

# AN ACT

To amend sections 718.01, 718.02, 3318.05, 3318.052, 3318.08, 3318.44, 3770.07, 3770.10, 3770.12, 5705.192, 5705.21, 5733.04, 5733.42, and 5747.01 and to enact section 3770.121 of the Revised Code to permit school district permanent improvements levies imposed for a limited period of time to be renewed for a continuing period of time; to allow certain single member limited liability companies to elect to be separate taxpayers from their single members for purposes of municipal income taxation; to require under the municipal income tax law that a business add-back tax exempt stock options in the apportionment of its net profit among municipal corporations; to create an amnesty period for re-filing applications for exemption of real property that were dismissed due to case law; to change references regarding federal income tax law in the corporation franchise tax and income tax laws; to require the State Lottery Commission to allow a lottery prize winner who is being paid the prize award in installments to transfer, subject to certain restrictions, all or portions of the prize winner's outstanding prize award and to make other changes in the Lottery Law and the Lottery Prize Award Transfer Law; and to make changes to the distribution of the job training tax credit.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 718.01, 718.02, 3318.05, 3318.052, 3318.08, 3318.44, 3770.07, 3770.10, 3770.12, 5705.192, 5705.21, 5733.04, 5733.42,

and 5747.01 be amended and section 3770.121 of the Revised Code be enacted to read as follows:

Sec. 718.01. (A) As used in this chapter:

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

(d)(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

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

(g) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:

(i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts

paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

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

(3) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

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

(5) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

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

(7) For taxable years beginning on or after January 1, 2004, "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division (F) of this section, required to be reported on schedule C, schedule E, or schedule F.

(8) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. ~~"Taxpayer~~ Except as provided in division (J) of this section, "taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

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

(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes:

(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency;

(b) A municipal corporation acting as the agent of another municipal corporation; and

(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis.

(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(B) No municipal corporation shall tax income at other than a uniform rate.

(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?"

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

"

In the event of an affirmative vote, the proceeds of the levy may be used

only for the specified purpose.

(D)(1) Except as provided in division (E) or (F) of this section, no municipal corporation shall exempt from a tax on income compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

(2)(a) For taxable years beginning on or after January 1, 2004, no municipal corporation shall tax the net profit from a business or profession using any base other than the taxpayer's adjusted federal taxable income.

(b) Division (D)(2)(a) of this section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code or to the net profit from a sole proprietorship.

(E) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from withholding and from a tax on income the following:

(1) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or

(2) Compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

If an individual's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation.

In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit required to be reported by the taxpayer on schedule C or F from such sole proprietorship for the taxable year.

In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year.

(F) A municipal corporation shall not tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

(3) Except as otherwise provided in division (G) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;

(6) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Revised Code:

(a) Beginning January 1, 2002, the income of an electric company or combined company;

(b) Beginning January 1, 2004, the income of a telephone company.

As used in division (F)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under section 718.011 of the Revised Code;

(9)(a) Except as provided in division (F)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S

corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(b) If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before ~~the effective date of the amendment of that section by H.B. 127 of the 125th General Assembly March 11, 2004~~, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.

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

(d) For the purposes of division (D) of section 718.14 of the Revised Code, a municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation vote in favor of a question at an election held under division (F)(9)(b) or (c) of this section. The municipal corporation shall specify by ordinance or rule that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(10) Employee compensation that is not "qualifying wages" as defined in section 718.03 of the Revised Code.

(G) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th general assembly, may continue to tax that type of

income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(H) Nothing in this section or section 718.02 of the Revised Code shall authorize the levy of any tax on income that a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

(I)(1) Nothing in this chapter prohibits a municipal corporation from allowing, by resolution or ordinance, a net operating loss carryforward.

(2) Nothing in this chapter requires a municipal corporation to allow a net operating loss carryforward.

(J)(1) A single member limited liability company that is a disregarded entity for federal tax purposes may elect to be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company;

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004;

(c) Not later than December 31, 2004, the limited liability company and its single member each make an election to be treated as a separate taxpayer under division (J) of this section;

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member;

(e) The Ohio municipal corporation that is the primary place of business of the sole member of the limited liability company consents to the election.

(2) For purposes of division (J)(1)(e) of this section, a municipal corporation is the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability is greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 is at least four hundred thousand dollars.

Sec. 718.02. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745. of the Revised Code.

(A) Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Revised Code;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

(B) As used in division (A) of this section, "sales made in a municipal corporation" mean:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within

such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(C) Except as otherwise provided in division (D) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

(D) This section does not apply to individuals who are residents of the municipal corporation and, except as otherwise provided in section 718.01 of the Revised Code, a municipal corporation may impose a tax on all income earned by residents of the municipal corporation to the extent allowed by the United States Constitution.

(E) If, in computing the taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in income any amount or any portion thereof because it is exempted from taxation under division (F)(10) of section 718.01 of the Revised Code and division (A)(2)(d) of section 718.03 of the Revised Code by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under divisions (A) and (B) of this section.

Sec. 3318.05. The conditional approval of the Ohio school facilities commission for a project shall lapse and the amount reserved and encumbered for such project shall be released unless the school district board accepts such conditional approval within one hundred twenty days following the date of certification of the conditional approval to the school district board and the electors of the school district vote favorably on both of the propositions described in divisions (A) and (B) of this section within one year of the date of such certification, except that a school district described in division (C) of this section does not need to submit the proposition described in division (B) of this section. The propositions described in divisions (A) and (B) of this section shall be combined in a single proposal.

If the district board or the district's electors fail to meet such requirements and the amount reserved and encumbered for the district's project is released, the district shall be given first priority for project funding as such funds become available.

(A) On the question of issuing bonds of the school district board, for the school district's portion of the basic project cost, in an amount equal to the school district's portion of the basic project cost less the amount of the proceeds of any securities authorized or to be authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost; and

(B) On the question of levying a tax the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project. Such tax shall be at the rate of not less than one-half mill for each dollar of valuation for a period of twenty-three years, subject to any extension approved under section 3318.061 of the Revised Code.

(C) If a school district has in place a tax levied under section 5705.21 of the Revised Code for general ~~ongoing~~ permanent improvements for a continuing period of time and the proceeds of such tax can be used for maintenance, the school district need not levy the additional tax required under division (B) of this section, provided the school district board includes in the agreement entered into under section 3318.08 of the Revised Code provisions earmarking an amount from the proceeds of that permanent improvement tax for maintenance of classroom facilities equivalent to the amount of the additional tax and for the equivalent number of years otherwise required under this section.

(D) Proceeds of the tax to be used for maintenance of the classroom facilities under either division (B) or (C) of this section shall be deposited into a separate fund established by the school district for such purpose.

Sec. 3318.052. At any time after the electors of a school district have approved either or both a property tax levied under section 5705.21 or 5705.218 of the Revised Code for the purpose of permanent improvements, including general ~~ongoing~~ permanent improvements, or a school district income tax levied under Chapter 5748. of the Revised Code, the proceeds of either of which, pursuant to the ballot measures approved by the electors, are not so restricted that they cannot be used to pay the costs of a project or maintaining classroom facilities, the school district board may:

(A) Within one year following the date of the certification of the conditional approval of the school district's classroom facilities project by the Ohio school facilities commission, enter into a written agreement with the commission, which may be part of an agreement entered into under

section 3318.08 of the Revised Code, and in which the school district board covenants and agrees to do one or both of the following:

(1) Apply a specified amount of available proceeds of that property tax levy, of that school district income tax, or of securities issued under this section, or of proceeds from any two or more of those sources, to pay all or part of the district's portion of the basic project cost of its classroom facilities project;

(2) Apply available proceeds of either or both a property tax levied under section 5705.21 or 5705.218 of the Revised Code in effect for a continuing period of time, or of a school district income tax levied under Chapter 5748. of the Revised Code in effect for a continuing period of time to the payment of costs of maintaining the classroom facilities.

(B) Receive, as a credit against the amount of bonds required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district and issued by the district board for the district's portion of the basic project cost of its classroom facilities project in order for the district to receive state assistance for the project, an amount equal to the specified amount that the district board covenants and agrees with the commission to apply as set forth in division (A)(1) of this section;

(C) Receive, as a credit against the amount of the tax levy required under sections 3318.05 and 3318.06 of the Revised Code, to be approved by the electors of the district to pay the costs of maintaining the classroom facilities in order to receive state assistance for the classroom facilities project, an amount equivalent to the specified amount of proceeds the school district board covenants and agrees with the commission to apply as referred to in division (A)(2) of this section;

(D) Apply proceeds of either or both a school district income tax levied under Chapter 5748. of the Revised Code that may lawfully be used to pay the costs of a classroom facilities project or of a tax levied under section 5705.21 or 5705.218 of the Revised Code to the payment of debt charges on and financing costs related to securities issued under this section;

(E) Issue securities to provide moneys to pay all or part of the district's portion of the basic project cost of its classroom facilities project in accordance with an agreement entered into under division (A) of this section. Securities issued under this section shall be Chapter 133. securities and may be issued as general obligation securities or issued in anticipation of a school district income tax or as property tax anticipation notes under section 133.24 of the Revised Code. The district board's resolution authorizing the issuance and sale of general obligation securities under this section shall conform to the applicable requirements of section 133.22 or

133.23 of the Revised Code. Securities issued under this section shall have principal payments during each year after the year of issuance over a period of not more than twenty-three years and, if so determined by the district board, during the year of issuance. Securities issued under this section shall not be included in the calculation of net indebtedness of the district under section 133.06 of the Revised Code, if the resolution of the district board authorizing their issuance and sale includes covenants to appropriate annually from lawfully available proceeds of a property tax levied under section 5705.21 or 5705.218 of the Revised Code or of a school district income tax levied under Chapter 5748. of the Revised Code and to continue to levy and collect the tax in amounts necessary to pay the debt charges on and financing costs related to the securities as they become due. No property tax levied under section 5705.21 or 5705.218 of the Revised Code and no school district income tax levied under Chapter 5748. of the Revised Code that is pledged, or that the school district board has covenanted to levy, collect, and appropriate annually, to pay the debt charges on and financing costs related to securities issued under this section shall be repealed while those securities are outstanding. If such a tax is reduced by the electors of the district or by the district board while those securities are outstanding, the school district board shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the securities in that year, except that in the case of a school district income tax that amount shall be rounded up to the nearest one-fourth of one per cent.

No state moneys shall be released for a project to which this section applies until the proceeds of the tax securities issued under this section that are dedicated for the payment of the district portion of the basic project cost of its classroom facilities project are first deposited into the district's project construction fund.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school

district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes, except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the

controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general ~~ongoing~~ permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, either of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the

Revised Code;

(b) If the school district electors have approved a continuing tax for general ~~ongoing~~ permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's

designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

(R)(1) For all school districts except a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that all state funds reserved and encumbered to pay the state share of the cost of the project pursuant to section 3318.03 of the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any funds provided by the school district to pay for its share of the project cost, unless the school district certifies to the commission that expenditure by the school district is necessary to maintain the tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, in which cases, the school district may commit to spend, or spend, a portion of the funds it provides;

(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction

and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code.

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the school district board shall comply with section 3313.41 of the Revised Code throughout the project and shall notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board in order to pay all or part of the school district's portion of its

basic project cost may apply the proceeds of a tax levied under section 5705.21 of the Revised Code ~~to~~ for general ~~ongoing~~ permanent improvements if the proceeds of that levy lawfully may be used for general construction, renovation, repair, or maintenance of classroom facilities to leverage bonds adequate to pay all or part of the school district portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code or to generate an amount equivalent to all or part of the amount required under section 3318.43 of the Revised Code to be used for maintenance of classroom facilities acquired under the project. Bonds issued under this division shall be Chapter 133. securities, but the issuance of the bonds shall not be subject to a vote of the electors of the school district as long as the tax proceeds earmarked for payment of the service charges on the bonds may lawfully be used for that purpose.

No state moneys shall be released for a project to which this division applies until the proceeds of any bonds issued under this division that are dedicated for payment of the school district's portion of the basic project cost are first deposited into the school district's project construction fund.

(C) A school district board of education may adopt a resolution proposing that any of the following questions be combined with a question specified in section 3318.45 of the Revised Code:

- (1) A bond issue question under section 133.18 of the Revised Code;
- (2) A tax levy question under section 3311.21 of the Revised Code;
- (3) A tax levy question under section 5705.21 of the Revised Code.

Any question described in divisions (C)(1) to (3) of this section that is combined with a question proposed under section 3318.45 of the Revised Code shall be for the purpose of either paying for any permanent improvement, as defined in section 133.01 of the Revised Code, or generating operating revenue specifically for the facilities acquired under the school district's project under Chapter 3318. of the Revised Code or for both to the extent such purposes are permitted by the sections of law under which each is proposed.

(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint issuance of bonds as provided for in section 3318.085 of the Revised Code.

Sec. 3770.07. (A)(1) Except as provided in division (A)(2) of this section, lottery prize awards shall be claimed by the holder of the winning lottery ticket, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning lottery ticket, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which the prize award was announced if the lottery game is

an on-line game, and within one hundred eighty days after the close of the game if the lottery game is an instant game.

(2) An eligible person serving on active military duty in any branch of the United States armed forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize award. The eligible person shall do so by notifying the commission about the claim not later than the five hundred fortieth day after the date on which the prize award was announced if the lottery game is an on-line game or the date on which the lottery game closed if the lottery game is an instant game.

(3) If no valid claim to a lottery prize award is made within the prescribed period, the prize money, the cost of goods and services awarded as prizes, or, if goods or services awarded as prizes are resold by the commission, the proceeds from their sale shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

(4) As used in this division:

(a) "Eligible person" means a person who is entitled to a lottery prize award and who falls into either of the following categories:

(i) While on active military duty in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is transferred out of this state before the one hundred eightieth day after the date on which the winner of the lottery prize award is selected.

(ii) While serving in the reserve forces in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is placed on active military duty and is transferred out of this state before the expiration of the one hundred eightieth day after the date on which the prize drawing occurs for an on-line game or before the expiration of the one hundred eightieth day following the close of an instant game as determined by the commission.

(b) "Active military duty" means that a person is covered by the "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. 501 et seq., as amended, or the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 4301 et seq., as amended.

(B) If a prize winner, as defined in section 3770.10 of the Revised Code, is under eighteen years of age, or is under some other legal disability, and the prize money or the cost of goods or services awarded as a prize exceeds one thousand dollars, the director of the state lottery commission shall order that payment be made to the order of the legal guardian of that prize winner.

If the amount of the prize money or the cost of goods or services awarded as a prize is one thousand dollars or less, the director may order that payment be made to the order of the adult member, if any, of that prize winner's family legally responsible for the care of that prize winner.

(C) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be the subject of a security interest or used as collateral.

(D)(1) No right of any prize winner, as defined in section 3770.10 of the Revised Code, to a prize award shall be assignable, or subject to garnishment, attachment, execution, withholding, or deduction, except as follows: as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code; when the payment is to be made to the executor or administrator, or the trustee of a trust, of the estate of a winning ticket holder; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; when a person is awarded a prize award to which another has claimed title, pursuant to the order of a federal bankruptcy court under Title 11 of the United States Code; when the director is to make a payment pursuant to section 3770.071 or 3770.073 of the Revised Code; or as provided in sections 3770.10 to 3770.14 of the Revised Code.

(2) The commission shall adopt rules pursuant to section 3770.03 of the Revised Code concerning the payment of prize awards upon the death of a prize winner, as defined in section 3770.10 of the Revised Code. Upon the death of a prize winner, the remainder of the prize winner's prize award, to the extent it is not subject to a transfer agreement under sections 3770.10 to 3770.14 of the Revised Code, may be paid to the executor, administrator, or trustee in the form of a discounted lump sum cash settlement.

(E) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively coordinating and certifying commission drawings, or any blood relative or spouse of such an officer or employee of the commission or auditor of state living as a member of the officer's or employee's household, nor shall any such officer, employee, blood relative, or spouse attempt to claim a lottery prize award.

(F) The director may prohibit vendors to the commission and their employees from being awarded a lottery prize award.

(G) Upon the payment of prize awards pursuant to this section, the director and the commission are discharged from all further liability for their payment.

Sec. 3770.10. As used in sections 3770.07 and 3770.10 to 3770.14 of the Revised Code:

(A) "Court of competent jurisdiction" means either the general division or the probate division of the court of common pleas of the county in which the prize winner or transferor resides, or, if the prize winner or transferor is not a resident of this state, either the general division or the probate division of the court of common pleas of Franklin county or a federal court having jurisdiction over the lottery prize award.

(B) "Discounted present value" means the present value of the future payments of a lottery prize award that is determined by discounting those payments to the present, using the most recently published applicable federal rate for determining the present value of an annuity as issued by the United States internal revenue service and assuming daily compounding.

(C) "Independent professional advice" means the advice of an attorney, a certified public accountant, an actuary, or any other licensed professional adviser if all of the following apply:

(1) The prize winner has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award.

(2) The licensed professional adviser is not affiliated in any manner with or compensated in any manner by the transferee of the lottery prize award.

(3) The compensation of the licensed professional adviser is not affected by whether or not a transfer of a lottery prize award occurs.

(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award as a result of being any of the following:

(1) A person who is a claimant under division (A) of section 3770.07 of the Revised Code;

(2) A person who is entitled to a prize award and who is under a legal disability as described in division (B) of section 3770.07 of the Revised Code;

(3) A person who was awarded a prize award to which another has claimed title by a federal bankruptcy court order or other court order ~~under~~ referred to in division (D)(1) of section 3770.07 of the Revised Code;

(4) A person who is receiving payments upon the death of a prize winner as provided in division (D)(2) of section 3770.07 of the Revised Code.

(E) "Transfer" means any form of sale, assignment, or redirection of payment of all or any part of a lottery prize award for consideration.

(F) "Transfer agreement" means an agreement that is complete and valid, and that provides for the transfer of all or any part of a lottery prize

award from a transferor to a transferee. A transfer agreement is incomplete and invalid unless the agreement contains both of the following:

(1) A statement, signed by the transferor under penalties of perjury, that the transferor irrevocably agrees that the transferor is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferor will recognize in connection with the transfer. If the transferor is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall also sign under penalties of perjury a statement that the investor irrevocably agrees that the investor is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferor and the investor will recognize in connection with the transfer.

(2) A statement, signed by the transferee, that the transferee irrevocably agrees that the transferee is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and that the transferee is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee will recognize in connection with lottery prize awards to be received as a result of the transfer. If the transferee is a pass-through entity, as defined in section 5733.04 of the Revised Code, each investor in the pass-through entity shall also sign under penalties of perjury a statement setting forth that the investor irrevocably agrees that the investor is subject to the withholding requirements imposed by division (C) of section 3770.072 of the Revised Code and is subject to the tax imposed by Chapter 5733. or 5747. of the Revised Code with respect to gain or income which the transferee and the investor will recognize in connection with lottery prize awards to be received as a result of the transfer.

(G) "Transferee" means a party acquiring or proposing to acquire all or any part of a lottery prize award through a transfer.

(H) "Transferor" means either a prize winner or a transferee in an earlier transfer whose interest is acquired by or is sought to be acquired by a transferee or a new transferee through a transfer.

Sec. 3770.12. A court of competent jurisdiction shall approve a transfer of a lottery prize award only in a final order that is based on express findings of the court. The court shall approve the transfer ~~only~~ if each of the following conditions that applies is met and is included in the court's express findings:

(A) If the transferor is a prize winner, the transferee has provided to the prize winner a disclosure statement that complies with section 3770.11 of the Revised Code, and the prize winner has confirmed the prize winner's

receipt of the disclosure statement, as evidenced by the prize winner's notarized signature on a copy of the disclosure statement.

(B) If the transferor is a prize winner, the prize winner has received independent professional advice regarding the legal and other implications of the transfer.

(C) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the state lottery commission and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.

(D) The transferee is a trust, limited partnership, general partnership, corporation, professional association, limited liability company, or other entity that is qualified to do business in this state and meets the registration requirements for that type of entity under Title XVII of the Revised Code.

(E) The transfer complies with all applicable requirements of the Revised Code and does not contravene any applicable ~~law~~ statute or court order.

(F) The transfer does not include or cover the amounts of the lottery prize award that are required to be withheld or deducted pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3770.071, or 3770.072 of the Revised Code.

(G) Any amounts described in division (F) of this section that are required to be withheld or deducted, as of the date of the court order, will be offset by the commission first against remaining payments due the transferor and then against payments due the transferee.

(H) Except as provided in divisions (F) and (G) of this section, that the transferor's interest in each and all of the future payments from a particular lottery prize award is to be paid to a single transferee, or, if the payments from the lottery prize award are to be directed from the state lottery commission to multiple transferees, the commission has promulgated rules under section 3770.03 of the Revised Code permitting transfers to multiple transferees, and the transfer is consistent with those rules.

(I) If the lottery prize award has been transferred within twelve months immediately preceding the effective date of the proposed transfer, the state lottery commission has not objected to the proposed transfer. The court shall presume that the requirements of this division are met unless the commission notifies the court in writing before the hearing on the application for transfer, or through counsel at that hearing, that a transfer of the same lottery prize award has been made within that twelve-month period and that the commission objects to a subsequent transfer within that twelve-month period. The court shall find that the requirements of this

division are not met if the commission provides notice of a prior transfer of the same lottery prize award within that twelve-month period and its objection to the proposed transfer, unless the transferor or transferee shows by clear and convincing evidence that no previous transfer of the same lottery prize award occurred within that twelve-month period. For purposes of this division, any of a series of transfers of a lottery prize award that occur simultaneously as part of a single transaction shall not be considered to be a prior transfer of the lottery prize award within the twelve-month period immediately preceding the effective date of the proposed transfer, provided that the condition set forth in division (C) of this section is met.

If the court determines that all of the conditions in divisions (A) to (I) of this section that apply are met, the transfer of the lottery prize award shall be presumed to be fair and reasonable and in the best interests of the prize winner.

Sec. 3770.121. Any state lottery commission rules allowing lottery prize awards to be paid in installments also shall allow a prize winner who is being paid a prize award in that manner to transfer all or a portion of the remainder of the prize award, subject to each of the following conditions:

(A) If each transfer is for less than one hundred per cent of the remainder of the prize award, the remainder of the prize award for each transfer must be five hundred thousand dollars or greater at the time of the transfer. If the lottery prize award is a lifetime prize, for each transfer the remainder of the minimum guaranteed prize to which the prize winner is entitled must be five hundred thousand dollars or greater at the time of the transfer.

(B) Payments of the prize award transferred shall be subject to the withholding or deduction of any amounts that are required to be withheld or deducted under section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3770.071, or 5747.062 of the Revised Code.

(C) The maximum number of transfers under this section with respect to any single prize award shall not exceed three unless a greater number has been specified by the commission in the rules.

Sec. 5705.192. (A) For the purposes of this section only, "taxing authority" includes a township board of park commissioners appointed under section 511.18 of the Revised Code.

(B) A taxing authority may propose to replace an existing levy that the taxing authority is authorized to levy, regardless of the section of the Revised Code under which the authority is granted, except a school district emergency levy proposed pursuant to sections 5705.194 to 5705.197 of the Revised Code. The taxing authority may propose to replace the existing levy

in its entirety at the rate at which it is authorized to be levied; may propose to replace a portion of the existing levy at a lesser rate; or may propose to replace the existing levy in its entirety and increase the rate at which it is levied. If the taxing authority proposes to replace an existing levy, the proposed levy shall be called a replacement levy and shall be so designated on the ballot. A Except as otherwise provided in this division, a replacement levy shall be limited to the purpose of the existing levy, and shall appear separately on the ballot from, and shall not be conjoined with, the renewal of any other existing levy. The In the case of an existing school district levy imposed under section 5705.21 of the Revised Code for the purpose specified in division (F) of section 5705.19 of the Revised Code, the replacement for that existing levy may be for the same purpose or for the purpose of general permanent improvements as defined in section 5705.21 of the Revised Code.

The resolution proposing a replacement levy shall specify the purpose of the levy; its proposed rate expressed in mills; whether the proposed rate is the same as the rate of the existing levy, a reduction, or an increase; the extent of any reduction or increase expressed in mills; the first calendar year in which the levy will be due; and the term of the levy, expressed in years or, if applicable, that it will be levied for a continuing period of time.

The sections of the Revised Code governing the maximum rate and term of the existing levy, the contents of the resolution that proposed the levy, the adoption of the resolution, the arrangements for the submission of the question of the levy, and notice of the election also govern the respective provisions of the proposal to replace the existing levy, except ~~that the~~ as provided in division (B)(1) or (2) of this section:

(1) In the case of an existing school district levy imposed under section 5705.21 of the Revised Code for the purpose specified in division (F) of section 5705.19 of the Revised Code that is to be replaced by a levy for general permanent improvements, the maximum term of the replacement levy is not limited to the term of the existing levy and may be for a continuing period of time.

(2) The date on which the election is held shall be as follows:

~~(1)~~(a) For the replacement of a levy with a fixed term of years, the date of the general election held during the last year the existing levy may be extended on the real and public utility property tax list and duplicate, or the date of any election held in the ensuing year;

~~(2)~~(b) For the replacement of a levy imposed for a continuing period of time, the date of any election held in any year after the year the levy to be replaced is first approved by the electors, except that only one election on

the question of replacing the levy may be held during any calendar year.

The failure by the electors to approve a proposal to replace a levy imposed for a continuing period of time does not terminate the existing continuing levy.

~~(B)~~(C) The form of the ballot at the election on the question of a replacement levy shall be as follows:

"A replacement of a tax for the benefit of ..... (name of subdivision or public library) for the purpose of ..... (the purpose stated in the resolution) at a rate not exceeding ..... mills for each one dollar of valuation, which amounts to ..... (rate expressed in dollars and cents) for each one hundred dollars in valuation, for ..... (number of years levy is to run, or that it will be levied for a continuous period of time)

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

If the proposal is to replace an existing levy and increase the rate of the existing levy, the form of the ballot shall be changed by adding the words "..... mills of an existing levy and an increase of ..... mills, to constitute" after the words "a replacement of." If the proposal is to replace only a portion of an existing levy, the form of the ballot shall be changed by adding the words "a portion of an existing levy, being a reduction of ..... mills, to constitute" after the words "a replacement of."

If the tax is to be placed on the tax list of the current tax year, the form of the ballot shall be modified by adding at the end of the form the phrase ", commencing in ..... (first year the replacement tax is to be levied), first due in calendar year ..... (first calendar year in which the tax shall be due)."

The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

~~(C)~~(D) Two existing levies, or any portion of those levies, may be combined into one replacement levy, so long as both of the existing levies are for the same purpose and either both are due to expire the same year or both are for a continuing period of time. The question of combining all or portions of the two existing levies into the replacement levy shall appear as one ballot proposition before the electors. If the electors approve the ballot

proposition, all or the stated portions of the two existing levies are replaced by one replacement levy.

~~(D)~~(E) A levy approved in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of a levy approved under this section, the levy shall be extended on the tax lists after the February settlement succeeding the election at which the levy was approved. If the levy is to be placed on the tax lists of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, which shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

If notes are authorized to be issued in anticipation of the proceeds of the existing levy, notes may be issued in anticipation of the proceeds of the replacement levy, and such issuance is subject to the terms and limitations governing the issuance of notes in anticipation of the proceeds of the existing levy.

This section does not authorize a tax to be levied in any year after the year in which revenue is not needed for the purpose for which the tax is levied.

Sec. 5705.21. (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general, ~~on-going~~ permanent improvements, for the purpose of operating a cultural center, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution.

As used in this section, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes-

~~As used in this section;~~ "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; and "general

permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(B) Such resolution shall be confined to a single purpose and shall specify the amount of the increase in rate that it is necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general, ~~on-going~~ permanent improvements, for a continuing period of time. The resolution shall specify the date of holding such election, which shall not be earlier than seventy-five days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code. ~~The~~

The resolution may propose to renew one or more existing levies imposed under this section or to increase or decrease a single levy imposed under this section. If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements. If

if the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to be levied.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of such election shall be made in one or more

newspapers of general circulation in the county once a week for four consecutive weeks. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general, ~~on-going~~ permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit

corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

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

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter, but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation

and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the twenty consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are

deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in

division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect,

beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

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

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

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or

from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

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

(b) Nothing in division (I)(17) of this section shall be construed to

adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(J) ~~Any~~ Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes ~~unless a different meaning is clearly required~~. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the

taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division (C)(2) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's

assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section

5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(R) "Nonbusiness income" means all income other than business income.

Sec. 5733.42. (A) As used in this section:

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, or personal enrichment training programs, or training programs intended exclusively for personal career development.

(2) "Eligible employee" means an individual who is employed in this state by a taxpayer and has been so employed by the same taxpayer for at least one hundred eighty consecutive days before the day an application for the credit is filed under this section. "Eligible employee" does not include any employee for which a credit is claimed pursuant to division (A)(5) of section 5709.65 of the Revised Code for all or any part of the same year, an employee who is not a full-time employee, or executive or managerial personnel except for the immediate supervisors of nonexecutive,

nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries, materials and supplies, textbooks and manuals, videotapes, and other instructional media and training equipment used exclusively for the purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted exclusively to an eligible training program during normal paid working hours.

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

(5) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for taxpayers for which a tax credit certificate is issued under division (C) of this section. The credit may be claimed for tax years 2004, 2005, and 2006. The amount of the credit for tax year 2004 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 1999, 2000, and 2001, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2005 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2002, 2003, and 2004, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2006 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2003, 2004, and 2005, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The credit claimed by a taxpayer each tax year shall not exceed one hundred thousand dollars.

(C) A taxpayer who proposes to conduct an eligible training program may apply to the director of job and family services for a tax credit certificate under this section. The taxpayer may apply for such a certificate for tax years 2004, 2005, and 2006, subject to division (L) of this section.

The director shall prescribe the form of the application, which shall require a detailed description of the proposed training program. The director may require applicants to remit an application fee with each application filed with the director. The fee shall not exceed the reasonable and necessary expenses incurred by the director in receiving, reviewing, and approving such applications and issuing tax credit certificates. Proceeds from fees shall be used solely for the purpose of receiving, reviewing, and approving such applications and issuing such certificates.

After receipt of an application, the director shall authorize a credit under this section by issuing a tax credit certificate, in the form prescribed by the director, if the director determines all of the following:

(1) The proposed training program is an eligible training program under this section;

(2) The proposed training program is economically sound and will benefit the people of this state by improving workforce skills and strengthening the economy of this state;

(3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the training program;

(4) Authorization of the credit is consistent with division (H) of this section.

The credit also is allowed for a taxpayer that is a partner in a partnership that pays or incurs eligible training costs. Such a taxpayer shall determine the taxpayer's credit amount in the manner prescribed by division (K) of this section.

(D) If the director of job and family services denies an application for a tax credit certificate, the director shall send notice of the denial and the reason for denial to the applicant by certified mail, return receipt requested. If the director determines that an authorized training program, as actually conducted, fails to meet the requirements of this section or to comply with any condition set forth in the authorization, the director may reduce the amount of the tax credit previously granted. If the director reduces a tax credit, the director shall send notice of the reduction and the reason for the reduction to the taxpayer by certified mail, return receipt requested, and shall certify the reduction to the tax commissioner or, in the case of the reduction of a credit claimed by an insurance company, the superintendent of insurance. The tax commissioner or superintendent of insurance shall reduce the credit that may be claimed by the taxpayer accordingly. Within sixty days after receiving a notice of denial or notice of reduction of the tax credit, an applicant or taxpayer may request, in writing, a hearing before the director to review the denial or reduction. Within sixty days after receiving a

request that is filed within the prescribed time, the director shall hold such a hearing at a location to be determined by the director. Within thirty days after the hearing is adjourned, the director shall issue a redetermination affirming, reversing, or modifying the denial or reduction of the tax credit and send notice of the redetermination to the applicant or taxpayer by certified mail, return receipt requested, and shall issue a notice of the redetermination to the tax commissioner or superintendent of insurance. If an applicant or taxpayer is aggrieved by the director's redetermination, the applicant or taxpayer may appeal the redetermination to the board of tax appeals in the manner prescribed by section 5717.02 of the Revised Code.

(E) A taxpayer to which a tax credit certificate is issued shall retain records indicating the eligible training costs it pays or incurs for the eligible training program for which the certificate is issued for four years following the end of the tax year for which the credit is claimed. Such records shall be open to inspection by the director of job and family services upon the director's request during business hours.

Financial statements and other information submitted by an applicant to the director of job and family services for a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the director of job and family services, the tax commissioner, or superintendent of insurance may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credits allowed under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code.

(F) The director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The rules shall be adopted after consultation with the tax commissioner and the superintendent of insurance. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons and ranking minority members of the standing committees in the senate and the house of representatives to which legislation on economic development matters are customarily referred.

(G) On or before the thirtieth day of September of 2001, 2003, 2004, 2005, and 2006, the director of job and family services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The report shall

include information on the number of training programs that were authorized under those sections during the preceding calendar year, a description of each authorized training program, the dollar amounts of the credits granted, and an estimate of the impact of the credits on the economy of this state.

(H) The aggregate amount of credits authorized under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code shall not exceed twenty million dollars per calendar year. No more than ten million dollars in credits per calendar year shall be authorized for persons engaged primarily in manufacturing. No less than five million dollars in credits per calendar year shall be set aside for persons engaged primarily in activities other than manufacturing and having fewer than five hundred employees. Subject to such limits, the director of job and family services shall adopt a rule under division (F) of this section that establishes criteria and procedures for distribution of the credits ~~shall be authorized for applicants meeting the requirements of this section in the order in which they submit complete and accurate applications.~~

(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code.

(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section.

(K) A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership.

(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code for eligible training costs paid or incurred after December 31, 2005.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the ~~Internal Revenue Code, and all other statutes~~ laws of the United States relating to federal income taxes. Any reference in this chapter to the Internal Revenue Code

includes other laws of the United States relating to federal income taxes.

As used in this chapter:

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

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

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

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

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

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

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002 or after 2004, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002, 2003, or 2004. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust

commencing with the earliest years of the accumulation period.

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

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

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

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

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

(c) For purposes of division (A)(11) of this section, "medical care" has

the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

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

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

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

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

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable

year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

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

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

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

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

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

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

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

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

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

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

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004:

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

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

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

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

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

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

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

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year.

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

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

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

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

section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

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

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

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

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

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

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

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's

death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

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

(v) The transfer is made to a trust on account of the will of a testator.

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

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

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

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

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

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

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

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

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

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

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

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

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

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

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

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

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

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

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

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue

Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

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

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

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

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

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

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

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

(b) It does not otherwise reduce the taxpayer's taxable income or the

decedent's adjusted gross income for the current or any other taxable year.

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

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

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

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

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002, 2003, or 2004.

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

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002, 2003, or 2004.

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

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company

formed under Chapter 1705. of the Revised Code or under the laws of any other state.

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

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

(Y) "Month" means a calendar month.

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

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

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

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

satisfied:

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

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

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

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

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

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

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as

ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code.

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

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

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

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

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

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

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

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

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

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

(EE) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

SECTION 2. That existing sections 718.01, 718.02, 3318.05, 3318.052, 3318.08, 3318.44, 3770.07, 3770.10, 3770.12, 5705.192, 5705.21, 5733.04, 5733.42, and 5747.01 of the Revised Code are hereby repealed.

SECTION 3. (A) This section is intended to mitigate the unintended consequences of *Cleveland Clinic Foundation v. Wilkins*, 103 Ohio St.3d 382, 816 N.E. 2d 224 (2004), by providing remedial legislation to address the large volume of applications for exemption of property that the Tax Commissioner dismissed because of the decision in that case.

(B) As used in this section:

(1) "Eligible years" means those tax years for which taxes, penalties, and interest could have been properly remitted or abated and the property placed on the tax exempt list under a previous application for exemption of property that was dismissed as explained in division (A) of this section.

(2) "Qualified property" means real property that satisfies the qualifications for tax exemption under any section of the Revised Code and for which an application for exemption of property was dismissed by the Tax Commissioner as explained in division (A) of this section.

(3) "Subdivision," "taxing authority," and "taxing unit" have the same meanings as in section 5705.01 of the Revised Code.

(C) Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received a tax exemption, remission, or abatement because of failure to comply with Chapter 5713. or section 5715.27 of the Revised Code, the current owner of the qualified property at any time on or before July 1, 2005, may file with the Tax Commissioner an application requesting that the property be placed on the tax exempt list and that all paid or unpaid taxes, penalties, and interest on the property be abated or remitted for the eligible years. The application shall be filed on the form prescribed by the Commissioner under section 5715.27 of the Revised Code. The owner shall attach to the application a copy of the Commissioner's final determination dismissing the previous application for exemption of the qualified property, along with the county treasurer's certificate required by division (E) of this section. Failure to attach the Commissioner's final determination dismissing the previous application for exemption of the qualified property and the treasurer's certificate shall result in dismissal of the application filed under this division.

(D) The county auditor shall notify the county treasurer to hold any tax payments for eligible years in a special fund pending a decision by the

Commissioner on an application filed under this section. While such application is pending, no subdivision or other taxing unit is entitled to an advance payment of such moneys under section 321.34 of the Revised Code. After the Commissioner issues a decision, the county auditor shall either refund the taxes, penalties, and interest to the applicant if remission is granted, or distribute the taxes, penalties, and interest to the proper taxing authorities if the remission is denied.

(E) An applicant under this section shall obtain a certificate from the county treasurer that determines whether all taxes, penalties, and interest that were levied for all tax years that are not eligible years and all special assessments charged against the property have been paid in full. If that is not so, the county treasurer shall issue a certificate to that effect listing the tax years for which taxes, penalties, interest, and special assessments remain unpaid.

(F)(1) Upon receipt of an application under this section, the Tax Commissioner shall determine if the applicant and the applicant's qualified property meets the qualifications for tax exemption and the qualifications set forth in this section. If these qualifications are met, the Commissioner shall issue an order directing that the property be placed on the tax exempt list of the county and that all paid or unpaid taxes, penalties, and interest for every year the property met the qualifications for exemption be abated. If the Commissioner finds that the property is not entitled to tax exemption and to the abatement of paid or unpaid taxes, penalties, and interest for any of the years for which the current owner claims an exemption or abatement, the Commissioner shall order the county treasurer of the county in which the property is located to collect all taxes, penalties, and interest due on the property for those years in accordance with law. If the Commissioner finds that the property is now being used for a purpose that would foreclose its right to tax exemption, the Commissioner shall issue an order denying the application.

(2)(a) If the Tax Commissioner determines the qualified property satisfies the requirements for exemption, the Commissioner shall remit such taxes, penalties, and interest for the eligible years, but only with the consent of the taxing authority of the subdivision or other taxing unit to which such taxes, penalties, and interest are owed. For purposes of this section, a taxing authority has given consent if the taxing authority has not passed a resolution, on a form prescribed by the Commissioner, and filed it with the county auditor on or before February 15, 2005, stating its objection to the remission of such taxes, penalties, and interest. On or before January 15, 2005, the county auditor of each county shall notify each subdivision or

taxing unit in the county of the enactment of this section and of the requirement that a taxing authority may file an objection to the remission of taxes, penalties, and interest with the county auditor on or before February 15, 2005. If the taxing authority of a subdivision or taxing unit withholds its consent, the applicant shall pay all the outstanding taxes, penalties, and interest owed to that subdivision or taxing unit, except for those taxes, penalties, and interest that are included in the three-year remission period under division (A) of section 5713.081 of the Revised Code. Tax payments for eligible years for which consent has not been obtained shall not be considered unpaid taxes for purposes of establishing jurisdiction to consider an application under this section.

(b) Consent given under division (F)(2)(a) of this section does not apply to the year an application is filed under this section and to the three-year remission period under division (A) of section 5713.081 of the Revised Code. The applicant retains the right to apply for those years under that section with or without the consent of the applicable subdivisions or taxing units.

(c) The county auditor shall maintain a record of all taxing authorities that have withheld consent under this section. After the Tax Commissioner's decision is issued for each of the eligible years for which exemption and remission or abatement was requested, the county auditor shall either refund, remit, or abate taxes for which consent has been given, and shall distribute to the appropriate subdivision or other taxing unit those taxes for which consent was withheld.

SECTION 4. The amendments by this act of section 5705.21 of the Revised Code changing the designation of levies for "general, ongoing permanent improvements" to levies for "general permanent improvements" and defining "general permanent improvements" do not change the purpose for which such levies are imposed or may be imposed. Those amendments are intended only to change the name by which such levies shall be referred to in the Revised Code and in resolutions, election notices, and ballot forms.

For the purposes of renewing or replacing an existing levy for the purpose of "general, ongoing permanent improvements" that is in effect on the effective date of this act, a renewal or replacement levy for the purpose of "general permanent improvements" shall be considered to be a levy for the same purpose as the existing levy.

SECTION 5. (A) Except as provided in division (B) of this section, the

amendment by this act of sections 5733.04 and 5747.01 of the Revised Code, which updates references to federal income tax laws and thereby incorporates recent changes to those laws, first applies to taxable years ending on or after the effective date of those sections, as amended by this act.

(B) A taxpayer may irrevocably elect to apply section 5733.04 or 5747.01 of the Revised Code, as amended by this act, to the taxpayer's taxable year ending in 2004. The filing of a return or report by the taxpayer for that taxable year that incorporates the amendments to those sections by this act without adjustments to reverse the effects of those amendments constitutes the making of an irrevocable election under this section.

SECTION 6. The amendment by this act of sections 718.01, 718.02, 5733.04, and 5747.01 of the Revised Code and the enactment of Sections 3, 5, and 6 of this act provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, those sections as amended or enacted by this act are not subject to the referendum and go into immediate effect when this act becomes law.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_