a 2850
decrease in valuation or the party's agent, or the person owning 2851
taxable real property in the county or in a taxing district with 2852
territory in the county, may refile the complaint, 2853
notwithstanding division (A) (2) of this section. 2854

(4) (a) No complaint filed under this section or section 2855
5715.13 of the Revised Code shall be dismissed for the reason 2856
that the complaint fails to accurately identify the owner of the 2857
property that is the subject of the complaint. 2858

(b) If a complaint fails to accurately identify the owner 2859
of the property that is the subject of the complaint, the board 2860
of revision shall exercise due diligence to ensure the correct 2861
property owner is notified as required by divisions (B) and (C) 2862
of this section. 2863

(5) Notwithstanding division (A) (2) of this section, a 2864
person, board, or officer may file a complaint against the 2865
valuation or assessment of any parcel that appears on the tax 2866
list if it filed a complaint against the valuation or assessment 2867
of that parcel for any prior tax year in the same interim period 2868
if the person, board, or officer withdrew the complaint before 2869
the complaint was heard by the board. 2870

(B) Within thirty days after the last date such complaints 2871

may be filed, the auditor shall give notice of each complaint in 2872
which the stated amount of overvaluation, undervaluation, 2873
discriminatory valuation, illegal valuation, or incorrect 2874
determination is at least seventeen thousand five hundred 2875
dollars to each property owner whose property is the subject of 2876
the complaint, if the complaint was not filed by the owner or 2877
the owner's spouse, and to each board of education whose school 2878
district may be affected by the complaint. 2879

Within thirty days after receiving such notice, a board of 2880
education; a property owner; the owner's spouse; a tenant of the 2881
owner, if that tenant would be eligible to file a complaint 2882
under division (A) of this section with respect to the property; 2883
an individual who is retained by such an owner or tenant and who 2884
holds a designation from a professional assessment organization, 2885
such as the institute for professionals in taxation, the 2886
national council of property taxation, or the international 2887
association of assessing officers; a public accountant who holds 2888
a permit under section 4701.10 of the Revised Code, a general or 2889
residential real estate appraiser licensed or certified under 2890
Chapter 4763. of the Revised Code, or a real estate broker 2891
licensed under Chapter 4735. of the Revised Code, who is 2892
retained by such ~~a person~~ an owner or tenant; or, if the 2893
~~property owner~~ or tenant is a firm, company, association, 2894
partnership, limited liability company, corporation, or trust, 2895
an officer, a salaried employee, a partner, a member, or trustee 2896
of that ~~property owner~~ or tenant, may file a complaint in 2897
support of or objecting to the amount of alleged overvaluation, 2898
undervaluation, discriminatory valuation, illegal valuation, or 2899
incorrect determination stated in a previously filed complaint 2900
or objecting to the current valuation. Upon the filing of a 2901
complaint under this division, the board of education ~~or the,~~ 2902

property owner, or tenant shall be made a party to the action. 2903

(C) Each board of revision shall notify any complainant 2904
and also the property owner, if the property owner's address is 2905
known, when a complaint is filed by one other than the property 2906
owner, not less than ten days prior to the hearing, either by 2907
certified mail or, if the board has record of an internet 2908
identifier of record associated with the owner, by ordinary mail 2909
and by that internet identifier of record of the time and place 2910
the same will be heard. The board of revision shall hear and 2911
render its decision on a complaint within ninety days after the 2912
filing thereof with the board, except that if a complaint is 2913
filed within thirty days after receiving notice from the auditor 2914
as provided in division (B) of this section, the board shall 2915
hear and render its decision within ninety days after such 2916
filing. 2917

(D) The determination of any such complaint shall relate 2918
back to the date when the lien for taxes or recoupment charges 2919
for the current year attached or the date as of which liability 2920
for such year was determined. Liability for taxes and recoupment 2921
charges for such year and each succeeding year until occurring 2922
in the same interim period in which the complaint is filed and 2923
beginning before the complaint is finally determined and for any 2924
penalty and interest for nonpayment thereof within the time 2925
required by law shall be based upon the determination, 2926
valuation, or assessment as finally determined. Each complaint 2927
shall state the amount of overvaluation, undervaluation, 2928
discriminatory valuation, illegal valuation, or incorrect 2929
classification or determination upon which the complaint is 2930
based. The treasurer shall accept any amount tendered as taxes 2931
or recoupment charge upon property concerning which a complaint 2932
is then pending, computed upon the claimed valuation as set 2933

forth in the complaint. If a complaint filed under this section 2934
for the current year is not determined by the board within the 2935
time prescribed for such determination, the complaint and any 2936
proceedings in relation thereto shall be continued by the board 2937
as a valid complaint for any ensuing year ~~until occurring in the~~ 2938
same interim period in which the complaint is filed and 2939
beginning before such complaint is finally determined by the 2940
board or ~~upon before any determination on an appeal~~ from a 2941
decision of the board. In such case, the original complaint 2942
shall continue in effect without further filing by the original 2943
taxpayer, the original taxpayer's assignee, or any other person 2944
or entity authorized to file a complaint under this section. 2945

(E) If a taxpayer files a complaint as to the 2946
classification, valuation, assessment, or any determination 2947
affecting the taxpayer's own property and tenders less than the 2948
full amount of taxes or recoupment charges as finally 2949
determined, an interest charge shall accrue as follows: 2950

(1) If the amount finally determined is less than the 2951
amount billed but more than the amount tendered, the taxpayer 2952
shall pay interest at the rate per annum prescribed by section 2953
5703.47 of the Revised Code, computed from the date that the 2954
taxes were due on the difference between the amount finally 2955
determined and the amount tendered. This interest charge shall 2956
be in lieu of any penalty or interest charge under section 2957
323.121 of the Revised Code unless the taxpayer failed to file a 2958
complaint and tender an amount as taxes or recoupment charges 2959
within the time required by this section, in which case section 2960
323.121 of the Revised Code applies. 2961

(2) If the amount of taxes finally determined is equal to 2962
or greater than the amount billed and more than the amount 2963

tendered, the taxpayer shall pay interest at the rate prescribed 2964
by section 5703.47 of the Revised Code from the date the taxes 2965
were due on the difference between the amount finally determined 2966
and the amount tendered, such interest to be in lieu of any 2967
interest charge but in addition to any penalty prescribed by 2968
section 323.121 of the Revised Code. 2969

(F) Upon request of a complainant, the tax commissioner 2970
shall determine the common level of assessment of real property 2971
in the county for the year stated in the request that is not 2972
valued under section 5713.31 of the Revised Code, which common 2973
level of assessment shall be expressed as a percentage of true 2974
value and the common level of assessment of lands valued under 2975
such section, which common level of assessment shall also be 2976
expressed as a percentage of the current agricultural use value 2977
of such lands. Such determination shall be made on the basis of 2978
the most recent available sales ratio studies of the 2979
commissioner and such other factual data as the commissioner 2980
deems pertinent. 2981

(G) A complainant shall provide to the board of revision 2982
all information or evidence within the complainant's knowledge 2983
or possession that affects the real property that is the subject 2984
of the complaint. A complainant who fails to provide such 2985
information or evidence is precluded from introducing it on 2986
appeal to the board of tax appeals or the court of common pleas, 2987
except that the board of tax appeals or court may admit and 2988
consider the evidence if the complainant shows good cause for 2989
the complainant's failure to provide the information or evidence 2990
to the board of revision. 2991

(H) In case of the pendency of any proceeding in court 2992
based upon an alleged excessive, discriminatory, or illegal 2993

valuation or incorrect classification or determination, the 2994
taxpayer may tender to the treasurer an amount as taxes upon 2995
property computed upon the claimed valuation as set forth in the 2996
complaint to the court. The treasurer may accept the tender. If 2997
the tender is not accepted, no penalty shall be assessed because 2998
of the nonpayment of the full taxes assessed. 2999

Sec. 5733.41. The purpose of the tax imposed by this 3000
section is to complement and to reinforce the tax imposed under 3001
section 5733.06 of the Revised Code. 3002

For the same purposes for which the tax is levied under 3003
section 5733.06 of the Revised Code, there is hereby levied a 3004
tax on every qualifying pass-through entity having at least one 3005
qualifying investor that is not an individual. The tax imposed 3006
by this section is imposed on the sum of the adjusted qualifying 3007
amounts of the qualifying pass-through entity's qualifying 3008
investors, that are ~~not neither~~ individuals ~~as follows: for~~ 3009
~~qualifying investors nor~~ subject to division (G) (2) of section 3010
5733.01 of the Revised Code, ~~at six and eight tenths per cent~~ 3011
~~for the entity's taxable year ending in 2005, at five and one~~ 3012
~~tenth per cent for the entity's taxable year ending in 2006, at~~ 3013
~~three and four tenths per cent for the entity's taxable year~~ 3014
~~ending in 2007, at one and seven tenths per cent for the~~ 3015
~~entity's taxable year ending in 2008, and at zero per cent for~~ 3016
~~the entity's taxable year ending in 2009 or in subsequent years,~~ 3017
~~and for all other qualifying investors that are not individuals,~~ 3018
at the a rate of eight and one-half per cent equal to the tax 3019
rate imposed on taxable business income under division (A) (4) (a) 3020
of section 5747.02 of the Revised Code. 3021

The tax imposed by this section applies only if the 3022
qualifying entity has nexus with this state under the 3023

Constitution of the United States for any portion of the 3024
qualifying entity's qualifying taxable year, and the sum of the 3025
qualifying entity's adjusted qualifying amounts exceeds one 3026
thousand dollars for the qualifying entity's qualifying taxable 3027
year. This section does not apply to a pass-through entity if 3028
all of the partners, shareholders, members, or investors of the 3029
pass-through entity are taxpayers for the purposes of section 3030
5733.04 of the Revised Code without regard to section 5733.09 of 3031
the Revised Code for the entire qualifying taxable year of the 3032
pass-through entity. 3033

If, prior to the due date of the return, a qualifying 3034
pass-through entity receives from an investor a written 3035
representation, under penalties of perjury, that the investor is 3036
described in division (I) (1), (2), (6), (7), (8), or (9) of 3037
section 5733.40 of the Revised Code for the qualifying pass- 3038
through entity's entire qualifying taxable year, the qualifying 3039
pass-through entity is not required to withhold or pay the taxes 3040
or estimated taxes imposed under this section or sections 3041
5747.41 to 5747.453 of the Revised Code with respect to that 3042
investor for that qualifying taxable year, and is not subject to 3043
any interest or interest penalties for failure to withhold or 3044
pay those taxes or estimated taxes with respect to that investor 3045
for that qualifying taxable year. 3046

If, prior to the due date of the return, a qualifying 3047
trust receives from a beneficiary of that trust a written 3048
representation, under penalties of perjury, that the beneficiary 3049
is a resident taxpayer for the purposes of Chapter 5747. of the 3050
Revised Code for the qualifying trust's entire qualifying 3051
taxable year, the qualifying trust is not required to withhold 3052
or pay the taxes or estimated taxes imposed under this section 3053
or sections 5747.41 to 5747.453 of the Revised Code with respect 3054

to that beneficiary for that qualifying taxable year, and is not 3055
subject to any interest or interest penalties for failure to 3056
withhold or pay those taxes or estimated taxes with respect to 3057
that beneficiary for that qualifying taxable year. 3058

The tax commissioner may adopt rules for the purpose of 3059
the tax levied by this section or section 5747.41 of the Revised 3060
Code, including a rule defining "qualifying investor" or 3061
"qualifying beneficiary," and a rule requiring or permitting a 3062
qualifying entity to combine its income with related members and 3063
to pay the tax and estimated tax on a combined basis. 3064

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 3065
Revised Code apply to a qualifying entity subject to the tax 3066
imposed under this section. 3067

The levy of the tax under this section does not prevent a 3068
municipal corporation or a joint economic development district 3069
created under section 715.70, 715.71, or 715.72 of the Revised 3070
Code from levying a tax on income. 3071

Sec. 5739.02. For the purpose of providing revenue with 3072
which to meet the needs of the state, for the use of the general 3073
revenue fund of the state, for the purpose of securing a 3074
thorough and efficient system of common schools throughout the 3075
state, for the purpose of affording revenues, in addition to 3076
those from general property taxes, permitted under 3077
constitutional limitations, and from other sources, for the 3078
support of local governmental functions, and for the purpose of 3079
reimbursing the state for the expense of administering this 3080
chapter, an excise tax is hereby levied on each retail sale made 3081
in this state. 3082

(A) (1) The tax shall be collected as provided in section 3083

5739.025 of the Revised Code. The rate of the tax shall be five 3084
and three-fourths per cent. The tax applies and is collectible 3085
when the sale is made, regardless of the time when the price is 3086
paid or delivered. 3087

(2) In the case of the lease or rental, with a fixed term 3088
of more than thirty days or an indefinite term with a minimum 3089
period of more than thirty days, of any motor vehicles designed 3090
by the manufacturer to carry a load of not more than one ton, 3091
watercraft, outboard motor, or aircraft, or of any tangible 3092
personal property, other than motor vehicles designed by the 3093
manufacturer to carry a load of more than one ton, to be used by 3094
the lessee or renter primarily for business purposes, the tax 3095
shall be collected by the vendor at the time the lease or rental 3096
is consummated and shall be calculated by the vendor on the 3097
basis of the total amount to be paid by the lessee or renter 3098
under the lease agreement. If the total amount of the 3099
consideration for the lease or rental includes amounts that are 3100
not calculated at the time the lease or rental is executed, the 3101
tax shall be calculated and collected by the vendor at the time 3102
such amounts are billed to the lessee or renter. In the case of 3103
an open-end lease or rental, the tax shall be calculated by the 3104
vendor on the basis of the total amount to be paid during the 3105
initial fixed term of the lease or rental, and for each 3106
subsequent renewal period as it comes due. As used in this 3107
division, "motor vehicle" has the same meaning as in section 3108
4501.01 of the Revised Code, and "watercraft" includes an 3109
outdrive unit attached to the watercraft. 3110

A lease with a renewal clause and a termination penalty or 3111
similar provision that applies if the renewal clause is not 3112
exercised is presumed to be a sham transaction. In such a case, 3113
the tax shall be calculated and paid on the basis of the entire 3114

length of the lease period, including any renewal periods, until 3115
the termination penalty or similar provision no longer applies. 3116
The taxpayer shall bear the burden, by a preponderance of the 3117
evidence, that the transaction or series of transactions is not 3118
a sham transaction. 3119

(3) Except as provided in division (A) (2) of this section, 3120
in the case of a sale, the price of which consists in whole or 3121
in part of the lease or rental of tangible personal property, 3122
the tax shall be measured by the installments of that lease or 3123
rental. 3124

(4) In the case of a sale of a physical fitness facility 3125
service or recreation and sports club service, the price of 3126
which consists in whole or in part of a membership for the 3127
receipt of the benefit of the service, the tax applicable to the 3128
sale shall be measured by the installments thereof. 3129

(B) The tax does not apply to the following: 3130

(1) Sales to the state or any of its political 3131
subdivisions, or to any other state or its political 3132
subdivisions if the laws of that state exempt from taxation 3133
sales made to this state and its political subdivisions; 3134

(2) Sales of food for human consumption off the premises 3135
where sold; 3136

(3) Sales of food sold to students only in a cafeteria, 3137
dormitory, fraternity, or sorority maintained in a private, 3138
public, or parochial school, college, or university; 3139

(4) Sales of newspapers and sales or transfers of 3140
magazines distributed as controlled circulation publications; 3141

(5) The furnishing, preparing, or serving of meals without 3142

charge by an employer to an employee provided the employer 3143
records the meals as part compensation for services performed or 3144
work done; 3145

(6) (a) Sales of motor fuel upon receipt, use, 3146
distribution, or sale of which in this state a tax is imposed by 3147
the law of this state, but this exemption shall not apply to the 3148
sale of motor fuel on which a refund of the tax is allowable 3149
under division (A) of section 5735.14 of the Revised Code; and 3150
the tax commissioner may deduct the amount of tax levied by this 3151
section applicable to the price of motor fuel when granting a 3152
refund of motor fuel tax pursuant to division (A) of section 3153
5735.14 of the Revised Code and shall cause the amount deducted 3154
to be paid into the general revenue fund of this state; 3155

(b) Sales of motor fuel other than that described in 3156
division (B) (6) (a) of this section and used for powering a 3157
refrigeration unit on a vehicle other than one used primarily to 3158
provide comfort to the operator or occupants of the vehicle. 3159

(7) Sales of natural gas by a natural gas company or 3160
municipal gas utility, of water by a water-works company, or of 3161
steam by a heating company, if in each case the thing sold is 3162
delivered to consumers through pipes or conduits, and all sales 3163
of communications services by a telegraph company, all terms as 3164
defined in section 5727.01 of the Revised Code, and sales of 3165
electricity delivered through wires; 3166

(8) Casual sales by a person, or auctioneer employed 3167
directly by the person to conduct such sales, except as to such 3168
sales of motor vehicles, watercraft or outboard motors required 3169
to be titled under section 1548.06 of the Revised Code, 3170
watercraft documented with the United States coast guard, 3171
snowmobiles, and all-purpose vehicles as defined in section 3172

4519.01 of the Revised Code;	3173
(9) (a) Sales of services or tangible personal property,	3174
other than motor vehicles, mobile homes, and manufactured homes,	3175
by churches, organizations exempt from taxation under section	3176
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit	3177
organizations operated exclusively for charitable purposes as	3178
defined in division (B) (12) of this section, provided that the	3179
number of days on which such tangible personal property or	3180
services, other than items never subject to the tax, are sold	3181
does not exceed six in any calendar year, except as otherwise	3182
provided in division (B) (9) (b) of this section. If the number of	3183
days on which such sales are made exceeds six in any calendar	3184
year, the church or organization shall be considered to be	3185
engaged in business and all subsequent sales by it shall be	3186
subject to the tax. In counting the number of days, all sales by	3187
groups within a church or within an organization shall be	3188
considered to be sales of that church or organization.	3189
(b) The limitation on the number of days on which tax-	3190
exempt sales may be made by a church or organization under	3191
division (B) (9) (a) of this section does not apply to sales made	3192
by student clubs and other groups of students of a primary or	3193
secondary school, or a parent-teacher association, booster	3194
group, or similar organization that raises money to support or	3195
fund curricular or extracurricular activities of a primary or	3196
secondary school.	3197
(c) Divisions (B) (9) (a) and (b) of this section do not	3198
apply to sales by a noncommercial educational radio or	3199
television broadcasting station.	3200
(10) Sales not within the taxing power of this state under	3201
the Constitution or laws of the United States or the	3202

Constitution of this state;	3203
(11) Except for transactions that are sales under division	3204
(B) (3) (r) of section 5739.01 of the Revised Code, the	3205
transportation of persons or property, unless the transportation	3206
is by a private investigation and security service;	3207
(12) Sales of tangible personal property or services to	3208
churches, to organizations exempt from taxation under section	3209
501(c) (3) of the Internal Revenue Code of 1986, and to any other	3210
nonprofit organizations operated exclusively for charitable	3211
purposes in this state, no part of the net income of which	3212
inures to the benefit of any private shareholder or individual,	3213
and no substantial part of the activities of which consists of	3214
carrying on propaganda or otherwise attempting to influence	3215
legislation; sales to offices administering one or more homes	3216
for the aged or one or more hospital facilities exempt under	3217
section 140.08 of the Revised Code; and sales to organizations	3218
described in division (D) of section 5709.12 of the Revised	3219
Code.	3220
"Charitable purposes" means the relief of poverty; the	3221
improvement of health through the alleviation of illness,	3222
disease, or injury; the operation of an organization exclusively	3223
for the provision of professional, laundry, printing, and	3224
purchasing services to hospitals or charitable institutions; the	3225
operation of a home for the aged, as defined in section 5701.13	3226
of the Revised Code; the operation of a radio or television	3227
broadcasting station that is licensed by the federal	3228
communications commission as a noncommercial educational radio	3229
or television station; the operation of a nonprofit animal	3230
adoption service or a county humane society; the promotion of	3231
education by an institution of learning that maintains a faculty	3232

of qualified instructors, teaches regular continuous courses of 3233
study, and confers a recognized diploma upon completion of a 3234
specific curriculum; the operation of a parent-teacher 3235
association, booster group, or similar organization primarily 3236
engaged in the promotion and support of the curricular or 3237
extracurricular activities of a primary or secondary school; the 3238
operation of a community or area center in which presentations 3239
in music, dramatics, the arts, and related fields are made in 3240
order to foster public interest and education therein; the 3241
production of performances in music, dramatics, and the arts; or 3242
the promotion of education by an organization engaged in 3243
carrying on research in, or the dissemination of, scientific and 3244
technological knowledge and information primarily for the 3245
public. 3246

Nothing in this division shall be deemed to exempt sales 3247
to any organization for use in the operation or carrying on of a 3248
trade or business, or sales to a home for the aged for use in 3249
the operation of independent living facilities as defined in 3250
division (A) of section 5709.12 of the Revised Code. 3251

(13) Building and construction materials and services sold 3252
to construction contractors for incorporation into a structure 3253
or improvement to real property under a construction contract 3254
with this state or a political subdivision of this state, or 3255
with the United States government or any of its agencies; 3256
building and construction materials and services sold to 3257
construction contractors for incorporation into a structure or 3258
improvement to real property that are accepted for ownership by 3259
this state or any of its political subdivisions, or by the 3260
United States government or any of its agencies at the time of 3261
completion of the structures or improvements; building and 3262
construction materials sold to construction contractors for 3263

incorporation into a horticulture structure or livestock	3264
structure for a person engaged in the business of horticulture	3265
or producing livestock; building materials and services sold to	3266
a construction contractor for incorporation into a house of	3267
public worship or religious education, or a building used	3268
exclusively for charitable purposes under a construction	3269
contract with an organization whose purpose is as described in	3270
division (B) (12) of this section; building materials and	3271
services sold to a construction contractor for incorporation	3272
into a building under a construction contract with an	3273
organization exempt from taxation under section 501(c) (3) of the	3274
Internal Revenue Code of 1986 when the building is to be used	3275
exclusively for the organization's exempt purposes; building and	3276
construction materials sold for incorporation into the original	3277
construction of a sports facility under section 307.696 of the	3278
Revised Code; building and construction materials and services	3279
sold to a construction contractor for incorporation into real	3280
property outside this state if such materials and services, when	3281
sold to a construction contractor in the state in which the real	3282
property is located for incorporation into real property in that	3283
state, would be exempt from a tax on sales levied by that state;	3284
building and construction materials for incorporation into a	3285
transportation facility pursuant to a public-private agreement	3286
entered into under sections 5501.70 to 5501.83 of the Revised	3287
Code; and, until one calendar year after the construction of a	3288
convention center that qualifies for property tax exemption	3289
under section 5709.084 of the Revised Code is completed,	3290
building and construction materials and services sold to a	3291
construction contractor for incorporation into the real property	3292
comprising that convention center;	3293
(14) Sales of ships or vessels or rail rolling stock used	3294

or to be used principally in interstate or foreign commerce, and 3295
repairs, alterations, fuel, and lubricants for such ships or 3296
vessels or rail rolling stock; 3297

(15) Sales to persons primarily engaged in any of the 3298
activities mentioned in division (B)(42)(a), (g), or (h) of this 3299
section, to persons engaged in making retail sales, or to 3300
persons who purchase for sale from a manufacturer tangible 3301
personal property that was produced by the manufacturer in 3302
accordance with specific designs provided by the purchaser, of 3303
packages, including material, labels, and parts for packages, 3304
and of machinery, equipment, and material for use primarily in 3305
packaging tangible personal property produced for sale, 3306
including any machinery, equipment, and supplies used to make 3307
labels or packages, to prepare packages or products for 3308
labeling, or to label packages or products, by or on the order 3309
of the person doing the packaging, or sold at retail. "Packages" 3310
includes bags, baskets, cartons, crates, boxes, cans, bottles, 3311
bindings, wrappings, and other similar devices and containers, 3312
but does not include motor vehicles or bulk tanks, trailers, or 3313
similar devices attached to motor vehicles. "Packaging" means 3314
placing in a package. Division (B)(15) of this section does not 3315
apply to persons engaged in highway transportation for hire. 3316

(16) Sales of food to persons using supplemental nutrition 3317
assistance program benefits to purchase the food. As used in 3318
this division, "food" has the same meaning as in 7 U.S.C. 2012 3319
and federal regulations adopted pursuant to the Food and 3320
Nutrition Act of 2008. 3321

(17) Sales to persons engaged in farming, agriculture, 3322
horticulture, or floriculture, of tangible personal property for 3323
use or consumption primarily in the production by farming, 3324

agriculture, horticulture, or floriculture of other tangible 3325
personal property for use or consumption primarily in the 3326
production of tangible personal property for sale by farming, 3327
agriculture, horticulture, or floriculture; or material and 3328
parts for incorporation into any such tangible personal property 3329
for use or consumption in production; and of tangible personal 3330
property for such use or consumption in the conditioning or 3331
holding of products produced by and for such use, consumption, 3332
or sale by persons engaged in farming, agriculture, 3333
horticulture, or floriculture, except where such property is 3334
incorporated into real property; 3335

(18) Sales of drugs for a human being that may be 3336
dispensed only pursuant to a prescription; insulin as recognized 3337
in the official United States pharmacopoeia; urine and blood 3338
testing materials when used by diabetics or persons with 3339
hypoglycemia to test for glucose or acetone; hypodermic syringes 3340
and needles when used by diabetics for insulin injections; 3341
epoetin alfa when purchased for use in the treatment of persons 3342
with medical disease; hospital beds when purchased by hospitals, 3343
nursing homes, or other medical facilities; and medical oxygen 3344
and medical oxygen-dispensing equipment when purchased by 3345
hospitals, nursing homes, or other medical facilities; 3346

(19) Sales of prosthetic devices, durable medical 3347
equipment for home use, or mobility enhancing equipment, when 3348
made pursuant to a prescription and when such devices or 3349
equipment are for use by a human being. 3350

(20) Sales of emergency and fire protection vehicles and 3351
equipment to nonprofit organizations for use solely in providing 3352
fire protection and emergency services, including trauma care 3353
and emergency medical services, for political subdivisions of 3354

the state; 3355

(21) Sales of tangible personal property manufactured in 3356
this state, if sold by the manufacturer in this state to a 3357
retailer for use in the retail business of the retailer outside 3358
of this state and if possession is taken from the manufacturer 3359
by the purchaser within this state for the sole purpose of 3360
immediately removing the same from this state in a vehicle owned 3361
by the purchaser; 3362

(22) Sales of services provided by the state or any of its 3363
political subdivisions, agencies, instrumentalities, 3364
institutions, or authorities, or by governmental entities of the 3365
state or any of its political subdivisions, agencies, 3366
instrumentalities, institutions, or authorities; 3367

(23) Sales of motor vehicles to nonresidents of this state 3368
under the circumstances described in division (B) of section 3369
5739.029 of the Revised Code; 3370

(24) Sales to persons engaged in the preparation of eggs 3371
for sale of tangible personal property used or consumed directly 3372
in such preparation, including such tangible personal property 3373
used for cleaning, sanitizing, preserving, grading, sorting, and 3374
classifying by size; packages, including material and parts for 3375
packages, and machinery, equipment, and material for use in 3376
packaging eggs for sale; and handling and transportation 3377
equipment and parts therefor, except motor vehicles licensed to 3378
operate on public highways, used in intraplant or interplant 3379
transfers or shipment of eggs in the process of preparation for 3380
sale, when the plant or plants within or between which such 3381
transfers or shipments occur are operated by the same person. 3382
"Packages" includes containers, cases, baskets, flats, fillers, 3383
filler flats, cartons, closure materials, labels, and labeling 3384

materials, and "packaging" means placing therein.	3385
(25) (a) Sales of water to a consumer for residential use;	3386
(b) Sales of water by a nonprofit corporation engaged	3387
exclusively in the treatment, distribution, and sale of water to	3388
consumers, if such water is delivered to consumers through pipes	3389
or tubing.	3390
(26) Fees charged for inspection or reinspection of motor	3391
vehicles under section 3704.14 of the Revised Code;	3392
(27) Sales to persons licensed to conduct a food service	3393
operation pursuant to section 3717.43 of the Revised Code, of	3394
tangible personal property primarily used directly for the	3395
following:	3396
(a) To prepare food for human consumption for sale;	3397
(b) To preserve food that has been or will be prepared for	3398
human consumption for sale by the food service operator, not	3399
including tangible personal property used to display food for	3400
selection by the consumer;	3401
(c) To clean tangible personal property used to prepare or	3402
serve food for human consumption for sale.	3403
(28) Sales of animals by nonprofit animal adoption	3404
services or county humane societies;	3405
(29) Sales of services to a corporation described in	3406
division (A) of section 5709.72 of the Revised Code, and sales	3407
of tangible personal property that qualifies for exemption from	3408
taxation under section 5709.72 of the Revised Code;	3409
(30) Sales and installation of agricultural land tile, as	3410
defined in division (B) (5) (a) of section 5739.01 of the Revised	3411

Code;	3412
(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;	3413 3414 3415
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	3416 3417 3418 3419 3420 3421
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;	3422 3423 3424 3425 3426
(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B) (42) (a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.	3427 3428 3429 3430 3431 3432 3433 3434 3435 3436 3437 3438 3439 3440 3441

(35) (a) Sales where the purpose of the consumer is to use 3442
or consume the things transferred in making retail sales and 3443
consisting of newspaper inserts, catalogues, coupons, flyers, 3444
gift certificates, or other advertising material that prices and 3445
describes tangible personal property offered for retail sale. 3446

(b) Sales to direct marketing vendors of preliminary 3447
materials such as photographs, artwork, and typesetting that 3448
will be used in printing advertising material; and of printed 3449
matter that offers free merchandise or chances to win sweepstake 3450
prizes and that is mailed to potential customers with 3451
advertising material described in division (B) (35) (a) of this 3452
section; 3453

(c) Sales of equipment such as telephones, computers, 3454
facsimile machines, and similar tangible personal property 3455
primarily used to accept orders for direct marketing retail 3456
sales. 3457

(d) Sales of automatic food vending machines that preserve 3458
food with a shelf life of forty-five days or less by 3459
refrigeration and dispense it to the consumer. 3460

For purposes of division (B) (35) of this section, "direct 3461
marketing" means the method of selling where consumers order 3462
tangible personal property by United States mail, delivery 3463
service, or telecommunication and the vendor delivers or ships 3464
the tangible personal property sold to the consumer from a 3465
warehouse, catalogue distribution center, or similar fulfillment 3466
facility by means of the United States mail, delivery service, 3467
or common carrier. 3468

(36) Sales to a person engaged in the business of 3469
horticulture or producing livestock of materials to be 3470

incorporated into a horticulture structure or livestock structure; 3471
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(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; 3473
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(38) Sales of tangible personal property that is not required to be registered or licensed under the laws of this state to a citizen of a foreign nation that is not a citizen of the United States, provided the property is delivered to a person in this state that is not a related member of the purchaser, is physically present in this state for the sole purpose of temporary storage and package consolidation, and is subsequently delivered to the purchaser at a delivery address in a foreign nation. As used in division (B)(38) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code, and "temporary storage" means the storage of tangible personal property for a period of not more than sixty days. 3479
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000; 3492
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(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its 3495
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classification as tangible personal property after 3501
incorporation; fuel or power used in the production, 3502
transmission, or distribution of electricity; energy conversion 3503
equipment as defined in section 5727.01 of the Revised Code; and 3504
tangible personal property and services used in the repair and 3505
maintenance of the production, transmission, or distribution 3506
system, including only those motor vehicles as are specially 3507
designed and equipped for such use. The exemption provided in 3508
this division shall be in lieu of all other exemptions in 3509
division (B) (42) (a) or (n) of this section to which a provider 3510
of electricity may otherwise be entitled based on the use of the 3511
tangible personal property or service purchased in generating, 3512
transmitting, or distributing electricity. 3513

(41) Sales to a person providing services under division 3514
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 3515
personal property and services used directly and primarily in 3516
providing taxable services under that section. 3517

(42) Sales where the purpose of the purchaser is to do any 3518
of the following: 3519

(a) To incorporate the thing transferred as a material or 3520
a part into tangible personal property to be produced for sale 3521
by manufacturing, assembling, processing, or refining; or to use 3522
or consume the thing transferred directly in producing tangible 3523
personal property for sale by mining, including, without 3524
limitation, the extraction from the earth of all substances that 3525
are classed geologically as minerals, or directly in the 3526
rendition of a public utility service, except that the sales tax 3527
levied by this section shall be collected upon all meals, 3528
drinks, and food for human consumption sold when transporting 3529
persons. This paragraph does not exempt from "retail sale" or 3530

"sales at retail" the sale of tangible personal property that is	3531
to be incorporated into a structure or improvement to real	3532
property.	3533
(b) To hold the thing transferred as security for the	3534
performance of an obligation of the vendor;	3535
(c) To resell, hold, use, or consume the thing transferred	3536
as evidence of a contract of insurance;	3537
(d) To use or consume the thing directly in commercial	3538
fishing;	3539
(e) To incorporate the thing transferred as a material or	3540
a part into, or to use or consume the thing transferred directly	3541
in the production of, magazines distributed as controlled	3542
circulation publications;	3543
(f) To use or consume the thing transferred in the	3544
production and preparation in suitable condition for market and	3545
sale of printed, imprinted, overprinted, lithographic,	3546
multilithic, blueprinted, photostatic, or other productions or	3547
reproductions of written or graphic matter;	3548
(g) To use the thing transferred, as described in section	3549
5739.011 of the Revised Code, primarily in a manufacturing	3550
operation to produce tangible personal property for sale;	3551
(h) To use the benefit of a warranty, maintenance or	3552
service contract, or similar agreement, as described in division	3553
(B) (7) of section 5739.01 of the Revised Code, to repair or	3554
maintain tangible personal property, if all of the property that	3555
is the subject of the warranty, contract, or agreement would not	3556
be subject to the tax imposed by this section;	3557
(i) To use the thing transferred as qualified research and	3558

development equipment; 3559

(j) To use or consume the thing transferred primarily in 3560
storing, transporting, mailing, or otherwise handling purchased 3561
sales inventory in a warehouse, distribution center, or similar 3562
facility when the inventory is primarily distributed outside 3563
this state to retail stores of the person who owns or controls 3564
the warehouse, distribution center, or similar facility, to 3565
retail stores of an affiliated group of which that person is a 3566
member, or by means of direct marketing. This division does not 3567
apply to motor vehicles registered for operation on the public 3568
highways. As used in this division, "affiliated group" has the 3569
same meaning as in division (B) (3) (e) of section 5739.01 of the 3570
Revised Code and "direct marketing" has the same meaning as in 3571
division (B) (35) of this section. 3572

(k) To use or consume the thing transferred to fulfill a 3573
contractual obligation incurred by a warrantor pursuant to a 3574
warranty provided as a part of the price of the tangible 3575
personal property sold or by a vendor of a warranty, maintenance 3576
or service contract, or similar agreement the provision of which 3577
is defined as a sale under division (B) (7) of section 5739.01 of 3578
the Revised Code; 3579

(l) To use or consume the thing transferred in the 3580
production of a newspaper for distribution to the public; 3581

(m) To use tangible personal property to perform a service 3582
listed in division (B) (3) of section 5739.01 of the Revised 3583
Code, if the property is or is to be permanently transferred to 3584
the consumer of the service as an integral part of the 3585
performance of the service; 3586

(n) To use or consume the thing transferred primarily in 3587

producing tangible personal property for sale by farming, 3588
agriculture, horticulture, or floriculture. Persons engaged in 3589
rendering farming, agriculture, horticulture, or floriculture 3590
services for others are deemed engaged primarily in farming, 3591
agriculture, horticulture, or floriculture. This paragraph does 3592
not exempt from "retail sale" or "sales at retail" the sale of 3593
tangible personal property that is to be incorporated into a 3594
structure or improvement to real property. 3595

(o) To use or consume the thing transferred in acquiring, 3596
formatting, editing, storing, and disseminating data or 3597
information by electronic publishing; 3598

(p) To provide the thing transferred to the owner or 3599
lessee of a motor vehicle that is being repaired or serviced, if 3600
the thing transferred is a rented motor vehicle and the 3601
purchaser is reimbursed for the cost of the rented motor vehicle 3602
by a manufacturer, warrantor, or provider of a maintenance, 3603
service, or other similar contract or agreement, with respect to 3604
the motor vehicle that is being repaired or serviced; 3605

(q) To use or consume the thing transferred directly in 3606
production of crude oil and natural gas for sale. Persons 3607
engaged in rendering production services for others are deemed 3608
engaged in production. 3609

As used in division (B) (42) (q) of this section, 3610
"production" means operations and tangible personal property 3611
directly used to expose and evaluate an underground reservoir 3612
that may contain hydrocarbon resources, prepare the wellbore for 3613
production, and lift and control all substances yielded by the 3614
reservoir to the surface of the earth. 3615

(i) For the purposes of division (B) (42) (q) of this 3616

section, the "thing transferred" includes, but is not limited	3617
to, any of the following:	3618
(I) Services provided in the construction of permanent	3619
access roads, services provided in the construction of the well	3620
site, and services provided in the construction of temporary	3621
impoundments;	3622
(II) Equipment and rigging used for the specific purpose	3623
of creating with integrity a wellbore pathway to underground	3624
reservoirs;	3625
(III) Drilling and workover services used to work within a	3626
subsurface wellbore, and tangible personal property directly	3627
used in providing such services;	3628
(IV) Casing, tubulars, and float and centralizing	3629
equipment;	3630
(V) Trailers to which production equipment is attached;	3631
(VI) Well completion services, including cementing of	3632
casing, and tangible personal property directly used in	3633
providing such services;	3634
(VII) Wireline evaluation, mud logging, and perforation	3635
services, and tangible personal property directly used in	3636
providing such services;	3637
(VIII) Reservoir stimulation, hydraulic fracturing, and	3638
acidizing services, and tangible personal property directly used	3639
in providing such services, including all material pumped	3640
downhole;	3641
(IX) Pressure pumping equipment;	3642
(X) Artificial lift systems equipment;	3643

(XI) Wellhead equipment and well site equipment used to	3644
separate, stabilize, and control hydrocarbon phases and produced	3645
water;	3646
(XII) Tangible personal property directly used to control	3647
production equipment.	3648
(ii) For the purposes of division (B) (42) (q) of this	3649
section, the "thing transferred" does not include any of the	3650
following:	3651
(I) Tangible personal property used primarily in the	3652
exploration and production of any mineral resource regulated	3653
under Chapter 1509. of the Revised Code other than oil or gas;	3654
(II) Tangible personal property used primarily in storing,	3655
holding, or delivering solutions or chemicals used in well	3656
stimulation as defined in section 1509.01 of the Revised Code;	3657
(III) Tangible personal property used primarily in	3658
preparing, installing, or reclaiming foundations for drilling or	3659
pumping equipment or well stimulation material tanks;	3660
(IV) Tangible personal property used primarily in	3661
transporting, delivering, or removing equipment to or from the	3662
well site or storing such equipment before its use at the well	3663
site;	3664
(V) Tangible personal property used primarily in gathering	3665
operations occurring off the well site, including gathering	3666
pipelines transporting hydrocarbon gas or liquids away from a	3667
crude oil or natural gas production facility;	3668
(VI) Tangible personal property that is to be incorporated	3669
into a structure or improvement to real property;	3670
(VII) Well site fencing, lighting, or security systems;	3671

(VIII) Communication devices or services;	3672
(IX) Office supplies;	3673
(X) Trailers used as offices or lodging;	3674
(XI) Motor vehicles of any kind;	3675
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	3676 3677
(XIII) Tangible personal property used primarily as a safety device;	3678 3679
(XIV) Data collection or monitoring devices;	3680
(XV) Access ladders, stairs, or platforms attached to storage tanks.	3681 3682
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.	3683 3684 3685 3686 3687
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.	3688 3689 3690 3691
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.	3692 3693 3694
(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	3695 3696 3697 3698

in washing, cleaning, or waxing a motor vehicle, provided no 3699
other personal property or personal service is provided as part 3700
of the transaction. 3701

(44) Sales of replacement and modification parts for 3702
engines, airframes, instruments, and interiors in, and paint 3703
for, aircraft used primarily in a fractional aircraft ownership 3704
program, and sales of services for the repair, modification, and 3705
maintenance of such aircraft, and machinery, equipment, and 3706
supplies primarily used to provide those services. 3707

(45) Sales of telecommunications service that is used 3708
directly and primarily to perform the functions of a call 3709
center. As used in this division, "call center" means any 3710
physical location where telephone calls are placed or received 3711
in high volume for the purpose of making sales, marketing, 3712
customer service, technical support, or other specialized 3713
business activity, and that employs at least fifty individuals 3714
that engage in call center activities on a full-time basis, or 3715
sufficient individuals to fill fifty full-time equivalent 3716
positions. 3717

(46) Sales by a telecommunications service vendor of 900 3718
service to a subscriber. This division does not apply to 3719
information services. 3720

(47) Sales of value-added non-voice data service. This 3721
division does not apply to any similar service that is not 3722
otherwise a telecommunications service. 3723

(48) Sales of feminine hygiene products. 3724

(49) Sales of materials, parts, equipment, or engines used 3725
in the repair or maintenance of aircraft or avionics systems of 3726
such aircraft, and sales of repair, remodeling, replacement, or 3727

maintenance services in this state performed on aircraft or on 3728
an aircraft's avionics, engine, or component materials or parts. 3729
As used in division (B) (49) of this section, "aircraft" means 3730
aircraft of more than six thousand pounds maximum certified 3731
takeoff weight or used exclusively in general aviation. 3732

(50) Sales of full flight simulators that are used for 3733
pilot or flight-crew training, sales of repair or replacement 3734
parts or components, and sales of repair or maintenance services 3735
for such full flight simulators. "Full flight simulator" means a 3736
replica of a specific type, or make, model, and series of 3737
aircraft cockpit. It includes the assemblage of equipment and 3738
computer programs necessary to represent aircraft operations in 3739
ground and flight conditions, a visual system providing an out- 3740
of-the-cockpit view, and a system that provides cues at least 3741
equivalent to those of a three-degree-of-freedom motion system, 3742
and has the full range of capabilities of the systems installed 3743
in the device as described in appendices A and B of part 60 of 3744
chapter 1 of title 14 of the Code of Federal Regulations. 3745

(51) Any transfer or lease of tangible personal property 3746
between the state and JobsOhio in accordance with section 3747
4313.02 of the Revised Code. 3748

(52) (a) Sales to a qualifying corporation. 3749

(b) As used in division (B) (52) of this section: 3750

(i) "Qualifying corporation" means a nonprofit corporation 3751
organized in this state that leases from an eligible county 3752
land, buildings, structures, fixtures, and improvements to the 3753
land that are part of or used in a public recreational facility 3754
used by a major league professional athletic team or a class A 3755
to class AAA minor league affiliate of a major league 3756

professional athletic team for a significant portion of the 3757
team's home schedule, provided the following apply: 3758

(I) The facility is leased from the eligible county 3759
pursuant to a lease that requires substantially all of the 3760
revenue from the operation of the business or activity conducted 3761
by the nonprofit corporation at the facility in excess of 3762
operating costs, capital expenditures, and reserves to be paid 3763
to the eligible county at least once per calendar year. 3764

(II) Upon dissolution and liquidation of the nonprofit 3765
corporation, all of its net assets are distributable to the 3766
board of commissioners of the eligible county from which the 3767
corporation leases the facility. 3768

(ii) "Eligible county" has the same meaning as in section 3769
307.695 of the Revised Code. 3770

(53) Sales to or by a cable service provider, video 3771
service provider, or radio or television broadcast station 3772
regulated by the federal government of cable service or 3773
programming, video service or programming, audio service or 3774
programming, or electronically transferred digital audiovisual 3775
or audio work. As used in division (B) (53) of this section, 3776
"cable service" and "cable service provider" have the same 3777
meanings as in section 1332.01 of the Revised Code, and "video 3778
service," "video service provider," and "video programming" have 3779
the same meanings as in section 1332.21 of the Revised Code. 3780

(54) Sales of a digital audio work electronically 3781
transferred for delivery through use of a machine, such as a 3782
juke box, that does all of the following: 3783

(a) Accepts direct payments to operate; 3784

(b) Automatically plays a selected digital audio work for 3785

a single play upon receipt of a payment described in division	3786
(B) (54) (a) of this section;	3787
(c) Operates exclusively for the purpose of playing	3788
digital audio works in a commercial establishment.	3789
(55) (a) Sales of the following occurring on the first	3790
Friday of August and the following Saturday and Sunday of each	3791
year, beginning in 2018:	3792
(i) An item of clothing, the price of which is seventy-	3793
five dollars or less;	3794
(ii) An item of school supplies, the price of which is	3795
twenty dollars or less;	3796
(iii) An item of school instructional material, the price	3797
of which is twenty dollars or less.	3798
(b) As used in division (B) (55) of this section:	3799
(i) "Clothing" means all human wearing apparel suitable	3800
for general use. "Clothing" includes, but is not limited to,	3801
aprons, household and shop; athletic supporters; baby receiving	3802
blankets; bathing suits and caps; beach capes and coats; belts	3803
and suspenders; boots; coats and jackets; costumes; diapers,	3804
children and adult, including disposable diapers; earmuffs;	3805
footlets; formal wear; garters and garter belts; girdles; gloves	3806
and mittens for general use; hats and caps; hosiery; insoles for	3807
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	3808
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	3809
sneakers; socks and stockings; steel-toed shoes; underwear;	3810
uniforms, athletic and nonathletic; and wedding apparel.	3811
"Clothing" does not include items purchased for use in a trade	3812
or business; clothing accessories or equipment; protective	3813
equipment; sports or recreational equipment; belt buckles sold	3814

separately; costume masks sold separately; patches and emblems 3815
sold separately; sewing equipment and supplies including, but 3816
not limited to, knitting needles, patterns, pins, scissors, 3817
sewing machines, sewing needles, tape measures, and thimbles; 3818
and sewing materials that become part of "clothing" including, 3819
but not limited to, buttons, fabric, lace, thread, yarn, and 3820
zippers. 3821

(ii) "School supplies" means items commonly used by a 3822
student in a course of study. "School supplies" includes only 3823
the following items: binders; book bags; calculators; cellophane 3824
tape; blackboard chalk; compasses; composition books; crayons; 3825
erasers; folders, expandable, pocket, plastic, and manila; glue, 3826
paste, and paste sticks; highlighters; index cards; index card 3827
boxes; legal pads; lunch boxes; markers; notebooks; paper, 3828
loose-leaf ruled notebook paper, copy paper, graph paper, 3829
tracing paper, manila paper, colored paper, poster board, and 3830
construction paper; pencil boxes and other school supply boxes; 3831
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 3832
and writing tablets. "School supplies" does not include any item 3833
purchased for use in a trade or business. 3834

(iii) "School instructional material" means written 3835
material commonly used by a student in a course of study as a 3836
reference and to learn the subject being taught. "School 3837
instructional material" includes only the following items: 3838
reference books, reference maps and globes, textbooks, and 3839
workbooks. "School instructional material" does not include any 3840
material purchased for use in a trade or business. 3841

(56) (a) Sales of diapers or incontinence underpads sold 3842
pursuant to a prescription, for the benefit of a medicaid 3843
recipient with a diagnosis of incontinence, and by a medicaid 3844

provider that maintains a valid provider agreement under section 3845
5164.30 of the Revised Code with the department of medicaid, 3846
provided that the medicaid program covers diapers or 3847
incontinence underpads as an incontinence garment. 3848

(b) As used in division (B) (56) (a) of this section: 3849

(i) "Diaper" means an absorbent garment worn by humans who 3850
are incapable of, or have difficulty, controlling their bladder 3851
or bowel movements. 3852

(ii) "Incontinence underpad" means an absorbent product, 3853
not worn on the body, designed to protect furniture or other 3854
tangible personal property from soiling or damage due to human 3855
incontinence. 3856

(57) Sales of investment metal bullion and investment 3857
coins. "Investment metal bullion" means any bullion described in 3858
section 408(m) (3) (B) of the Internal Revenue Code, regardless of 3859
whether that bullion is in the physical possession of a trustee. 3860
"Investment coin" means any coin composed primarily of gold, 3861
silver, platinum, or palladium. 3862

(C) For the purpose of the proper administration of this 3863
chapter, and to prevent the evasion of the tax, it is presumed 3864
that all sales made in this state are subject to the tax until 3865
the contrary is established. 3866

(D) The tax collected by the vendor from the consumer 3867
under this chapter is not part of the price, but is a tax 3868
collection for the benefit of the state, and of counties levying 3869
an additional sales tax pursuant to section 5739.021 or 5739.026 3870
of the Revised Code and of transit authorities levying an 3871
additional sales tax pursuant to section 5739.023 of the Revised 3872
Code. Except for the discount authorized under section 5739.12 3873

of the Revised Code and the effects of any rounding pursuant to 3874
section 5703.055 of the Revised Code, no person other than the 3875
state or such a county or transit authority shall derive any 3876
benefit from the collection or payment of the tax levied by this 3877
section or section 5739.021, 5739.023, or 5739.026 of the 3878
Revised Code. 3879

Sec. 5741.02. (A) (1) For the use of the general revenue 3880
fund of the state, an excise tax is hereby levied on the 3881
storage, use, or other consumption in this state of tangible 3882
personal property or the benefit realized in this state of any 3883
service provided. The tax shall be collected as provided in 3884
section 5739.025 of the Revised Code. The rate of the tax shall 3885
be five and three-fourths per cent. 3886

(2) In the case of the lease or rental, with a fixed term 3887
of more than thirty days or an indefinite term with a minimum 3888
period of more than thirty days, of any motor vehicles designed 3889
by the manufacturer to carry a load of not more than one ton, 3890
watercraft, outboard motor, or aircraft, or of any tangible 3891
personal property, other than motor vehicles designed by the 3892
manufacturer to carry a load of more than one ton, to be used by 3893
the lessee or renter primarily for business purposes, the tax 3894
shall be collected by the seller at the time the lease or rental 3895
is consummated and shall be calculated by the seller on the 3896
basis of the total amount to be paid by the lessee or renter 3897
under the lease or rental agreement. If the total amount of the 3898
consideration for the lease or rental includes amounts that are 3899
not calculated at the time the lease or rental is executed, the 3900
tax shall be calculated and collected by the seller at the time 3901
such amounts are billed to the lessee or renter. In the case of 3902
an open-end lease or rental, the tax shall be calculated by the 3903
seller on the basis of the total amount to be paid during the 3904

initial fixed term of the lease or rental, and for each 3905
subsequent renewal period as it comes due. As used in this 3906
division, "motor vehicle" has the same meaning as in section 3907
4501.01 of the Revised Code, and "watercraft" includes an 3908
outride unit attached to the watercraft. 3909

(3) Except as provided in division (A) (2) of this section, 3910
in the case of a transaction, the price of which consists in 3911
whole or part of the lease or rental of tangible personal 3912
property, the tax shall be measured by the installments of those 3913
leases or rentals. 3914

(B) Each consumer, storing, using, or otherwise consuming 3915
in this state tangible personal property or realizing in this 3916
state the benefit of any service provided, shall be liable for 3917
the tax, and such liability shall not be extinguished until the 3918
tax has been paid to this state; provided, that the consumer 3919
shall be relieved from further liability for the tax if the tax 3920
has been paid to a seller in accordance with section 5741.04 of 3921
the Revised Code or prepaid by the seller in accordance with 3922
section 5741.06 of the Revised Code. 3923

(C) The tax does not apply to the storage, use, or 3924
consumption in this state of the following described tangible 3925
personal property or services, nor to the storage, use, or 3926
consumption or benefit in this state of tangible personal 3927
property or services purchased under the following described 3928
circumstances: 3929

(1) When the sale of property or service in this state is 3930
subject to the excise tax imposed by sections 5739.01 to 5739.31 3931
of the Revised Code, provided said tax has been paid; 3932

(2) Except as provided in division (D) of this section, 3933

tangible personal property or services, the acquisition of 3934
which, if made in Ohio, would be a sale not subject to the tax 3935
imposed by sections 5739.01 to 5739.31 of the Revised Code; 3936

(3) Property or services, the storage, use, or other 3937
consumption of or benefit from which this state is prohibited 3938
from taxing by the Constitution of the United States, laws of 3939
the United States, or the Constitution of this state. This 3940
exemption shall not exempt from the application of the tax 3941
imposed by this section the storage, use, or consumption of 3942
tangible personal property that was purchased in interstate 3943
commerce, but that has come to rest in this state, provided that 3944
fuel to be used or transported in carrying on interstate 3945
commerce that is stopped within this state pending transfer from 3946
one conveyance to another is exempt from the excise tax imposed 3947
by this section and section 5739.02 of the Revised Code; 3948

(4) Transient use of tangible personal property in this 3949
state by a nonresident tourist or vacationer, or a nonbusiness 3950
use within this state by a nonresident of this state, if the 3951
property so used was purchased outside this state for use 3952
outside this state and is not required to be registered or 3953
licensed under the laws of this state; 3954

(5) Tangible personal property or services rendered, upon 3955
which taxes have been paid to another jurisdiction to the extent 3956
of the amount of the tax paid to such other jurisdiction. Where 3957
the amount of the tax imposed by this section and imposed 3958
pursuant to section 5741.021, 5741.022, or 5741.023 of the 3959
Revised Code exceeds the amount paid to another jurisdiction, 3960
the difference shall be allocated between the tax imposed by 3961
this section and any tax imposed by a county or a transit 3962
authority pursuant to section 5741.021, 5741.022, or 5741.023 of 3963

the Revised Code, in proportion to the respective rates of such 3964
taxes. 3965

As used in this subdivision, "taxes paid to another 3966
jurisdiction" means the total amount of retail sales or use tax 3967
or similar tax based upon the sale, purchase, or use of tangible 3968
personal property or services rendered legally, levied by and 3969
paid to another state or political subdivision thereof, or to 3970
the District of Columbia, where the payment of such tax does not 3971
entitle the taxpayer to any refund or credit for such payment. 3972

(6) The transfer of a used manufactured home or used 3973
mobile home, as defined by section 5739.0210 of the Revised 3974
Code, made on or after January 1, 2000; 3975

(7) Drugs that are or are intended to be distributed free 3976
of charge to a practitioner licensed to prescribe, dispense, and 3977
administer drugs to a human being in the course of a 3978
professional practice and that by law may be dispensed only by 3979
or upon the order of such a practitioner; 3980

(8) Computer equipment and related software leased from a 3981
lessor located outside this state and initially received in this 3982
state on behalf of the consumer by a third party that will 3983
retain possession of such property for not more than ninety days 3984
and that will, within that ninety-day period, deliver such 3985
property to the consumer at a location outside this state. 3986
Division (C) (8) of this section does not provide exemption from 3987
taxation for any otherwise taxable charges associated with such 3988
property while it is in this state or for any subsequent 3989
storage, use, or consumption of such property in this state by 3990
or on behalf of the consumer. 3991

(9) Tangible personal property held for sale by a person 3992

but not for that person's own use and donated by that person, 3993
without charge or other compensation, to either of the 3994
following: 3995

(a) A nonprofit organization operated exclusively for 3996
charitable purposes in this state, no part of the net income of 3997
which inures to the benefit of any private shareholder or 3998
individual and no substantial part of the activities of which 3999
consists of carrying on propaganda or otherwise attempting to 4000
influence legislation; or 4001

(b) This state or any political subdivision of this state, 4002
but only if donated for exclusively public purposes. 4003

For the purposes of division (C) (9) of this section, 4004
"charitable purposes" has the same meaning as in division (B) 4005
(12) of section 5739.02 of the Revised Code. 4006

(10) Equipment stored, used, or otherwise consumed in this 4007
state by an out-of-state disaster business during a disaster 4008
response period during which the business conducts disaster work 4009
pursuant to a qualifying solicitation received by the business, 4010
provided the equipment is removed from the state before the last 4011
day of that period. All terms used in division (C) (10) of this 4012
section have the same meanings as in section 5703.94 of the 4013
Revised Code. 4014

(11) (a) Watercraft, if all of the following apply: 4015

(i) The watercraft is in this state only for storage and 4016
maintenance purposes. 4017

(ii) The watercraft is not used or stored in this state 4018
between the first day of May and the last day of September of 4019
any year. 4020

(iii) The watercraft is not required to be registered in this state under section 1547.54 of the Revised Code. 4021
4022

(iv) The owner paid taxes to another jurisdiction on the sale, use, or consumption of the watercraft or paid sales tax on the watercraft under section 5739.027 of the Revised Code, unless the watercraft is used and titled or registered in a jurisdiction that does not impose a sales or use tax or similar excise tax on the ownership or use of the watercraft. 4023
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(b) As used in division (C)(11) of this section: 4029

(i) "Taxes paid to another jurisdiction" has the same meaning as in division (C)(5) of this section. 4030
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(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. 4032
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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. 4036
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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. 4042
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(E)(1)(a) If any transaction is claimed to be exempt under 4049

division (E) of section 5739.01 of the Revised Code or under 4050
section 5739.02 of the Revised Code, with the exception of 4051
divisions (B) (1) to (11) or (28) of section 5739.02 of the 4052
Revised Code, the consumer shall provide to the seller, and the 4053
seller shall obtain from the consumer, a certificate specifying 4054
the reason that the transaction is not subject to the tax. The 4055
certificate shall be in such form, and shall be provided either 4056
in a hard copy form or electronic form, as the tax commissioner 4057
prescribes. 4058

(b) A seller that obtains a fully completed exemption 4059
certificate from a consumer is relieved of liability for 4060
collecting and remitting tax on any sale covered by that 4061
certificate. If it is determined the exemption was improperly 4062
claimed, the consumer shall be liable for any tax due on that 4063
sale under this chapter. Relief under this division from 4064
liability does not apply to any of the following: 4065

(i) A seller that fraudulently fails to collect tax; 4066

(ii) A seller that solicits consumers to participate in 4067
the unlawful claim of an exemption; 4068

(iii) A seller that accepts an exemption certificate from 4069
a consumer that claims an exemption based on who purchases or 4070
who sells property or a service, when the subject of the 4071
transaction sought to be covered by the exemption certificate is 4072
actually received by the consumer at a location operated by the 4073
seller in this state, and this state has posted to its web site 4074
an exemption certificate form that clearly and affirmatively 4075
indicates that the claimed exemption is not available in this 4076
state; 4077

(iv) A seller that accepts an exemption certificate from a 4078

consumer who claims a multiple points of use exemption under 4079
division (D) of section 5739.033 of the Revised Code, if the 4080
item purchased is tangible personal property, other than 4081
prewritten computer software. 4082

(2) The seller shall maintain records, including exemption 4083
certificates, of all sales on which a consumer has claimed an 4084
exemption, and provide them to the tax commissioner on request. 4085

(3) If no certificate is provided or obtained within 4086
ninety days after the date on which the transaction is 4087
consummated, it shall be presumed that the tax applies. Failure 4088
to have so provided or obtained a certificate shall not preclude 4089
a seller, within one hundred twenty days after the tax 4090
commissioner gives written notice of intent to levy an 4091
assessment, from either establishing that the transaction is not 4092
subject to the tax, or obtaining, in good faith, a fully 4093
completed exemption certificate. 4094

(4) If a transaction is claimed to be exempt under 4095
division (B) (13) of section 5739.02 of the Revised Code, the 4096
contractor shall obtain certification of the claimed exemption 4097
from the contractee. This certification shall be in addition to 4098
an exemption certificate provided by the contractor to the 4099
seller. A contractee that provides a certification under this 4100
division shall be deemed to be the consumer of all items 4101
purchased by the contractor under the claim of exemption, if it 4102
is subsequently determined that the exemption is not properly 4103
claimed. The certification shall be in such form as the tax 4104
commissioner prescribes. 4105

(F) A seller who files a petition for reassessment 4106
contesting the assessment of tax on transactions for which the 4107
seller obtained no valid exemption certificates, and for which 4108

the seller failed to establish that the transactions were not 4109
subject to the tax during the one-hundred-twenty-day period 4110
allowed under division (E) of this section, may present to the 4111
tax commissioner additional evidence to prove that the 4112
transactions were exempt. The seller shall file such evidence 4113
within ninety days of the receipt by the seller of the notice of 4114
assessment, except that, upon application and for reasonable 4115
cause, the tax commissioner may extend the period for submitting 4116
such evidence thirty days. 4117

(G) For the purpose of the proper administration of 4118
sections 5741.01 to 5741.22 of the Revised Code, and to prevent 4119
the evasion of the tax hereby levied, it shall be presumed that 4120
any use, storage, or other consumption of tangible personal 4121
property in this state is subject to the tax until the contrary 4122
is established. 4123

(H) The tax collected by the seller from the consumer 4124
under this chapter is not part of the price, but is a tax 4125
collection for the benefit of the state, and of counties levying 4126
an additional use tax pursuant to section 5741.021 or 5741.023 4127
of the Revised Code and of transit authorities levying an 4128
additional use tax pursuant to section 5741.022 of the Revised 4129
Code. Except for the discount authorized under section 5741.12 4130
of the Revised Code and the effects of any rounding pursuant to 4131
section 5703.055 of the Revised Code, no person other than the 4132
state or such a county or transit authority shall derive any 4133
benefit from the collection of such tax. 4134

Sec. 5747.41. For the same purposes for which the tax is 4135
levied under section 5747.02 of the Revised Code, there is 4136
hereby levied a withholding tax on every qualifying pass-through 4137
entity having at least one qualifying investor who is an 4138

individual and on every qualifying trust having at least one 4139
qualifying beneficiary who is an individual. The withholding tax 4140
imposed by this section is imposed on the sum of the adjusted 4141
qualifying amounts of a qualifying pass-through entity's 4142
qualifying investors who are individuals and on the sum of the 4143
adjusted qualifying amounts of a qualifying trust's qualifying 4144
beneficiaries, at the a rate of five per cent of that sum equal 4145
to the tax rate imposed on taxable business income under 4146
division (A) (4) (a) of section 5747.02 of the Revised Code. 4147

The tax imposed by this section applies only if the 4148
qualifying entity has nexus with this state under the 4149
Constitution of the United States for any portion of the 4150
qualifying entity's qualifying taxable year, and the sum of the 4151
qualifying entity's adjusted qualifying amounts exceeds one 4152
thousand dollars for the qualifying entity's qualifying taxable 4153
year. 4154

Sec. 5751.01. As used in this chapter: 4155

(A) "Person" means, but is not limited to, individuals, 4156
combinations of individuals of any form, receivers, assignees, 4157
trustees in bankruptcy, firms, companies, joint-stock companies, 4158
business trusts, estates, partnerships, limited liability 4159
partnerships, limited liability companies, associations, joint 4160
ventures, clubs, societies, for-profit corporations, S 4161
corporations, qualified subchapter S subsidiaries, qualified 4162
subchapter S trusts, trusts, entities that are disregarded for 4163
federal income tax purposes, and any other entities. 4164

(B) "Consolidated elected taxpayer" means a group of two 4165
or more persons treated as a single taxpayer for purposes of 4166
this chapter as the result of an election made under section 4167
5751.011 of the Revised Code. 4168

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

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

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

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E) (1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

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

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

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

(c) Except for any differences resulting from the use of 4198
an accrual basis method of accounting for purposes of 4199
determining gross receipts under this chapter and the use of the 4200
cash basis method of accounting for purposes of determining 4201
gross receipts under section 5727.24 of the Revised Code, the 4202
gross receipts directly attributed to the activity of a natural 4203
gas company shall be determined in a manner consistent with 4204
division (D) of section 5727.03 of the Revised Code. 4205

As used in division (E) (2) of this section, "combined 4206
company" and "public utility" have the same meanings as in 4207
section 5727.01 of the Revised Code. 4208

(3) A financial institution, as defined in section 5726.01 4209
of the Revised Code, that paid the tax imposed by section 4210
5726.02 of the Revised Code based on one or more taxable years 4211
that include the entire tax period under this chapter; 4212

(4) A person directly or indirectly owned by one or more 4213
financial institutions, as defined in section 5726.01 of the 4214
Revised Code, that paid the tax imposed by section 5726.02 of 4215
the Revised Code based on one or more taxable years that include 4216
the entire tax period under this chapter. 4217

For the purposes of division (E) (4) of this section, a 4218
person owns another person under the following circumstances: 4219

(a) In the case of corporations issuing capital stock, one 4220
corporation owns another corporation if it owns fifty per cent 4221
or more of the other corporation's capital stock with current 4222
voting rights; 4223

(b) In the case of a limited liability company, one person 4224
owns the company if that person's membership interest, as 4225
defined in section 1705.01 of the Revised Code, is fifty per 4226

cent or more of the combined membership interests of all persons 4227
owning such interests in the company; 4228

(c) In the case of a partnership, trust, or other 4229
unincorporated business organization other than a limited 4230
liability company, one person owns the organization if, under 4231
the articles of organization or other instrument governing the 4232
affairs of the organization, that person has a beneficial 4233
interest in the organization's profits, surpluses, losses, or 4234
distributions of fifty per cent or more of the combined 4235
beneficial interests of all persons having such an interest in 4236
the organization. 4237

(5) A domestic insurance company or foreign insurance 4238
company, as defined in section 5725.01 of the Revised Code, that 4239
paid the insurance company premiums tax imposed by section 4240
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 4241
insurance company whose gross premiums are subject to tax under 4242
section 3905.36 of the Revised Code based on one or more 4243
measurement periods that include the entire tax period under 4244
this chapter; 4245

(6) A person that solely facilitates or services one or 4246
more securitizations of phase-in-recovery property pursuant to a 4247
final financing order as those terms are defined in section 4248
4928.23 of the Revised Code. For purposes of this division, 4249
"securitization" means transferring one or more assets to one or 4250
more persons and then issuing securities backed by the right to 4251
receive payment from the asset or assets so transferred. 4252

(7) Except as otherwise provided in this division, a pre- 4253
income tax trust as defined in section 5747.01 of the Revised 4254
Code and any pass-through entity of which such pre-income tax 4255
trust owns or controls, directly, indirectly, or constructively 4256

through related interests, more than five per cent of the 4257
ownership or equity interests. If the pre-income tax trust has 4258
made a qualifying pre-income tax trust election under division 4259
(EE) of section 5747.01 of the Revised Code, then the trust and 4260
the pass-through entities of which it owns or controls, 4261
directly, indirectly, or constructively through related 4262
interests, more than five per cent of the ownership or equity 4263
interests, shall not be excluded persons for purposes of the tax 4264
imposed under section 5751.02 of the Revised Code. 4265

(8) Nonprofit organizations or the state and its agencies, 4266
instrumentalities, or political subdivisions. 4267

(F) Except as otherwise provided in divisions (F) (2), (3), 4268
and (4) of this section, "gross receipts" means the total amount 4269
realized by a person, without deduction for the cost of goods 4270
sold or other expenses incurred, that contributes to the 4271
production of gross income of the person, including the fair 4272
market value of any property and any services received, and any 4273
debt transferred or forgiven as consideration. 4274

(1) The following are examples of gross receipts: 4275

(a) Amounts realized from the sale, exchange, or other 4276
disposition of the taxpayer's property to or with another; 4277

(b) Amounts realized from the taxpayer's performance of 4278
services for another; 4279

(c) Amounts realized from another's use or possession of 4280
the taxpayer's property or capital; 4281

(d) Any combination of the foregoing amounts. 4282

(2) "Gross receipts" excludes the following amounts: 4283

(a) Interest income except interest on credit sales; 4284

(b) Dividends and distributions from corporations, and 4285
distributive or proportionate shares of receipts and income from 4286
a pass-through entity as defined under section 5733.04 of the 4287
Revised Code; 4288

(c) Receipts from the sale, exchange, or other disposition 4289
of an asset described in section 1221 or 1231 of the Internal 4290
Revenue Code, without regard to the length of time the person 4291
held the asset. Notwithstanding section 1221 of the Internal 4292
Revenue Code, receipts from hedging transactions also are 4293
excluded to the extent the transactions are entered into 4294
primarily to protect a financial position, such as managing the 4295
risk of exposure to (i) foreign currency fluctuations that 4296
affect assets, liabilities, profits, losses, equity, or 4297
investments in foreign operations; (ii) interest rate 4298
fluctuations; or (iii) commodity price fluctuations. As used in 4299
division (F)(2)(c) of this section, "hedging transaction" has 4300
the same meaning as used in section 1221 of the Internal Revenue 4301
Code and also includes transactions accorded hedge accounting 4302
treatment under statement of financial accounting standards 4303
number 133 of the financial accounting standards board. For the 4304
purposes of division (F)(2)(c) of this section, the actual 4305
transfer of title of real or tangible personal property to 4306
another entity is not a hedging transaction. 4307

(d) Proceeds received attributable to the repayment, 4308
maturity, or redemption of the principal of a loan, bond, mutual 4309
fund, certificate of deposit, or marketable instrument; 4310

(e) The principal amount received under a repurchase 4311
agreement or on account of any transaction properly 4312
characterized as a loan to the person; 4313

(f) Contributions received by a trust, plan, or other 4314

arrangement, any of which is described in section 501(a) of the 4315
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 4316
1, Subchapter (D) of the Internal Revenue Code applies; 4317

(g) Compensation, whether current or deferred, and whether 4318
in cash or in kind, received or to be received by an employee, 4319
former employee, or the employee's legal successor for services 4320
rendered to or for an employer, including reimbursements 4321
received by or for an individual for medical or education 4322
expenses, health insurance premiums, or employee expenses, or on 4323
account of a dependent care spending account, legal services 4324
plan, any cafeteria plan described in section 125 of the 4325
Internal Revenue Code, or any similar employee reimbursement; 4326

(h) Proceeds received from the issuance of the taxpayer's 4327
own stock, options, warrants, puts, or calls, or from the sale 4328
of the taxpayer's treasury stock; 4329

(i) Proceeds received on the account of payments from 4330
insurance policies, except those proceeds received for the loss 4331
of business revenue; 4332

(j) Gifts or charitable contributions received; membership 4333
dues received by trade, professional, homeowners', or 4334
condominium associations; and payments received for educational 4335
courses, meetings, meals, or similar payments to a trade, 4336
professional, or other similar association; and fundraising 4337
receipts received by any person when any excess receipts are 4338
donated or used exclusively for charitable purposes; 4339

(k) Damages received as the result of litigation in excess 4340
of amounts that, if received without litigation, would be gross 4341
receipts; 4342

(l) Property, money, and other amounts received or 4343

acquired by an agent on behalf of another in excess of the 4344
agent's commission, fee, or other remuneration; 4345

(m) Tax refunds, other tax benefit recoveries, and 4346
reimbursements for the tax imposed under this chapter made by 4347
entities that are part of the same combined taxpayer or 4348
consolidated elected taxpayer group, and reimbursements made by 4349
entities that are not members of a combined taxpayer or 4350
consolidated elected taxpayer group that are required to be made 4351
for economic parity among multiple owners of an entity whose tax 4352
obligation under this chapter is required to be reported and 4353
paid entirely by one owner, pursuant to the requirements of 4354
sections 5751.011 and 5751.012 of the Revised Code; 4355

(n) Pension reversions; 4356

(o) Contributions to capital; 4357

(p) Sales or use taxes collected as a vendor or an out-of- 4358
state seller on behalf of the taxing jurisdiction from a 4359
consumer or other taxes the taxpayer is required by law to 4360
collect directly from a purchaser and remit to a local, state, 4361
or federal tax authority; 4362

(q) In the case of receipts from the sale of cigarettes, 4363
tobacco products, or vapor products by a wholesale dealer, 4364
retail dealer, distributor, manufacturer, vapor distributor, or 4365
seller, all as defined in section 5743.01 of the Revised Code, 4366
an amount equal to the federal and state excise taxes paid by 4367
any person on or for such cigarettes, tobacco products, or vapor 4368
products under subtitle E of the Internal Revenue Code or 4369
Chapter 5743. of the Revised Code; 4370

(r) In the case of receipts from the sale, transfer, 4371
exchange, or other disposition of motor fuel as "motor fuel" is 4372

defined in section 5736.01 of the Revised Code, an amount equal 4373
to the value of the motor fuel, including federal and state 4374
motor fuel excise taxes and receipts from billing or invoicing 4375
the tax imposed under section 5736.02 of the Revised Code to 4376
another person; 4377

(s) In the case of receipts from the sale of beer or 4378
intoxicating liquor, as defined in section 4301.01 of the 4379
Revised Code, by a person holding a permit issued under Chapter 4380
4301. or 4303. of the Revised Code, an amount equal to federal 4381
and state excise taxes paid by any person on or for such beer or 4382
intoxicating liquor under subtitle E of the Internal Revenue 4383
Code or Chapter 4301. or 4305. of the Revised Code; 4384

(t) Receipts realized by a new motor vehicle dealer or 4385
used motor vehicle dealer, as defined in section 4517.01 of the 4386
Revised Code, from the sale or other transfer of a motor 4387
vehicle, as defined in that section, to another motor vehicle 4388
dealer for the purpose of resale by the transferee motor vehicle 4389
dealer, but only if the sale or other transfer was based upon 4390
the transferee's need to meet a specific customer's preference 4391
for a motor vehicle; 4392

(u) Receipts from a financial institution described in 4393
division (E) (3) of this section for services provided to the 4394
financial institution in connection with the issuance, 4395
processing, servicing, and management of loans or credit 4396
accounts, if such financial institution and the recipient of 4397
such receipts have at least fifty per cent of their ownership 4398
interests owned or controlled, directly or constructively 4399
through related interests, by common owners; 4400

(v) Receipts realized from administering anti-neoplastic 4401
drugs and other cancer chemotherapy, biologicals, therapeutic 4402

agents, and supportive drugs in a physician's office to patients 4403
with cancer; 4404

(w) Funds received or used by a mortgage broker that is 4405
not a dealer in intangibles, other than fees or other 4406
consideration, pursuant to a table-funding mortgage loan or 4407
warehouse-lending mortgage loan. Terms used in division (F) (2) 4408
(w) of this section have the same meanings as in section 1322.01 4409
of the Revised Code, except "mortgage broker" means a person 4410
assisting a buyer in obtaining a mortgage loan for a fee or 4411
other consideration paid by the buyer or a lender, or a person 4412
engaged in table-funding or warehouse-lending mortgage loans 4413
that are first lien mortgage loans. 4414

(x) Property, money, and other amounts received by a 4415
professional employer organization, as defined in section 4416
4125.01 of the Revised Code, from a client employer, as defined 4417
in that section, in excess of the administrative fee charged by 4418
the professional employer organization to the client employer; 4419

(y) In the case of amounts retained as commissions by a 4420
permit holder under Chapter 3769. of the Revised Code, an amount 4421
equal to the amounts specified under that chapter that must be 4422
paid to or collected by the tax commissioner as a tax and the 4423
amounts specified under that chapter to be used as purse money; 4424

(z) Qualifying distribution center receipts as determined 4425
under section 5751.40 of the Revised Code. 4426

(aa) Receipts of an employer from payroll deductions 4427
relating to the reimbursement of the employer for advancing 4428
moneys to an unrelated third party on an employee's behalf; 4429

(bb) Cash discounts allowed and taken; 4430

(cc) Returns and allowances; 4431

(dd) Bad debts from receipts on the basis of which the tax 4432
imposed by this chapter was paid in a prior quarterly tax 4433
payment period. For the purpose of this division, "bad debts" 4434
means any debts that have become worthless or uncollectible 4435
between the preceding and current quarterly tax payment periods, 4436
have been uncollected for at least six months, and that may be 4437
claimed as a deduction under section 166 of the Internal Revenue 4438
Code and the regulations adopted under that section, or that 4439
could be claimed as such if the taxpayer kept its accounts on 4440
the accrual basis. "Bad debts" does not include repossessed 4441
property, uncollectible amounts on property that remains in the 4442
possession of the taxpayer until the full purchase price is 4443
paid, or expenses in attempting to collect any account 4444
receivable or for any portion of the debt recovered; 4445

(ee) Any amount realized from the sale of an account 4446
receivable to the extent the receipts from the underlying 4447
transaction giving rise to the account receivable were included 4448
in the gross receipts of the taxpayer; 4449

(ff) Any receipts directly attributed to a transfer 4450
agreement or to the enterprise transferred under that agreement 4451
under section 4313.02 of the Revised Code. 4452

(gg) Qualified uranium receipts as determined under 4453
section 5751.41 of the Revised Code. 4454

(hh) In the case of amounts collected by a licensed casino 4455
operator from casino gaming, amounts in excess of the casino 4456
operator's gross casino revenue. In this division, "casino 4457
operator" and "casino gaming" have the meanings defined in 4458
section 3772.01 of the Revised Code, and "gross casino revenue" 4459
has the meaning defined in section 5753.01 of the Revised Code. 4460

(ii) Receipts realized from the sale of agricultural 4461
commodities by an agricultural commodity handler, both as 4462
defined in section 926.01 of the Revised Code, that is licensed 4463
by the director of agriculture to handle agricultural 4464
commodities in this state. 4465

(jj) Qualifying integrated supply chain receipts as 4466
determined under section 5751.42 of the Revised Code. 4467

(kk) In the case of a railroad company described in 4468
division (D) (9) of section 5727.01 of the Revised Code that 4469
purchases dyed diesel fuel directly from a supplier as defined 4470
by section 5736.01 of the Revised Code, an amount equal to the 4471
product of the number of gallons of dyed diesel fuel purchased 4472
directly from such a supplier multiplied by the average 4473
wholesale price for a gallon of diesel fuel as determined under 4474
section 5736.02 of the Revised Code for the period during which 4475
the fuel was purchased multiplied by a fraction, the numerator 4476
of which equals the rate of tax levied by section 5736.02 of the 4477
Revised Code less the rate of tax computed in section 5751.03 of 4478
the Revised Code, and the denominator of which equals the rate 4479
of tax computed in section 5751.03 of the Revised Code. 4480

(ll) Receipts realized by an out-of-state disaster 4481
business from disaster work conducted in this state during a 4482
disaster response period pursuant to a qualifying solicitation 4483
received by the business. Terms used in division (F) (2) (ll) of 4484
this section have the same meanings as in section 5703.94 of the 4485
Revised Code. 4486

(mm) Receipts of a megaproject supplier that holds a 4487
certificate issued under division (D) (7) of section 122.17 of 4488
the Revised Code from sales of tangible personal property 4489
directly to a megaproject operator in this state. 4490

(nn) Any receipts for which the tax imposed by this 4491
chapter is prohibited by the constitution or laws of the United 4492
States or the constitution of this state. 4493

(3) In the case of a taxpayer when acting as a real estate 4494
broker, "gross receipts" includes only the portion of any fee 4495
for the service of a real estate broker, or service of a real 4496
estate salesperson associated with that broker, that is retained 4497
by the broker and not paid to an associated real estate 4498
salesperson or another real estate broker. For the purposes of 4499
this division, "real estate broker" and "real estate 4500
salesperson" have the same meanings as in section 4735.01 of the 4501
Revised Code. 4502

(4) A taxpayer's method of accounting for gross receipts 4503
for a tax period shall be the same as the taxpayer's method of 4504
accounting for federal income tax purposes for the taxpayer's 4505
federal taxable year that includes the tax period. If a 4506
taxpayer's method of accounting for federal income tax purposes 4507
changes, its method of accounting for gross receipts under this 4508
chapter shall be changed accordingly. 4509

(G) "Taxable gross receipts" means gross receipts sitused 4510
to this state under section 5751.033 of the Revised Code. 4511

(H) A person has "substantial nexus with this state" if 4512
any of the following applies. The person: 4513

(1) Owns or uses a part or all of its capital in this 4514
state; 4515

(2) Holds a certificate of compliance with the laws of 4516
this state authorizing the person to do business in this state; 4517

(3) Has bright-line presence in this state; 4518

(4) Otherwise has nexus with this state to an extent that 4519
the person can be required to remit the tax imposed under this 4520
chapter under the Constitution of the United States. 4521

(I) A person has "bright-line presence" in this state for 4522
a reporting period and for the remaining portion of the calendar 4523
year if any of the following applies. The person: 4524

(1) Has at any time during the calendar year property in 4525
this state with an aggregate value of at least fifty thousand 4526
dollars. For the purpose of division (I)(1) of this section, 4527
owned property is valued at original cost and rented property is 4528
valued at eight times the net annual rental charge. 4529

(2) Has during the calendar year payroll in this state of 4530
at least fifty thousand dollars. Payroll in this state includes 4531
all of the following: 4532

(a) Any amount subject to withholding by the person under 4533
section 5747.06 of the Revised Code; 4534

(b) Any other amount the person pays as compensation to an 4535
individual under the supervision or control of the person for 4536
work done in this state; and 4537

(c) Any amount the person pays for services performed in 4538
this state on its behalf by another. 4539

(3) Has during the calendar year taxable gross receipts of 4540
at least five hundred thousand dollars. 4541

(4) Has at any time during the calendar year within this 4542
state at least twenty-five per cent of the person's total 4543
property, total payroll, or total gross receipts. 4544

(5) Is domiciled in this state as an individual or for 4545
corporate, commercial, or other business purposes. 4546

(J) "Tangible personal property" has the same meaning as 4547
in section 5739.01 of the Revised Code. 4548

(K) "Internal Revenue Code" means the Internal Revenue 4549
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 4550
used in this chapter that is not otherwise defined has the same 4551
meaning as when used in a comparable context in the laws of the 4552
United States relating to federal income taxes unless a 4553
different meaning is clearly required. Any reference in this 4554
chapter to the Internal Revenue Code includes other laws of the 4555
United States relating to federal income taxes. 4556

(L) "Calendar quarter" means a three-month period ending 4557
on the thirty-first day of March, the thirtieth day of June, the 4558
thirtieth day of September, or the thirty-first day of December. 4559

(M) "Tax period" means the calendar quarter or calendar 4560
year on the basis of which a taxpayer is required to pay the tax 4561
imposed under this chapter. 4562

(N) "Calendar year taxpayer" means a taxpayer for which 4563
the tax period is a calendar year. 4564

(O) "Calendar quarter taxpayer" means a taxpayer for which 4565
the tax period is a calendar quarter. 4566

(P) "Agent" means a person authorized by another person to 4567
act on its behalf to undertake a transaction for the other, 4568
including any of the following: 4569

(1) A person receiving a fee to sell financial 4570
instruments; 4571

(2) A person retaining only a commission from a 4572
transaction with the other proceeds from the transaction being 4573
remitted to another person; 4574

(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	4575 4576
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	4577 4578
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	4579 4580
(Q) "Received" includes amounts accrued under the accrual method of accounting.	4581 4582
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.	4583 4584 4585 4586 4587 4588 4589
<u>(S) "Megaproject," "megaproject operator," and "megaproject supplier" have the same meanings as in section 122.17 of the Revised Code.</u>	4590 4591 4592
Section 2. That existing sections 107.03, 122.17, 3735.65, 3735.67, 3735.671, 5703.48, 5703.95, 5709.121, 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 5709.91, 5715.19, 5733.41, 5739.02, 5741.02, 5747.41, and 5751.01 of the Revised Code are hereby repealed.	4593 4594 4595 4596 4597
Section 3. The amendment by this act of section 5715.19 of the Revised Code applies to complaints or counterclaims to complaints filed for tax year 2021 or any tax year thereafter.	4598 4599 4600
The amendment by this act of sections 5733.41 and 5747.41 of the Revised Code applies to qualifying taxable years	4601 4602

beginning on or after January 1, 2023. 4603

The amendment by this act of sections 5739.02 and 5741.02 4604
of the Revised Code applies beginning the first day of the first 4605
month beginning on or after the effective date of this act. 4606

The amendment by this act of section 5709.121 of the 4607
Revised Code applies to tax year 2020 and every tax year 4608
thereafter, as well as to any tax year at issue in an 4609
application for exemption from taxation or any appeal from such 4610
an application pending before the Tax Commissioner, the Board of 4611
Tax Appeals, any court of common pleas or court of appeals, or 4612
the Supreme Court on the effective date of that amendment and to 4613
the property that is the subject of any such application or 4614
appeal. That amendment is remedial in nature and the purpose 4615
thereof is to clarify the intent of the General Assembly that 4616
real property described in division (F) of section 5709.121 of 4617
the Revised Code, as amended by this act, is exempt from 4618
taxation. 4619

Section 4. The amendment by this act of section 5709.91 of 4620
the Revised Code applies to any proceedings commenced or 4621
instruments recorded after the amendment's effective date, and, 4622
so far as the amendment supports the actions taken, also applies 4623
to proceedings that on its effective date are pending, in 4624
progress, or completed, or instruments that have previously been 4625
recorded, notwithstanding the applicable law previously in 4626
effect or any provision to the contrary in a prior resolution, 4627
ordinance, order, advertisement, notice, instrument, or other 4628
proceeding. Any proceedings pending or in progress on the 4629
effective date of the amendment shall be deemed to have been 4630
taken in conformity with the amendment. 4631

The authority provided in the amendment by this act of 4632

section 5709.91 of the Revised Code provides additional and 4633
supplemental provisions for the subject matter that may also be 4634
the subject of other laws, and is supplemental to and not in 4635
derogation of any similar authority provided by, derived from, 4636
or implied by the Ohio Constitution, or any other law, including 4637
laws amended by this act, or any charter, order, resolution, or 4638
ordinance, and no inference shall be drawn to negate the 4639
authority thereunder by reason of express provisions contained 4640
in the amendment by this act of section 5709.91 of the Revised 4641
Code. 4642

Section 5. Pursuant to division (G) of section 5703.95 of 4643
the Revised Code, which states that any bill introduced in the 4644
House of Representatives or the Senate that proposes to enact or 4645
modify one or more tax expenditures should include a statement 4646
explaining the objectives of the tax expenditure or its 4647
modification and the sponsor's intent in proposing the tax 4648
expenditure or its modification: 4649

The objective of this act in amending section 5741.02 of 4650
the Revised Code is to increase business to Ohio's marine 4651
industry by removing a disincentive for out-of-state boat owners 4652
from coming into Ohio with their business. 4653

Currently, subjecting boats to use taxes on the value of 4654
the boat has resulted in out-of-state boats going elsewhere for 4655
winter storage, repair, and refitting work. The charge for 4656
winter storage notwithstanding, most winter work orders from 4657
customers are estimated to range from fifteen thousand dollars 4658
to one hundred thousand dollars. The loss of even one major job, 4659
never mind several, could mean the success or failure of a 4660
marine business. 4661

The state of Ohio also suffers significant losses. 4662

Virtually everything related to winter storage and work is	4663
subject to sales tax, including parts, materials, labor, and	4664
storage. When a boat is not winter-stored in Ohio, there are not	4665
only no related sales taxes collected, but also no commercial	4666
activity taxes and no income taxes.	4667