

this section for all county boards. 61894

(D) From money appropriated for the purpose, the department, 61895  
~~on or before the thirtieth day of September of each year,~~ shall 61896  
provide for payment to each county board of the amount computed 61897  
for that county board under division (C)(2) of this section, 61898  
subject to any reduction or adjustment under division (E), (F), or 61899  
(G) of this section. The department shall make the payments in 61900  
quarterly installments of equal amounts. The installments shall be 61901  
made not later than the thirtieth day of September, thirty-first 61902  
day of December, thirty-first day of March, and thirtieth day of 61903  
June. 61904

(E) If a county board's local tax effort for adult services 61905  
is less than the funding-adjusted required millage, the director 61906  
shall reduce the amount of payment otherwise computed under 61907  
division (C)(2) of this section so that the amount paid, after the 61908  
reduction, is the same percentage of the amount computed under 61909  
division (C)(2) of this section as the county board's local tax 61910  
effort for adult services is of the funding-adjusted required 61911  
millage. 61912

If the director reduces the amount of a county board's 61913  
payment under this division, the department, not later than the 61914  
fifteenth day of July, shall notify the county board of the 61915  
reduction and the amount of the reduction. The notice shall 61916  
include a statement that the county board may request to be 61917  
exempted from the reduction by filing a request with the director, 61918  
in the manner and form prescribed by the director, within 61919  
twenty-one days after such notification is issued. The board may 61920  
present evidence of its attempt to obtain passage of levies or any 61921  
other extenuating circumstances the board considers relevant. If 61922  
the county board requests a hearing before the director to present 61923  
such evidence, the director shall conduct a hearing on the request 61924  
unless the director exempts the board from the reduction on the 61925

basis of the evidence presented in the request filed by the board. 61926  
Upon receiving a properly and timely filed request for exemption, 61927  
but not later than the thirty-first day of August, the director 61928  
shall determine whether the county board shall be exempted from 61929  
all or a part of the reduction. The director may exempt the board 61930  
from all or part of the reduction if the director finds that the 61931  
board has made good faith efforts to obtain passage of tax levies 61932  
or that there are extenuating circumstances. 61933

(F) If a payment is reduced under division (E) of this 61934  
section and the director does not exempt the county board from the 61935  
reduction, the amount of the reduction shall be apportioned among 61936  
all county boards entitled to payments under this section for 61937  
which payments were not so reduced. The amount apportioned to each 61938  
county board shall be proportionate to the amount of the board's 61939  
payment as computed under division (C)(2) of this section. 61940

(G) If, for any fiscal year, the amount appropriated to the 61941  
department for the purpose of this section is less than the amount 61942  
computed under division (C)(3) of this section for the fiscal 61943  
year, the department shall adjust the amount of each payment as 61944  
computed under divisions (C)(2), (E), and (F) of this section by 61945  
multiplying that amount by the funding percentage. 61946

(H) The payments authorized by this section are supplemental 61947  
to all other funds that may be received by a county board. A 61948  
county board shall use the payments solely to pay the nonfederal 61949  
share of medicaid expenditures that division (A) of section 61950  
5126.057 of the Revised Code requires the county board to pay. 61951

**Sec. 5126.44.** (A) The department of mental retardation and 61952  
developmental disabilities, in accordance with Chapter 119. of the 61953  
Revised Code, shall adopt rules for making allocations for 61954  
counties and distributing to county boards of mental retardation 61955  
and developmental disabilities money to be used for planning, 61956

development, contracting for, and providing supported living. The 61957  
rules shall provide for an allocation to be made for each county 61958  
on an equitable basis, taking into account any factors that 61959  
indicate need for supported living for residents of the county. 61960

(B) The department shall annually allocate for each county an 61961  
amount determined in accordance with the rules adopted under this 61962  
section. Except as provided in division (C) of this section, the 61963  
department shall distribute the amount allocated for the county to 61964  
each county board. Money shall be distributed to county boards in 61965  
~~two quarterly~~ installments ~~annually~~, which shall be paid no later 61966  
than the ~~last day of July and the last day of December~~ thirtieth 61967  
day of September, the thirty-first day of December, the 61968  
thirty-first day of March, and the thirtieth day of June. In the 61969  
case of a county that has not adopted a resolution under division 61970  
(B) of section 5126.40 of the Revised Code, the department shall 61971  
use the money allocated for the county to provide supported living 61972  
under section 5123.182 of the Revised Code. 61973

(C) The department shall not distribute money to a county 61974  
board for residential services that are being provided by a 61975  
provider under contract with the department on the effective date 61976  
of this amendment unless the provider and the county board agree 61977  
to enter into a contract between the provider and the county board 61978  
under which the provider will provide the services as supported 61979  
living. If the conversion of a contract occurs under this 61980  
division, the provisions of section 5126.451 shall apply as though 61981  
the contract was transferred under that section. 61982

(D) Pursuant to section 5126.05 of the Revised Code, the 61983  
county board shall annually adopt a separate budget for money 61984  
distributed to it under this section. The board shall cause the 61985  
money to be deposited in a fund created pursuant to division (F) 61986  
of section 5705.09 of the Revised Code which shall be known as the 61987  
"community mental retardation and developmental disabilities 61988

residential services and supported living fund." The fund shall 61989  
consist of this money and any other money for residential services 61990  
or supported living that the board causes to be deposited in the 61991  
fund. A county board is not required to use any other money for 61992  
residential services or supported living. A county board may 61993  
establish a reserve balance account within this fund pursuant to 61994  
division (C)(2) of section 5705.28 of the Revised Code. 61995

(E) The department of mental retardation and developmental 61996  
disabilities may adopt rules under Chapter 119. of the Revised 61997  
Code establishing procedures for an annual reconciliation of state 61998  
funds that have been deposited in the reserve balance account. The 61999  
rules may provide for the return of state funds to the appropriate 62000  
department account when the funds have been unexpended for a 62001  
period of two years. 62002

(F) A county board may use up to ten per cent of the amount 62003  
distributed to it under this section for the administrative costs 62004  
of developing, arranging, and contracting for supported living and 62005  
for costs of staff training and support. Annually, each county 62006  
board shall report to the department all revenue and expenditures 62007  
pertaining to supported living. The report shall be made in 62008  
conjunction with the annual report of expenditures submitted 62009  
pursuant to section 5126.12 of the Revised Code. The report shall 62010  
list the names of the individuals served, the total number of 62011  
individuals served on a monthly basis in the preceding calendar 62012  
year, the types of services provided, the total cost of the 62013  
services, and the sources of revenue used to cover the cost. 62014

**Sec. 5139.01.** (A) As used in this chapter: 62015

(1) "Commitment" means the transfer of the physical custody 62016  
of a child or youth from the court to the department of youth 62017  
services. 62018

(2) "Permanent commitment" means a commitment that vests 62019

legal custody of a child in the department of youth services. 62020

(3) "Legal custody," insofar as it pertains to the status 62021  
that is created when a child is permanently committed to the 62022  
department of youth services, means a legal status in which the 62023  
department has the following rights and responsibilities: the 62024  
right to have physical possession of the child; the right and duty 62025  
to train, protect, and control the child; the responsibility to 62026  
provide the child with food, clothing, shelter, education, and 62027  
medical care; and the right to determine where and with whom the 62028  
child shall live, subject to the minimum periods of, or periods 62029  
of, institutional care prescribed in sections 2152.13 to 2152.18 62030  
of the Revised Code; provided, that these rights and 62031  
responsibilities are exercised subject to the powers, rights, 62032  
duties, and responsibilities of the guardian of the person of the 62033  
child, and subject to any residual parental rights and 62034  
responsibilities. 62035

(4) Unless the context requires a different meaning, 62036  
"institution" means a state facility that is created by the 62037  
general assembly and that is under the management and control of 62038  
the department of youth services or a private entity with which 62039  
the department has contracted for the institutional care and 62040  
custody of felony delinquents. 62041

(5) "Full-time care" means care for twenty-four hours a day 62042  
for over a period of at least two consecutive weeks. 62043

(6) "Placement" means the conditional release of a child 62044  
under the terms and conditions that are specified by the 62045  
department of youth services. The department shall retain legal 62046  
custody of a child released pursuant to division (C) of section 62047  
2152.22 of the Revised Code or division (C) of section 5139.06 of 62048  
the Revised Code until the time that it discharges the child or 62049  
until the legal custody is terminated as otherwise provided by 62050  
law. 62051

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release.

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least ~~twelve~~ ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(b) Felony delinquents who, while committed to the department

of youth services and in the care and custody of an institution or 62082  
a community corrections facility, are adjudicated delinquent 62083  
children for having committed in that institution or community 62084  
corrections facility an act that if committed by an adult would be 62085  
a misdemeanor or a felony; 62086

(c) Children who satisfy all of the following: 62087

(i) They are at least ~~twelve~~ ten years of age but less than 62088  
eighteen years of age. 62089

(ii) They are adjudicated delinquent children for having 62090  
committed acts that if committed by an adult would be a felony. 62091

(iii) They are committed to the department of youth services 62092  
by the juvenile court of a county that has had one-tenth of one 62093  
per cent or less of the statewide adjudications for felony 62094  
delinquents as averaged for the past four fiscal years. 62095

(iv) They are in the care and custody of an institution or a 62096  
community corrections facility. 62097

(d) Felony delinquents who, while committed to the department 62098  
of youth services and in the care and custody of an institution, ~~7~~ 62099  
~~commit in that institution an act that if committed by an adult~~ 62100  
~~would be a felony, who~~ are serving disciplinary time for having 62101  
committed ~~that~~ an act described in division (A)(19)(a), (b), or 62102  
(c) of this section, and who have been institutionalized or 62103  
institutionalized in a secure facility for the minimum period of 62104  
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 62105  
the Revised Code. 62106

(e) Felony delinquents who are subject to and serving a 62107  
three-year period of commitment order imposed by a juvenile court 62108  
pursuant to divisions (A) and (B) of section 2152.17 of the 62109  
Revised Code for an act, other than a violation of section 2911.11 62110  
of the Revised Code, that would be a category one offense or 62111  
category two offense if committed by an adult. 62112

(f) Felony delinquents who are described in divisions 62113  
(A)(13)(a) to (e) of this section, who have been granted a 62114  
judicial release to court supervision under division (B) of 62115  
section 2152.22 of the Revised Code or a judicial release to the 62116  
department of youth services supervision under division (C) of 62117  
that section from the commitment to the department of youth 62118  
services for the act described in divisions (A)(13)(a) to (e) of 62119  
this section, who have violated the terms and conditions of that 62120  
release, and who, pursuant to an order of the court of the county 62121  
in which the particular felony delinquent was placed on release 62122  
that is issued pursuant to division (D) of section 2152.22 of the 62123  
Revised Code, have been returned to the department for 62124  
institutionalization or institutionalization in a secure facility. 62125

(g) Felony delinquents who have been committed to the custody 62126  
of the department of youth services, who have been granted 62127  
supervised release from the commitment pursuant to section 5139.51 62128  
of the Revised Code, who have violated the terms and conditions of 62129  
that supervised release, and who, pursuant to an order of the 62130  
court of the county in which the particular child was placed on 62131  
supervised release issued pursuant to division (F) of section 62132  
5139.52 of the Revised Code, have had the supervised release 62133  
revoked and have been returned to the department for 62134  
institutionalization. A felony delinquent described in this 62135  
division shall be a public safety bed only for the time during 62136  
which the felony delinquent is institutionalized as a result of 62137  
the revocation subsequent to the initial thirty-day period of 62138  
institutionalization required by division (F) of section 5139.52 62139  
of the Revised Code. 62140

~~(14) "State target youth" means twenty five per cent of the 62141  
projected total number of felony delinquents for each year of a 62142  
biennium, factoring in revocations and recommitments. 62143~~

~~(15)~~ Unless the context requires a different meaning, 62144



"community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

~~(16)~~(15) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

~~(17)~~(16) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

~~(18)~~(17) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

~~(19)~~(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the ~~person's~~ or felony delinquent's planned release, and that the department imposes upon the ~~person~~ or felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a  
misdemeanor; 62175  
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(c) An act that is not described in division (A)~~(19)~~(18)(a)  
or (b) of this section and that violates an institutional rule of 62177  
conduct of the department. 62178  
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~~(20)~~(19) "Unruly child" has the same meaning as in section 62180  
2151.022 of the Revised Code. 62181

~~(21)~~(20) "Revocation" means the act of revoking a child's 62182  
supervised release for a violation of a term or condition of the 62183  
child's supervised release in accordance with section 5139.52 of 62184  
the Revised Code. 62185

~~(22)~~(21) "Release authority" means the release authority of 62186  
the department of youth services that is established by section 62187  
5139.50 of the Revised Code. 62188

~~(23)~~(22) "Supervised release" means the event of the release 62189  
of a child under this chapter from an institution and the period 62190  
after that release during which the child is supervised and 62191  
assisted by an employee of the department of youth services under 62192  
specific terms and conditions for reintegration of the child into 62193  
the community. 62194

~~(24)~~(23) "Victim" means the person identified in a police 62195  
report, complaint, or information as the victim of an act that 62196  
would have been a criminal offense if committed by an adult and 62197  
that provided the basis for adjudication proceedings resulting in 62198  
a child's commitment to the legal custody of the department of 62199  
youth services. 62200

~~(25)~~(24) "Victim's representative" means a member of the 62201  
victim's family or another person whom the victim or another 62202  
authorized person designates in writing, pursuant to section 62203  
5139.56 of the Revised Code, to represent the victim with respect 62204

to proceedings of the release authority of the department of youth 62205  
services and with respect to other matters specified in that 62206  
section. 62207

~~(26)~~(25) "Member of the victim's family" means a spouse, 62208  
child, stepchild, sibling, parent, stepparent, grandparent, other 62209  
relative, or legal guardian of a child but does not include a 62210  
person charged with, convicted of, or adjudicated a delinquent 62211  
child for committing a criminal or delinquent act against the 62212  
victim or another criminal or delinquent act arising out of the 62213  
same conduct, criminal or delinquent episode, or plan as the 62214  
criminal or delinquent act committed against the victim. 62215

~~(27)~~(26) "Judicial release to court supervision" means a 62216  
release of a child from institutional care or institutional care 62217  
in a secure facility that is granted by a court pursuant to 62218  
division (B) of section 2152.22 of the Revised Code during the 62219  
period specified in that division. 62220

~~(28)~~(27) "Judicial release to department of youth services 62221  
supervision" means a release of a child from institutional care or 62222  
institutional care in a secure facility that is granted by a court 62223  
pursuant to division (C) of section 2152.22 of the Revised Code 62224  
during the period specified in that division. 62225

~~(29)~~(28) "Juvenile justice system" includes all of the 62226  
functions of the juvenile courts, the department of youth 62227  
services, any public or private agency whose purposes include the 62228  
prevention of delinquency or the diversion, adjudication, 62229  
detention, or rehabilitation of delinquent children, and any of 62230  
the functions of the criminal justice system that are applicable 62231  
to children. 62232

~~(30)~~(29) "Metropolitan county criminal justice services 62233  
agency" means an agency that is established pursuant to division 62234  
(A) of section 181.54 of the Revised Code. 62235

~~(31)~~(30) "Administrative planning district" means a district 62236  
that is established pursuant to division (A) or (B) of section 62237  
181.56 of the Revised Code. 62238

~~(32)~~(31) "Criminal justice coordinating council" means a 62239  
criminal justice services agency that is established pursuant to 62240  
division (D) of section 181.56 of the Revised Code. 62241

~~(33)~~(32) "Comprehensive plan" means a document that 62242  
coordinates, evaluates, and otherwise assists, on an annual or 62243  
multi-year basis, all of the functions of the juvenile justice 62244  
systems of the state or a specified area of the state, that 62245  
conforms to the priorities of the state with respect to juvenile 62246  
justice systems, and that conforms with the requirements of all 62247  
federal criminal justice acts. These functions include, but are 62248  
not limited to, all of the following: 62249

(a) Delinquency; 62250

(b) Identification, detection, apprehension, and detention of 62251  
persons charged with delinquent acts; 62252

(c) Assistance to crime victims or witnesses, except that the 62253  
comprehensive plan does not include the functions of the attorney 62254  
general pursuant to sections 109.91 and 109.92 of the Revised 62255  
Code; 62256

(d) Adjudication or diversion of persons charged with 62257  
delinquent acts; 62258

(e) Custodial treatment of delinquent children; 62259

(f) Institutional and noninstitutional rehabilitation of 62260  
delinquent children. 62261

(B) There is hereby created the department of youth services. 62262  
The governor shall appoint the director of the department with the 62263  
advice and consent of the senate. The director shall hold office 62264  
during the term of the appointing governor but subject to removal 62265

at the pleasure of the governor. Except as otherwise authorized in 62266  
section 108.05 of the Revised Code, the director shall devote the 62267  
director's entire time to the duties of the director's office and 62268  
shall hold no other office or position of trust or profit during 62269  
the director's term of office. 62270

The director is the chief executive and administrative 62271  
officer of the department and has all the powers of a department 62272  
head set forth in Chapter 121. of the Revised Code. The director 62273  
may adopt rules for the government of the department, the conduct 62274  
of its officers and employees, the performance of its business, 62275  
and the custody, use, and preservation of the department's 62276  
records, papers, books, documents, and property. The director 62277  
shall be an appointing authority within the meaning of Chapter 62278  
124. of the Revised Code. Whenever this or any other chapter or 62279  
section of the Revised Code imposes a duty on or requires an 62280  
action of the department, the duty or action shall be performed by 62281  
the director or, upon the director's order, in the name of the 62282  
department. 62283

**Sec. 5139.04.** The department of youth services shall do all 62284  
of the following: 62285

(A) Support service districts through a central 62286  
administrative office that shall have as its administrative head a 62287  
deputy director who shall be appointed by the director of the 62288  
department. When a vacancy occurs in the office of that deputy 62289  
director, an assistant deputy director shall act as that deputy 62290  
director until the vacancy is filled. The position of deputy 62291  
director and assistant deputy director described in this division 62292  
shall be in the unclassified civil service of the state. 62293

(B) Receive custody of all children committed to it under 62294  
Chapter 2152. of the Revised Code, cause a study to be made of 62295  
those children, and issue any orders, as it considers best suited 62296

to the needs of any of those children and the interest of the public, for the treatment of each of those children; 62297  
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(C) Obtain personnel necessary for the performance of its duties; 62299  
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~~(D) Train or provide for training of probation and youth correction workers;~~ 62301  
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~~(E)~~ Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter; 62303  
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~~(F)~~(E) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year; 62307  
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~~(G)~~(F) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods; 62310  
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62312

~~(H) Receive reports from the juvenile courts under division (C)(3)(b) of section 5139.43 of the Revised Code and prepare an annual report of state juvenile court statistics and information based upon those reports. The department shall make available a copy of the annual report to the governor and members of the general assembly upon request.~~ 62313  
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~~(I)~~(G) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department; 62319  
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~~(J)~~(H) Do all other acts necessary or desirable to carry out this chapter. 62324  
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**Sec. 5139.33.** (A) The department of youth services shall make 62326

grants in accordance with this section to encourage counties to 62327  
use community-based programs and services for juveniles who are 62328  
adjudicated delinquent children for the commission of acts that 62329  
would be felonies if committed by an adult. 62330

(B) Each county seeking a grant under this section shall file 62331  
an application with the department of youth services. The 62332  
application shall be filed at the time and in accordance with 62333  
procedures established by the department in rules adopted under 62334  
this section. Each application shall be accompanied by a plan 62335  
designed to reduce the county's commitment percentage, or to 62336  
enable it to maintain or attain a commitment percentage that is 62337  
equal to or below the statewide average commitment percentage. A 62338  
county's commitment percentage is the percentage determined by 62339  
dividing the number of juveniles the county committed to the 62340  
department during the year by the number of juveniles who were 62341  
eligible to be committed. The statewide average commitment 62342  
percentage is the percentage determined by dividing the number of 62343  
juveniles in the state committed to the department during the year 62344  
by the number of juveniles who were eligible to be committed. 62345  
These percentages shall be determined by the department using the 62346  
most reliable data available to it. 62347

Each plan shall include a method of ensuring equal access for 62348  
minority youth to the programs and services for which the grant 62349  
will be used. 62350

The department shall review each application and plan to 62351  
ensure that the requirements of this division are satisfied. Any 62352  
county applying for a grant under this section that received a 62353  
grant under this section during the preceding year and that failed 62354  
to meet its commitment goals for that year shall make the changes 62355  
in its plan that the department requires in order to continue to 62356  
be eligible for grants under this section. 62357

(C) Subject to division (E) of this section, the amounts 62358

appropriated for the purpose of making grants under this section 62359  
shall be distributed annually on a per capita basis among the 62360  
counties that have complied with division (B) of this section. 62361

(D) The department shall adopt rules to implement this 62362  
section. The rules shall include, but are not limited to, 62363  
procedures and schedules for submitting applications and plans 62364  
under this section, including procedures allowing joint-county 62365  
applications and plans; and procedures for monitoring and 62366  
evaluating the effectiveness of the programs and services financed 62367  
with grant money, the enhancement of the use of local facilities 62368  
and services, and the adequacy of the supervision and treatment 62369  
provided to juveniles by those programs and services. 62370

(E)(1) Three months prior to the implementation of the felony 62371  
delinquent care and custody program described in section 5139.43 62372  
of the Revised Code, each county that is entitled to a grant under 62373  
this section shall receive its grant money for the fiscal year or 62374  
the remainder of its grant money for the fiscal year, other than 62375  
any grant money to which it is entitled and that is set aside by 62376  
the department of youth services for purposes of division (E)(2) 62377  
of this section. The grant money so distributed shall be paid in a 62378  
lump sum. 62379

(2) During the first twelve months that the felony delinquent 62380  
care and custody program described in section 5139.43 of the 62381  
Revised Code is implemented in a county, any grant or the 62382  
remainder of any grant to which a county is entitled and that is 62383  
payable from the appropriation made to the department of youth 62384  
services for community sanctions shall be distributed as follows: 62385

(a) In the first quarter of the twelve-month period, the 62386  
county shall receive one hundred per cent of the quarterly 62387  
distribution. 62388

(b) In the second quarter of the twelve-month period, the 62389



county shall receive seventy-five per cent of the quarterly  
distribution. 62390  
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(c) In the third quarter of the twelve-month period, the  
county shall receive fifty per cent of the quarterly distribution. 62392  
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(d) In the fourth quarter of the twelve-month period, the  
county shall receive twenty-five per cent of the quarterly  
distribution. 62394  
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(3) Grant moneys received pursuant to divisions (E)(1) and  
(2) of this section shall be transmitted by the juvenile court of  
the recipient county to the county treasurer, shall be deposited  
by the county treasurer into the felony delinquent care and  
custody fund created pursuant to division ~~(C)~~(B)(1) of section  
5139.43 of the Revised Code, and shall be used by the juvenile  
court in accordance with division ~~(C)~~(B)(2) of that section. The  
grant moneys shall be in addition to, and shall not be used to  
reduce, any usual annual increase in county funding that the  
juvenile court is eligible to receive or the current level of  
county funding of the juvenile court and of any programs or  
services for delinquent children, unruly children, or juvenile  
traffic offenders. 62397  
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(4) One year after the commencement of its operation of the  
felony delinquent care and custody program described in section  
5139.43 of the Revised Code, the department shall not make any  
further grants under this section. 62410  
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**Sec. 5139.34.** (A) Funds may be appropriated to the department  
of youth services for the purpose of granting state subsidies to  
counties. A county or the juvenile court that serves a county  
shall use state subsidies granted to the county pursuant to this  
section only in accordance with divisions ~~(C)~~(B)(2)(a) and (3)(a)  
of section 5139.43 of the Revised Code and the rules pertaining to  
the state subsidy funds that the department adopts pursuant to  
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division ~~(E)~~(D) of section 5139.04 of the Revised Code. The 62421  
department shall not grant financial assistance pursuant to this 62422  
section for the provision of care and services for children in a 62423  
~~foster care~~ placement facility unless the facility has been 62424  
certified, licensed, or approved by a state or national agency 62425  
with certification, licensure, or approval authority, including, 62426  
but not limited to, the department of job and family services, 62427  
department of education, department of mental health, ~~or~~ 62428  
department of mental retardation and developmental disabilities, 62429  
or American Correctional Association. For the purposes of this 62430  
section, ~~foster care~~ placement facilities do not include a state 62431  
institution or a county or district children's home. 62432

The department also shall not grant financial assistance 62433  
pursuant to this section for the provision of care and services 62434  
for children, including, but not limited to, care and services in 62435  
a detention facility, in another facility, or in out-of-home 62436  
placement, unless the minimum standards applicable to the care and 62437  
services that the department prescribes in rules adopted pursuant 62438  
to division ~~(E)~~(D) of section 5139.04 of the Revised Code have 62439  
been satisfied. 62440

(B) The department of youth services shall apply the 62441  
following formula to determine the amount of the annual grant that 62442  
each county is to receive pursuant to division (A) of this 62443  
section, subject to the appropriation for this purpose to the 62444  
department made by the general assembly: 62445

(1) Each county shall receive a basic annual grant of fifty 62446  
thousand dollars. 62447

(2) The sum of the basic annual grants provided under 62448  
division (B)(1) of this section shall be subtracted from the total 62449  
amount of funds appropriated to the department of youth services 62450  
for the purpose of making grants pursuant to division (A) of this 62451  
section to determine the remaining portion of the funds 62452

appropriated. The remaining portion of the funds appropriated 62453  
shall be distributed on a per capita basis to each county that has 62454  
a population of more than twenty-five thousand for that portion of 62455  
the population of the county that exceeds twenty-five thousand. 62456

(C)(1) Prior to a county's receipt of an annual grant 62457  
pursuant to this section, the juvenile court that serves the 62458  
county shall prepare, submit, and file in accordance with division 62459  
~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual 62460  
grant agreement and application for funding that is for the 62461  
combined purposes of, and that satisfies the requirements of, this 62462  
section and section 5139.43 of the Revised Code. In addition to 62463  
the subject matters described in division ~~(C)~~(B)(3)(a) of section 62464  
5139.43 of the Revised Code or in the rules that the department 62465  
adopts to implement that division, the annual grant agreement and 62466  
application for funding shall address fiscal accountability and 62467  
performance matters pertaining to the programs, care, and services 62468  
that are specified in the agreement and application and for which 62469  
state subsidy funds granted pursuant to this section will be used. 62470

(2) The county treasurer of each county that receives an 62471  
annual grant pursuant to this section shall deposit the state 62472  
subsidy funds so received into the county's felony delinquent care 62473  
and custody fund created pursuant to division ~~(C)~~(B)(1) of section 62474  
5139.43 of the Revised Code. Subject to exceptions prescribed in 62475  
section 5139.43 of the Revised Code that may apply to the 62476  
disbursement, the department shall disburse the state subsidy 62477  
funds to which ~~each county is entitled as follows:~~ 62478

~~(a) Except as provided in division (C)(2)(b) of this section,~~ 62479  
~~the department shall disburse the state subsidy funds to which a~~ 62480  
county is entitled in a lump sum payment that shall be made in 62481  
July of each calendar year. 62482

~~(b) In the case of state subsidy funds to which a county is~~ 62483  
~~entitled for fiscal year 1998, the department shall disburse the~~ 62484

~~state subsidy funds to the county in two distinct payments in 62485  
accordance with this division. The department shall disburse 62486  
seventy five per cent of those state subsidy funds to the county 62487  
in July 1997. After the department reviews and reconciles the 62488  
applicable reports that the juvenile court of the county is 62489  
required to prepare and submit to the department pursuant to 62490  
section 5139.43 of the Revised Code, the department shall disburse 62491  
to the county in October 1997, the remainder of the state subsidy 62492  
funds to which the county is entitled. 62493~~

(3) Upon an order of the juvenile court that serves a county 62494  
and subject to appropriation by the board of county commissioners 62495  
of that county, a county treasurer shall disburse from the 62496  
county's felony delinquent care and custody fund the state subsidy 62497  
funds granted to the county pursuant to this section for use only 62498  
in accordance with this section, the applicable provisions of 62499  
section 5139.43 of the Revised Code, and the county's approved 62500  
annual grant agreement and application for funding. 62501

(4) The moneys in a county's felony delinquent care and 62502  
custody fund that represent state subsidy funds granted pursuant 62503  
to this section are subject to appropriation by the board of 62504  
county commissioners of the county; shall be disbursed by the 62505  
county treasurer as required by division (C)(3) of this section; 62506  
shall be used in the manners referred to in division (C)(3) of 62507  
this section; shall not revert to the county general fund at the 62508  
end of any fiscal year; shall carry over in the felony delinquent 62509  
care and custody fund from the end of any fiscal year to the next 62510  
fiscal year; shall be in addition to, and shall not be used to 62511  
reduce, any usual annual increase in county funding that the 62512  
juvenile court is eligible to receive or the current level of 62513  
county funding of the juvenile court and of any programs, care, or 62514  
services for alleged or adjudicated delinquent children, unruly 62515  
children, or juvenile traffic offenders or for children who are at 62516

risk of becoming delinquent children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions ~~(C)~~(B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

**Sec. 5139.36.** (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents

to the programs and services for which a potential grant would be used. 62548  
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(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it. 62550  
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(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements: 62555  
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(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth services and be designated as a community corrections facility; 62559  
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(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility; 62564  
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(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks: 62567  
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(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department; 62570  
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(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility. 62573  
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(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the 62576  
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Revised Code and demonstrate that felony delinquents served by the 62578  
facility have been or will be diverted from a commitment to the 62579  
department. 62580

(D) The department of youth services shall determine the 62581  
method of distribution of the funds appropriated for grants under 62582  
this section to community corrections facilities. 62583

~~(E) With the consent of a committing court and of a community 62584  
corrections facility that has received a grant under this section,  
the department of youth services may place in that facility a 62585  
felony delinquent who has been committed to the department. During 62586  
the period in which the felony delinquent is in that facility, the 62587  
felony delinquent~~ (1) The department of youth services shall adopt 62588  
rules in accordance with Chapter 119. of the Revised Code to 62589  
establish the minimum occupancy threshold of community corrections 62590  
facilities. 62591  
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(2) The department may make referrals for the placement of 62593  
children in its custody to a community corrections facility if the 62594  
community corrections facility is not meeting the minimum 62595  
occupancy threshold established by the department. At least 62596  
forty-five days prior to the referral of a child, the department 62597  
shall notify the committing court of its intent to place the child 62598  
in a community corrections facility. The court shall have thirty 62599  
days after the receipt of the notice to approve or disapprove the 62600  
placement. If the court does not respond to the notice of the 62601  
placement within that thirty-day period, the department shall 62602  
proceed with the placement and debit the county in accordance with 62603  
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 62604  
a community corrections facility pursuant to this division shall 62605  
remain in the legal custody of the department of youth services 62606  
during the period in which the child is in the community 62607  
corrections facility. 62608

(3) Counties that are not associated with a community 62609

corrections facility may refer children to a community corrections 62610  
facility with the consent of the facility. The department of youth 62611  
services shall debit the county that makes the referral in 62612  
accordance with sections 5139.41 to 5139.45 of the Revised Code. 62613

(F) If the board or other governing body of a community 62614  
corrections facility establishes an advisory board, the board or 62615  
other governing authority of the community corrections facility 62616  
shall reimburse the members of the advisory board for their actual 62617  
and necessary expenses incurred in the performance of their 62618  
official duties on the advisory board. The members of advisory 62619  
boards shall serve without compensation. 62620

**Sec. 5139.41.** ~~On and after January 1, 1995, the~~ The 62621  
appropriation made to the department of youth services for care 62622  
and custody of felony delinquents shall be expended in accordance 62623  
with ~~a formula~~ the following procedure that the department shall 62624  
~~develop~~ use for each year of a biennium. The ~~formula~~ procedure 62625  
shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of 62626  
the Revised Code and shall be developed in accordance with the 62627  
following guidelines: 62628

(A) ~~The department shall set aside at least three per cent~~ 62629  
~~but not more than five per cent of the appropriation for purposes~~ 62630  
~~of funding the contingency program described in section 5139.45 of~~ 62631  
~~the Revised Code and of use in accordance with that section.~~ 62632

~~(B)(1) After setting aside the amount described in division~~ 62633  
~~(A) of this section, the department shall set aside twenty five~~ 62634  
~~per cent of the remainder of the appropriation and use that amount~~ 62635  
~~for the purpose described in division (B)(2) of this section and~~ 62636  
~~to pay certain of the operational costs associated with, and to~~ 62637  
~~provide cash flow for, the following:~~ 62638

~~(a) Institutions;~~ 62639



~~(b) The diagnosis, care, or treatment of felony delinquents at institutions, facilities, or centers pursuant to contracts entered into under section 5139.08 of the Revised Code:~~

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~~(c) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions.~~

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~~(2) The department may use a portion of the twenty five per cent of the remainder of the appropriation set aside pursuant to division (B)(1) of this section for administrative expenses incurred by the department in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code and the associated contingency program described in section 5139.45 of the Revised Code.~~

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~~(C) After setting aside the amounts described in divisions (A) and (B)(1) of this section, the department shall set aside the amount of the appropriation that is equal to twenty five per cent of the amount that is calculated by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of bed days that the department projects for occupancy in community corrections facilities described in division (B)(1)(c) of this section. The department shall use the amount of the appropriation that is set aside pursuant to this division to pay the percentage of the per diem cost for the care and custody of felony delinquents who are in the care and custody of community corrections facilities described in division (B)(1)(c) of this section for which the department is responsible under sections 5139.41 to 5139.45 of the Revised Code.~~

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~~(D) After setting aside the amounts described in divisions~~

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~~(A) to (C) of this section, the department shall set aside the amount of the appropriation that is necessary to pay seventy five per cent of the per diem cost of public safety beds and shall use that amount for the purpose of paying that per diem cost.~~

~~(E) After setting aside the amounts described in divisions (A) to (D) of this section, the department shall use the remainder of the appropriation in connection with the felony delinquent care and custody program described in section 5139.43 of the Revised Code, except that, for fiscal year 2002 and fiscal year 2003 and only for those two fiscal years, the total number of beds available to all counties via public safety beds and county allocations shall not be less than the total beds used by all the counties during fiscal year 2000 funded by care and custody chargebacks (Line Item 401) and as public safety beds.~~

~~(F) If the department's appropriation for a fiscal year is subsequently revised by law or its expenditures ordered to be reduced by executive order under section 126.05 of the Revised Code, the department may adjust the amounts described in divisions (A) to (E) of this section in a manner consistent with the revision or reduction. The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:~~

~~(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;~~

~~(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;~~

~~(3) County juvenile courts that administer programs and~~

services for prevention, early intervention, diversion, treatment, 62702  
and rehabilitation services and programs that are provided for 62703  
alleged or adjudicated unruly or delinquent children or for 62704  
children who are at risk of becoming unruly or delinquent 62705  
children; 62706

(4) Administrative expenses the department incurs in 62707  
connection with the felony delinquent care and custody programs 62708  
described in section 5139.43 of the Revised Code. 62709

(B) From the appropriated line item for the care and custody 62710  
of felony delinquents, the department, with the advice of the 62711  
RECLAIM advisory committee established under section 5139.44 of 62712  
the Revised Code, shall allocate annual operational funds for 62713  
county juvenile programs, institutional care and custody, 62714  
community corrections facilities care and custody, and 62715  
administrative expenses incurred by the department associated with 62716  
felony delinquent care and custody programs. The department, with 62717  
the advice of the RECLAIM advisory committee, shall adjust these 62718  
allocations, when modifications to this line item are made by 62719  
legislative or executive action. 62720

(C) The department shall divide county juvenile program 62721  
allocations among county juvenile courts that administer programs 62722  
and services for prevention, early intervention, diversion, 62723  
treatment, and rehabilitation that are provided for alleged or 62724  
adjudicated unruly or delinquent children or for children who are 62725  
at risk of becoming unruly or delinquent children. The department 62726  
shall base funding on the county's previous year's ratio of the 62727  
department's institutional and community correctional facilities 62728  
commitments to that county's four year average of felony 62729  
adjudications, divided by statewide ratios of commitments to 62730  
felony adjudications, as specified in the following formula: 62731

(1) The department shall give to each county a proportional 62732  
allocation of commitment credits. The proportional allocation of 62733

commitment credits shall be calculated by the following 62734  
procedures: 62735

(a) The department shall determine for each county and for 62736  
the state a four year average of felony adjudications. 62737

(b) The department shall determine for each county and for 62738  
the state the number of charged bed days, for both the department 62739  
and community correctional facilities, from the previous year. 62740

(c) The department shall divide the statewide total number of 62741  
charged bed days by the statewide total number of felony 62742  
adjudications, which quotient shall then be multiplied by a factor 62743  
determined by the department. 62744

(d) The department shall calculate the county's allocation of 62745  
credits by multiplying the number of adjudications for each court 62746  
by the result determined pursuant to division (C)(1)(c) of this 62747  
section. 62748

(2) The department shall subtract from the allocation 62749  
determined pursuant to division (C)(1) of this section a credit 62750  
for every chargeable bed day a youth stays in a department 62751  
institution and two-thirds of credit for every chargeable bed day 62752  
a youth stays in a community correctional facility. At the end of 62753  
the year, the department shall divide the amount of remaining 62754  
credits of that county's allocation by the total number of 62755  
remaining credits to all counties, to determine the county's 62756  
percentage, which shall then be applied to the total county 62757  
allocation to determine the county's payment for the fiscal year. 62758

(3) The department shall pay counties three times during the 62759  
fiscal year to allow for credit reporting and audit adjustments, 62760  
and modifications to the appropriated line item for the care and 62761  
custody of felony delinquents, as described in this section. The 62762  
department shall pay fifty per cent of the payment by the 62763  
fifteenth of July of each fiscal year, twenty-five per cent by the 62764

fifteenth of January of that fiscal year, and twenty-five per cent 62765  
of the payment by the fifteenth of June of that fiscal year. 62766

(D) In fiscal year 2004, the payment of county juvenile 62767  
programs shall be based on the following procedure: 62768

(1) The department shall divide the funding earned by each 62769  
court in fiscal year 2003 by the aggregate funding of all courts, 62770  
resulting in a percentage. 62771

(2) The department shall apply the percentage determined 62772  
under division (D)(1) of this section to the total county juvenile 62773  
program allocation for fiscal year 2004 to determine each court's 62774  
total payment. 62775

(3) The department shall make payments in accordance with the 62776  
schedule established in division (C)(3) of this section. 62777

**Sec. 5139.43.** (A) The department of youth services shall 62778  
operate a felony delinquent care and custody program ~~with the~~ 62779  
~~remainder of the appropriation described in division (E) of~~ 62780  
~~section 5139.41 of the Revised Code. The program that shall be~~ 62781  
operated in accordance with the formula developed pursuant to 62782  
~~sections~~ section 5139.41 and ~~5139.42~~ of the Revised Code, subject 62783  
to the conditions specified in this section, ~~and in conjunction~~ 62784  
~~with the contingency program described in section 5139.45 of the~~ 62785  
~~Revised Code.~~ 62786

(B)(1) ~~The department of youth services annually shall~~ 62787  
~~allocate to each county a portion of the remainder of the~~ 62788  
~~appropriation described in division (E) of section 5139.41 of the~~ 62789  
~~Revised Code. The portion to be allocated to each county shall be~~ 62790  
~~determined by multiplying the county's percentage determined under~~ 62791  
~~division (E) of section 5139.42 of the Revised Code by the amount~~ 62792  
~~of that remainder. The department shall divide the portion to be~~ 62793  
~~allocated to each county by twelve or, if in a particular fiscal~~ 62794

~~year the felony delinquent care and custody program is in effect 62795  
in a county less than twelve months, by the number of months the 62796  
program is in effect in that county to determine the monthly 62797  
allocation to that county. 62798~~

~~(2)(a) Except as provided in divisions (B)(2)(b) and (E) of 62799  
this section, the department shall reduce the monthly allocation 62800  
for each fiscal year to each county as determined under division 62801  
(B)(1) of this section by both of the following: 62802~~

~~(i) Seventy five per cent of the amount determined by 62803  
multiplying the per diem cost for the care and custody of felony 62804  
delinquents, as determined pursuant to division (D) of section 62805  
5139.42 of the Revised Code, by the number of felony delinquents 62806  
who have been adjudicated delinquent children and, except as 62807  
otherwise provided in divisions (B)(2)(a) and (3) of this section, 62808  
who are in the care and custody of an institution pursuant to a 62809  
commitment, recommitment, or revocation of a release by the 62810  
juvenile court of that county; 62811~~

~~(ii) Fifty per cent of the amount determined by multiplying 62812  
the per diem cost for the care and custody of felony delinquents, 62813  
as determined pursuant to division (D) of section 5139.42 of the 62814  
Revised Code, by the number of felony delinquents who have been 62815  
adjudicated delinquent children and, except as otherwise provided 62816  
in division (B)(3) of this section, who are in the care and 62817  
custody of a community corrections facility pursuant to a 62818  
placement by the department with the consent of the juvenile court 62819  
of that county as described in division (E) of section 5139.36 of 62820  
the Revised Code. 62821~~

~~Public safety beds shall not be included in the number of 62822  
felony delinquents who have been adjudicated delinquent children 62823  
by a juvenile court in making the seventy five per cent reduction 62824  
described in division (B)(2)(a)(i) of this section. The department 62825  
shall bear the care and custody costs associated with public 62826~~

~~safety beds.~~ 62827

~~(b) If a county has exhausted its current and future monthly allocations for the current fiscal year as determined under division (B)(1) of this section, the department shall bear the remainder of the amounts calculated under divisions (B)(2)(a)(i) and (ii) of this section for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release or in the care and custody of a community corrections facility by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of the Revised Code.~~ 62828  
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~~(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section and subject to the special provisions of division (B)(3)(b) of this section pertaining to monthly allocations under divisions (B)(1) and (2)(a) of this section for the month of June, after the application of division (B)(2)(a) of this section and on or before the fifteenth day of the following month, the department shall disburse to the juvenile court of each county the remainder of the monthly allocation of that county as determined pursuant to divisions (B)(1) and (2)(a) of this section.~~ 62841  
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~~(b)(i) For the monthly allocation for the month of June of each fiscal year, the department shall estimate for each county the number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than use the actual number of those felony delinquents, shall use the estimated number of those felony delinquents in making the seventy five per cent and fifty per cent reductions described in those divisions, and shall encumber the remainder of the estimated monthly allocation~~ 62851  
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~~of each county for the month of June, as determined pursuant to 62859  
divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for 62860  
disbursement in the month of July of the next fiscal year in 62861  
accordance with division (B)(3)(b)(ii) of this section. If the 62862  
total of the seventy five per cent and fifty per cent reductions 62863  
described in division (B)(2)(a) of this section exceeds the 62864  
estimated monthly allocation of a county for the month of June as 62865  
so determined, the department may cover the amount of the excess 62866  
by debiting, in accordance with division (C)(2) of section 5139.45 62867  
of the Revised Code, the amount of the appropriation for care and 62868  
custody of felony delinquents that was set aside for the 62869  
contingency program pursuant to division (A) of section 5139.41 of 62870  
the Revised Code. 62871~~

~~(ii) In the month of July of each new fiscal year, the 62872  
department shall reconcile for each county the estimated 62873  
reductions that occurred pursuant to divisions (B)(2)(a) and 62874  
(3)(b)(i) of this section and the reductions that should have 62875  
occurred pursuant to division (B)(2)(a) of this section by using 62876  
the actual number of felony delinquents described in divisions 62877  
(B)(2)(a)(i) and (ii) of this section for the month of June of the 62878  
prior fiscal year. After that reconciliation occurs, subject to 62879  
divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, 62880  
the department shall disburse to each county the remainder of its 62881  
monthly allocation for the month of June of the prior fiscal year 62882  
as adjusted pursuant to the reconciliation and division 62883  
(B)(3)(b)(ii) of this section. 62884~~

~~In connection with the adjustments in the monthly allocations 62885  
for the month of June of the prior fiscal year, if the encumbered 62886  
monthly allocations of one or more counties for that month exceed 62887  
or are less than the monthly allocations for that month to which 62888  
those counties are entitled under divisions (B)(1) and (2)(a) of 62889  
this section by using the actual number of felony delinquents 62890~~



~~described in divisions (B)(2)(a)(i) and (ii) of this section 62891  
rather than the estimated number of those felony delinquents, the 62892  
department may make the necessary adjustments in the monthly 62893  
allocations of those counties for the month of June of the prior 62894  
fiscal year within the total of the moneys for monthly allocations 62895  
for that month that were encumbered for all of the counties. If 62896  
that total amount is insufficient to make the requisite monthly 62897  
allocations for that month to all counties in accordance with 62898  
divisions (B)(1) and (2)(a) of this section, the department shall 62899  
cover the insufficiency by debiting, in accordance with division 62900  
(C)(2) of section 5139.45 of the Revised Code, the amount of the 62901  
appropriation for care and custody of felony delinquents that was 62902  
set aside for the contingency program pursuant to division (A) of 62903  
section 5139.41 of the Revised Code. 62904~~

~~(4) Notwithstanding the general disbursement requirements of 62905  
division (B)(3)(a) and (b)(ii) of this section, if a juvenile 62906  
court fails to comply with division (C)(3)(d) of this section and 62907  
the department is not able to reconcile fiscal accounting as a 62908  
consequence of that failure, the department is not required to 62909  
make any disbursement in accordance with division (B)(3)(a) or 62910  
(b)(ii) of this section to the juvenile court until it complies 62911  
with division (C)(3)(d) of this section. 62912~~

~~(C)(1) Each juvenile court shall use the moneys disbursed to 62913  
it by the department of youth services pursuant to division (B) of 62914  
this section 5139.41 of the Revised Code in accordance with the 62915  
applicable provisions of division ~~(C)~~(B)(2) of this section and 62916  
shall transmit the moneys to the county treasurer for deposit in 62917  
accordance with this division. The county treasurer shall create 62918  
in the county treasury a fund that shall be known as the felony 62919  
delinquent care and custody fund and shall deposit in that fund 62920  
the moneys disbursed to the juvenile court pursuant to division 62921  
(B) of ~~this~~ section 5139.41 of the Revised Code. The county 62922~~

treasurer also shall deposit into that fund the state subsidy 62923  
funds granted to the county pursuant to section 5139.34 of the 62924  
Revised Code. The moneys disbursed to the juvenile court pursuant 62925  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62926  
deposited pursuant to this division in the felony delinquent care 62927  
and custody fund shall not be commingled with any other county 62928  
funds except state subsidy funds granted to the county pursuant to 62929  
section 5139.34 of the Revised Code; shall not be used for any 62930  
capital construction projects; upon an order of the juvenile court 62931  
and subject to appropriation by the board of county commissioners, 62932  
shall be disbursed to the juvenile court for use in accordance 62933  
with the applicable provisions of division ~~(C)~~(B)(2) of this 62934  
section; shall not revert to the county general fund at the end of 62935  
any fiscal year; and shall carry over in the felony delinquent 62936  
care and custody fund from the end of any fiscal year to the next 62937  
fiscal year. The moneys disbursed to the juvenile court pursuant 62938  
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62939  
deposited pursuant to this division in the felony delinquent care 62940  
and custody fund shall be in addition to, and shall not be used to 62941  
reduce, any usual annual increase in county funding that the 62942  
juvenile court is eligible to receive or the current level of 62943  
county funding of the juvenile court and of any programs or 62944  
services for delinquent children, unruly children, or juvenile 62945  
traffic offenders. 62946

(2)(a) A county and the juvenile court that serves the county 62947  
shall use the moneys in its felony delinquent care and custody 62948  
fund in accordance with rules that the department of youth 62949  
services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of 62950  
the Revised Code and as follows: 62951

(i) The moneys in the fund that represent state subsidy funds 62952  
granted to the county pursuant to section 5139.34 of the Revised 62953  
Code shall be used to aid in the support of prevention, early 62954

intervention, diversion, treatment, and rehabilitation programs 62955  
that are provided for alleged or adjudicated unruly children or 62956  
delinquent children or for children who are at risk of becoming 62957  
unruly children or delinquent children. The county shall not use 62958  
for capital improvements more than fifteen per cent of the moneys 62959  
in the fund that represent the applicable annual grant of those 62960  
state subsidy funds. 62961

(ii) The moneys in the fund that were disbursed to the 62962  
juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of 62963  
the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of 62964  
this section in the fund shall be used to provide programs and 62965  
services for the training, treatment, or rehabilitation of felony 62966  
delinquents that are alternatives to their commitment to the 62967  
department, including, but not limited to, community residential 62968  
programs, day treatment centers, services within the home, and 62969  
electronic monitoring, and shall be used in connection with 62970  
training, treatment, rehabilitation, early intervention, or other 62971  
programs or services for any delinquent child, unruly child, or 62972  
juvenile traffic offender who is under the jurisdiction of the 62973  
juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this~~ 62974  
~~section, a delinquent child includes a child who is so adjudicated~~ 62975  
~~for the commission of an act that if committed by an adult would~~ 62976  
~~be a misdemeanor or felony.~~ 62977

~~If, during the previous state fiscal year, the county did not~~ 62978  
~~exceed in any month its monthly allocation as determined pursuant~~ 62979  
~~to division (B)(1) of this section in connection with felony~~ 62980  
~~delinquents described in divisions (B)(2)(a)(i) and (ii) of this~~ 62981  
~~section, the moneys in the fund that were disbursed to the~~ 62982  
~~juvenile court pursuant to division (B) of this section and~~ 62983  
~~deposited pursuant to division (C)(1) of this section in the~~ The 62984  
fund also may be used for prevention, early intervention, 62985  
diversion, treatment, and rehabilitation programs that are 62986

provided for alleged or adjudicated unruly children, delinquent 62987  
children, or juvenile traffic offenders or for children who are at 62988  
risk of becoming unruly children, delinquent children, or juvenile 62989  
traffic offenders. Consistent with division ~~(C)~~(B)(1) of this 62990  
section, a county and the juvenile court of a county shall not use 62991  
any of those moneys for capital construction projects. 62992

(iii) The county and the juvenile court that serves the 62993  
county may not use moneys in the fund for the provision of care 62994  
and services for children, including, but not limited to, care and 62995  
services in a detention facility, in another facility, or in 62996  
out-of-home placement, unless the minimum standards that apply to 62997  
the care and services and that the department prescribes in rules 62998  
adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the 62999  
Revised Code have been satisfied. 63000

(b) Each juvenile court shall comply with division 63001  
~~(C)~~(B)(3)(d) of this section as implemented by the department. ~~If~~ 63002  
~~a juvenile court fails to comply with that division and the~~ 63003  
~~department is not able to reconcile fiscal accounting as a~~ 63004  
~~consequence of the failure, the provisions of division (B)(4) of~~ 63005  
~~this section shall apply.~~ 63006

(3) In accordance with rules adopted by the department 63007  
pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised 63008  
Code, each juvenile court and the county served by that juvenile 63009  
court shall do all of the following that apply: 63010

(a) The juvenile court shall prepare an annual grant 63011  
agreement and application for funding that satisfies the 63012  
requirements of this section and section 5139.34 of the Revised 63013  
Code and that pertains to the use, upon an order of the juvenile 63014  
court and subject to appropriation by the board of county 63015  
commissioners, of the moneys in its felony delinquent care and 63016  
custody fund for specified programs, care, and services as 63017  
described in division ~~(C)~~(B)(2)(a) of this section, shall submit 63018

that agreement and application to the county family and children 63019  
first council, the regional family and children first council, or 63020  
the local intersystem services to children cluster as described in 63021  
sections 121.37 and 121.38 of the Revised Code, whichever is 63022  
applicable, and shall file that agreement and application with the 63023  
department for its approval. The annual grant agreement and 63024  
application for funding shall include a method of ensuring equal 63025  
access for minority youth to the programs, care, and services 63026  
specified in it. 63027

The department may approve an annual grant agreement and 63028  
application for funding only if the juvenile court involved has 63029  
complied with the preparation, submission, and filing requirements 63030  
described in division ~~(C)~~(B)(3)(a) of this section. If the 63031  
juvenile court complies with those requirements and the department 63032  
approves that agreement and application, the juvenile court and 63033  
the county served by the juvenile court may expend the state 63034  
subsidy funds granted to the county pursuant to section 5139.34 of 63035  
the Revised Code only in accordance with division ~~(C)~~(B)(2)(a) of 63036  
this section, the rules pertaining to state subsidy funds that the 63037  
department adopts pursuant to division ~~(E)~~(D) of section 5139.04 63038  
of the Revised Code, and the approved agreement and application. 63039

(b) By the thirty-first day of August of each year, the 63040  
juvenile court shall file with the department a report that 63041  
contains all of the statistical and other information for each 63042  
month of the prior state fiscal year ~~that will permit the~~ 63043  
~~department to prepare the report described in division (D) of this~~ 63044  
~~section and the annual report described in division (H) of section~~ 63045  
~~5139.04 of the Revised Code.~~ If the juvenile court fails to file 63046  
the report required by division ~~(C)~~(B)(3)(b) of this section by 63047  
the thirty-first day of August of any year, the department shall 63048  
not disburse any payment of state subsidy funds to which the 63049  
county otherwise is entitled pursuant to section 5139.34 of the 63050

Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63051  
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63052  
Code the applicable ~~monthly~~ allocation of ~~the county~~ until the 63053  
juvenile court fully complies with division ~~(C)~~(B)(3)(b) of this 63054  
section. 63055

(c) If the department requires the juvenile court to prepare 63056  
monthly statistical reports ~~for use under section 5139.42 of the~~ 63057  
~~Revised Code~~ and to submit the reports on forms provided by the 63058  
department, the juvenile court shall file those reports with the 63059  
department on the forms so provided. If the juvenile court fails 63060  
to prepare and submit those monthly statistical reports within the 63061  
department's timelines, the department shall not disburse any 63062  
payment of state subsidy funds to which the county otherwise is 63063  
entitled pursuant to section 5139.34 of the Revised Code and shall 63064  
not disburse pursuant to division (B)~~(3)(a)~~ ~~or (b)(ii)~~ of ~~this~~ 63065  
~~section the remainder of 5139.41 of the Revised Code~~ the 63066  
applicable ~~monthly~~ allocation of ~~the county~~ until the juvenile 63067  
court fully complies with division ~~(C)~~(B)(3)(c) of this section. 63068  
If the juvenile court fails to prepare and submit those monthly 63069  
statistical reports within one hundred eighty days of the date the 63070  
department establishes for their submission, the department shall 63071  
not disburse any payment of state subsidy funds to which the 63072  
county otherwise is entitled pursuant to section 5139.34 of the 63073  
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63074  
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63075  
Code the applicable ~~monthly~~ allocation of ~~the county~~, and the 63076  
state subsidy funds and the remainder of the applicable ~~monthly~~ 63077  
allocation shall revert to the department. If a juvenile court 63078  
states in a monthly statistical report that the juvenile court 63079  
adjudicated within a state fiscal year five hundred or more 63080  
children to be delinquent children for committing acts that would 63081  
be felonies if committed by adults and if the department 63082  
determines that the data in the report may be inaccurate, the 63083

juvenile court shall have an independent auditor or other 63084  
qualified entity certify the accuracy of the data on a date 63085  
determined by the department. 63086

(d) If the department requires the juvenile court and the 63087  
county to participate in a fiscal monitoring program or another 63088  
monitoring program that is conducted by the department to ensure 63089  
compliance by the juvenile court and the county with division 63090  
~~(C)~~(B) of this section, the juvenile court and the county shall 63091  
participate in the program and fully comply with any guidelines 63092  
for the performance of audits adopted by the department pursuant 63093  
to that program and all requests made by the department pursuant 63094  
to that program for information necessary to reconcile fiscal 63095  
accounting. If an audit that is performed pursuant to a fiscal 63096  
monitoring program or another monitoring program described in this 63097  
division determines that the juvenile court or the county used 63098  
moneys in the county's felony delinquent care and custody fund for 63099  
expenses that are not authorized under division ~~(C)~~(B) of this 63100  
section, within forty-five days after the department notifies the 63101  
county of the unauthorized expenditures, the county either shall 63102  
repay the amount of the unauthorized expenditures from the county 63103  
general revenue fund to the state's general revenue fund or shall 63104  
file a written appeal with the department. If an appeal is timely 63105  
filed, the director of the department shall render a decision on 63106  
the appeal and shall notify the appellant county or its juvenile 63107  
court of that decision within forty-five days after the date that 63108  
the appeal is filed. If the director denies an appeal, the 63109  
county's fiscal agent shall repay the amount of the unauthorized 63110  
expenditures from the county general revenue fund to the state's 63111  
general revenue fund within thirty days after receiving the 63112  
director's notification of the appeal decision. If the county 63113  
fails to make the repayment within that thirty-day period and if 63114  
the unauthorized expenditures pertain to moneys allocated under 63115  
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the 63116

department shall deduct the amount of the unauthorized 63117  
expenditures from the next ~~monthly~~ allocation of those moneys to 63118  
the county in accordance with this section or from the allocations 63119  
that otherwise would be made under those sections to the county 63120  
during the next state fiscal year in accordance with this section 63121  
and shall return that deducted amount to the state's general 63122  
revenue fund. If the county fails to make the repayment within 63123  
that thirty-day period and if the unauthorized expenditures 63124  
pertain to moneys granted pursuant to section 5139.34 of the 63125  
Revised Code, the department shall deduct the amount of the 63126  
unauthorized expenditures from the next annual grant to the county 63127  
pursuant to that section and shall return ~~than~~ that deducted 63128  
amount to the state's general revenue fund. 63129

~~(D) On or prior to the first day of December of each year,~~ 63130  
~~the department of youth services shall submit to the joint~~ 63131  
~~legislative committee on juvenile corrections overcrowding a~~ 63132  
~~report that pertains to the operation of sections 5139.34 and~~ 63133  
~~5139.41 to 5139.45 of the Revised Code during the immediately~~ 63134  
~~preceding state fiscal year and that includes, but is not limited~~ 63135  
~~to, the following:~~ 63136

~~(1) A description of the programs, care, and services that~~ 63137  
~~were financed under those sections in each county;~~ 63138

~~(2) The number of felony delinquents, other delinquent~~ 63139  
~~children, unruly children, and juvenile traffic offenders served~~ 63140  
~~by the programs, care, and services in each county;~~ 63141

~~(3) The total number of children adjudicated in each juvenile~~ 63142  
~~court as felony delinquents;~~ 63143

~~(4) The total number of felony delinquents who were committed~~ 63144  
~~by the juvenile court of each county to the department and who~~ 63145  
~~were in the care and custody of an institution or a community~~ 63146  
~~corrections facility;~~ 63147



~~(5) A breakdown of the felony delinquents described in~~ 63148  
~~division (D)(4) of this section on the basis of the types and~~ 63149  
~~degrees of felonies committed, the ages of the felony delinquents~~ 63150  
~~at the time they committed the felonies, and the sex and race of~~ 63151  
~~the felony delinquents.~~ 63152

~~(E)(C)~~ The determination of which county a reduction of the 63153  
~~monthly~~ care and custody allocation will be charged against for a 63154  
particular youth shall be made as outlined below for all youths 63155  
who do not qualify as public safety beds. The determination of 63156  
which county a reduction of the ~~monthly~~ care and custody 63157  
allocation will be charged against shall be made as follows until 63158  
each youth is released: 63159

(1) In the event of a commitment, the reduction shall be 63160  
charged against the committing county. 63161

(2) In the event of a recommitment, the reduction shall be 63162  
charged against the original committing county until the 63163  
expiration of the minimum period of institutionalization under the 63164  
original order of commitment or until the date on which the youth 63165  
is admitted to the department of youth services pursuant to the 63166  
order of recommitment, whichever is later. Reductions of the 63167  
~~monthly~~ allocation shall be charged against the county that 63168  
recommitted the youth after the minimum expiration date of the 63169  
original commitment. 63170

(3) In the event of a revocation of a release on parole, the 63171  
reduction shall be charged against the county that revokes the 63172  
youth's parole. 63173

(D) A juvenile court is not precluded by its allocation 63174  
amount for the care and custody of felony delinquents from 63175  
committing a felony delinquent to the department of youth services 63176  
for care and custody in an institution or a community corrections 63177  
facility when the juvenile court determines that the commitment is 63178

<u>appropriate.</u>	63179
<u>Sec. 5139.44. (A)(1) There is hereby created the RECLAIM</u>	63180
<u>advisory committee that shall be composed of the following ten</u>	63181
<u>members:</u>	63182
<u>(a) Two members shall be juvenile court judges appointed by</u>	63183
<u>the Ohio association of juvenile and family court judges.</u>	63184
<u>(b) One member shall be the director of youth services or the</u>	63185
<u>director's designee.</u>	63186
<u>(c) One member shall be the director of budget and management</u>	63187
<u>or the director's designee.</u>	63188
<u>(d) One member shall be the director of the legislative</u>	63189
<u>service commission or the director's designee.</u>	63190
<u>(e) One member shall be a member of a senate committee</u>	63191
<u>dealing with finance or criminal justice issues appointed by the</u>	63192
<u>president of the senate.</u>	63193
<u>(f) One member shall be a member of a committee of the house</u>	63194
<u>of representatives dealing with finance or criminal justice issues</u>	63195
<u>appointed by the speaker of the house of representatives.</u>	63196
<u>(g) One member shall be a member of a board of county</u>	63197
<u>commissioners appointed by the county commissioners association of</u>	63198
<u>Ohio.</u>	63199
<u>(h) Two members shall be juvenile court administrators</u>	63200
<u>appointed by the Ohio association of juvenile and family court</u>	63201
<u>judges.</u>	63202
<u>(2) The members of the committee shall be appointed or</u>	63203
<u>designated within thirty days after the effective date of this</u>	63204
<u>section, and the director of youth services shall be notified of</u>	63205
<u>the names of the members.</u>	63206
<u>(3) Members described in divisions (A)(1)(a), (g), and (h) of</u>	63207

this section shall serve for terms of two years and shall hold 63208  
office from the date of the member's appointment until the end of 63209  
the term for which the member was appointed. Members described in 63210  
divisions (A)(1)(b), (c), and (d) of this section shall serve as 63211  
long as they hold the office described in that division. Members 63212  
described in divisions (A)(1)(e) and (f) of this section shall 63213  
serve for the duration of the session of the general assembly 63214  
during which they were appointed, provided they continue to hold 63215  
the office described in that division. The members described in 63216  
divisions (A)(1)(a), (e), (f), (g), and (h) may be reappointed. 63217  
Vacancies shall be filled in the manner provided for original 63218  
appointments. Any member appointed to fill a vacancy occurring 63219  
prior to the expiration date of the term for which the member's 63220  
predecessor was appointed shall hold office as a member for the 63221  
remainder of that term. A member shall continue in office 63222  
subsequent to the expiration date of the member's term until the 63223  
member's successor takes office or until a period of sixty days 63224  
has elapsed, whichever occurs first. 63225

(4) Membership on the committee does not constitute the 63226  
holding of an incompatible public office or employment in 63227  
violation of any statutory or common law prohibition pertaining to 63228  
the simultaneous holding of more than one public office or 63229  
employment. Members of the committee are not disqualified from 63230  
holding by reason of that membership and do not forfeit because of 63231  
that membership their public office or employment that qualifies 63232  
them for membership on the committee notwithstanding any contrary 63233  
disqualification or forfeiture requirement under existing Revised 63234  
Code sections. 63235

(B) The director of youth services shall serve as an interim 63236  
chair of the RECLAIM advisory committee until the first meeting of 63237  
the committee. Upon receipt of the names of the members of the 63238  
committee, the director shall schedule the initial meeting of the 63239

committee that shall take place at an appropriate location in 63240  
Columbus and occur not later than sixty days after the effective 63241  
date of this section. The director shall notify the members of the 63242  
committee of the time, date, and place of the meeting. At the 63243  
initial meeting, the committee shall organize itself by selecting 63244  
from among its members a chair, vice-chair, and secretary. The 63245  
committee shall meet at least once each quarter of the calendar 63246  
year but may meet more frequently at the call of the chair. 63247

(C) In addition to its functions with respect to the RECLAIM 63248  
program described in section 5139.41 of the Revised Code, the 63249  
RECLAIM advisory committee periodically shall do all of the 63250  
following: 63251

(1) Evaluate the operation of the RECLAIM program by the 63252  
department of youth services, evaluate the implementation of the 63253  
RECLAIM program by the counties, and evaluate the efficiency of 63254  
the formula described in section 5139.41 of the Revised Code. In 63255  
conducting these evaluations, the committee shall consider the 63256  
public policy that RECLAIM funds are to be expended to provide the 63257  
most appropriate programs and services for felony delinquents and 63258  
other youthful offenders. 63259

(2) Advise the department of youth services, the office of 63260  
budget and management, and the general assembly on the following 63261  
changes that the committee believes should be made: 63262

(a) Changes to sections of the Revised Code that pertain to 63263  
the RECLAIM program, specifically the formula specified in section 63264  
5139.41 of the Revised Code; 63265

(b) Changes in the funding level for the RECLAIM program, 63266  
specifically the amounts distributed under the formula for county 63267  
allocations, community correctional facilities, and juvenile 63268  
correctional facility budgets. 63269

Sec. 5139.87. (A) The department of youth services shall 63270  
serve as the state agent for the administration of all federal 63271  
juvenile justice grants awarded to the state. 63272

(B) There are hereby created in the state treasury the 63273  
federal juvenile justice programs funds. A separate fund shall be 63274  
established each federal fiscal year. All federal grants and other 63275  
moneys received for federal juvenile programs shall be deposited 63276  
into the funds. All receipts deposited into the funds shall be 63277  
used for federal juvenile programs. All investment earnings on the 63278  
cash balance in a federal juvenile program fund shall be credited 63279  
to that fund for the appropriate federal fiscal year. 63280

(C) All rules, orders, and determinations of the office of 63281  
criminal justice services regarding the administration of federal 63282  
juvenile justice grants that are in effect on the effective date 63283  
of this amendment shall continue in effect as rules, orders, and 63284  
determinations of the department of youth services. 63285

**Sec. 5153.122.** (A) Each caseworker hired by a public children 63286  
services agency shall complete at least ninety hours of in-service 63287  
training during the first year of the caseworker's continuous 63288  
employment, except that the director of the public children 63289  
services agency may waive the training requirement for a school of 63290  
social work graduate who participated in the university 63291  
partnership program described in division (D) of section 5101.141 63292  
of the Revised Code. The training shall consist of courses in 63293  
recognizing and preventing child abuse and neglect, assessing 63294  
risks, interviewing persons, investigating cases, intervening, 63295  
providing services to children and their families, and other 63296  
topics relevant to child abuse and neglect. After the first year 63297  
of continuous employment, each caseworker annually shall complete 63298  
thirty-six hours of training in areas relevant to the caseworker's 63299

assigned duties. 63300

(B) Each supervisor hired by a public children services 63301  
agency shall complete at least sixty hours of in-service training 63302  
during the first year of the supervisor's continuous employment in 63303  
that position. After the first year of continuous employment as a 63304  
supervisor, the supervisor annually shall complete thirty hours of 63305  
training in areas relevant to the supervisor's assigned duties. 63306

**Sec. 5153.16.** (A) Except as provided in section 2151.422 of 63307  
the Revised Code, in accordance with rules of the department of 63308  
job and family services, and on behalf of children in the county 63309  
whom the public children services agency considers to be in need 63310  
of public care or protective services, the public children 63311  
services agency shall do all of the following: 63312

(1) Make an investigation concerning any child alleged to be 63313  
an abused, neglected, or dependent child; 63314

(2) Enter into agreements with the parent, guardian, or other 63315  
person having legal custody of any child, or with the department 63316  
of job and family services, department of mental health, 63317  
department of mental retardation and developmental disabilities, 63318  
other department, any certified organization within or outside the 63319  
county, or any agency or institution outside the state, having 63320  
legal custody of any child, with respect to the custody, care, or 63321  
placement of any child, or with respect to any matter, in the 63322  
interests of the child, provided the permanent custody of a child 63323  
shall not be transferred by a parent to the public children 63324  
services agency without the consent of the juvenile court; 63325

(3) Accept custody of children committed to the public 63326  
children services agency by a court exercising juvenile 63327  
jurisdiction; 63328

(4) Provide such care as the public children services agency 63329

considers to be in the best interests of any child adjudicated to 63330  
be an abused, neglected, or dependent child the agency finds to be 63331  
in need of public care or service; 63332

(5) Provide social services to any unmarried girl adjudicated 63333  
to be an abused, neglected, or dependent child who is pregnant 63334  
with or has been delivered of a child; 63335

(6) Make available to the bureau for children with medical 63336  
handicaps of the department of health at its request any 63337  
information concerning a crippled child found to be in need of 63338  
treatment under sections 3701.021 to 3701.028 of the Revised Code 63339  
who is receiving services from the public children services 63340  
agency; 63341

(7) Provide temporary emergency care for any child considered 63342  
by the public children services agency to be in need of such care, 63343  
without agreement or commitment; 63344

(8) Find certified foster homes, within or outside the 63345  
county, for the care of children, including handicapped children 63346  
from other counties attending special schools in the county; 63347

(9) Subject to the approval of the board of county 63348  
commissioners and the state department of job and family services, 63349  
establish and operate a training school or enter into an agreement 63350  
with any municipal corporation or other political subdivision of 63351  
the county respecting the operation, acquisition, or maintenance 63352  
of any children's home, training school, or other institution for 63353  
the care of children maintained by such municipal corporation or 63354  
political subdivision; 63355

(10) Acquire and operate a county children's home, establish, 63356  
maintain, and operate a receiving home for the temporary care of 63357  
children, or procure certified foster homes for this purpose; 63358

(11) Enter into an agreement with the trustees of any 63359  
district children's home, respecting the operation of the district 63360

children's home in cooperation with the other county boards in the 63361  
district; 63362

(12) Cooperate with, make its services available to, and act 63363  
as the agent of persons, courts, the department of job and family 63364  
services, the department of health, and other organizations within 63365  
and outside the state, in matters relating to the welfare of 63366  
children, except that the public children services agency shall 63367  
not be required to provide supervision of or other services 63368  
related to the exercise of parenting time rights granted pursuant 63369  
to section 3109.051 or 3109.12 of the Revised Code or 63370  
companionship or visitation rights granted pursuant to section 63371  
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 63372  
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 63373  
a common pleas court, pursuant to division (E)(6) of section 63374  
3113.31 of the Revised Code, requires the provision of supervision 63375  
or other services related to the exercise of the parenting time 63376  
rights or companionship or visitation rights; 63377

(13) Make investigations at the request of any superintendent 63378  
of schools in the county or the principal of any school concerning 63379  
the application of any child adjudicated to be an abused, 63380  
neglected, or dependent child for release from school, where such 63381  
service is not provided through a school attendance department; 63382

(14) Administer funds provided under Title IV-E of the 63383  
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 63384  
amended, in accordance with rules adopted under section 5101.141 63385  
of the Revised Code; 63386

(15) In addition to administering Title IV-E adoption 63387  
assistance funds, enter into agreements to make adoption 63388  
assistance payments under section 5153.163 of the Revised Code; 63389

(16) Implement a system of risk assessment, in accordance 63390  
with rules adopted by the director of job and family services, to 63391



assist the public children services agency in determining the risk of abuse or neglect to a child;

(17) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with ~~the partnership~~ each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(18) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(19) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(20) Administer a Title IV-A program identified under division (A)(3)(c) or (d) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(21) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code.

(B) The public children services agency shall use the system implemented pursuant to division (B)(16) of this section in

connection with an investigation undertaken pursuant to division 63423  
(F)(1) of section 2151.421 of the Revised Code and may use the 63424  
system at any other time the agency is involved with any child 63425  
when the agency determines that risk assessment is necessary. 63426

(C) Except as provided in section 2151.422 of the Revised 63427  
Code, in accordance with rules of the director of job and family 63428  
services, and on behalf of children in the county whom the public 63429  
children services agency considers to be in need of public care or 63430  
protective services, the public children services agency may do 63431  
the following: 63432

(1) Provide or find, with other child serving systems, 63433  
specialized foster care for the care of children in a specialized 63434  
foster home, as defined in section 5103.02 of the Revised Code, 63435  
certified under section 5103.03 of the Revised Code; 63436

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 63437  
this section, contract with the following for the purpose of 63438  
assisting the agency with its duties: 63439

(i) County departments of job and family services; 63440

(ii) Boards of alcohol, drug addiction, and mental health 63441  
services; 63442

(iii) County boards of mental retardation and developmental 63443  
disabilities; 63444

(iv) Regional councils of political subdivisions established 63445  
under Chapter 167. of the Revised Code; 63446

(v) Private and government providers of services; 63447

(vi) Managed care organizations and prepaid health plans. 63448

(b) A public children services agency contract under division 63449  
(C)(2)(a) of this section regarding the agency's duties under 63450  
section 2151.421 of the Revised Code may not provide for the 63451  
entity under contract with the agency to perform any service not 63452

authorized by the department's rules. 63453

(c) Only a county children services board appointed under 63454  
section 5153.03 of the Revised Code that is a public children 63455  
services agency may contract under division (C)(2)(a) of this 63456  
section. If an entity specified in division (B) or (C) of section 63457  
5153.02 of the Revised Code is the public children services agency 63458  
for a county, the board of county commissioners may enter into 63459  
contracts pursuant to section 307.982 of the Revised Code 63460  
regarding the agency's duties. 63461

**Sec. 5153.163.** (A) As used in this section, "adoptive parent" 63462  
means, as the context requires, a prospective adoptive parent or 63463  
an adoptive parent. 63464

(B)(1) ~~If Before a child's adoption is finalized, a public 63465  
children services agency considers a child with special needs 63466  
residing in the county served by the agency to be in need of 63467  
public care or protective services and all of the following apply, 63468  
the agency shall enter into an agreement with the child's adoptive 63469  
parent before the child is adopted under which the agency shall 63470  
make state adoption maintenance subsidy payments as needed on 63471  
behalf of the child when all of the following apply: 63472~~

(a) The child is a child with special needs. 63473

(b) The child was placed in the adoptive home by a public 63474  
children services agency or a private child placing agency and may 63475  
legally be adopted. 63476

(c) The adoptive parent has the capability of providing the 63477  
permanent family relationships needed by the child in all areas 63478  
except financial need as determined by the agency;. 63479

~~(b)(d) The needs of the child are beyond the economic 63480  
resources of the adoptive parent as determined by the agency;.~~ 63481

~~(c) The agency determines the acceptance~~ (e) Acceptance of 63482

the child as a member of the adoptive parent's family would not be 63483  
in the child's best interest without payments on the child's 63484  
behalf under this section. 63485

~~(2) Payments to an adoptive parent under division (B) of this 63486  
section shall include medical, surgical, psychiatric, 63487  
psychological, and counseling expenses, and may include 63488  
maintenance costs if necessary and other costs incidental to the 63489  
care of the child. No payment of maintenance costs shall be made 63490  
under division (B) of this section on behalf of a child if either 63491  
of the following apply: 63492~~

~~(a)(f) The gross income of the adoptive parent's family 63493  
exceeds does not exceed one hundred twenty per cent of the median 63494  
income of a family of the same size, including the child, as most 63495  
recently determined for this state by the secretary of health and 63496  
human services under Title XX of the "Social Security Act," 88 63497  
Stat. 2337, 42 U.S.C.A. 1397, as amended. 63498~~

~~(b)(g) The child is not eligible for adoption assistance 63499  
payments ~~for maintenance costs~~ under Title IV-E of the "Social 63500  
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 63501~~

(2) State adoption maintenance subsidy payment agreements 63502  
must be made by either the public children services agency that 63503  
has permanent custody of the child or the public children services 63504  
agency of the county in which the private child placing agency 63505  
that has permanent custody of the child is located. 63506

(3) State adoption maintenance subsidy payments shall be made 63507  
in accordance with the agreement between the public children 63508  
services agency and the adoptive parent and are subject to an 63509  
annual redetermination of need. 63510

(4) Payments under this division ~~(B) of this section~~ may 63511  
begin either before or after issuance of the final adoption 63512  
decree, except that payments made before issuance of the final 63513

adoption decree may be made only while the child is living in the 63514  
adoptive parent's home. Preadoption payments may be made for not 63515  
more than twelve months, unless the final adoption decree is not 63516  
issued within that time because of a delay in court proceedings. 63517  
Payments that begin before issuance of the final adoption decree 63518  
may continue after its issuance. 63519

(C)(1) If, after the child's adoption is finalized, a public 63520  
children services agency considers a child residing in the county 63521  
served by the agency to be in need of public care or protective 63522  
services ~~and both of the following apply,~~ the agency may, ~~and~~ to 63523  
the extent state funds are appropriated for this purpose ~~shall,~~ 63524  
enter into an agreement with the child's adoptive parent ~~after the~~ 63525  
~~child is adopted~~ under which the agency shall make post adoption 63526  
special services subsidy payments on behalf of the child as needed 63527  
when both of the following apply: 63528

~~(1)~~(a) The child has a physical or developmental handicap or 63529  
mental or emotional condition that either: 63530

~~(a)~~(i) Existed before the adoption petition was filed; or 63531

~~(b)~~(ii) Developed after the adoption petition was filed and 63532  
can be directly attributed to factors in the child's preadoption 63533  
background, medical history, or biological family's background or 63534  
medical history. 63535

~~(2)~~(b) The agency determines the expenses necessitated by the 63536  
child's handicap or condition are beyond the adoptive parent's 63537  
economic resources. 63538

~~Payments to an adoptive parent~~ (2) Services for which a 63539  
public children services agency may make post adoption special 63540  
services subsidy payments on behalf of a child under this division 63541  
shall include medical, surgical, psychiatric, psychological, and 63542  
counseling ~~expenses~~ services, including residential treatment. 63543

(3) The department of job and family services shall establish 63544

clinical standards to evaluate a child's physical or developmental 63545  
handicap or mental or emotional condition and assess the child's 63546  
need for services. 63547

(4) The total dollar value of post adoption special services 63548  
subsidy payments made on a child's behalf shall not exceed ten 63549  
thousand dollars in any fiscal year, unless the department 63550  
determines that extraordinary circumstances exist that necessitate 63551  
further funding of services for the child. Under such 63552  
extraordinary circumstances, the value of the payments made on the 63553  
child's behalf shall not exceed fifteen thousand dollars in any 63554  
fiscal year. 63555

(5) The adoptive parent or parents of a child who receives 63556  
post adoption special services subsidy payments shall pay at least 63557  
five per cent of the total cost of all services provided to the 63558  
child; except that a public children services agency may waive 63559  
this requirement if the gross annual income of the child's 63560  
adoptive family is not more than two hundred per cent of the 63561  
federal poverty guideline. 63562

(6) A public children services agency may use other sources 63563  
of revenue to make post adoption special services subsidy 63564  
payments, in addition to any state funds appropriated for that 63565  
purpose. 63566

(D) No payment shall be made under division (B) or (C) of 63567  
this section on behalf of any person eighteen years of age or 63568  
older beyond the end of the school year during which the person 63569  
attains the age of eighteen or on behalf of a mentally or 63570  
physically handicapped person twenty-one years of age or older. 63571  
~~Payments under those divisions shall be made in accordance with~~ 63572  
~~the terms of the agreement between the public children services~~ 63573  
~~agency and the adoptive parent, subject to an annual~~ 63574  
~~redetermination of need. The agency may use sources of funding in~~ 63575  
~~addition to any state funds appropriated for the purposes of those~~ 63576

~~divisions.~~ 63577

(E) The director of job and family services shall adopt rules 63578  
in accordance with Chapter 119. of the Revised Code that are 63579  
needed to implement this section. The rules shall establish all of 63580  
the following: 63581

(1) The application process for ~~payments~~ all forms of 63582  
assistance provided under this section; 63583

(2) The method to determine the ~~amounts and kinds~~ amount of 63584  
assistance payable under division (B) of this section; 63585

(3) The definition of "child with special needs" for this 63586  
section; 63587

(4) The process whereby a child's continuing need for 63588  
services provided under division (B) of this section is annually 63589  
redetermined; 63590

(5) The method of determining the amount, duration, and scope 63591  
of services provided to a child under division (C) of this 63592  
section; 63593

(6) Any other rule, requirement, or procedure the department 63594  
considers appropriate for the implementation of this section. 63595

~~The rules shall allow for payments for children placed by~~ 63596  
~~nonpublic agencies.~~ 63597

~~(E)~~(F) The state adoption special services subsidy program 63598  
ceases to exist on July 1, 2004, except that, subject to the 63599  
findings of the annual redetermination process established under 63600  
division (E) of this section and the child's individual need for 63601  
services, a public children services agency may continue to 63602  
provide state adoption special services subsidy payments on behalf 63603  
of a child for whom payments were being made prior to July 1, 63604  
2004. 63605

(G) No public children services agency shall, pursuant to 63606

either section 2151.353 or 5103.15 of the Revised Code, place or 63607  
maintain a child with special needs who is in the permanent 63608  
custody of an institution or association certified by the 63609  
department of job and family services under section 5103.03 of the 63610  
Revised Code in a setting other than with a person seeking to 63611  
adopt the child, unless the agency has determined and redetermined 63612  
at intervals of not more than six months the impossibility of 63613  
adoption by a person listed pursuant to division (B), (C), or (D) 63614  
of section 5103.154 of the Revised Code, including the 63615  
impossibility of entering into a payment agreement with such a 63616  
person. The agency so maintaining such a child shall report its 63617  
reasons for doing so to the department of job and family services. 63618  
~~No agency that fails to so determine, redetermine, and report 63619~~  
~~shall receive more than fifty per cent of the state funds to which 63620~~  
~~it would otherwise be eligible for that part of the fiscal year 63621~~  
~~following placement under section 5101.14 of the Revised Code. 63622~~

The department may take any action permitted under section 63623  
5101.24 of the Revised Code for an agency's failure to determine, 63624  
redetermine, and report on a child's status. 63625

**Sec. 5153.60.** (A) The department of job and family services 63626  
shall establish a statewide program that provides ~~the~~ all of the 63627  
following: 63628

(1) The training section 5153.122 of the Revised Code 63629  
requires public children services agency caseworkers and 63630  
supervisors to complete. ~~The program may also provide the;~~ 63631

(2) The preplacement and continuing training described in 63632  
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 63633  
Revised Code that foster caregivers are required by sections 63634  
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain- 63635  
The; 63636

(3) The education programs for adoption assessors required by 63637



section 3107.014 of the Revised Code. 63638

(B) The training described in division (A)(1) of this section shall be conducted in accordance with rules adopted by the department of job and family services under section 111.15 of the Revised Code and the training and programs described in divisions (A)(2) and (3) of this section shall be conducted in accordance with rules adopted under Chapter 119. of the Revised Code. 63639  
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(C) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program." 63645  
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**Sec. 5153.69.** The training program steering committee shall monitor and evaluate the Ohio child welfare training program to ensure the following: 63647  
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(A) That the Ohio child welfare training program is a competency-based training system that satisfies the training requirements for public children services agency caseworkers and supervisors under section 5153.122 of the Revised Code; 63650  
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(B) That, ~~if~~ the Ohio child welfare training program provides preplacement or continuing training for foster caregivers, ~~it as~~ required by section 5153.60 of the Revised Code that meets the ~~same~~ requirements ~~that~~ preplacement training programs and continuing training programs must meet pursuant to section 5103.038 of the Revised Code to obtain approval by the department of job and family services, except that the Ohio child welfare training program is not required to obtain department approval. 63654  
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**Sec. 5153.72.** Prior to the beginning of the fiscal biennium that first follows ~~the effective date of this section~~ October 5, 2000, the public children services agencies of Athens, Cuyahoga, Franklin, Greene, Guernsey, Hamilton, Lucas, and Summit counties shall each establish and maintain a regional training center. At any time after the beginning of that biennium, the department of 63662  
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job and family services, on the recommendation of the training 63668  
program steering committee, may direct a public children services 63669  
agency to establish and maintain a training center to replace the 63670  
center established by an agency under this section. There may be 63671  
no more and no less than eight centers in existence at any time. 63672  
The department may make a grant to a public children services 63673  
agency that establishes and maintains a regional training center 63674  
under this section for the purpose of wholly or partially 63675  
subsidizing the operation of the center. 63676

**Sec. 5153.78.** (A) As used in this section: 63677

(1) "Title IV-B" means Title IV-B of the "Social Security Act 63678  
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 63679

(2) "Title IV-E" means Title IV-E of the "Social Security 63680  
Act," 94 Stat. 501, 42 U.S.C. 670(1980). 63681

(3) "Title XX" has the same meaning as in section 5101.46 of 63682  
the Revised Code. 63683

(B) For purposes of adequately funding the Ohio child welfare 63684  
training program, the department of job and family services may 63685  
use any of the following: 63686

(1) The federal financial participation funds withheld 63687  
pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised 63688  
Code in an amount determined by the department; 63689

(2) Funds available under Title XX, Title IV-B, and Title 63690  
IV-E to pay for training costs; 63691

(3) Other available state or federal funds. 63692

**Sec. 5301.68.** An owner of land may grant a conservation 63693  
easement to the department of natural resources, a park district 63694  
created under Chapter 1545. of the Revised Code, a township park 63695  
district created under section 511.18 of the Revised Code, a 63696

conservancy district created under Chapter 6101. of the Revised 63697  
Code, a soil and water conservation district created under Chapter 63698  
1515. of the Revised Code, a county, a township, a municipal 63699  
corporation, or a charitable organization that is authorized to 63700  
hold conservation easements by division (B) of section 5301.69 of 63701  
the Revised Code, in the form of articles of dedication, easement, 63702  
covenant, restriction, or condition. An owner of land also may 63703  
grant an agricultural easement to the director of agriculture; to 63704  
a municipal corporation, county, ~~or township,~~ or soil and water 63705  
conservation district; or to a charitable organization described 63706  
in division (B) of section 5301.69 of the Revised Code. An owner 63707  
of land may grant an agricultural easement only on land that is 63708  
valued for purposes of real property taxation at its current value 63709  
for agricultural use under section 5713.31 of the Revised Code or 63710  
that constitutes a homestead when the easement is granted. 63711

All conservation easements and agricultural easements shall 63712  
be executed and recorded in the same manner as other instruments 63713  
conveying interests in land. 63714

**Sec. 5301.691.** (A)(1) Subject to divisions (A)(2) and ~~(E)~~(F) 63715  
of this section, the director of agriculture, with moneys credited 63716  
to the agricultural easement purchase fund created in section 63717  
901.21 of the Revised Code, may purchase agricultural easements in 63718  
the name of the state. 63719

(2) Not less than thirty days prior to the acquisition of an 63720  
agricultural easement under division (A)(1) of this section or the 63721  
extinguishment of such an easement purchased under that division, 63722  
the director shall provide written notice of the intention to do 63723  
so to the board of county commissioners of the county in which the 63724  
land that is or is proposed to be subject to the easement or 63725  
extinguishment is located, and either to the legislative authority 63726  
of the municipal corporation in which the land is located, if it 63727

is located in an incorporated area, or to the board of township 63728  
trustees of the township in which the land is located, if it is 63729  
located in an unincorporated area. If, within thirty days after 63730  
the director provides the notice, the board of county 63731  
commissioners, legislative authority, or board of township 63732  
trustees requests an informational meeting with the director 63733  
regarding the proposed acquisition or extinguishment, the director 63734  
shall meet with the legislative authority or board to respond to 63735  
the board's or authority's questions and concerns. If a meeting is 63736  
timely requested under division (A)(2) of this section, the 63737  
director shall not undertake the proposed acquisition or 63738  
extinguishment until after the meeting has been concluded. 63739

The director, upon the director's own initiative and prior to 63740  
the purchase of an agricultural easement under division (A)(1) of 63741  
this section or the extinguishment of such an easement, may hold 63742  
an informational meeting with the board of county commissioners 63743  
and the legislative authority of the municipal corporation or 63744  
board of township trustees in which land that would be affected by 63745  
the proposed acquisition or extinguishment is located, to respond 63746  
to any questions and concerns of the board or authority regarding 63747  
the proposed acquisition or extinguishment. 63748

(B)(1) Subject to division ~~(E)~~(F) of this section, the 63749  
legislative authority of a municipal corporation, board of county 63750  
commissioners of a county, or board of trustees of a township, 63751  
with moneys in the political subdivision's general fund not 63752  
required by law or charter to be used for other specified purposes 63753  
or with moneys in a special fund of the political subdivision to 63754  
be used for the purchase of agricultural easements, may purchase 63755  
agricultural easements in the name of the municipal corporation, 63756  
county, or township. 63757

(2) Subject to division ~~(E)~~(F) of this section, the 63758  
legislative authority of a municipal corporation, board of county 63759

commissioners of a county, or board of township trustees of a township may acquire agricultural easements by gift, devise, or bequest. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(C)(1) Subject to division (F) of this section, the board of supervisors of a soil and water conservation district, with moneys in any fund not required by law to be used for other specified purposes or with moneys provided to the board through matching grants made under section 901.22 of the Revised Code for the purchase of agricultural easements, may purchase agricultural easements in the name of the board.

(2) Subject to division (F) of this section, the board of supervisors of a soil and water conservation district may acquire agricultural easements by gift, devise, or bequest. Any terms may be included in an agricultural easement so acquired that are necessary or appropriate to preserve on behalf of the grantor of the easement the favorable tax consequences of the gift, devise, or bequest under the "Internal Revenue Act of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(D)(1) The term of an agricultural easement purchased wholly or in part with money from the agricultural easement purchase fund shall be perpetual and shall run with the land.

(2) The term of an agricultural easement purchased by ~~such a~~ the legislative authority of a municipal corporation, board of county commissioners of a county, board of township trustees of a township, or board of supervisors of a soil and water conservation district without the use of any money from the agricultural easement purchase fund may be perpetual or for a specified period. The agricultural easement shall run with the land. The instrument

conveying an agricultural easement for a specified period shall 63792  
include provisions specifying, at a minimum, all of the following: 63793

(a) The consideration to be paid for the easement and manner 63794  
of payment; 63795

(b) Whether the easement is renewable and, if so, procedures 63796  
for its renewal; 63797

(c) The circumstances under which the easement may be 63798  
extinguished; 63799

(d) The method for determining the amount of money, if any, 63800  
due the holder of the easement upon extinguishment and for payment 63801  
of that amount to the holder. 63802

~~(D)~~(E)(1) The director and each legislative authority of a 63803  
municipal corporation, board of county commissioners, ~~or~~ board of 63804  
township trustees, or board of supervisors of a soil and water 63805  
conservation district, upon acquiring an agricultural easement by 63806  
purchase, gift, devise, or bequest under this section or section 63807  
901.21 of the Revised Code, shall name an appropriate 63808  
administrative officer, department, or division to supervise and 63809  
enforce the easement. A legislative authority ~~or~~ of a municipal 63810  
corporation, board of county commissioners, or board of township 63811  
trustees may enter into a contract with the board of park 63812  
commissioners of a park district established under Chapter 1545. 63813  
of the Revised Code, the board of park commissioners of a township 63814  
park district established under section 511.18 of the Revised 63815  
Code, or the board of supervisors of a soil and water conservation 63816  
district ~~established under Chapter 1515. of the Revised Code~~ 63817  
having territorial jurisdiction within the municipal corporation, 63818  
county, or township, or with a charitable organization described 63819  
in division (B) of section 5301.69 of the Revised Code, to 63820  
supervise on behalf of the legislative authority or board an 63821  
agricultural easement so acquired. A board of supervisors of a 63822

soil and water conservation district may enter into a contract 63823  
with the board of park commissioners of a park district 63824  
established under Chapter 1545. of the Revised Code or the board 63825  
of park commissioners of a township park district established 63826  
under section 511.18 of the Revised Code having territorial 63827  
jurisdiction within the soil and water conservation district, or 63828  
with a charitable organization described in division (B) of 63829  
section 5301.69 of the Revised Code, to supervise on behalf of the 63830  
board an agricultural easement so acquired. The contract may be 63831  
entered into on such terms as are agreeable to the parties and 63832  
shall specify or prescribe a method for determining the amounts of 63833  
any payments to be made by the legislative authority ~~or~~, board of 63834  
county commissioners ~~or~~, board of township trustees, or board of 63835  
supervisors for the performance of the contract. 63836

(2) With respect to an agricultural easement purchased with a 63837  
matching grant that is made under division (D) of section 901.22 63838  
of the Revised Code and that consists in whole or in part of 63839  
moneys from the clean Ohio agricultural easement fund created in 63840  
section 901.21 of the Revised Code, the recipient of the matching 63841  
grant shall make an annual monitoring visit to the land that is 63842  
the subject of the easement. The purpose of the visit is to ensure 63843  
that no development that is prohibited by the terms of the 63844  
easement has occurred or is occurring. In accordance with rules 63845  
adopted under division (A)(1)(d) of section 901.22 of the Revised 63846  
Code, the grant recipient shall prepare a written annual 63847  
monitoring report and submit it to the office of farmland 63848  
preservation in the department of agriculture. If necessary to 63849  
enforce the terms of the easement, the grant recipient shall take 63850  
corrective action in accordance with those rules. The director may 63851  
agree to share these monitoring and enforcement responsibilities 63852  
with the grant recipient. 63853

~~(E)~~(F) The director; a municipal corporation, county, ~~or~~ 63854

township, or soil and water conservation district; or a charitable 63855  
organization ~~described in division (B) of section 5301.69 of the~~ 63856  
~~Revised Code~~, may acquire agricultural easements by purchase, 63857  
gift, devise, or bequest only on land that is valued for purposes 63858  
of real property taxation at its current value for agricultural 63859  
use under section 5713.31 of the Revised Code or that constitutes 63860  
a homestead when the easement is granted. 63861

~~(F)~~(G) An agricultural easement acquired by the director 63862  
under division (A) of this section may be extinguished if an 63863  
unexpected change in the conditions of or surrounding the land 63864  
that is subject to the easement makes impossible or impractical 63865  
the continued use of the land for the purposes described in the 63866  
agricultural easement, or if the requirements of the easement are 63867  
extinguished by judicial proceedings. Upon the sale, exchange, or 63868  
involuntary conversion of the land subject to the easement, the 63869  
director shall be paid an amount of money that is at least equal 63870  
to the proportionate value of the easement compared to the total 63871  
value of the land at the time the easement was acquired. Moneys so 63872  
received shall be credited to the agricultural easement purchase 63873  
fund. 63874

An agricultural easement acquired by a municipal corporation, 63875  
county, or township under division (B) of this section or by a 63876  
soil and water conservation district under division (C) of this 63877  
section may be extinguished under the circumstances prescribed, 63878  
and in accordance with the terms and conditions set forth, in the 63879  
instrument conveying the agricultural easement. An agricultural 63880  
easement acquired by a charitable organization described in 63881  
division (B) of section 5301.69 of the Revised Code may be 63882  
extinguished under the circumstances prescribed, and in accordance 63883  
with the terms and conditions set forth, in the instrument 63884  
conveying the agricultural easement. 63885

Any instrument extinguishing an agricultural easement shall 63886



be executed and recorded in the same manner as other instruments 63887  
conveying or terminating interests in real property. 63888

~~(G)~~(H) Promptly after the recording and indexing of an 63889  
instrument conveying an agricultural easement to any person or to 63890  
a municipal corporation, county, ~~or~~ township, or soil and water 63891  
conservation district or of an instrument extinguishing an 63892  
agricultural easement held by any person or such a political 63893  
subdivision, the county recorder shall mail, by regular mail, a 63894  
photocopy of the instrument to the office of farmland preservation 63895  
in the department of agriculture. The photocopy shall be 63896  
accompanied by an invoice for the applicable fee established in 63897  
section 317.32 of the Revised Code. Promptly after receiving the 63898  
photocopy and invoice, the office of farmland preservation shall 63899  
remit the fee to the county recorder. 63900

~~(H)~~(I) The director, the legislative authority of a municipal 63901  
corporation, a board of county commissioners, ~~or~~ a board of 63902  
township trustees, or a board of supervisors of a soil and water 63903  
conservation district may receive and expend grants from any 63904  
public or private source for the purpose of purchasing 63905  
agricultural easements and supervising and enforcing them. 63906

**Sec. 5310.15.** On filing an application for registration, the 63907  
applicant shall pay to the clerk of the probate court or the clerk 63908  
of the court of common pleas ten dollars, which is full payment 63909  
for all clerk's fees and charges in such proceeding on behalf of 63910  
the applicant. Any defendant, except a guardian ad litem, on 63911  
entering ~~his~~ an appearance by filing a pleading of any kind, shall 63912  
pay to the clerk five dollars, which is full payment for all 63913  
clerk's fees on behalf of such defendant. When any number of 63914  
defendants enter their appearance at the same time in one pleading 63915  
by filing a pleading of any kind, one fee shall be paid. 63916

Every required publication in a newspaper shall be paid for 63917

by the party on whose application the order of publication is 63918  
made, in addition to the fees prescribed in the first paragraph of 63919  
this section. The party at whose request, or on whose behalf, any 63920  
notice is issued, shall pay for the service of such notice except 63921  
when such notice is sent by mail by the clerk or the county 63922  
recorder. 63923

Examiners of titles shall receive for examining title or 63924  
original reference, and making report on all matters arising under 63925  
the application, including final certificate as to all necessary 63926  
parties being made and properly brought before the probate court 63927  
or the court of common pleas, and as to the proceedings being 63928  
regular and legal, one half of one per cent of the appraised tax 63929  
value, the fee in no case to be less than seventy-five or more 63930  
than two hundred fifty dollars, for each separate and distinct 63931  
parcel of land included in the application although made up of 63932  
more than one tract. 63933

Upon a reference to an examiner of titles or to any other 63934  
person upon a hearing to take evidence and make report to the 63935  
court, the fee of the referee shall be fixed by the court at not 63936  
more than fifteen dollars per day for the time actually employed. 63937

For a certificate of an examiner of titles that all necessary 63938  
parties are before the court, and the proceedings are regular and 63939  
legal in a suit for partition, foreclosure of mortgage, 63940  
marshalling of liens, or other suit or proceeding affecting the 63941  
title of any interest in, or lien or charge upon registered lands, 63942  
the fees shall be fixed by the court, and shall not be more than 63943  
twenty-five dollars for each separate and distinct parcel of land 63944  
included in the petition or application although such parcel is 63945  
made up of more than one tract. 63946

Guardians for the suit in original registration shall receive 63947  
three dollars when there is no contest in which the guardian 63948  
participates. In other cases such guardians shall receive such 63949

fees as the court fixes, but not more than twenty-five dollars. 63950

For certifying pending suits, judgments, liens, attachments, 63951  
executions, or levies, the officers certifying them to the 63952  
recorder shall receive a fee of twenty-five cents to be paid by 63953  
the party interested and taxed in the costs of the case. 63954

For serving summons, notice, or other paper provided for in 63955  
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 63956  
other officer shall receive the same fees as in other similar 63957  
cases. 63958

The recorder shall receive the following fees, to include 63959  
base fees for services and housing trust fund fees pursuant to 63960  
section 317.36 of the Revised Code: 63961

(A) For original registration of title, issuing duplicate 63962  
certificate, entering memorials and memorandums, as directed by 63963  
the decree, and indexing it, a base fee of thirty dollars and a 63964  
housing trust fund fee of thirty dollars; 63965

(B) For examining and registering each transfer of registered 63966  
land, including the filing of all papers therewith, entering 63967  
memorials, issuing new duplicate certificate of title and indexing 63968  
it, a base fee of thirty dollars and a housing trust fund fee of 63969  
thirty dollars for the first distinct body or parcel of land 63970  
contained in such certificate, and a base fee of two dollars and a 63971  
housing trust fund fee of two dollars for each additional distinct 63972  
body or parcel of land contained in such certificate; 63973

(C) For filing, examining, and entering a memorial of each 63974  
mortgage or lease, upon registered land, and indexing it, for each 63975  
separately registered parcel, a base fee of ten dollars and a 63976  
housing trust fund fee of ten dollars; 63977

(D) For filing, examining, and entering a memorial of each 63978  
lien, charge, or demand upon registered land, and indexing it, for 63979  
each separately registered parcel of land, a base fee of five 63980

dollars and a housing trust fund fee of five dollars; 63981

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; 63982  
for entry of change of address, or notice of dower, for each 63983  
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63984  
63985  
63986

(F) For each certified copy of a registered certificate, or 63987  
issuing a mortgagee's duplicate certificate, or issuing a new 63988  
owner's duplicate certificate to replace one which has been lost 63989  
or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars; 63990  
63991

(G) For filing, examining, and entering a memorial of each 63992  
release, assignment, or waiver of priority of a mortgage, lease, 63993  
lien, charge, or demand upon registered land and indexing it, for 63994  
each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63995  
63996

(H) For filing, examining, and entering a memorial of each 63997  
official certificate of pending suit, judgment, lien, attachment, 63998  
execution, or levy, upon registered land and indexing it, for each 63999  
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 64000  
64001

(I) For continuing an owner's duplicate certificate, or 64002  
mortgagee's duplicate certificate and entering and certifying 64003  
memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars; 64004  
64005

(J) For certificate as to taxes and special assessments, for 64006  
each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars; 64007  
64008

(K) For filing, recording, and indexing any papers or 64009  
instruments other than those provided in this section, any 64010  
certified copy of record, or of any instrument on file in ~~his~~ the 64011

recorder's office, the same fees allowed by law for like services; 64012

(L) For issuing subpoenas and notices and swearing witnesses, 64013  
the same fees allowed the clerk for like services. 64014

Costs as provided in this section may be taxed and by the 64015  
court ordered to be paid by the parties in such manner as is just. 64016

**Sec. 5502.01.** (A) The department of public safety shall 64017  
administer and enforce the laws relating to the registration, 64018  
licensing, sale, and operation of motor vehicles and the laws 64019  
pertaining to the licensing of drivers of motor vehicles. 64020

The department shall compile, analyze, and publish statistics 64021  
relative to motor vehicle accidents and the causes of them, 64022  
prepare and conduct educational programs for the purpose of 64023  
promoting safety in the operation of motor vehicles on the 64024  
highways, and conduct research and studies for the purpose of 64025  
promoting safety on the highways of this state. 64026

(B) The department shall administer the laws and rules 64027  
relative to trauma and emergency medical services specified in 64028  
Chapter 4765. of the Revised Code. 64029

(C) The department shall administer and enforce the laws 64030  
contained in Chapters 4301. and 4303. of the Revised Code and 64031  
enforce the rules and orders of the liquor control commission 64032  
pertaining to retail liquor permit holders. 64033

(D) The department shall administer the laws governing the 64034  
state emergency management agency and shall enforce all additional 64035  
duties and responsibilities as prescribed in the Revised Code 64036  
related to emergency management services. 64037

(E) The department shall conduct investigations pursuant to 64038  
Chapter 5101. of the Revised Code in support of the duty of the 64039  
department of job and family services to administer food stamp 64040  
programs throughout this state. The department of public safety 64041

shall conduct investigations necessary to protect the state's 64042  
property rights and interests in the food stamp program. 64043

(F) The department of public safety shall enforce compliance 64044  
with orders and rules of the public utilities commission and 64045  
applicable laws in accordance with Chapters 4919., 4921., and 64046  
4923. of the Revised Code regarding commercial motor vehicle 64047  
transportation safety, economic, and hazardous materials 64048  
requirements. 64049

(G) Notwithstanding Chapter 4117. of the Revised Code, the 64050  
department of public safety may establish requirements for its 64051  
enforcement personnel, including its enforcement agents described 64052  
in section 5502.14 of the Revised Code, that include standards of 64053  
conduct, work rules and procedures, and criteria for eligibility 64054  
as law enforcement personnel. 64055

(H) The department shall administer, maintain, and operate 64056  
the Ohio criminal justice network. The Ohio criminal justice 64057  
network shall be a computer network that supports state and local 64058  
criminal justice activities. The network shall be an electronic 64059  
repository for various data, which may include arrest warrants, 64060  
notices of persons wanted by law enforcement agencies, criminal 64061  
records, prison inmate records, stolen vehicle records, vehicle 64062  
operator's licenses, and vehicle registrations and titles. 64063

(I) The department shall coordinate all homeland security 64064  
activities of all state agencies and shall be a liaison between 64065  
state agencies and local entities for those activities and related 64066  
purposes. 64067

(J) Beginning January 1, 2004, the department shall 64068  
administer the laws and rules relative to private investigators 64069  
and security guard providers specified in Chapter 4749. of the 64070  
Revised Code. 64071

(K) There is hereby created in the department of public 64072

safety the division of the state fire marshal, which shall 64073  
administer and enforce Chapters 3731. and 3743. of the Revised 64074  
Code and any other law conferring powers or imposing duties upon 64075  
the state fire marshal. 64076

**Sec. 5502.03.** (A) There is hereby created in the department 64077  
of public safety a division of homeland security. It is the intent 64078  
of the general assembly that the creation of the division of 64079  
homeland security of the department of public safety by this 64080  
amendment does not result in an increase of funding appropriated 64081  
to the department. 64082

(B)(1) The division shall coordinate all homeland security 64083  
activities of all state agencies and shall be the liaison between 64084  
state agencies and local entities for the purposes of 64085  
communicating homeland security funding and policy initiatives. 64086

(2) The division shall be in charge of the systems operations 64087  
of the multi-agency radio communications system (MARCS) in 64088  
accordance with any rules that the director of public safety may 64089  
adopt. The director shall appoint a steering committee to advise 64090  
the director in the operation of the MARCS, comprised of persons 64091  
who represent the users of that system. The director or the 64092  
director's designee shall chair the committee. 64093

(C) The director of public safety shall appoint an executive 64094  
director, who shall be head of the division of homeland security 64095  
and who regularly shall advise the governor and the director on 64096  
matters pertaining to homeland security. The executive director 64097  
shall serve at the pleasure of the director of public safety. To 64098  
carry out the duties assigned under this section, the executive 64099  
director, subject to the direction and control of the director of 64100  
public safety, may appoint and maintain necessary staff and may 64101  
enter into any necessary agreements. 64102

(D) Except as otherwise provided by law, nothing in this 64103

section shall be construed to give the director of public safety 64104  
or the executive director of the division of homeland security 64105  
authority over the incident management structure or 64106  
responsibilities of local emergency response personnel. 64107

**Sec. 5502.13.** The department of public safety shall maintain 64108  
an investigative unit in order to conduct investigations and other 64109  
enforcement activity authorized by Chapters 4301., 4303., 5101., 64110  
5107., ~~and 5108.,~~ and 5115. and sections 2903.12, 2903.13, 64111  
2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 64112  
2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 64113  
4507.30, ~~and 5115.03~~ of the Revised Code. The director of public 64114  
safety shall appoint the employees of the unit who are necessary, 64115  
designate the activities to be performed by those employees, and 64116  
prescribe their titles and duties. 64117

**Sec. 5549.21.** The board of township trustees may purchase or 64118  
lease such machinery and tools as are necessary for use in 64119  
constructing, reconstructing, maintaining, and repairing roads and 64120  
culverts within the township, and shall provide suitable places 64121  
for housing and storing machinery and tools owned by the township. 64122  
It may purchase such material and employ such labor as is 64123  
necessary for carrying into effect this section, or it may 64124  
authorize the purchase or employment of such material and labor by 64125  
one of its number, or by the township highway superintendent, at a 64126  
price to be fixed by the board. All payments on account of 64127  
machinery, tools, material, and labor shall be made from the 64128  
township road fund. Except as otherwise provided in sections 64129  
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 64130  
materials, machinery, and tools shall, ~~where~~ if the amount 64131  
involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made 64132  
from the lowest responsible bidder after advertisement, as 64133  
provided in section 5575.01 of the Revised Code. ~~where~~ 64134



If, in compliance with section 505.10 of the Revised Code, 64135  
the board wishes to sell machinery, equipment, or tools owned by 64136  
the township to the person from whom it is to purchase other 64137  
machinery, equipment, or tools, the board may offer, ~~where if~~ the 64138  
amount of the purchase alone involved does not exceed ~~fifteen~~ 64139  
twenty-five thousand dollars, to sell such machinery, equipment, 64140  
or tools and have the amount credited by the vendor against the 64141  
purchase of the other machinery, equipment, or tools. ~~Where~~ If the 64142  
purchase price of the other machinery, equipment, or tools alone 64143  
exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give 64144  
notice to the competitive bidders of its willingness to accept 64145  
offers for the purchase of the old machinery, equipment, or tools, 64146  
and ~~such~~ those offers shall be subtracted from the selling price 64147  
of the other machinery, equipment, or tools as bid, in determining 64148  
the lowest responsible bidder. Notice of the willingness of the 64149  
board to accept offers for the purchase of the old machinery, 64150  
equipment, or tools shall be made as a part of the advertisement 64151  
for bids. 64152

**Sec. 5703.052.** (A) There is hereby created in the state 64153  
treasury the tax refund fund, from which refunds shall be paid for 64154  
taxes illegally or erroneously assessed or collected, or for any 64155  
other reason overpaid, that are levied by Chapter 4301., 4305., 64156  
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 64157  
5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 64158  
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 64159  
Revised Code. Refunds for fees illegally or erroneously assessed 64160  
or collected, or for any other reason overpaid, that are levied by 64161  
sections 3734.90 to 3734.9014 of the Revised Code also shall be 64162  
paid from the fund. However, refunds for taxes levied under 64163  
section 5739.101 of the Revised Code shall not be paid from the 64164  
tax refund fund, but shall be paid as provided in section 5739.104 64165  
of the Revised Code. 64166

(B)(1) Upon certification by the tax commissioner to the 64167  
treasurer of state of a tax refund, ~~or~~ fee refund, ~~or tax credit~~ 64168  
~~due~~, or by the superintendent of insurance of a domestic or 64169  
foreign insurance tax refund, the treasurer of state ~~may~~ shall 64170  
place the amount certified to the credit of the fund. The 64171  
certified amount transferred shall be derived from current 64172  
receipts of the same tax or the fee ~~for~~ from which the refund 64173  
arose ~~or, in the case of a tax credit refund, from the current~~ 64174  
~~receipts of the taxes levied by sections 5739.02 and 5741.02 of~~ 64175  
~~the Revised Code. If~~ 64176

~~If the tax refund arises from a tax payable to the general~~ 64177  
~~revenue fund, and current receipts from that source~~ the tax or fee 64178  
from which the refund arose are inadequate to make the transfer of 64179  
the amount so certified, the treasurer of state ~~may~~ shall transfer 64180  
such certified amount from current receipts of the sales tax 64181  
levied by section 5739.02 of the Revised Code. 64182

(2) When the treasurer of state provides for the payment of a 64183  
refund of a tax or fee from the current receipts of the sales tax, 64184  
and the refund is for a tax or fee that is not levied by the 64185  
state, the tax commissioner shall recover the amount of that 64186  
refund from the next distribution of that tax or fee that 64187  
otherwise would be made to the taxing jurisdiction. If the amount 64188  
to be recovered would exceed twenty-five per cent of the next 64189  
distribution of that tax or fee, the commissioner may spread the 64190  
recovery over more than one future distribution, taking into 64191  
account the amount to be recovered and the amount of the 64192  
anticipated future distributions. In no event may the commissioner 64193  
spread the recovery over a period to exceed twenty-four months. 64194

**Sec. 5703.56.** (A) As used in this section: 64195

(1) "Sham transaction" means a transaction or series of 64196  
transactions without economic substance because there is no 64197

business purpose or expectation of profit other than obtaining tax 64198  
benefits. 64199

(2) "Tax" includes any tax or fee administered by the tax 64200  
commissioner. 64201

(3) "Taxpayer" includes any entity subject to a tax. 64202

(4) "Controlled group" means two or more persons related in 64203  
such a way that one person directly or indirectly owns or controls 64204  
the business operation of another member of the group. In the case 64205  
of persons with stock or other equity, one person owns or controls 64206  
another if it directly or indirectly owns more than fifty per cent 64207  
of the other person's common stock with voting rights or other 64208  
equity with voting rights. 64209

(B) The tax commissioner may disregard any sham transaction 64210  
in ascertaining any taxpayer's tax liability. Except as otherwise 64211  
provided in the Revised Code, with respect to transactions between 64212  
members of a controlled group, the taxpayer shall bear the burden 64213  
of establishing by a preponderance of the evidence that a 64214  
transaction or series of transactions between the taxpayer and one 64215  
or more members of the controlled group was not a sham 64216  
transaction. Except as otherwise provided in the Revised Code, for 64217  
all other taxpayers, the tax commissioner shall bear the burden of 64218  
establishing by a preponderance of the evidence that a transaction 64219  
or series of transactions was a sham transaction. 64220

(C) In administering any tax, the tax commissioner may apply 64221  
the doctrines of "economic reality," "substance over form," and 64222  
"step transaction." 64223

(D) If the commissioner disregards a sham transaction under 64224  
division (B) of this section, the applicable limitation period for 64225  
assessing the tax, together with applicable penalties, charges, 64226  
and interest, shall be extended for a period equal to the 64227  
applicable limitation period. Nothing in this division shall be 64228

construed as extending an applicable limitation period for 64229  
claiming any refund of a tax. 64230

(E) The tax commissioner may, in accordance with Chapter 119. 64231  
of the Revised Code, adopt rules that are necessary to administer 64232  
this section, including rules establishing criteria for 64233  
identifying sham transactions. 64234

**Sec. 5703.57.** (A) As used in this section, "Ohio business 64235  
gateway" has the same meaning as in section 718.051 of the Revised 64236  
Code. 64237

(B) There is hereby created the Ohio business gateway 64238  
steering committee to direct the continuing development of the 64239  
Ohio business gateway and to oversee its operations. The committee 64240  
shall provide general oversight regarding operation of the Ohio 64241  
business gateway and shall recommend to the department of 64242  
administrative services enhancements that will improve the Ohio 64243  
business gateway. The committee shall consider all banking, 64244  
technological, administrative, and other issues associated with 64245  
the Ohio business gateway and shall make recommendations regarding 64246  
the type of reporting forms or other tax documents to be filed 64247  
through the Ohio business gateway. 64248

(C) The committee shall consist of: 64249

(1) The following members, appointed by the governor with the 64250  
advice and consent of the senate: 64251

(a) Not more than two representatives of the business 64252  
community; 64253

(b) Not more than three representatives of municipal tax 64254  
administrators; and 64255

(c) Not more than two tax practitioners. 64256

(2) The following ex officio members: 64257

<u>(a) The director or other highest officer of each state</u>	64258
<u>agency that has tax reporting forms or other tax documents filed</u>	64259
<u>with it through the Ohio business gateway or the director's</u>	64260
<u>designee;</u>	64261
<u>(b) The secretary of state or the secretary of state's</u>	64262
<u>designee;</u>	64263
<u>(c) The treasurer of state or the treasurer of state's</u>	64264
<u>designee;</u>	64265
<u>(d) The director of budget and management or the director's</u>	64266
<u>designee;</u>	64267
<u>(e) The director of administrative services or the director's</u>	64268
<u>designee; and</u>	64269
<u>(f) The tax commissioner or the tax commissioner's designee.</u>	64270
<u>An appointed member shall serve until the member resigns or</u>	64271
<u>is removed by the governor. Vacancies shall be filled in the same</u>	64272
<u>manner as original appointments.</u>	64273
<u>(D) A vacancy on the committee does not impair the right of</u>	64274
<u>the other members to exercise all the functions of the committee.</u>	64275
<u>The presence of a majority of the members of the committee</u>	64276
<u>constitutes a quorum for the conduct of business of the committee.</u>	64277
<u>The concurrence of at least a majority of the members of the</u>	64278
<u>committee is necessary for any action to be taken by the</u>	64279
<u>committee. On request, each member of the committee shall be</u>	64280
<u>reimbursed for the actual and necessary expenses incurred in the</u>	64281
<u>discharge of the member's duties.</u>	64282
<u>(E) The board is a part of the department of taxation for</u>	64283
<u>administrative purposes.</u>	64284
<u>(F) Each year, the governor shall select a member of the</u>	64285
<u>committee to serve as chairperson. The chairperson shall appoint</u>	64286
<u>an official or employee of the department of taxation to act as</u>	64287

the committee's secretary. The secretary shall keep minutes of the 64288  
committee's meetings and a journal of all meetings, proceedings, 64289  
findings, and determinations of the committee. 64290

(G) The board shall hire professional, technical, and 64291  
clerical staff needed to support its activities. 64292

(H) The committee shall meet as often as necessary to perform 64293  
its duties. 64294

**Sec. 5703.58.** (A) As used in this section, "felony" has the 64295  
same meaning as in section 109.511 of the Revised Code. 64296

(B) For the purposes of enforcing all laws relating to taxes 64297  
and fees that the tax commissioner is responsible for 64298  
administering, the tax commissioner, by journal entry, may 64299  
delegate any investigation powers of the commissioner to an 64300  
employee of the department of taxation who has been certified by 64301  
the executive director of the Ohio peace officer training 64302  
commission. Each journal entry shall be a matter of public record 64303  
and shall be kept in an administrative portion of the journal 64304  
maintained under division (L) of section 5703.05 of the Revised 64305  
Code. When that journal entry is completed, the employee to whom 64306  
it pertains, while engaged within the scope of the employee's 64307  
duties in enforcing the laws that the commissioner is responsible 64308  
for administering, has the power of a police officer to carry 64309  
concealed weapons, make arrests, and obtain warrants for 64310  
violations of those laws. The commissioner, at any time, may 64311  
suspend or revoke the commissioner's delegation by journal entry. 64312

(C) The tax commissioner shall not delegate any investigation 64313  
powers to an employee of the department of taxation under division 64314  
(B) of this section if the employee has been convicted of or has 64315  
pleaded guilty to a felony. 64316

(D)(1) The tax commissioner shall revoke the delegation of 64317

investigation powers to an employee to whom the delegation was 64318  
made under division (B) of this section if that employee does 64319  
either of the following: 64320

(a) Pleads guilty to a felony; 64321

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 64322  
plea agreement, as provided in division (D) of section 2929.29 of 64323  
the Revised Code, in which the employee agrees under section 64324  
109.77 of the Revised Code to surrender the certificate awarded to 64325  
that employee. 64326

(2) The tax commissioner shall suspend the delegation of 64327  
investigation powers to an employee to whom the delegation was 64328  
made under division (B) of this section if that employee is 64329  
convicted, after trial, of a felony. If the employee files an 64330  
appeal from that conviction and the conviction is upheld by the 64331  
highest court to which the appeal is taken, or if the employee 64332  
does not file a timely appeal, the commissioner shall revoke the 64333  
delegation of investigation powers to that employee. If the 64334  
employee files an appeal that results in that employee's acquittal 64335  
of the felony or conviction of a misdemeanor, or in the dismissal 64336  
of the felony charge against that employee, the commissioner shall 64337  
reinstate the delegation of investigation powers to that employee. 64338  
The revocation, suspension, or reinstatement of the delegation of 64339  
investigation powers to an employee under division (D) of this 64340  
section shall be made by journal entry pursuant to division (B) of 64341  
this section. An employee to whom the delegation of investigation 64342  
powers is reinstated under division (D)(2) of this section shall 64343  
not receive any back pay for the exercise of those investigation 64344  
powers, unless that employee's conviction of the felony was 64345  
reversed on appeal, or the felony charge was dismissed, because 64346  
the court found insufficient evidence to convict the employee of 64347  
the felony. 64348

(3) The revocation or suspension of the delegation of 64349

investigation powers to an employee under division (D) of this 64350  
section shall be in accordance with Chapter 119. of the Revised 64351  
Code. 64352

(E) Divisions (C) and (D) of this section do not apply to an 64353  
offense that was committed prior to January 1, 1997. 64354

(F) Nothing in this section limits the tax commissioner's 64355  
ability to have other employees of the department of taxation 64356  
conduct investigations as authorized by sections 5703.17 and 64357  
5703.19 of the Revised Code. 64358

(G) The department of taxation shall cooperate with the 64359  
attorney general, local law enforcement officials, and appropriate 64360  
agencies of the federal government and other states in the 64361  
investigation and prosecution of violations of all laws relating 64362  
to taxes and fees administered by the tax commissioner. 64363

**Sec. 5703.80.** There is hereby created in the state treasury 64364  
the property tax administration fund. All money to the credit of 64365  
the fund shall be used to defray the costs incurred by the 64366  
department of taxation in administering the taxation of property 64367  
and the equalization of real property valuation. 64368

Each fiscal year between the first and fifteenth days of 64369  
July, the tax commissioner shall compute the following amounts for 64370  
the property in each taxing district in each county, and certify 64371  
to the director of budget and management the sum of those amounts 64372  
for all taxing districts in all counties: 64373

(A) Three-tenths of one per cent of the total amount by which 64374  
taxes charged against real property on the general tax list of 64375  
real and public utility property were reduced under section 64376  
319.302 of the Revised Code for the preceding tax year; 64377

(B) Fifteen-hundredths of one per cent of the total amount of 64378  
taxes charged and payable against public utility personal property 64379



on the general tax list of real and public utility property for 64380  
the preceding tax year; 64381

(C) Seventy-five hundredths of one per cent of the total 64382  
amount of taxes charged and payable against tangible personal 64383  
property on the general tax list of personal property of the 64384  
preceding tax year and for which returns were filed with the tax 64385  
commissioner under section 5711.13 of the Revised Code. 64386

After receiving the tax commissioner's certification, the 64387  
director of budget and management shall transfer from the general 64388  
revenue fund to the property tax administration fund one-fourth of 64389  
the amount certified on or before each of the following days: the 64390  
first days of August, November, February, and May. 64391

On or before the thirtieth day of June of the fiscal year, 64392  
the tax commissioner shall certify to the director of budget and 64393  
management the sum of the amounts by which the amounts computed 64394  
for a taxing district under divisions (A), (B), and (C) of this 64395  
section exceeded the distributions to the taxing district under 64396  
division (F) of section 321.24 of the Revised Code, and the 64397  
director shall transfer that sum from the property tax 64398  
administration fund to the general revenue fund. 64399

**Sec. 5705.39.** The total appropriations from each fund shall 64400  
not exceed the total of the estimated revenue available for 64401  
expenditure therefrom, as certified by the budget commission, or 64402  
in case of appeal, by the board of tax appeals. No appropriation 64403  
measure shall become effective until the county auditor files with 64404  
the appropriating authority ~~and in the case of a school district,~~ 64405  
~~also files with the superintendent of public instruction,~~ a 64406  
certificate that the total appropriations from each fund, taken 64407  
together with all other outstanding appropriations, do not exceed 64408  
such official estimate or amended official estimate. When the 64409  
appropriation does not exceed such official estimate, the county 64410

auditor shall give such certificate forthwith upon receiving from 64411  
the appropriating authority a certified copy of the appropriation 64412  
measure, ~~a copy of which he shall deliver to the superintendent of~~ 64413  
~~public instruction in the case of a school district.~~ 64414  
Appropriations shall be made from each fund only for the purposes 64415  
for which such fund is established. 64416

**Sec. 5705.41.** No subdivision or taxing unit shall: 64417

(A) Make any appropriation of money except as provided in 64418  
Chapter 5705. of the Revised Code; provided, that the 64419  
authorization of a bond issue shall be deemed to be an 64420  
appropriation of the proceeds of the bond issue for the purpose 64421  
for which such bonds were issued, but no expenditure shall be made 64422  
from any bond fund until first authorized by the taxing authority; 64423

(B) Make any expenditure of money unless it has been 64424  
appropriated as provided in such chapter; 64425

(C) Make any expenditure of money except by a proper warrant 64426  
drawn against an appropriate fund; 64427

(D)(1) Except as otherwise provided in division (D)(2) of 64428  
this section and section 5705.44 of the Revised Code, make any 64429  
contract or give any order involving the expenditure of money 64430  
unless there is attached thereto a certificate of the fiscal 64431  
officer of the subdivision that the amount required to meet the 64432  
obligation or, in the case of a continuing contract to be 64433  
performed in whole or in part in an ensuing fiscal year, the 64434  
amount required to meet the obligation in the fiscal year in which 64435  
the contract is made, has been lawfully appropriated for such 64436  
purpose and is in the treasury or in process of collection to the 64437  
credit of an appropriate fund free from any previous encumbrances. 64438  
This certificate need be signed only by the subdivision's fiscal 64439  
officer. Every such contract made without such a certificate shall 64440  
be void, and no warrant shall be issued in payment of any amount 64441

due thereon. If no certificate is furnished as required, upon 64442  
receipt by the taxing authority of the subdivision or taxing unit 64443  
of a certificate of the fiscal officer stating that there was at 64444  
the time of the making of such contract or order and at the time 64445  
of the execution of such certificate a sufficient sum appropriated 64446  
for the purpose of such contract and in the treasury or in process 64447  
of collection to the credit of an appropriate fund free from any 64448  
previous encumbrances, such taxing authority may authorize the 64449  
drawing of a warrant in payment of amounts due upon such contract, 64450  
but such resolution or ordinance shall be passed within thirty 64451  
days after the taxing authority receives such certificate; 64452  
provided that, if the amount involved is less than one hundred 64453  
dollars in the case of counties or three thousand dollars in the 64454  
case of all other subdivisions or taxing units, the fiscal officer 64455  
may authorize it to be paid without such affirmation of the taxing 64456  
authority of the subdivision or taxing unit, if such expenditure 64457  
is otherwise valid. 64458

(2) Annually, the board of county commissioners may adopt a 64459  
resolution exempting for the current fiscal year county purchases 64460  
of seven hundred fifty dollars or less from the requirement of 64461  
division (D)(1) of this section that a certificate be attached to 64462  
any contract or order involving the expenditure of money. The 64463  
resolution shall state the dollar amount that is exempted from the 64464  
certificate requirement and whether the exemption applies to all 64465  
purchases, to one or more specific classes of purchases, or to the 64466  
purchase of one or more specific items. Prior to the adoption of 64467  
the resolution, the board shall give written notice to the county 64468  
auditor that it intends to adopt the resolution. The notice shall 64469  
state the dollar amount that is proposed to be exempted and 64470  
whether the exemption would apply to all purchases, to one or more 64471  
specific classes of purchases, or to the purchase of one or more 64472  
specific items. The county auditor may review and comment on the 64473  
proposal, and shall send any comments to the board within fifteen 64474

days after receiving the notice. The board shall wait at least 64475  
fifteen days after giving the notice to the auditor before 64476  
adopting the resolution. A person authorized to make a county 64477  
purchase in a county that has adopted such a resolution shall 64478  
prepare and file with the county auditor, within three business 64479  
days after incurring an obligation not requiring a certificate, a 64480  
written document specifying the purpose and amount of the 64481  
expenditure, the date of the purchase, the name of the vendor, and 64482  
such additional information as the auditor of state may prescribe. 64483

(3) Upon certification by the auditor or other chief fiscal 64484  
officer that a certain sum of money, not in excess of ~~five~~ 64485  
~~thousand dollars~~ an amount established by resolution or ordinance 64486  
adopted by a majority of the members of the legislative authority 64487  
of the subdivision or taxing unit, has been lawfully appropriated, 64488  
authorized, or directed for a certain purpose and is in the 64489  
treasury or in the process of collection to the credit of a 64490  
specific line-item appropriation account in a certain fund free 64491  
from previous and then outstanding obligations or certifications, 64492  
then for such purpose and from such line-item appropriation 64493  
account in such fund, over a period ~~not exceeding three months and~~ 64494  
not extending beyond the end of the fiscal year, expenditures may 64495  
be made, orders for payment issued, and contracts or obligations 64496  
calling for or requiring the payment of money made and assumed; 64497  
provided, that the aggregate sum of money included in and called 64498  
for by such expenditures, orders, contracts, and obligations shall 64499  
not exceed the sum so certified. Such a certification need be 64500  
signed only by the fiscal officer of the subdivision or the taxing 64501  
district and may, but need not, be limited to a specific vendor. 64502  
An itemized statement of obligations incurred and expenditures 64503  
made under such certificate shall be rendered to the auditor or 64504  
other chief fiscal officer before another such certificate may be 64505  
issued, and not more than one such certificate shall be 64506  
outstanding at a time. 64507

In addition to providing the certification for expenditures 64508  
~~of five thousand dollars or less~~ as ~~provided~~ specified in this 64509  
division, a subdivision also may make expenditures, issue orders 64510  
for payment, and make contracts or obligations calling for or 64511  
requiring the payment of money made and assumed for specified 64512  
permitted purposes from a specific line-item appropriation account 64513  
in a specified fund for a sum of money upon the certification by 64514  
the fiscal officer of the subdivision that this sum of money has 64515  
been lawfully appropriated, authorized, or directed for a 64516  
permitted purpose and is in the treasury or in the process of 64517  
collection to the credit of the specific line-item appropriation 64518  
account in the specified fund free from previous and 64519  
then-outstanding obligations or certifications; provided that the 64520  
aggregate sum of money included in and called for by the 64521  
expenditures, orders, and obligations shall not exceed the 64522  
certified sum. The purposes for which a subdivision may lawfully 64523  
appropriate, authorize, or issue such a certificate are the 64524  
services of an accountant, architect, attorney at law, physician, 64525  
professional engineer, construction project manager, consultant, 64526  
surveyor, or appraiser by or on behalf of the subdivision or 64527  
contracting authority; fuel oil, gasoline, food items, roadway 64528  
materials, and utilities; and any purchases exempt from 64529  
competitive bidding under section 125.04 of the Revised Code and 64530  
any other specific expenditure that is a recurring and reasonably 64531  
predictable operating expense. Such a certification shall not 64532  
extend beyond the end of the fiscal year or, in the case of a 64533  
board of county commissioners that has established a quarterly 64534  
spending plan under section 5705.392 of the Revised Code, beyond 64535  
the quarter to which the plan applies. Such a certificate shall be 64536  
signed by the fiscal officer and may, but need not, be limited to 64537  
a specific vendor. An itemized statement of obligations incurred 64538  
and expenditures made under such a certificate shall be rendered 64539  
to the fiscal officer for each certificate issued. More than one 64540

such certificate may be outstanding at any time. 64541

In any case in which a contract is entered into upon a per 64542  
unit basis, the head of the department, board, or commission for 64543  
the benefit of which the contract is made shall make an estimate 64544  
of the total amount to become due upon such contract, which 64545  
estimate shall be certified in writing to the fiscal officer of 64546  
the subdivision. Such a contract may be entered into if the 64547  
appropriation covers such estimate, or so much thereof as may be 64548  
due during the current year. In such a case the certificate of the 64549  
fiscal officer based upon the estimate shall be a sufficient 64550  
compliance with the law requiring a certificate. 64551

Any certificate of the fiscal officer attached to a contract 64552  
shall be binding upon the political subdivision as to the facts 64553  
set forth therein. Upon request of any person receiving an order 64554  
or entering into a contract with any political subdivision, the 64555  
certificate of the fiscal officer shall be attached to such order 64556  
or contract. "Contract" as used in this section excludes current 64557  
payrolls of regular employees and officers. 64558

Taxes and other revenue in process of collection, or the 64559  
proceeds to be derived from authorized bonds, notes, or 64560  
certificates of indebtedness sold and in process of delivery, 64561  
shall for the purpose of this section be deemed in the treasury or 64562  
in process of collection and in the appropriate fund. This section 64563  
applies neither to the investment of sinking funds by the trustees 64564  
of such funds, nor to investments made under sections 731.56 to 64565  
731.59 of the Revised Code. 64566

No district authority shall, in transacting its own affairs, 64567  
do any of the things prohibited to a subdivision by this section, 64568  
but the appropriation referred to shall become the appropriation 64569  
by the district authority, and the fiscal officer referred to 64570  
shall mean the fiscal officer of the district authority. 64571

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year, as follows:

(1) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by

the electors and is subject to appropriation in the current fiscal year. 64603  
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(2) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract. 64605  
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(3) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule. 64607  
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If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and any succeeding fiscal years that the certificate must cover. 64609  
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The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose. 64617  
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(C) Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. 64624  
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(D) The department of education and the auditor of state jointly shall adopt rules governing the methods by which treasurers, presidents of boards of education, superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section. 64627  
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(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since the district's last audit, and the appropriation measure, contract, or wage and salary schedule to which such certificate was attached. If the auditor of state determines that a school district has not complied with this section with respect to any qualifying contract or wage or salary schedule, the auditor of state shall notify the prosecuting attorney for the county, the city director of law, or other chief law officer of the school district. That officer may file a civil action in any court of appropriate jurisdiction to seek a declaration that the contract or wage or salary schedule is void, to recover for the school district from the payee the amount of payments already made under it, or both, except that the officer shall not seek to recover payments made under any collective bargaining agreement entered into under Chapter 4117. of the Revised Code. If the officer does not file such an action within one hundred twenty days after receiving notice of noncompliance from the auditor of state, any taxpayer may institute the action in the taxpayer's own name on behalf of the school district.

(F) This section does not apply to any contract or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract or increase does not exceed the amount required to be paid to be in compliance with such division.

(G) Any officer, employee, or other person who expends or authorizes the expenditure of any public funds or authorizes or executes any contract or schedule contrary to this section, expends or authorizes the expenditure of any public funds on the

void contract or schedule, or issues a certificate under this 64666  
section which contains any false statements is liable to the 64667  
school district for the full amount paid from the district's funds 64668  
on the contract or schedule. The officer, employee, or other 64669  
person is jointly and severally liable in person and upon any 64670  
official bond that the officer, employee, or other person has 64671  
given to the school district to the extent of any payments on the 64672  
void claim, not to exceed ten thousand dollars. However, no 64673  
officer, employee, or other person shall be liable for a mistaken 64674  
estimate of available resources made in good faith and based upon 64675  
reasonable grounds. If an officer, employee, or other person is 64676  
found to have complied with rules jointly adopted by the 64677  
department of education and the auditor of state under this 64678  
section governing methods by which revenue shall be estimated and 64679  
determined sufficient to provide necessary operating revenue for 64680  
the purpose of making certifications required by this section, the 64681  
officer, employee, or other person shall not be liable under this 64682  
section if the estimates and determinations made according to 64683  
those rules do not, in fact, conform with actual revenue. The 64684  
prosecuting attorney of the county, the city director of law, or 64685  
other chief law officer of the district shall enforce this 64686  
liability by civil action brought in any court of appropriate 64687  
jurisdiction in the name of and on behalf of the school district. 64688  
If the prosecuting attorney, city director of law, or other chief 64689  
law officer of the district fails, upon the written request of any 64690  
taxpayer, to institute action for the enforcement of the 64691  
liability, the attorney general, or the taxpayer in the taxpayer's 64692  
own name, may institute the action on behalf of the subdivision. 64693

(H) This section does not require the attachment of an 64694  
additional certificate beyond that required by section 5705.41 of 64695  
the Revised Code for current payrolls of, or contracts of 64696  
employment with, ~~regular~~ any employees or officers of the school 64697  
district. 64698

This section does not require the attachment of a certificate 64699  
to a temporary appropriation measure if all of the following 64700  
apply: 64701

(1) The amount appropriated does not exceed twenty-five per 64702  
cent of the total amount from all sources available for 64703  
expenditure from any fund during the preceding fiscal year; 64704

(2) The measure will not be in effect on or after the 64705  
thirtieth day following the earliest date on which the district 64706  
may pass an annual appropriation measure; 64707

(3) An amended official certificate of estimated resources 64708  
for the current year, if required, has not been certified to the 64709  
board of education under division (B) of section 5705.36 of the 64710  
Revised Code. 64711

**Sec. 5709.20.** As used in sections 5709.20 to 5709.27 of the 64712  
Revised Code: 64713

(A) "Air contaminant" means particulate matter, dust, fumes, 64714  
gas, mist, smoke, vapor, or odorous substances, or any combination 64715  
thereof. 64716

(B) "Air pollution control facility" means any property 64717  
designed, constructed, or installed for the primary purpose of 64718  
eliminating or reducing the emission of, or ground level 64719  
concentration of, air contaminants ~~which~~ generated at an 64720  
industrial or commercial plant or site that renders air harmful or 64721  
inimical to the public health or to property within this state, or 64722  
such property installed on or after November 1, 1993, at a 64723  
petroleum refinery for the primary purpose of eliminating or 64724  
reducing substances within fuel that otherwise would create the 64725  
emission of air contaminants upon the combustion of fuel. 64726

(C) "Energy conversion" means the conversion of fuel or power 64727  
usage and consumption from natural gas to an alternate fuel or 64728

power source other than propane, butane, naphtha, or fuel oil; or 64729  
the conversion of fuel or power usage and consumption from fuel 64730  
oil to an alternate fuel or power source other than natural gas, 64731  
propane, butane, or naphtha. 64732

(D) "Energy conversion facility" means any additional 64733  
property or equipment designed, constructed, or installed after 64734  
December 31, 1974, for use at an industrial or commercial plant or 64735  
site for the primary purpose of energy conversion. 64736

(E) "Exempt facility" means any of the facilities defined in 64737  
division (B), (D), (F), (I), (K), or (L) of this section for which 64738  
an exempt facility certificate is issued pursuant to section 64739  
5709.21 or for which a certificate remains valid under section 64740  
5709.201 of the Revised Code. 64741

(F) "Noise pollution control facility" means any property 64742  
designed, constructed, or installed ~~in or on~~ for use at an 64743  
industrial or commercial plant or site for the primary purpose of 64744  
eliminating or reducing, at that plant or site, the emission of 64745  
sound which is harmful or inimical to persons or property, or 64746  
materially reduces the quality of the environment, as shall be 64747  
determined by the director of environmental protection within such 64748  
standards for noise pollution control facilities and standards for 64749  
environmental noise necessary to protect public health and welfare 64750  
as may be promulgated by the United States environmental 64751  
protection agency. In the absence of such United States 64752  
environmental protection agency standards, the determination shall 64753  
be made in accordance with generally accepted current standards of 64754  
good engineering practice in environmental noise control. 64755

Facilities (G) "Solid waste" means such unwanted residual 64756  
solid or semi-solid material as results from industrial 64757  
operations, including those of public utility companies, and 64758  
commercial, distribution, research, agricultural, and community 64759  
operations, including garbage, combustible or noncombustible, 64760

street dirt, and debris. 64761

(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose. 64762  
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(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion. 64765  
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(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating. 64769  
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(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement. 64773  
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(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste to a point of disposal or treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to an industrial water pollution control facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to the approval of the environmental protection agency or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised Code, as applicable, apply to the terms used in 64777  
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this division. 64792

(M) Property designed, constructed, installed, used, or 64793  
placed in operation ~~solely~~ primarily for the safety, health, 64794  
protection, or benefit, or any combination thereof, of personnel, 64795  
~~or by~~ of a business ~~solely for its,~~ or primarily for a business's 64796  
own benefit, ~~are not pollution control facilities~~ is not an 64797  
"exempt facility." 64798

Sec. 5709.201. (A) Except as provided in divisions (C)(4)(a) 64799  
and (c) of section 5709.22 and division (F) of section 5709.25 of 64800  
the Revised Code, a certificate issued under section 5709.21, 64801  
5709.31, 5709.46, or 6111.31 of the Revised Code that was valid 64802  
and in effect on the effective date of this section shall continue 64803  
in effect subject to the law as it existed before that effective 64804  
date. Division (C)(4)(b) of section 5709.22 of the Revised Code 64805  
does not apply to any certificate issued by the tax commissioner 64806  
before July 1, 2003. 64807

(B) Any applications pending on the effective date of this 64808  
section for which a certificate had not been issued on or before 64809  
that effective date under section 6111.31 of the Revised Code 64810  
shall be transferred to the tax commissioner for further 64811  
administering. Sections 5709.20 to 5709.27 of the Revised Code 64812  
apply to such pending applications, excluding the requirement of 64813  
section 5709.212 of the Revised Code that applicants must pay the 64814  
fee. 64815

(C) For applications pending on the effective date of this 64816  
section, division (D) of section 5709.25 of the Revised Code 64817  
allowing the commissioner to assess any additional tax 64818  
notwithstanding any other time limitations imposed by law on the 64819  
denied portion of the applicant's claim applies only to tax 64820  
periods that would otherwise be open to assessment on that 64821  
effective date. 64822

Sec. 5709.21. (A) As used in this section: 64823

(1) "Exclusive property" means real and personal property that is installed, used, and necessary for the operation of an exempt facility, and that is not auxiliary property unless the auxiliary property exempt cost equals or exceeds eighty-five per cent of the total cost of the property. 64824  
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(2) "Auxiliary property" means personal property installed, used, and necessary for the operation of an exempt facility that is also used in other operations of the business other than an exempt facility purpose described in section 5709.20 of the Revised Code. "Auxiliary property" does not include property with an auxiliary property exempt cost that is less than or equal to fifteen per cent of the total cost of such property. 64829  
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(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows: 64836  
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(a) If the auxiliary property is used for an exempt facility purpose for discrete periods of time, the exempt cost shall be determined by the ratio of time the auxiliary property is in use in such exempt capacity to the total time it is in use. Division (A)(3)(a) of this section does not apply if the property is concurrently used for an exempt facility purpose and a nonexempt facility purpose. 64838  
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(b) The applicant has the burden of proving the exempt cost of all auxiliary property not described in division (A)(3)(a) of this section. 64845  
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(c) Any cost related to an expansion of the commercial or industrial site that is not related to the operation of the exempt facility shall not be included as an auxiliary exempt cost under division (A)(3) of this section. 64848  
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(B) Application for an air or noise pollution control exempt 64852

facility certificate shall be filed with the tax commissioner in 64853  
such manner and in such form as ~~may be~~ prescribed by ~~regulations~~ 64854  
~~issued by the tax commissioner and.~~ The application shall contain 64855  
plans and specifications of the ~~structure or structures~~ property, 64856  
including all materials incorporated ~~and or~~ to be incorporated 64857  
therein and their associated costs, and a descriptive list of all 64858  
equipment acquired or to be acquired by the applicant for the 64859  
~~purpose of air or noise pollution control~~ exempt facility and its 64860  
associated cost. If the commissioner, ~~after obtaining the opinion~~ 64861  
~~of the director of environmental protection,~~ finds that the 64862  
~~proposed facility~~ property was designed primarily ~~for the control~~ 64863  
~~of air or noise pollution as defined in section 5709.20 of the~~ 64864  
~~Revised Code,~~ as an exempt facility and is suitable and reasonably 64865  
adequate for such purpose and is intended for such purpose, ~~he~~ the 64866  
commissioner shall enter a finding and issue a certificate to that 64867  
effect. ~~Said certificate shall permit tax exemption pursuant to~~ 64868  
~~section 5709.25 of the Revised Code only for that portion of such~~ 64869  
~~pollution control facility or that part used exclusively for air~~ 64870  
~~or noise pollution control.~~ The effective date of ~~said~~ the 64871  
certificate shall be the date ~~of the making of the application~~ was 64872  
made for such certificate or the date of the construction of the 64873  
facility, whichever is earlier; ~~provided, that if such application~~ 64874  
~~relates to facilities placed in operation or capable of operation~~ 64875  
~~prior to October 2, 1969, the effective date of the certificate~~ 64876  
~~shall be the date of the application.~~ 64877

Nothing in this section shall be construed to extend the time 64878  
period to file, to keep the time period to file open, or supersede 64879  
the requirement of filing a tax refund or other tax reduction 64880  
request in the manner and within the time prescribed by law. 64881

(C)(1) Except as provided in division (C)(2) of this section, 64882  
the certificate shall permit tax exemption pursuant to section 64883  
5709.25 of the Revised Code only for that portion of such exempt 64884



facility that is exclusive property used for a purpose enumerated 64885  
in section 5709.20 of the Revised Code. 64886

(2) Auxiliary property shall be permitted a partial tax 64887  
exemption under section 5709.25 of the Revised Code, but only to 64888  
the extent allowed pursuant to division (A)(3) of this section. 64889

(D) The tax commissioner may allow an applicant to file one 64890  
application that applies to more than one exempt facility that are 64891  
the same or substantially similar, so long as such facilities are 64892  
located within the same county. 64893

**Sec. 5709.211.** (A) Before issuing an exempt facility 64894  
certificate pursuant to section 5709.21 of the Revised Code, the 64895  
tax commissioner shall provide a copy of a properly completed 64896  
application to, and obtain the opinion of, the director of 64897  
environmental protection in the case of an exempt facility 64898  
described in division (B), (F), or (L) of section 5709.20 of the 64899  
Revised Code, or provide a copy of the application to, and obtain 64900  
the opinion of, the director of development in the case of an 64901  
application for an exempt facility described in division (D), (I), 64902  
or (K) of section 5709.20 of the Revised Code. The opinion shall 64903  
provide the commissioner with a recommendation of whether the 64904  
property is primarily designed, constructed, installed, and used 64905  
as an exempt facility. The applicant shall provide additional 64906  
information upon request by the tax commissioner, the director of 64907  
environmental protection, or the director of development, and 64908  
allow them to inspect the property listed in the application for 64909  
the purposes of sections 5709.20 to 5709.27 of the Revised Code. 64910  
The tax commissioner shall provide to the applicant a copy of the 64911  
opinion issued by either the director of environmental protection 64912  
or the director of the department of development. 64913

(B) The opinions of the director of the environmental 64914  
protection agency and the director of development under division 64915

(A) of this section or division (C)(4) of section 5709.22 of the Revised Code are not final actions or orders subject to appeal. 64916  
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Sec. 5709.212. (A) With every application for an exempt facility certificate filed pursuant to section 5709.21 of the Revised Code, the applicant shall pay a fee equal to one-half of one per cent of the total exempt facility project cost, not to exceed two thousand dollars. One-half of the fee received with applications for exempt facility certificates shall be credited to the exempt facility administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering sections 5709.20 to 5709.27 of the Revised Code. If the director of environmental protection is required to provide the opinion for an application, one-half of the fee shall be credited to the clean air fund created in section 3704.035 of the Revised Code for use in administering section 5709.211 of the Revised Code, unless the application is for an industrial water pollution control facility. If the application is for an industrial water pollution control facility, one-half of the fee shall be credited to the surface water protection fund created in section 6111.038 of the Revised Code for use in administering section 5709.211 of the Revised Code. If the director of development is required to provide the opinion for an application, one-half of the fee for each exempt facility application shall be credited to the exempt facility inspection fund, which is hereby created in the state treasury, for appropriation to the department of development for use in administering section 5709.211 of the Revised Code. 64918  
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An applicant is not entitled to any tax exemption under section 5709.25 of the Revised Code until the fee required by this section is paid. The fee required by this section is not refundable, and is due with the application for an exempt facility certificate even if an exempt facility certificate ultimately is 64943  
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not issued or is withdrawn. Any application submitted without 64948  
payment of the fee shall be deemed incomplete until the fee is 64949  
paid. 64950

(B) The application fee imposed under division (A) of this 64951  
section for a jointly owned facility shall be equal to one-half of 64952  
one per cent of the total exempt facility project cost, not to 64953  
exceed two thousand dollars for each facility that is the subject 64954  
of the application. 64955

**Sec. 5709.22.** ~~Before issuing any certificate the tax~~ 64956  
~~commissioner shall give notice in writing by mail to the auditor~~ 64957  
~~of the county in which such facilities are located, and shall~~ 64958  
~~afford to the applicant and to the auditor an opportunity for a~~ 64959  
~~hearing. On like notice to the applicant and opportunity for a~~ 64960  
~~hearing, the commissioner shall on his (A) After receiving an~~ 64961  
~~opinion from the director of environmental protection or the~~ 64962  
~~director of development, the tax commissioner shall promptly~~ 64963  
~~ascertain if an application filed under section 5709.21 of the~~ 64964  
~~Revised Code shall be allowed or disallowed in whole or in part.~~ 64965  
The commissioner shall give written notice of the proposed finding 64966  
to the applicant and the county auditor of the county in which the 64967  
facility described in the application is located. Within sixty 64968  
days after sending written notice of the proposed finding, the 64969  
applicant or the county auditor may file a request for 64970  
reconsideration, in writing, to the commissioner and may request 64971  
that the commissioner conduct a hearing on the application. If no 64972  
request for reconsideration is filed, the commissioner's proposed 64973  
findings shall be final and, if applicable, the commissioner shall 64974  
issue an exempt facility certificate, which shall not be subject 64975  
to appeal pursuant to section 5717.02 of the Revised Code. 64976

(B) If a reconsideration of the tax commissioner's proposed 64977  
finding is requested by the applicant or the county auditor, the 64978

commissioner shall notify the applicant and the auditor of the 64979  
time and place of the hearing, which the commissioner may continue 64980  
from time to time as the commissioner finds necessary. The 64981  
commissioner also shall notify the environmental protection agency 64982  
or department of development, as applicable, of the hearing. The 64983  
environmental protection agency or the department of development 64984  
shall participate in the hearing if requested in writing by the 64985  
commissioner, the applicant, or the county auditor. After 64986  
conducting the hearing, the commissioner shall issue a final 64987  
determination, with a copy of it served on the applicant and 64988  
applicable county auditors in the manner prescribed by section 64989  
5703.37 of the Revised Code. The final determination is subject to 64990  
appeal pursuant to section 5717.02 of the Revised Code. Once all 64991  
appeals are exhausted, the commissioner shall issue, if 64992  
applicable, the exempt facility certificate based on the outcome 64993  
of the appeal. 64994

(C) The tax commissioner, on the commissioner's own 64995  
initiative or on complaint by the county auditor of ~~the~~ any county 64996  
in which any property to which ~~such air or noise pollution control~~ 64997  
~~the exempt facility~~ certificate relates is located, shall revoke 64998  
~~such air or noise pollution control certificate whenever any of~~ 64999  
~~the following appears~~ the certificate, or modify it by restricting 65000  
its operation, if it appears to the commissioner that any of the 65001  
following has occurred: 65002

~~(A)(1)~~ The certificate was obtained by fraud or 65003  
misrepresentation; 65004

~~(B)(2)~~ The holder of the certificate has failed substantially 65005  
to proceed with the construction, reconstruction, installation, or 65006  
acquisition of ~~air or noise pollution control facilities~~ an exempt 65007  
facility; 65008

~~(C)(3)~~ The ~~structure or equipment or both~~ property to which 65009  
the certificate relates has ceased to be used ~~for the primary~~ 65010

~~purpose of pollution control and is being used for a different  
purpose.~~ 65011  
65012

~~Provided, that where the circumstances so require, the  
commissioner in lieu of revoking such certificate may modify the  
same by restricting its operations as an exempt facility;~~ 65013  
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(4) The tax commissioner issued the certificate in error. As  
used in this section, "error" means any of the following: 65016  
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(a) A clerical or mathematical mistake; 65018

(b) When the commissioner agrees with an opinion from the  
director of environmental protection or the director of  
development that a certificate should not have been issued; 65019  
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(c) When the tax commissioner determines that the issuance of  
the certificate may have been improper as the result of a final  
adjudication by the board of tax appeals, or by a court with  
jurisdiction on appeal from that board, that is adverse to the  
original exempt status of the facility, regardless of whether the  
holder of the certificate was a party to such adjudication. 65022  
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(D) If the revocation or modification of a certificate under  
division (C)(4) of this section is an action found to be frivolous  
for the purposes of section 5703.54 of the Revised Code the  
certificate holder may claim damages as provided under division  
(B) of that section. 65028  
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~~On the mailing of notice of the action of the commissioner  
revoking or modifying an air or noise pollution control  
certificate as provided in section 5709.23 of the Revised Code,  
such~~ (E) Upon service of notice certificate to the holder of an  
exempt facility certificate, in the manner provided in section  
5703.37 of the Revised Code, of the tax commissioner's revocation  
or modification of the certificate under division (C) of this  
section, the certificate shall cease to be in force or shall  
remain in force only as modified, as the case may require. The 65033  
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notice is subject to appeal under section 5717.02 of the Revised Code. Once all appeals are exhausted, the commissioner shall issue a modified certificate, if applicable, and the holder of the certificate shall be allowed to claim a refund within one hundred eighty days, notwithstanding any other time limitation provided by law of the taxes paid as a result of the certificate being revoked or modified.

**Sec. 5709.23.** (A) As soon as is practicable after receiving an application for an exempt facility certificate, the tax commissioner shall provide a copy of the application and any accompanying documentation to the county auditor of the county in which the facility is located. The copy shall be accompanied by a statement showing an estimate of what the assessed value of the facility would be, based on the appropriate assessment percentage, if the facility were to be taxable, and an estimate of the taxes that would be chargeable against the facility computed on the basis of the rate of taxation in the taxing district in the year in which the application is received. Within sixty days after receiving such a statement, the county auditor shall issue a notice to the taxing authority of each taxing unit in which the facility is or is to be located. The notice shall state that an application for an exempt facility certificate has been filed for the facility; the estimated assessed value of the facility shown on the statement; the annual amount of taxes that would be charged and payable on that value at the current rate of taxation in effect in the taxing unit; and that, if approved, the application entitles the facility to exemption from taxation and the taxing unit may be required to refund any taxes on the facility accruing after the certificate becomes effective. The tax commissioner shall issue an amended statement if, after the original statement is issued, the estimate of such assessed value increases or decreases by more than ten per cent of the estimated value shown

on the most recently issued statement or amended statement, and 65074  
the county auditor shall issue an amended notice reflecting such 65075  
change. 65076

(B) Upon request by the county auditor of the county in which 65077  
the exempt facility described in the application is located, the 65078  
tax commissioner shall provide the county auditor with any 65079  
documents submitted with the opinion of the director of 65080  
environmental protection or director of development, including a 65081  
copy of opinion. 65082

(C) Any documents, statements, and notices provided for under 65083  
this section are solely for the purpose of notifying taxing 65084  
authorities of the existence of an exempt facility application and 65085  
the potential for a refund of taxes paid on an exempt facility 65086  
before a tax exemption certificate is issued. Such documents, 65087  
statements, and notices do not constitute an assessment that is 65088  
subject to a petition for reassessment nor are such documents, 65089  
statements, and notices appealable under section 5717.02 of the 65090  
Revised Code by any person. 65091

(D) The documents, statements, and notices provided by the 65092  
tax commissioner under this section are subject to all applicable 65093  
confidentiality provisions of law. 65094

Sec. 5709.24. The tax commissioner may adopt rules to 65095  
administer sections 5709.20 to 5709.27 of the Revised Code. 65096

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ 65097  
~~exempt facility~~ certificate is issued ~~on a pollution control~~ 65098  
~~facility~~, the transfer of tangible personal property to the holder 65099  
of the certificate, whether such transfer takes place before or 65100  
after the issuance of the certificate, shall not be considered a 65101  
"sale" of such tangible personal property for the purpose of the 65102  
sales tax, or a "use" for the purpose of the use tax, if the 65103

tangible personal property is to be or was a material or part to 65104  
be incorporated into an ~~air or noise pollution control~~ exempt 65105  
facility ~~as defined in section 5709.20 of the Revised Code.~~ 65106

(B) For the period subsequent to the effective date of an ~~air~~ 65107  
~~or noise pollution control~~ exempt facility certificate and 65108  
continuing for so long as the certificate is in force, no 65109  
~~pollution control~~ exempt facility or certified portion thereof 65110  
shall be considered to be either of the following: 65111

(1) An improvement on the land on which the ~~same~~ exempt 65112  
facility is located for the purpose of real property taxation; 65113

(2) As "used in business" for the purpose of personal 65114  
property taxation; 65115

~~(3) As an asset of any corporation in determining the value 65116  
of its issued and outstanding shares or the value of the property 65117  
owned and used by it in this state for the purpose of the 65118  
franchise tax. 65119~~

(C)(1) The tax commissioner, upon receiving a properly 65120  
completed application for an exempt facility certificate, may 65121  
allow the applicant to claim the exemption provided by this 65122  
section before the commissioner issues the certificate. The 65123  
applicant is entitled to the exemption unless the commissioner 65124  
notifies the applicant otherwise by serving notice upon the 65125  
applicant in the manner prescribed by section 5703.37 of the 65126  
Revised Code. 65127

(2) A taxpayer whose tangible personal property is subject to 65128  
taxation under Chapter 5727. of the Revised Code shall notify the 65129  
commissioner in writing of any property the applicant does not 65130  
want the commissioner to exclude from assessment. The notice shall 65131  
be provided before the date the commissioner issues the 65132  
preliminary assessment under section 5727.23 of the Revised Code. 65133

(D)(1) Notwithstanding any other time limitations imposed by 65134



law, the commissioner may assess any additional tax or may assess 65135  
any additional taxable property, including any applicable 65136  
interest, on the denied portion of the applicant's claim for an 65137  
exempt facility that the applicant claimed prior to the exempt 65138  
facility certificate being issued or the application being denied. 65139  
No assessment shall be made pursuant to this division after one 65140  
hundred eighty days from the date the commissioner mails the 65141  
exempt facility certificate or notice of the denial of the exempt 65142  
facility certificate pursuant to section 5709.22 of the Revised 65143  
Code. Nothing in this section shall prohibit an assessment that 65144  
otherwise may be timely made by law. 65145

(2) Assessments issued pursuant to division (D)(1) of this 65146  
section shall be issued as amended preliminary assessment 65147  
certificates under section 5711.31 of the Revised Code for 65148  
personal property tax, as amended preliminary assessment 65149  
certificates under section 5727.23 of the Revised Code for public 65150  
utility tax, and as assessments under section 5733.11 of the 65151  
Revised Code for corporation franchise tax, section 5739.13 of the 65152  
Revised Code for sales tax, and section 5741.11 of the Revised 65153  
Code for use tax, and are subject to the same appeal requirements 65154  
as defined in those sections. 65155

(3) Nothing in division (D) of this section allows the tax 65156  
commissioner, after the expiration of the time limitation, to 65157  
issue an assessment referenced in division (D)(2) of this section 65158  
that increases any tax beyond the amount claimed by the applicant 65159  
as an exempt facility. 65160

(4) If an assessment is issued for only the denied portion of 65161  
the application for an exempt facility, the only issue the 65162  
applicant is permitted to raise on appeal of the assessment 65163  
referenced in division (D)(2) of this section is that of the 65164  
taxable property or transaction constituting the denied portion of 65165  
the applicant's claim for an exempt facility. 65166

(E) Except as otherwise provided in this division, no exemption for additional property shall be claimed under this section after an exempt facility certificate has been issued for that facility unless the applicant files a new application under section 5709.21 of the Revised Code. The tax commissioner shall waive the requirement to file a new application under section 5709.21 of the Revised Code if the cost of the additional property, net of retirements for similar property, does not exceed five hundred thousand dollars during any calendar year. The fee imposed under section 5709.212 of the Revised Code for applications filed as a result of this division shall be five hundred dollars.

(F) If, as the result of a revaluation due to sale or bankruptcy or any other reason, the book value of property that is the subject of an exempt facility certificate is changed from the book value at the time of the original issuance of the certificate, the amount of exemption available to the owner is limited to the percentage resulting from the ratio of the historical cost of the property that is the subject of the exempt facility certificate to the historic cost of all tangible personal property and real property of the owner located at the same location as the property subject to the exempt facility certificate. If the result of using this ratio is greater than the original cost, then acceptable reasons for allowing such greater cost must be established with supporting documentation in order to qualify for the exemption above the original cost.

(G) After two years from the date the tax commissioner receives an application, the applicant may request in writing that the tax commissioner take final action on the pending application. Within ten days after receiving such a request, the tax commissioner shall issue a proposed finding, under section 5709.22 of the Revised Code, if the application is allowed in whole or in

part. Otherwise, the tax commissioner shall issue a final 65199  
determination denying the issuance of the certificate, which is a 65200  
final determination appealable under section 5717.02 of the 65201  
Revised Code. 65202

**Sec. 5709.26.** ~~When an air or noise pollution control exempt~~ 65203  
~~facility certificate is revoked because obtained by fraud or~~ 65204  
~~misrepresentation or modified for the reason stated in division~~ 65205  
(C)(1) of section 5709.22 of the Revised Code, all taxes which 65206  
that would have been payable had no certificate been issued shall 65207  
be assessed with ~~maximum~~ penalties and interest prescribed by law 65208  
applicable thereto dating to when the exemption was first allowed. 65209  
Notwithstanding any other time limitations imposed by law, if the 65210  
certificate is revoked or modified under division (C)(2), (3), or 65211  
(4) of section 5709.22 of the Revised Code, all taxes that would 65212  
have been payable had no certificate existed as of the first day 65213  
of January of the calendar year in which the certificate was 65214  
revoked or modified are subject to assessment. 65215

**Sec. 5709.27.** In the event of the sale, lease, or other 65216  
transfer of an ~~air or noise pollution control exempt~~ facility, not 65217  
involving a different location or use, the holder of ~~an air or~~ 65218  
~~noise pollution control~~ the exempt facility certificate ~~for such~~ 65219  
~~facility may~~ shall transfer the certificate by written instrument 65220  
to the person who, except for the transfer of the certificate, 65221  
would be obligated to pay taxes on ~~such~~ the facility. The 65222  
transferee shall become the holder of the certificate and shall 65223  
have all the rights to exemption from taxes ~~which were~~ granted to 65224  
the former holder or holders, effective as of the date of transfer 65225  
of the facility or the date of transfer of the certificate, 65226  
whichever is earlier. The transferee shall promptly give written 65227  
notice of the effective date of the transfer, together with a copy 65228  
of the instrument of transfer, to the tax commissioner and the 65229

county auditor of the county in which the facility is located. 65230  
Upon request, the commissioner may provide the transferee with any 65231  
information the commissioner possesses related to the issuance of 65232  
the exempt facility certificate. 65233

**Sec. 5709.61.** As used in sections 5709.61 to 5709.69 of the 65234  
Revised Code: 65235

(A) "Enterprise zone" or "zone" means any of the following: 65236

(1) An area with a single continuous boundary designated in 65237  
the manner set forth in section 5709.62 or 5709.63 of the Revised 65238  
Code and certified by the director of development as having a 65239  
population of at least four thousand according to the best and 65240  
most recent data available to the director and having at least two 65241  
of the following characteristics: 65242

(a) It is located in a municipal corporation defined by the 65243  
United States office of management and budget as a central city of 65244  
a metropolitan statistical area or in a city designated as an 65245  
urban cluster in a rural statistical area; 65246

(b) It is located in a county designated as being in the 65247  
"Appalachian region" under the "Appalachian Regional Development 65248  
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 65249

(c) Its average rate of unemployment, during the most recent 65250  
twelve-month period for which data are available, is equal to at 65251  
least one hundred twenty-five per cent of the average rate of 65252  
unemployment for the state of Ohio for the same period; 65253

(d) There is a prevalence of commercial or industrial 65254  
structures in the area that are vacant or demolished, or are 65255  
vacant and the taxes charged thereon are delinquent, and 65256  
certification of the area as an enterprise zone would likely 65257  
result in the reduction of the rate of vacant or demolished 65258  
structures or the rate of tax delinquency in the area; 65259

(e) The population of all census tracts in the area, 65260  
according to the federal census of 1990, decreased by at least ten 65261  
per cent between the years 1970 and 1990; 65262

(f) At least fifty-one per cent of the residents of the area 65263  
have incomes of less than eighty per cent of the median income of 65264  
residents of the municipal corporation or municipal corporations 65265  
in which the area is located, as determined in the same manner 65266  
specified under section 119(b) of the "Housing and Community 65267  
Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as 65268  
amended; 65269

(g) The area contains structures previously used for 65270  
industrial purposes, but currently not so used due to age, 65271  
obsolescence, deterioration, relocation of the former occupant's 65272  
operations, or cessation of operations resulting from unfavorable 65273  
economic conditions either generally or in a specific economic 65274  
sector; 65275

(h) It is located within one or more adjacent city, local, or 65276  
exempted village school districts, the income-weighted tax 65277  
capacity of each of which is less than seventy per cent of the 65278  
average of the income-weighted tax capacity of all city, local, or 65279  
exempted village school districts in the state according to the 65280  
most recent data available to the director from the department of 65281  
taxation. 65282

The director of development shall adopt rules in accordance 65283  
with Chapter 119. of the Revised Code establishing conditions 65284  
constituting the characteristics described in divisions (A)(1)(d), 65285  
(g), and (h) of this section. 65286

If an area could not be certified as an enterprise zone 65287  
unless it satisfied division (A)(1)(g) of this section, the 65288  
legislative authority may enter into agreements in that zone under 65289  
section 5709.62, 5709.63, or 5709.632 of the Revised Code only if 65290

such agreements result in the development of the facilities 65291  
described in that division, the parcel of land on which such 65292  
facilities are situated, or adjacent parcels. The director of 65293  
development annually shall review all agreements in such zones to 65294  
determine whether the agreements have resulted in such 65295  
development; if the director determines that the agreements have 65296  
not resulted in such development, the director immediately shall 65297  
revoke certification of the zone and notify the legislative 65298  
authority of such revocation. Any agreements entered into prior to 65299  
revocation under this paragraph shall continue in effect for the 65300  
period provided in the agreement. 65301

(2) An area with a single continuous boundary designated in 65302  
the manner set forth in section 5709.63 of the Revised Code and 65303  
certified by the director of development as: 65304

(a) Being located within a county that contains a population 65305  
of three hundred thousand or less; 65306

(b) Having a population of at least one thousand according to 65307  
the best and most recent data available to the director; 65308

(c) Having at least two of the characteristics described in 65309  
divisions (A)(1)(b) to (h) of this section. 65310

(3) An area with a single continuous boundary designated in 65311  
the manner set forth under division (A)(1) of section 5709.632 of 65312  
the Revised Code and certified by the director of development as 65313  
having a population of at least four thousand, or under division 65314  
(A)(2) of that section and certified as having a population of at 65315  
least one thousand, according to the best and most recent data 65316  
available to the director. 65317

(B) "Enterprise" means any form of business organization 65318  
including, but not limited to, any partnership, sole 65319  
proprietorship, or corporation, including an S corporation as 65320  
defined in section 1361 of the Internal Revenue Code and any 65321

corporation that is majority work-owned either directly through 65322  
the ownership of stock or indirectly through participation in an 65323  
employee stock ownership plan. 65324

(C) "Facility" means an enterprise's place of business in a 65325  
zone, including land, buildings, machinery, equipment, and other 65326  
materials, except inventory, used in business. "Facility" includes 65327  
land, buildings, machinery, production and station equipment, 65328  
other equipment, and other materials, except inventory, used in 65329  
business to generate electricity, provided that, for purposes of 65330  
sections 5709.61 to 5709.69 of the Revised Code, the value of the 65331  
property at such a facility shall be reduced by the value, if any, 65332  
that is not apportioned under section 5727.15 of the Revised Code 65333  
to the taxing district in which the facility is physically 65334  
located. In the case of such a facility that is physically located 65335  
in two adjacent taxing districts, the property located in each 65336  
taxing district constitutes a separate facility. 65337

"Facility" does not include any portion of an enterprise's 65338  
place of business used primarily for making retail sales, unless 65339  
the place of business is located in an impacted city as defined in 65340  
section 1728.01 of the Revised Code. 65341

(D) "Vacant facility" means a facility that has been vacant 65342  
for at least ninety days immediately preceding the date on which 65343  
an agreement is entered into under section 5709.62 or 5709.63 of 65344  
the Revised Code. 65345

(E) "Expand" means to make expenditures to add land, 65346  
buildings, machinery, equipment, or other materials, except 65347  
inventory, to a facility that equal at least ten per cent of the 65348  
market value of the facility prior to such expenditures, as 65349  
determined for the purposes of local property taxation. 65350

(F) "Renovate" means to make expenditures to alter or repair 65351  
a facility that equal at least fifty per cent of the market value 65352

of the facility prior to such expenditures, as determined for the 65353  
purposes of local property taxation. 65354

(G) "Occupy" means to make expenditures to alter or repair a 65355  
vacant facility equal to at least twenty per cent of the market 65356  
value of the facility prior to such expenditures, as determined 65357  
for the purposes of local property taxation. 65358

(H) "Project site" means all or any part of a facility that 65359  
is newly constructed, expanded, renovated, or occupied by an 65360  
enterprise. 65361

(I) "Project" means any undertaking by an enterprise to 65362  
establish a facility or to improve a project site by expansion, 65363  
renovation, or occupancy. 65364

(J) "Position" means the position of one full-time employee 65365  
performing a particular set of tasks and duties. 65366

(K) "Full-time employee" means an individual who is employed 65367  
for consideration by an enterprise for at least thirty-five hours 65368  
a week, or who renders any other standard of service generally 65369  
accepted by custom or specified by contract as full-time 65370  
employment. 65371

(L) "New employee" means a full-time employee first employed 65372  
by an enterprise at a facility that is a project site after the 65373  
enterprise enters an agreement under section 5709.62 or 5709.63 of 65374  
the Revised Code. "New employee" does not include an employee if, 65375  
immediately prior to being employed by the enterprise, the 65376  
employee was employed by an enterprise that is a related member or 65377  
predecessor enterprise of that enterprise. 65378

(M) "Unemployed person" means any person who is totally 65379  
unemployed in this state, as that term is defined in division (M) 65380  
of section 4141.01 of the Revised Code, for at least ten 65381  
consecutive weeks immediately preceding that person's employment 65382  
at a facility that is a project site, or who is so unemployed for 65383



at least twenty-six of the fifty-two weeks immediately preceding 65384  
that person's employment at such a facility. 65385

(N) "JTPA eligible employee" means any individual who is 65386  
eligible for employment or training under the "Job Training 65387  
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 65388  
amended. 65389

(O) "First used in business" means that the property referred 65390  
to has not been used in business in this state by the enterprise 65391  
that owns it, or by an enterprise that is a related member or 65392  
predecessor enterprise of such an enterprise, other than as 65393  
inventory, prior to being used in business at a facility as the 65394  
result of a project. 65395

(P) "Training program" means any noncredit training program 65396  
or course of study that is offered by any state college or 65397  
university; university branch district; community college; 65398  
technical college; nonprofit college or university certified under 65399  
section 1713.02 of the Revised Code; school district; joint 65400  
vocational school district; school registered and authorized to 65401  
offer programs under section 3332.05 of the Revised Code; an 65402  
entity administering any federal, state, or local adult education 65403  
and training program; or any enterprise; and that meets all of the 65404  
following requirements: 65405

(1) It is approved by the director of development; 65406

(2) It is established or operated to satisfy the need of a 65407  
particular industry or enterprise for skilled or semi-skilled 65408  
employees; 65409

(3) An individual is required to complete the course or 65410  
program before filling a position at a project site. 65411

(Q) "Development" means to engage in the process of clearing 65412  
and grading land, making, installing, or constructing water 65413  
distribution systems, sewers, sewage collection systems, steam, 65414

gas, and electric lines, roads, curbs, gutters, sidewalks, storm 65415  
drainage facilities, and construction of other facilities or 65416  
buildings equal to at least fifty per cent of the market value of 65417  
the facility prior to the expenditures, as determined for the 65418  
purposes of local property taxation. 65419

(R) "Large manufacturing facility" means a single Ohio 65420  
facility that employed an average of at least one thousand 65421  
individuals during the five calendar years preceding an agreement 65422  
authorized under division (C)(3) of section 5709.62 or division 65423  
(B)(2) of section 5709.63 of the Revised Code. For purposes of 65424  
this division, both of the following apply: 65425

(1) A single Ohio manufacturing facility employed an average 65426  
of at least one thousand individuals during the five calendar 65427  
years preceding entering into such an agreement if one-fifth of 65428  
the sum of the number of employees employed on the highest 65429  
employment day during each of the five calendar years equals or 65430  
exceeds one thousand. 65431

(2) The highest employment day is the day or days during a 65432  
calendar year on which the number of employees employed at a 65433  
single Ohio manufacturing facility was greater than on any other 65434  
day during the calendar year. 65435

(S) "Business cycle" means the cycle of business activity 65436  
usually regarded as passing through alternating stages of 65437  
prosperity and depression. 65438

(T) "Making retail sales" means the effecting of 65439  
point-of-final-purchase transactions at a facility open to the 65440  
consuming public, wherein one party is obligated to pay the price 65441  
and the other party is obligated to provide a service or to 65442  
transfer title to or possession of the item sold. 65443

(U) "Environmentally contaminated" means that hazardous 65444  
substances exist at a facility under conditions that have caused 65445

or would cause the facility to be identified as contaminated by 65446  
the state or federal environmental protection agency. These may 65447  
include facilities located at sites identified in the master sites 65448  
list or similar database maintained by the state environmental 65449  
protection agency if the sites have been investigated by the 65450  
agency and found to be contaminated. 65451

(V) "Remediate" means to make expenditures to clean up an 65452  
environmentally contaminated facility so that it is no longer 65453  
environmentally contaminated that equal at least ten per cent of 65454  
the real property market value of the facility prior to such 65455  
expenditures as determined for the purposes of property taxation. 65456

(W) "Related member" has the same meaning as defined in 65457  
section 5733.042 of the Revised Code without regard to division 65458  
(B) of that section, except that it is used with respect to an 65459  
enterprise rather than a taxpayer. 65460

(X) "Predecessor enterprise" means an enterprise from which 65461  
the assets or equity of another enterprise has been transferred, 65462  
which transfer resulted in the full or partial nonrecognition of 65463  
gain or loss, or resulted in a carryover basis, both as determined 65464  
by rule adopted by the tax commissioner. 65465

(Y) "Successor enterprise" means an enterprise to which the 65466  
assets or equity of another enterprise has been transferred, which 65467  
transfer resulted in the full or partial nonrecognition of gain or 65468  
loss, or resulted in a carryover basis, both as determined by rule 65469  
adopted by the tax commissioner. 65470

**Sec. 5709.62.** (A) In any municipal corporation that is 65471  
defined by the United States office of management and budget as a 65472  
central city of a metropolitan statistical area, or in a city 65473  
designated as an urban cluster in a rural statistical area, the 65474  
legislative authority of the municipal corporation may designate 65475  
one or more areas within its municipal corporation as proposed 65476

enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

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

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that

is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

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

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

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

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one of the following:

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

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

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

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

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

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

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

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

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

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

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five

per cent. For the purpose of obtaining such approval, the 65602  
legislative authority shall deliver to the board of education a 65603  
notice not later than forty-five days prior to approving the 65604  
agreement, excluding Saturdays, Sundays, and legal holidays as 65605  
defined in section 1.14 of the Revised Code. The notice shall 65606  
state the percentage to be exempted, an estimate of the true value 65607  
of the property to be exempted, and the number of years the 65608  
property is to be exempted. The board of education, by resolution 65609  
adopted by a majority of the board, shall approve or disapprove 65610  
the agreement and certify a copy of the resolution to the 65611  
legislative authority not later than fourteen days prior to the 65612  
date stipulated by the legislative authority as the date upon 65613  
which approval of the agreement is to be formally considered by 65614  
the legislative authority. The board of education may include in 65615  
the resolution conditions under which the board would approve the 65616  
agreement, including the execution of an agreement to compensate 65617  
the school district under division (B) of section 5709.82 of the 65618  
Revised Code. The legislative authority may approve the agreement 65619  
at any time after the board of education certifies its resolution 65620  
approving the agreement to the legislative authority, or, if the 65621  
board approves the agreement conditionally, at any time after the 65622  
conditions are agreed to by the board and the legislative 65623  
authority. 65624

If a board of education has adopted a resolution waiving its 65625  
right to approve agreements and the resolution remains in effect, 65626  
approval of an agreement by the board is not required under this 65627  
division. If a board of education has adopted a resolution 65628  
allowing a legislative authority to deliver the notice required 65629  
under this division fewer than forty-five business days prior to 65630  
the legislative authority's approval of the agreement, the 65631  
legislative authority shall deliver the notice to the board not 65632  
later than the number of days prior to such approval as prescribed 65633  
by the board in its resolution. If a board of education adopts a 65634



resolution waiving its right to approve agreements or shortening 65635  
the notification period, the board shall certify a copy of the 65636  
resolution to the legislative authority. If the board of education 65637  
rescinds such a resolution, it shall certify notice of the 65638  
rescission to the legislative authority. 65639

(2) The legislative authority shall comply with section 65640  
5709.83 of the Revised Code unless the board of education has 65641  
adopted a resolution under that section waiving its right to 65642  
receive such notice. 65643

(E) This division applies to zones certified by the director 65644  
of development under this section prior to July 22, 1994. 65645

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 65646  
authority that designated a zone to which this division applies 65647  
may enter into an agreement with an enterprise if the legislative 65648  
authority makes the finding required under that division and 65649  
determines that the enterprise satisfies one of the criteria 65650  
described in divisions (E)(1) to (5) of this section: 65651

(1) The enterprise currently has no operations in this state 65652  
and, subject to approval of the agreement, intends to establish 65653  
operations in the zone; 65654

(2) The enterprise currently has operations in this state 65655  
and, subject to approval of the agreement, intends to establish 65656  
operations at a new location in the zone that would not result in 65657  
a reduction in the number of employee positions at any of the 65658  
enterprise's other locations in this state; 65659

(3) The enterprise, subject to approval of the agreement, 65660  
intends to relocate operations, currently located in another 65661  
state, to the zone; 65662

(4) The enterprise, subject to approval of the agreement, 65663  
intends to expand operations at an existing site in the zone that 65664  
the enterprise currently operates; 65665

(5) The enterprise, subject to approval of the agreement, 65666  
intends to relocate operations, currently located in this state, 65667  
to the zone, and the director of development has issued a waiver 65668  
for the enterprise under division (B) of section 5709.633 of the 65669  
Revised Code. 65670

The agreement shall require the enterprise to agree to 65671  
establish, expand, renovate, or occupy a facility in the zone and 65672  
hire new employees, or preserve employment opportunities for 65673  
existing employees, in return for one or more of the incentives 65674  
described in division (C) of this section. 65675

(F) All agreements entered into under this section shall be 65676  
in the form prescribed under section 5709.631 of the Revised Code. 65677  
After an agreement is entered into under this division, if the 65678  
legislative authority revokes its designation of a zone, or if the 65679  
director of development revokes the zone's certification, any 65680  
entitlements granted under the agreement shall continue for the 65681  
number of years specified in the agreement. 65682

(G) Except as otherwise provided in this division, an 65683  
agreement entered into under this section shall require that the 65684  
enterprise pay an annual fee equal to the greater of one per cent 65685  
of the dollar value of incentives offered under the agreement or 65686  
five hundred dollars; provided, however, that if the value of the 65687  
incentives exceeds two hundred fifty thousand dollars, the fee 65688  
shall not exceed two thousand five hundred dollars. The fee shall 65689  
be payable to the legislative authority once per year for each 65690  
year the agreement is effective on the days and in the form 65691  
specified in the agreement. Fees paid shall be deposited in a 65692  
special fund created for such purpose by the legislative authority 65693  
and shall be used by the legislative authority exclusively for the 65694  
purpose of complying with section 5709.68 of the Revised Code and 65695  
by the tax incentive review council created under section 5709.85 65696  
of the Revised Code exclusively for the purposes of performing the 65697

duties prescribed under that section. The legislative authority 65698  
may waive or reduce the amount of the fee charged against an 65699  
enterprise, but such a waiver or reduction does not affect the 65700  
obligations of the legislative authority or the tax incentive 65701  
review council to comply with section 5709.68 or 5709.85 of the 65702  
Revised Code. 65703

(H) When an agreement is entered into pursuant to this 65704  
section, the legislative authority authorizing the agreement shall 65705  
forward a copy of the agreement to the director of development and 65706  
to the tax commissioner within fifteen days after the agreement is 65707  
entered into. If any agreement includes terms not provided for in 65708  
section 5709.631 of the Revised Code affecting the revenue of a 65709  
city, local, or exempted village school district or causing 65710  
revenue to be foregone by the district, including any compensation 65711  
to be paid to the school district pursuant to section 5709.82 of 65712  
the Revised Code, those terms also shall be forwarded in writing 65713  
to the director of development along with the copy of the 65714  
agreement forwarded under this division. 65715

(I) After an agreement is entered into, the enterprise shall 65716  
file with each personal property tax return required to be filed, 65717  
or annual report required to be filed under section 5727.08 of the 65718  
Revised Code, while the agreement is in effect, an informational 65719  
return, on a form prescribed by the tax commissioner for that 65720  
purpose, setting forth separately the property, and related costs 65721  
and values, exempted from taxation under the agreement. 65722

(J) Enterprises may agree to give preference to residents of 65723  
the zone within which the agreement applies relative to residents 65724  
of this state who do not reside in the zone when hiring new 65725  
employees under the agreement. 65726

(K) An agreement entered into under this section may include 65727  
a provision requiring the enterprise to create one or more 65728  
temporary internship positions for students enrolled in a course 65729

of study at a school or other educational institution in the 65730  
vicinity, and to create a scholarship or provide another form of 65731  
educational financial assistance for students holding such a 65732  
position in exchange for the student's commitment to work for the 65733  
enterprise at the completion of the internship. 65734

**Sec. 5709.63.** (A) With the consent of the legislative 65735  
authority of each affected municipal corporation or of a board of 65736  
township trustees, a board of county commissioners may, in the 65737  
manner set forth in section 5709.62 of the Revised Code, designate 65738  
one or more areas in one or more municipal corporations or in 65739  
unincorporated areas of the county as proposed enterprise zones. A 65740  
board of county commissioners may designate no more than one area 65741  
within a township, or within adjacent townships, as a proposed 65742  
enterprise zone. The board shall petition the director of 65743  
development for certification of the area as having the 65744  
characteristics set forth in division (A)(1) or (2) of section 65745  
5709.61 of the Revised Code as amended by Substitute Senate Bill 65746  
No. 19 of the 120th general assembly. Except as otherwise provided 65747  
in division (D) of this section, on and after July 1, 1994, boards 65748  
of county commissioners shall not enter into agreements under this 65749  
section unless the board has petitioned the director and the 65750  
director has certified the zone under this section as amended by 65751  
that act; however, all agreements entered into under this section 65752  
as it existed prior to July 1, 1994, and the incentives granted 65753  
under those agreements shall remain in effect for the period 65754  
agreed to under those agreements. The director shall make the 65755  
determination in the manner provided under section 5709.62 of the 65756  
Revised Code. Any enterprise wishing to enter into an agreement 65757  
with the board under division (B) or (D) of this section shall 65758  
submit a proposal to the board on the form and accompanied by the 65759  
application fee prescribed under division (B) of section 5709.62 65760  
of the Revised Code. The enterprise shall review and update the 65761

estimates and listings required by the form in the manner required 65762  
under that division. The board may, on a separate form and at any 65763  
time, require any additional information necessary to determine 65764  
whether an enterprise is in compliance with an agreement and to 65765  
collect the information required to be reported under section 65766  
5709.68 of the Revised Code. 65767

(B) If the board of county commissioners finds that an 65768  
enterprise submitting a proposal is qualified by financial 65769  
responsibility and business experience to create and preserve 65770  
employment opportunities in the zone and to improve the economic 65771  
climate of the municipal corporation or municipal corporations or 65772  
the unincorporated areas in which the zone is located and to which 65773  
the proposal applies, the board, on or before ~~June 30, 2004~~ 65774  
October 15, 2009, and with the consent of the legislative 65775  
authority of each affected municipal corporation or of the board 65776  
of township trustees may do either of the following: 65777

(1) Enter into an agreement with the enterprise under which 65778  
the enterprise agrees to establish, expand, renovate, or occupy a 65779  
facility in the zone and hire new employees, or preserve 65780  
employment opportunities for existing employees, in return for the 65781  
following incentives: 65782

(a) When the facility is located in a municipal corporation, 65783  
the board may enter into an agreement for one or more of the 65784  
incentives provided in division (C) of section 5709.62 of the 65785  
Revised Code, subject to division (D) of that section; 65786

(b) When the facility is located in an unincorporated area, 65787  
the board may enter into an agreement for one or more of the 65788  
following incentives: 65789

(i) Exemption for a specified number of years, not to exceed 65790  
ten, of a specified portion, up to sixty per cent, of the assessed 65791  
value of tangible personal property first used in business at a 65792

project site as a result of the agreement. An exemption granted 65793  
pursuant to this division applies to inventory required to be 65794  
listed pursuant to sections 5711.15 and 5711.16 of the Revised 65795  
Code, except, in the instance of an expansion or other situations 65796  
in which an enterprise was in business at the facility prior to 65797  
the establishment of the zone, the inventory that is exempt is 65798  
that amount or value of inventory in excess of the amount or value 65799  
of inventory required to be listed in the personal property tax 65800  
return of the enterprise in the return for the tax year in which 65801  
the agreement is entered into. 65802

(ii) Exemption for a specified number of years, not to exceed 65803  
ten, of a specified portion, up to sixty per cent, of the increase 65804  
in the assessed valuation of real property constituting the 65805  
project site subsequent to formal approval of the agreement by the 65806  
board; 65807

(iii) Provision for a specified number of years, not to 65808  
exceed ten, of any optional services or assistance the board is 65809  
authorized to provide with regard to the project site; 65810

(iv) The incentive described in division (C)(2) of section 65811  
5709.62 of the Revised Code. 65812

(2) Enter into an agreement with an enterprise that plans to 65813  
purchase and operate a large manufacturing facility that has 65814  
ceased operation or has announced its intention to cease 65815  
operation, in return for exemption for a specified number of 65816  
years, not to exceed ten, of a specified portion, up to one 65817  
hundred per cent, of tangible personal property used in business 65818  
at the project site as a result of the agreement, or of real 65819  
property constituting the project site, or both. 65820

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 65821  
this section, the portion of the assessed value of tangible 65822  
personal property or of the increase in the assessed valuation of 65823

real property exempted from taxation under those divisions may 65824  
exceed sixty per cent in any year for which that portion is 65825  
exempted if the average percentage exempted for all years in which 65826  
the agreement is in effect does not exceed fifty per cent, or if 65827  
the board of education of the city, local, or exempted village 65828  
school district within the territory of which the property is or 65829  
will be located approves a percentage in excess of sixty per cent. 65830  
For the purpose of obtaining such approval, the board of 65831  
commissioners shall deliver to the board of education a notice not 65832  
later than forty-five days prior to approving the agreement, 65833  
excluding Saturdays, Sundays, and legal holidays as defined in 65834  
section 1.14 of the Revised Code. The notice shall state the 65835  
percentage to be exempted, an estimate of the true value of the 65836  
property to be exempted, and the number of years the property is 65837  
to be exempted. The board of education, by resolution adopted by a 65838  
majority of the board, shall approve or disapprove the agreement 65839  
and certify a copy of the resolution to the board of commissioners 65840  
not later than fourteen days prior to the date stipulated by the 65841  
board of commissioners as the date upon which approval of the 65842  
agreement is to be formally considered by the board of 65843  
commissioners. The board of education may include in the 65844  
resolution conditions under which the board would approve the 65845  
agreement, including the execution of an agreement to compensate 65846  
the school district under division (B) of section 5709.82 of the 65847  
Revised Code. The board of county commissioners may approve the 65848  
agreement at any time after the board of education certifies its 65849  
resolution approving the agreement to the board of county 65850  
commissioners, or, if the board of education approves the 65851  
agreement conditionally, at any time after the conditions are 65852  
agreed to by the board of education and the board of county 65853  
commissioners. 65854

If a board of education has adopted a resolution waiving its 65855  
right to approve agreements and the resolution remains in effect, 65856

approval of an agreement by the board of education is not required 65857  
under division (C) of this section. If a board of education has 65858  
adopted a resolution allowing a board of county commissioners to 65859  
deliver the notice required under this division fewer than 65860  
forty-five business days prior to approval of the agreement by the 65861  
board of county commissioners, the board of county commissioners 65862  
shall deliver the notice to the board of education not later than 65863  
the number of days prior to such approval as prescribed by the 65864  
board of education in its resolution. If a board of education 65865  
adopts a resolution waiving its right to approve agreements or 65866  
shortening the notification period, the board of education shall 65867  
certify a copy of the resolution to the board of county 65868  
commissioners. If the board of education rescinds such a 65869  
resolution, it shall certify notice of the rescission to the board 65870  
of county commissioners. 65871

(2) The board of county commissioners shall comply with 65872  
section 5709.83 of the Revised Code unless the board of education 65873  
has adopted a resolution under that section waiving its right to 65874  
receive such notice. 65875

(D) This division applies to zones certified by the director 65876  
of development under this section prior to July 22, 1994. 65877

On or before ~~June 30, 2004~~ October 15, 2009, and with the 65878  
consent of the legislative authority of each affected municipal 65879  
corporation or board of township trustees of each affected 65880  
township, the board of commissioners that designated a zone to 65881  
which this division applies may enter into an agreement with an 65882  
enterprise if the board makes the finding required under that 65883  
division and determines that the enterprise satisfies one of the 65884  
criteria described in divisions (D)(1) to (5) of this section: 65885

(1) The enterprise currently has no operations in this state 65886  
and, subject to approval of the agreement, intends to establish 65887  
operations in the zone; 65888



(2) The enterprise currently has operations in this state 65889  
and, subject to approval of the agreement, intends to establish 65890  
operations at a new location in the zone that would not result in 65891  
a reduction in the number of employee positions at any of the 65892  
enterprise's other locations in this state; 65893

(3) The enterprise, subject to approval of the agreement, 65894  
intends to relocate operations, currently located in another 65895  
state, to the zone; 65896

(4) The enterprise, subject to approval of the agreement, 65897  
intends to expand operations at an existing site in the zone that 65898  
the enterprise currently operates; 65899

(5) The enterprise, subject to approval of the agreement, 65900  
intends to relocate operations, currently located in this state, 65901  
to the zone, and the director of development has issued a waiver 65902  
for the enterprise under division (B) of section 5709.633 of the 65903  
Revised Code. 65904

The agreement shall require the enterprise to agree to 65905  
establish, expand, renovate, or occupy a facility in the zone and 65906  
hire new employees, or preserve employment opportunities for 65907  
existing employees, in return for one or more of the incentives 65908  
described in division (B) of this section. 65909

(E) All agreements entered into under this section shall be 65910  
in the form prescribed under section 5709.631 of the Revised Code. 65911  
After an agreement under this section is entered into, if the 65912  
board of county commissioners revokes its designation of the zone, 65913  
or if the director of development revokes the zone's 65914  
certification, any entitlements granted under the agreement shall 65915  
continue for the number of years specified in the agreement. 65916

(F) Except as otherwise provided in this paragraph, an 65917  
agreement entered into under this section shall require that the 65918  
enterprise pay an annual fee equal to the greater of one per cent 65919

of the dollar value of incentives offered under the agreement or 65920  
five hundred dollars; provided, however, that if the value of the 65921  
incentives exceeds two hundred fifty thousand dollars, the fee 65922  
shall not exceed two thousand five hundred dollars. The fee shall 65923  
be payable to the board of commissioners once per year for each 65924  
year the agreement is effective on the days and in the form 65925  
specified in the agreement. Fees paid shall be deposited in a 65926  
special fund created for such purpose by the board and shall be 65927  
used by the board exclusively for the purpose of complying with 65928  
section 5709.68 of the Revised Code and by the tax incentive 65929  
review council created under section 5709.85 of the Revised Code 65930  
exclusively for the purposes of performing the duties prescribed 65931  
under that section. The board may waive or reduce the amount of 65932  
the fee charged against an enterprise, but such waiver or 65933  
reduction does not affect the obligations of the board or the tax 65934  
incentive review council to comply with section 5709.68 or 5709.85 65935  
of the Revised Code, respectively. 65936

(G) With the approval of the legislative authority of a 65937  
municipal corporation or the board of township trustees of a 65938  
township in which a zone is designated under division (A) of this 65939  
section, the board of county commissioners may delegate to that 65940  
legislative authority or board any powers and duties of the board 65941  
to negotiate and administer agreements with regard to that zone 65942  
under this section. 65943

(H) When an agreement is entered into pursuant to this 65944  
section, the legislative authority authorizing the agreement shall 65945  
forward a copy of the agreement to the director of development and 65946  
to the tax commissioner within fifteen days after the agreement is 65947  
entered into. If any agreement includes terms not provided for in 65948  
section 5709.631 of the Revised Code affecting the revenue of a 65949  
city, local, or exempted village school district or causing 65950  
revenue to be foregone by the district, including any compensation 65951

to be paid to the school district pursuant to section 5709.82 of 65952  
the Revised Code, those terms also shall be forwarded in writing 65953  
to the director of development along with the copy of the 65954  
agreement forwarded under this division. 65955

(I) After an agreement is entered into, the enterprise shall 65956  
file with each personal property tax return required to be filed, 65957  
or annual report that is required to be filed under section 65958  
5727.08 of the Revised Code, while the agreement is in effect, an 65959  
informational return, on a form prescribed by the tax commissioner 65960  
for that purpose, setting forth separately the property, and 65961  
related costs and values, exempted from taxation under the 65962  
agreement. 65963

(J) Enterprises may agree to give preference to residents of 65964  
the zone within which the agreement applies relative to residents 65965  
of this state who do not reside in the zone when hiring new 65966  
employees under the agreement. 65967

(K) An agreement entered into under this section may include 65968  
a provision requiring the enterprise to create one or more 65969  
temporary internship positions for students enrolled in a course 65970  
of study at a school or other educational institution in the 65971  
vicinity, and to create a scholarship or provide another form of 65972  
educational financial assistance for students holding such a 65973  
position in exchange for the student's commitment to work for the 65974  
enterprise at the completion of the internship. 65975

**Sec. 5709.632.** (A)(1) The legislative authority of a 65976  
municipal corporation defined by the United States office of 65977  
management and budget as a central city of a metropolitan 65978  
statistical area may, in the manner set forth in section 5709.62 65979  
of the Revised Code, designate one or more areas in the municipal 65980  
corporation as a proposed enterprise zone. 65981

(2) With the consent of the legislative authority of each 65982

affected municipal corporation or of a board of township trustees, 65983  
a board of county commissioners may, in the manner set forth in 65984  
section 5709.62 of the Revised Code, designate one or more areas 65985  
in one or more municipal corporations or in unincorporated areas 65986  
of the county as proposed urban jobs and enterprise zones, except 65987  
that a board of county commissioners may designate no more than 65988  
one area within a township, or within adjacent townships, as a 65989  
proposed urban jobs and enterprise zone. 65990

(3) The legislative authority or board of county 65991  
commissioners may petition the director of development for 65992  
certification of the area as having the characteristics set forth 65993  
in division (A)(3) of section 5709.61 of the Revised Code. Within 65994  
sixty days after receiving such a petition, the director shall 65995  
determine whether the area has the characteristics set forth in 65996  
that division and forward the findings to the legislative 65997  
authority or board of county commissioners. If the director 65998  
certifies the area as having those characteristics and thereby 65999  
certifies it as a zone, the legislative authority or board may 66000  
enter into agreements with enterprises under division (B) of this 66001  
section. Any enterprise wishing to enter into an agreement with a 66002  
legislative authority or board of commissioners under this section 66003  
and satisfying one of the criteria described in divisions (B)(1) 66004  
to (5) of this section shall submit a proposal to the legislative 66005  
authority or board on the form prescribed under division (B) of 66006  
section 5709.62 of the Revised Code and shall review and update 66007  
the estimates and listings required by the form in the manner 66008  
required under that division. The legislative authority or board 66009  
may, on a separate form and at any time, require any additional 66010  
information necessary to determine whether an enterprise is in 66011  
compliance with an agreement and to collect the information 66012  
required to be reported under section 5709.68 of the Revised Code. 66013

(B) Prior to entering into an agreement with an enterprise, 66014

the legislative authority or board of county commissioners shall 66015  
determine whether the enterprise submitting the proposal is 66016  
qualified by financial responsibility and business experience to 66017  
create and preserve employment opportunities in the zone and to 66018  
improve the economic climate of the municipal corporation or 66019  
municipal corporations or the unincorporated areas in which the 66020  
zone is located and to which the proposal applies, and whether the 66021  
enterprise satisfies one of the following criteria: 66022

(1) The enterprise currently has no operations in this state 66023  
and, subject to approval of the agreement, intends to establish 66024  
operations in the zone; 66025

(2) The enterprise currently has operations in this state 66026  
and, subject to approval of the agreement, intends to establish 66027  
operations at a new location in the zone that would not result in 66028  
a reduction in the number of employee positions at any of the 66029  
enterprise's other locations in this state; 66030

(3) The enterprise, subject to approval of the agreement, 66031  
intends to relocate operations, currently located in another 66032  
state, to the zone; 66033

(4) The enterprise, subject to approval of the agreement, 66034  
intends to expand operations at an existing site in the zone that 66035  
the enterprise currently operates; 66036

(5) The enterprise, subject to approval of the agreement, 66037  
intends to relocate operations, currently located in this state, 66038  
to the zone, and the director of development has issued a waiver 66039  
for the enterprise under division (B) of section 5709.633 of the 66040  
Revised Code. 66041

(C) If the legislative authority or board determines that the 66042  
enterprise is so qualified and satisfies one of the criteria 66043  
described in divisions (B)(1) to (5) of this section, the 66044  
legislative authority or board may, after complying with section 66045

5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 15, 2009, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

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

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

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

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee

shall not exceed two thousand five hundred dollars. The fee shall 66078  
be payable to the legislative authority or board of commissioners 66079  
once per year for each year the agreement is effective on the days 66080  
and in the form specified in the agreement. Fees paid shall be 66081  
deposited in a special fund created for such purpose by the 66082  
legislative authority or board and shall be used by the 66083  
legislative authority or board exclusively for the purpose of 66084  
complying with section 5709.68 of the Revised Code and by the tax 66085  
incentive review council created under section 5709.85 of the 66086  
Revised Code exclusively for the purposes of performing the duties 66087  
prescribed under that section. The legislative authority or board 66088  
may waive or reduce the amount of the fee charged against an 66089  
enterprise, but such waiver or reduction does not affect the 66090  
obligations of the legislative authority or board or the tax 66091  
incentive review council to comply with section 5709.68 or 5709.85 66092  
of the Revised Code, respectively. 66093

(F) With the approval of the legislative authority of a 66094  
municipal corporation or the board of township trustees of a 66095  
township in which a zone is designated under division (A)(2) of 66096  
this section, the board of county commissioners may delegate to 66097  
that legislative authority or board any powers and duties of the 66098  
board to negotiate and administer agreements with regard to that 66099  
zone under this section. 66100

(G) When an agreement is entered into pursuant to this 66101  
section, the legislative authority or board of commissioners 66102  
authorizing the agreement shall forward a copy of the agreement to 66103  
the director of development and to the tax commissioner within 66104  
fifteen days after the agreement is entered into. If any agreement 66105  
includes terms not provided for in section 5709.631 of the Revised 66106  
Code affecting the revenue of a city, local, or exempted village 66107  
school district or causing revenue to be foregone by the district, 66108  
including any compensation to be paid to the school district 66109

pursuant to section 5709.82 of the Revised Code, those terms also 66110  
shall be forwarded in writing to the director of development along 66111  
with the copy of the agreement forwarded under this division. 66112

(H) After an agreement is entered into, the enterprise shall 66113  
file with each personal property tax return required to be filed 66114  
while the agreement is in effect, an informational return, on a 66115  
form prescribed by the tax commissioner for that purpose, setting 66116  
forth separately the property, and related costs and values, 66117  
exempted from taxation under the agreement. 66118

(I) An agreement entered into under this section may include 66119  
a provision requiring the enterprise to create one or more 66120  
temporary internship positions for students enrolled in a course 66121  
of study at a school or other educational institution in the 66122  
vicinity, and to create a scholarship or provide another form of 66123  
educational financial assistance for students holding such a 66124  
position in exchange for the student's commitment to work for the 66125  
enterprise at the completion of the internship. 66126

**Sec. 5709.64.** (A) If an enterprise has been granted an 66127  
incentive for the current calendar year under an agreement entered 66128  
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 66129  
Code, it may apply, on or before the thirtieth day of April of 66130  
that year, to the director of development, on a form prescribed by 66131  
the director, for a tax incentive qualification certificate. The 66132  
enterprise qualifies for an initial certificate if, on or before 66133  
the last day of the calendar year immediately preceding that in 66134  
which application is made, it satisfies all of the following 66135  
requirements: 66136

(1) The enterprise has established, expanded, renovated, or 66137  
occupied a facility pursuant to the agreement under section 66138  
5709.62, 5709.63, or 5709.632 of the Revised Code. 66139

(2) The enterprise has hired new employees to fill nonretail 66140



positions at the facility, at least twenty-five per cent of whom 66141  
at the time they were employed were at least one of the following: 66142

(a) Unemployed persons who had resided at least six months in 66143  
the county in which the enterprise's project site is located; 66144

(b) JPTA eligible employees who had resided at least six 66145  
months in the county in which the enterprise's project site is 66146  
located; 66147

(c) Participants of the Ohio works first program under 66148  
Chapter 5107. of the Revised Code or the prevention, retention, 66149  
and contingency program under Chapter 5108. of the Revised Code or 66150  
recipients of general assistance under former Chapter 5113. of the 66151  
Revised Code, ~~disability~~ financial assistance under Chapter 5115. 66152  
of the Revised Code, or unemployment compensation benefits who had 66153  
resided at least six months in the county in which the 66154  
enterprise's project site is located; 66155

(d) Handicapped persons, as defined under division (A) of 66156  
section 3304.11 of the Revised Code, who had resided at least six 66157  
months in the county in which the enterprise's project site is 66158  
located; 66159

(e) Residents for at least one year of a zone located in the 66160  
county in which the enterprise's project site is located. 66161

The director of development shall, by rule, establish 66162  
criteria for determining what constitutes a nonretail position at 66163  
a facility. 66164

(3) The average number of positions attributable to the 66165  
enterprise in the municipal corporation during the calendar year 66166  
immediately preceding the calendar year in which application is 66167  
made exceeds the maximum number of positions attributable to the 66168  
enterprise in the municipal corporation during the calendar year 66169  
immediately preceding the first year the enterprise satisfies the 66170  
requirements set forth in divisions (A)(1) and (2) of this 66171

section. If the enterprise is engaged in a business which, because 66172  
of its seasonal nature, customarily enables the enterprise to 66173  
operate at full capacity only during regularly recurring periods 66174  
of the year, the average number of positions attributable to the 66175  
enterprise in the municipal corporation during each period of the 66176  
calendar year immediately preceding the calendar year in which 66177  
application is made must exceed only the maximum number of 66178  
positions attributable to the enterprise in each corresponding 66179  
period of the calendar year immediately preceding the first year 66180  
the enterprise satisfies the requirements of divisions (A)(1) and 66181  
(2) of this section. The director of development shall, by rule, 66182  
prescribe methods for determining whether an enterprise is engaged 66183  
in a seasonal business and for determining the length of the 66184  
corresponding periods to be compared. 66185

(4) The enterprise has not closed or reduced employment at 66186  
any place of business in the state for the primary purpose of 66187  
establishing, expanding, renovating, or occupying a facility. The 66188  
legislative authority of any municipal corporation or the board of 66189  
county commissioners of any county that concludes that an 66190  
enterprise has closed or reduced employment at a place of business 66191  
in that municipal corporation or county for the primary purpose of 66192  
establishing, expanding, renovating, or occupying a facility in a 66193  
zone may appeal to the director to determine whether the 66194  
enterprise has done so. Upon receiving such an appeal, the 66195  
director shall investigate the allegations and make such a 66196  
determination before issuing an initial or renewal tax incentive 66197  
qualification certificate under this section. 66198

Within sixty days after receiving an application under this 66199  
division, the director shall review, investigate, and verify the 66200  
application and determine whether the enterprise qualifies for a 66201  
certificate. The application shall include an affidavit executed 66202  
by the applicant verifying that the enterprise satisfies the 66203

requirements of division (A)(2) of this section, and shall contain 66204  
such information and documents as the director requires, by rule, 66205  
to ascertain whether the enterprise qualifies for a certificate. 66206  
If the director finds the enterprise qualified, the director shall 66207  
issue a tax incentive qualification certificate, which shall bear 66208  
as its date of issuance the thirtieth day of June of the year of 66209  
application, and shall state that the applicant is entitled to 66210  
receive, for the taxable year that includes the certificate's date 66211  
of issuance, the tax incentives provided under section 5709.65 of 66212  
the Revised Code with regard to the facility to which the 66213  
certificate applies. If an enterprise is issued an initial 66214  
certificate, it may apply, on or before the thirtieth day of April 66215  
of each succeeding calendar year for which it has been granted an 66216  
incentive under an agreement entered pursuant to section 5709.62, 66217  
5709.63, or 5709.632 of the Revised Code, for a renewal 66218  
certificate. Subsequent to its initial certification, the 66219  
enterprise qualifies for up to three successive renewal 66220  
certificates if, on or before the last day of the calendar year 66221  
immediately preceding that in which the application is made, it 66222  
satisfies all the requirements of divisions (A)(1) to (4) of this 66223  
section, and neither the zone's designation nor the zone's 66224  
certification has been revoked prior to the fifteenth day of June 66225  
of the year in which the application is made. The application 66226  
shall include an affidavit executed by the applicant verifying 66227  
that the enterprise satisfies the requirements of division (A)(2) 66228  
of this section. An enterprise with ten or more supervisory 66229  
personnel at the facility to which a certificate applies qualifies 66230  
for any subsequent renewal certificates only if it meets all of 66231  
the foregoing requirements and, in addition, at least ten per cent 66232  
of those supervisory personnel are employees who, when first hired 66233  
by the enterprise, satisfied at least one of the criteria 66234  
specified in divisions (A)(2)(a) to (e) of this section. If the 66235  
enterprise qualifies, a renewal certificate shall be issued 66236

bearing as its date of issuance the thirtieth day of June of the 66237  
year of application. The director shall send copies of the initial 66238  
certificate, and each renewal certificate, by certified mail, to 66239  
the enterprise, the tax commissioner, the board of county 66240  
commissioners, and the chief executive of the municipal 66241  
corporation in which the facility to which the certificate applies 66242  
is located. 66243

(B) If the director determines that an enterprise is not 66244  
qualified for an initial or renewal tax incentive qualification 66245  
certificate, the director shall send notice of this determination, 66246  
specifying the reasons for it, by certified mail, to the 66247  
applicant, the tax commissioner, the board of county 66248  
commissioners, and the chief executive of the municipal 66249  
corporation in which the facility to which the certificate would 66250  
have applied is located. Within thirty days after receiving such a 66251  
notice, an enterprise may request, in writing, a hearing before 66252  
the director for the purpose of reviewing the application and the 66253  
reasons for the determination. Within sixty days after receiving a 66254  
request for a hearing, the director shall afford one and, within 66255  
thirty days after the hearing, shall issue a redetermination of 66256  
the enterprise's qualification for a certificate. If the 66257  
enterprise is found to be qualified, the director shall proceed in 66258  
the manner provided under division (A) of this section. If the 66259  
enterprise is found to be unqualified, the director shall send 66260  
notice of this finding, by certified mail, to the applicant, the 66261  
tax commissioner, the board of county commissioners, and the chief 66262  
executive of the municipal corporation in which the facility to 66263  
which the certificate would have applied is located. The 66264  
director's redetermination that an enterprise is unqualified may 66265  
be appealed to the board of tax appeals in the manner provided 66266  
under section 5717.02 of the Revised Code. 66267

**Sec. 5711.02.** Except as otherwise provided by section 5711.13 66268

of the Revised Code, each year, beginning in tax year 2004, each 66269  
taxpayer having taxable personal property with an aggregate 66270  
taxable value in excess of ten thousand dollars shall make a 66271  
return, ~~annually~~, to the county auditor of each county in which 66272  
any taxable property, ~~which~~ the taxpayer must return, is required 66273  
by this chapter to be listed ~~and~~. The taxpayer shall truly and 66274  
correctly list ~~therein~~ on the return all taxable property so 66275  
required to be listed, including property exempt under division 66276  
(C)(3) of section 5709.01 of the Revised Code. Such returns shall 66277  
be made on the blanks prescribed by the tax commissioner, which 66278  
the county auditor shall supply at ~~his~~ the auditor's office along 66279  
with blanks of the kind required for the county supplemental 66280  
return required by section 5711.131 of the Revised Code ~~for the~~ 66281  
~~use of taxpayers~~. The county auditor shall mail or distribute such 66282  
blanks prior to the fifteenth day of February to all persons known 66283  
to ~~him~~ the auditor to be taxpayers and to all persons to whom the 66284  
commissioner may direct blanks of either type to be mailed or 66285  
distributed, ~~and he~~. The county auditor may place listing and 66286  
county supplemental blanks at convenient places in ~~his~~ the county. 66287  
The failure of a taxpayer to receive or procure blanks shall not 66288  
excuse ~~him~~ the taxpayer from making any return or county 66289  
supplemental return. The individual required to make the return 66290  
shall furnish all statements and documents, give all information 66291  
required, answer all questions asked on the required blanks, and 66292  
subscribe to the truth and correctness of all matters contained 66293  
therein. 66294

**Sec. 5711.13.** A Beginning in tax year 2004, each taxpayer 66295  
having taxable property with an aggregate taxable value in excess 66296  
of ten thousand dollars and required to be listed in more than one 66297  
county shall make a combined return to the tax commissioner 66298  
listing all its taxable property in this state, in conformity with 66299  
sections 5711.01 to 5711.36 of the Revised Code, including 66300

property exempt under division (C)(3) of section 5709.01 of the Revised Code, but ~~it~~ the taxpayer shall not assign ~~its~~ property of the kinds mentioned in section 5709.02 of the Revised Code to any particular taxing district or county. The tax commissioner shall assess the personal property of such taxpayer in the several taxing districts in which it is required by to be assessed under sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ and shall issue assessment certificates therefor to the proper county auditors at the time and in the manner required by section 5711.25 of the Revised Code. All other property of such taxpayer required to be so listed shall be entered on the intangible property tax list in the office of the treasurer of state, and ~~taxed shall be subject to taxation~~ under section 5707.03 of the Revised Code. The commissioner shall assess all other property of each such taxpayer and, on or before the second Monday of August annually, shall certify the total value or amount of each kind thereof to the treasurer of state, who shall enter the value or amount on the intangible property tax list in ~~his~~ the treasurer of state's office in the manner provided in sections 5725.01 to 5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the Revised Code shall apply to and govern such taxpayer, its proper officers and representatives, the commissioner, and the county auditor as to all proceedings in the assessment of the property of such taxpayer.

**Sec. 5711.18. (A) As used in this section:**

(1) "Qualifying manufacturing property" means machinery or equipment satisfying both of the following:

(a) The machinery or equipment would qualify as a thing transferred and used primarily in a manufacturing operation for the purposes of division (E)(9) of section 5739.01 and section 5739.011 of the Revised Code.

(b) The machinery or equipment was first placed in service in this state on or after July 1, 2004, and has not been listed for taxation under this chapter, and was not required to have been so listed, for any tax year before tax year 2004.

(2) "Phase-in percentage" means the percentage corresponding with each of the following tax years:

<u>Tax Year</u>	<u>Percentage</u>
<u>2004</u>	<u>90%</u>
<u>2005</u>	<u>80%</u>
<u>2006</u>	<u>70%</u>
<u>2007</u>	<u>60%</u>
<u>2008</u>	<u>50%</u>
<u>2009</u>	<u>40%</u>
<u>2010</u>	<u>30%</u>
<u>2011</u>	<u>20%</u>
<u>2012</u>	<u>10%</u>
<u>2013 and thereafter</u>	<u>0%</u>

(B) In the case of accounts receivable, the book value thereof less book reserves shall be listed and shall be taken as the true value thereof unless the assessor finds that such net book value is greater or less than the then true value of such accounts receivable in money. ~~In~~

(C) In the case of personal property used in business, ~~the book value thereof less book depreciation at such time shall be listed, and such depreciated book value~~ one of the following values shall be listed and shall be taken as the true value of such property, unless the assessor finds that such ~~depreciated book~~ value is greater or less than the then true value of such property in money. ~~Claim:~~

(1) In the case of personal property other than qualifying manufacturing property, the book value of the property less book

depreciation at the time of listing; 66363

(2) In the case of qualifying manufacturing property, the sum 66364  
of the following: 66365

(a) The depreciated book value at which the property would be 66366  
valued under division (C)(1) of this section if the property were 66367  
valued at the lowest valuation percentage for the class life 66368  
assigned to such property, as prescribed under the rules adopted 66369  
by the tax commissioner for the purpose of valuing personal 66370  
property used in business; 66371

(b) The phase-in percentage multiplied by the excess, if any, 66372  
of (i) the book value of the property less book depreciation at 66373  
the time of listing, as prescribed in such rules, over (ii) the 66374  
value described in division (C)(2)(a) of this section. 66375

Nothing in this section shall cause the true value of 66376  
qualifying manufacturing property for any tax year to exceed the 66377  
book value of the property less book depreciation at the time of 66378  
listing. 66379

(D) Claims for any deduction from net book value of accounts 66380  
receivable or depreciated book value of personal property must be 66381  
made in writing by the taxpayer at the time of making the 66382  
taxpayer's return; ~~and when such.~~ If the return is made to the 66383  
county auditor who is required by sections 5711.01 to 5711.36~~7~~ 66384  
~~inclusive,~~ of the Revised Code~~7~~, to transmit it to the tax 66385  
commissioner for assessment, the auditor shall, as deputy of the 66386  
commissioner, investigate such claim and shall enter thereon, or 66387  
attach thereto, in such form as the commissioner prescribes, the 66388  
auditor's findings and recommendations with respect ~~thereto; when~~ 66389  
~~such~~ to the claim. If the return is made to the tax commissioner, 66390  
~~such~~ the claim for deduction from depreciated book value of 66391  
personal property shall be referred to the auditor, as such 66392  
deputy, of each county in which the property affected thereby is 66393



listed for investigation and report. 66394

(E) Any change in the method of determining true value, as 66395  
prescribed by the tax commissioner on a prospective basis, shall 66396  
not be admissible in any judicial or administrative action or 66397  
proceeding as evidence of value with regard to prior years' taxes. 66398  
Information about the business, property, or transactions of any 66399  
taxpayer obtained by the commissioner for the purpose of adopting 66400  
or modifying any such method shall not be subject to discovery or 66401  
disclosure. 66402

**Sec. 5711.22.** (A) Deposits not taxed at the source shall be 66403  
listed and assessed at their amount in dollars on the day they are 66404  
required to be listed. Moneys shall be listed and assessed at the 66405  
amount thereof in dollars on hand on the day that they are 66406  
required to be listed. In listing investments, the amount of the 66407  
income yield of each for the calendar year next preceding the date 66408  
of listing shall, except as otherwise provided in this chapter, be 66409  
stated in dollars and cents and the assessment thereof shall be at 66410  
the amount of such income yield; but any property defined as 66411  
investments in either division (A) or (B) of section 5701.06 of 66412  
the Revised Code that has not been outstanding for the full 66413  
calendar year next preceding the date of listing, except shares of 66414  
stock of like kind as other shares of the same corporation 66415  
outstanding for the full calendar year next preceding the date of 66416  
listing, or which has yielded no income during such calendar year 66417  
shall be listed and assessed as unproductive investments, at their 66418  
true value in money on the day that such investments are required 66419  
to be listed. 66420

Credits and other taxable intangibles shall be listed and 66421  
assessed at their true value in money on the day as of which the 66422  
same are required to be listed. 66423

Shares of stock of a bank holding company, as defined in 66424

Title 12 U.S.C.A., section 1841, that are required to be listed 66425  
for taxation under this division and upon which dividends were 66426  
paid during the year of their issuance, which dividends are 66427  
subject to taxation under the provisions of Chapter 5747. of the 66428  
Revised Code, shall be exempt from the intangibles tax for the 66429  
year immediately succeeding their issuance. If such shares bear 66430  
dividends the first calendar year after their issuance, which 66431  
dividends are subject to taxation under the provisions of Chapter 66432  
5747. of the Revised Code, it shall be deemed that the 66433  
nondelinquent intangible property tax pursuant to division (A) of 66434  
section 5707.04 of the Revised Code was paid on those dividends 66435  
paid that first calendar year after the issuance of the shares. 66436

(B)(1) Boilers, machinery, equipment, and personal property 66437  
the true value of which is determined under division (B) of 66438  
section 5711.21 of the Revised Code shall be listed and assessed 66439  
at an amount equal to the sum of the products determined under 66440  
divisions (B)(1)(a), (b), and (c) of this section. 66441

(a) Multiply the portion of the true value determined under 66442  
division (B)(1) of section 5711.21 of the Revised Code by the 66443  
assessment rate in division (F) of this section; 66444

(b) Multiply the portion of the true value determined under 66445  
division (B)(2) of section 5711.21 of the Revised Code by the 66446  
assessment rate in section 5727.111 of the Revised Code that is 66447  
applicable to the production equipment of an electric company; 66448

(c) Multiply the portion of the true value determined under 66449  
division (B)(3) of section 5711.21 of the Revised Code by the 66450  
assessment rate in section 5727.111 of the Revised Code that is 66451  
applicable to the property of an electric company that is not 66452  
production equipment. 66453

(2) Personal property leased to a public utility or 66454  
interexchange telecommunications company as defined in section 66455

5727.01 of the Revised Code and used directly in the rendition of 66456  
a public utility service as defined in division (P) of section 66457  
5739.01 of the Revised Code shall be listed and assessed at the 66458  
same percentage of true value in money that such property is 66459  
required to be assessed by section 5727.111 of the Revised Code if 66460  
owned by the public utility or interexchange telecommunications 66461  
company. 66462

(C)(1) Merchandise or an agricultural product shipped from 66463  
outside this state and held in this state in a warehouse or a 66464  
place of storage without further manufacturing or processing and 66465  
for storage only and for shipment outside this state, but that is 66466  
taxable because it does not qualify as "not used in business in 66467  
this state" under division (B)(1) or (2) of section 5701.08 of the 66468  
Revised Code, shall be listed and assessed at a rate of 66469  
twenty-five one-hundredths of its true value in money until 66470  
reduced in accordance with the following schedule: 66471

(a) For any year, subtract five one-hundredths from the rate 66472  
at which such property was required to be listed and assessed in 66473  
the preceding year, if the total statewide collection of all real 66474  
and tangible personal property taxes for the second preceding year 66475  
exceeded the total statewide collection of all real and tangible 66476  
personal property taxes for the third preceding year by more than 66477  
the greater of four per cent or the rate of increase from the 66478  
third to the second preceding years in the average consumer price 66479  
index (all urban consumers, all items) prepared by the bureau of 66480  
labor statistics of the United States department of labor; 66481

(b) If no reduction in the assessment rate is made for a 66482  
year, the rate is the same as for the preceding year. 66483

(2) Each year until the year the assessment rate equals zero, 66484  
the tax commissioner shall determine the assessment rate required 66485  
under this division and shall notify all county auditors of that 66486  
rate. 66487

(3) Notwithstanding provisions to the contrary in division 66488  
(B) of section 5701.08 of the Revised Code, during and after the 66489  
year for which the assessment rate as calculated under this 66490  
division equals zero, any merchandise or agricultural product 66491  
shipped from outside this state and held in this state in any 66492  
warehouse or place of storage, whether public or private, without 66493  
further manufacturing or processing and for storage only and for 66494  
shipment outside this state to any person for any purpose is not 66495  
used in business in this state for property tax purposes. 66496

(D)(1) Merchandise or an agricultural product owned by a 66497  
qualified out-of-state person shipped from outside this state and 66498  
held in this state in a public warehouse without further 66499  
manufacturing or processing and for temporary storage only and for 66500  
shipment inside this state, but that is taxable because it does 66501  
not qualify as "not used in business in this state" under division 66502  
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 66503  
listed and assessed at a rate of twenty-five one-hundredths of its 66504  
true value in money until reduced in accordance with the following 66505  
schedule: 66506

(a) For any year, subtract five one-hundredths from the rate 66507  
at which such property was required to be listed and assessed in 66508  
the preceding year, if the total statewide collection of all real 66509  
and tangible personal property taxes for the second preceding year 66510  
exceeded the total statewide collection of all real and tangible 66511  
personal property taxes for the third preceding year by more than 66512  
the greater of four per cent or the rate of increase from the 66513  
third to the second preceding years in the average consumer price 66514  
index (all urban consumers, all items) prepared by the bureau of 66515  
labor statistics of the United States department of labor; 66516

(b) If no reduction in the assessment rate is made for a 66517  
year, the rate is the same as for the preceding year. 66518

(2) Each year until the year the assessment rate equals zero, 66519  
the tax commissioner shall determine the assessment rate required 66520  
under this division and shall notify all county auditors of that 66521  
rate. 66522

(3) Notwithstanding provisions to the contrary in division 66523  
(B) of section 5701.08 of the Revised Code, during and after the 66524  
year for which the assessment rate as calculated under this 66525  
division equals zero, any merchandise or agricultural product 66526  
described in division (D)(1) of this section is not used in 66527  
business in this state for property tax purposes. 66528

(4) As used in division (D) of this section: 66529

(a) "Qualified out-of-state person" means a person that does 66530  
not own, lease, or use property, other than merchandise or an 66531  
agricultural product described in this division, in this state, 66532  
and does not have employees, agents, or representatives in this 66533  
state; 66534

(b) "Public warehouse" means a warehouse in this state that 66535  
is not subject to the control of or under the supervision of the 66536  
owner of the merchandise or agricultural product stored in it, or 66537  
staffed by the owner's employees, and from which the property is 66538  
to be shipped inside this state. 66539

(E) Personal property valued pursuant to section 5711.15 of 66540  
the Revised Code and personal property required to be listed on 66541  
the average basis by division (A) of section 5711.16 of the 66542  
Revised Code, except property described in division (C) or (D) of 66543  
this section, business fixtures, and furniture not held for sale 66544  
in the course of business, shall be listed and assessed at the 66545  
rate of twenty-five per cent of its true value in money until 66546  
reduced to zero in accordance with the following schedule: 66547

(1) Beginning in tax year 2002 and for each of tax years 66548  
2003, and 2004, ~~2005, and 2006~~, subtract one percentage point from 66549

the rate at which the property was required to be listed and 66550  
assessed in the preceding year, if the total statewide collection 66551  
of tangible personal property taxes for the second preceding year 66552  
exceeded the total statewide collection of tangible personal 66553  
property taxes for the third preceding year. If no reduction in 66554  
the assessment rate is made for a year, the rate is the same as 66555  
for the preceding year. ~~For purposes of this division, total~~ 66556  
~~statewide collection of tangible personal property taxes excludes~~ 66557  
~~taxes collected from public utilities and interexchange~~ 66558  
~~telecommunications companies on property that is determined to be~~ 66559  
~~taxable pursuant to section 5727.06 of the Revised Code.~~ 66560

(2) In tax year 2007, ~~the assessment rate shall be the lesser~~ 66561  
~~of twenty four per cent or one percentage point less than the rate~~ 66562  
~~at which property was required to be listed and assessed the~~ 66563  
~~preceding year. Each 2005 and each tax year thereafter, the~~ 66564  
assessment rate shall be reduced by ~~one~~ two percentage ~~point~~ points until 66565  
~~it equals zero per cent not later than tax year 2031~~ points, if 66566  
the total statewide collection of tangible personal property taxes 66567  
for the second preceding year exceeded the total statewide 66568  
collection of tangible personal property taxes for the third 66569  
preceding year. If no reduction in the assessment rate is made for 66570  
a year, the rate is the same as for the preceding year. During and 66571  
after the tax year that the assessment rate equals zero, the 66572  
property described in division (E) of this section shall not be 66573  
listed for taxation. 66574

Each year until the year the assessment rate equals zero, the 66575  
tax commissioner shall determine the assessment rate required 66576  
under this division and shall notify all county auditors of that 66577  
rate. 66578

For purposes of division (E) of this section, "total 66579  
statewide collection of tangible person property taxes" excludes 66580  
taxes collected from public utilities and interexchange 66581

telecommunications companies on property that is determined to be 66582  
taxable pursuant to section 5727.06 of the Revised Code. 66583

(F) Unless otherwise provided by law, all other personal 66584  
property used in business that has not been legally regarded as an 66585  
improvement on land and considered in arriving at the value of the 66586  
real property assessed for taxation shall be listed and assessed 66587  
at the rate of twenty-five per cent of its true value in money. 66588

**Sec. 5711.27.** No taxpayer shall fail to make a return within 66589  
the time prescribed by law, or as extended pursuant to section 66590  
5711.04 of the Revised Code, nor fail to list in a return or 66591  
disclose on an accompanying balance sheet or in other information 66592  
filed with the return any item of taxable property ~~which he~~ the 66593  
taxpayer is required ~~by~~ to list in the return under sections 66594  
5711.01 to 5711.36 of the Revised Code, ~~to list therein.~~ 66595

If any taxpayer ~~does so fail the following shall apply:~~ 66596

~~(A) In the case of a taxpayer who fails to make a timely~~ 66597  
~~return, the assessor shall add to the taxpayer's assessment as a~~ 66598  
~~penalty, one half of the taxpayer's taxable value that is exempt~~ 66599  
~~from taxation under division (C)(3) of section 5709.01 of the~~ 66600  
~~Revised Code. If the taxpayer's taxable value that is exempt from~~ 66601  
~~taxation under division (C)(3) of section 5709.01 of the Revised~~ 66602  
~~Code is located in more than one taxing district, the penalty~~ 66603  
~~assessment shall be applied among taxing districts as if only five~~ 66604  
~~thousand dollars, or one half of the taxpayer's taxable valuation,~~ 66605  
~~whichever is less, had been exempt from taxation under such~~ 66606  
~~division.~~ 66607

~~(B) In the case of a taxpayer who fails to make a timely~~ 66608  
~~return, or fails to list or disclose any item~~ he the taxpayer is 66609  
required to return, the assessor shall add to the assessment of 66610  
each class or item of taxable property ~~which~~ the taxpayer failed 66611  
to return, list, or disclose ~~and to any amount added under~~ 66612

~~division (A) of this section,~~ a penalty of up to fifty per cent 66613  
~~thereof of the assessment;~~ but if such taxpayer makes, within 66614  
sixty days after the expiration of the time prescribed by such 66615  
sections, a return or an amended or supplementary return and lists 66616  
therein or discloses on an accompanying balance sheet or in other 66617  
information filed with the return all items of taxable property 66618  
~~which he~~ the taxpayer is required by such sections to list, and in 66619  
all cases in which the taxpayer's only default is ~~his~~ the failure 66620  
to pay the amounts specified in section 5719.02 of the Revised 66621  
Code within the time therein specified, such penalty shall be five 66622  
per cent of the assessment, and, if the assessment certificate has 66623  
been issued, an amended assessment certificate shall be issued and 66624  
substituted therefor. 66625

~~Either or both of the penalties~~ The penalty provided in this 66626  
section may be abated in whole or in part by the assessor when it 66627  
is shown that such failure is due to reasonable cause. The penalty 66628  
assessment shall be entered on the proper tax list and duplicate, 66629  
and taxes shall be levied thereon the same as on the assessment 66630  
itself. 66631

~~If any taxpayer does so fail with respect to a return~~ 66632  
~~required to be filed for tax year 1982 or any prior year, the~~ 66633  
~~assessor shall add to the assessment of each class or item of~~ 66634  
~~taxable property which the taxpayer failed to return, list or~~ 66635  
~~disclose in addition to the penalties provided by law, an~~ 66636  
~~additional charge at the rate of one half of one per cent per~~ 66637  
~~month from the date such property should have been returned or~~ 66638  
~~disclosed until the same is assessed, provided that said~~ 66639  
~~additional charge shall not be added to an assessment for any~~ 66640  
~~period of time in excess of ten years previous to the date of the~~ 66641  
~~assessment.~~ 66642

A fiduciary against whom a penalty assessment is made shall 66643  
be personally liable for the amount of taxes levied in respect to 66644



such penalty assessment and any additional charge, and in case of 66645  
fraud or intent to evade taxes, such fiduciary shall have no right 66646  
of reimbursement against the property held by ~~him~~ the fiduciary as 66647  
such fiduciary nor against the person for whose benefit the same 66648  
is held. 66649

**Sec. 5711.33.** (A)(1) When a county treasurer receives a 66650  
certificate from a county auditor pursuant to division (A) of 66651  
section 5711.32 of the Revised Code charging the treasurer with 66652  
the collection of an amount of taxes due as the result of a 66653  
deficiency assessment, the treasurer shall immediately prepare and 66654  
mail a tax bill to the taxpayer owing such tax. The tax bill shall 66655  
contain the name of the taxpayer; the taxable value, tax rate, and 66656  
taxes charged for each year being assessed; the total amount of 66657  
taxes due; the final date payment may be made without additional 66658  
penalty; and any other information the treasurer considers 66659  
pertinent or necessary. Taxes due and payable as a result of a 66660  
deficiency assessment, less any amount specifically excepted from 66661  
collection under division (B) of section 5711.32 of the Revised 66662  
Code, shall be paid with interest thereon as prescribed by section 66663  
5719.041 of the Revised Code on or before the sixtieth day 66664  
following the date of issuance of the certificate by the county 66665  
auditor. The balance of taxes found due and payable after a final 66666  
determination by the tax commissioner or a final judgment of the 66667  
board of tax appeals or any court to which such final judgment may 66668  
be appealed, shall be paid with interest thereon as prescribed by 66669  
section 5719.041 of the Revised Code on or before the sixtieth day 66670  
following the date of certification by the auditor to the 66671  
treasurer pursuant to division (C) of section 5711.32 of the 66672  
Revised Code of such final determination or judgment. Such final 66673  
dates for payment shall be determined and exhibited on the tax 66674  
bill by the treasurer. 66675

(2) If, on or before the sixtieth day following the date of a 66676

certification of a deficiency assessment under division (A) of 66677  
section 5711.32 of the Revised Code or of a certification of a 66678  
final determination or judgment under division (C) of section 66679  
5711.32 of the Revised Code, the taxpayer pays the full amount of 66680  
taxes and interest due at the time of the receipt of certification 66681  
with respect to that assessment, determination, or judgment, no 66682  
interest shall accrue or be charged with respect to that 66683  
assessment, determination, or judgment for the period that begins 66684  
on the first day of the month in which the certification is made 66685  
and that ends on the last day of the month preceding the month in 66686  
which such sixtieth day occurs. 66687

(B) When the taxes charged, as mentioned in division (A) of 66688  
this section, are not paid within the time prescribed by such 66689  
division, a penalty of ten per cent of the amount due and unpaid 66690  
and interest for the period described in division (A)(2) of this 66691  
section shall accrue at the time the treasurer closes the 66692  
treasurer's office for business on the last day so prescribed, but 66693  
if the taxes are paid within ten days subsequent to the last day 66694  
prescribed, the treasurer shall waive the collection of and the 66695  
auditor shall remit one-half of the penalty. The treasurer shall 66696  
not thereafter accept less than the full amount of taxes and 66697  
penalty except as otherwise authorized by law. Such penalty shall 66698  
be distributed in the same manner and at the same time as the tax 66699  
upon which it has accrued. The whole amount collected shall be 66700  
included in the next succeeding settlement of appropriate taxes. 66701

(C) When the taxes charged, as mentioned in division (A) of 66702  
this section, remain unpaid after the final date for payment 66703  
prescribed by such division, such charges shall be deemed to be 66704  
delinquent taxes. The county auditor shall cause such charges, 66705  
including the penalty that has accrued pursuant to this section, 66706  
to be added to the delinquent tax duplicate in accordance with 66707  
section 5719.04 of the Revised Code. 66708

(D) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under division (B) of this section or division (C) of section 5719.03 of the Revised Code for the late payment of taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the county auditor or county treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of the taxpayer, or the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates ~~to the satisfaction of the auditor~~ that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(5) In cases other than those described in divisions (D)(1) to (4) of this section, the taxpayer's failure to make timely payment of the tax is due to reasonable cause and not willful neglect.

(E) The taxpayer, upon application within sixty days after the mailing of the county auditor's decision, may request the tax

commissioner to review the denial of the remission of a penalty by 66740  
the county auditor. The application may be filed in person or by 66741  
certified mail. If the application is filed by certified mail, the 66742  
date of the United States postmark placed on the sender's receipt 66743  
by the postal service shall be treated as the date of filing. The 66744  
commissioner shall consider the application, determine whether the 66745  
penalty should be remitted, and certify the determination to the 66746  
taxpayer and to the county treasurer and county auditor, who shall 66747  
correct the tax list and duplicate accordingly. The commissioner 66748  
~~shall~~ may issue orders and instructions for the uniform 66749  
implementation of this section by all county auditors and county 66750  
treasurers, and such orders and instructions shall be followed by 66751  
such officers. 66752

**Sec. 5713.07.** The county auditor, at the time of making the 66753  
assessment of real property subject to taxation, shall enter in a 66754  
separate list pertinent descriptions of all burying grounds, 66755  
public schoolhouses, houses used exclusively for public worship, 66756  
institutions of purely public charity, real property used 66757  
exclusively for a home for the aged, as defined in section 5701.13 66758  
of the Revised Code, ~~and~~ public buildings and property used 66759  
exclusively for any public purpose, and any other property, with 66760  
the lot or tract of land on which such house, institution, ~~or~~ 66761  
public building, or other property is situated, and which ~~are~~ 66762  
~~exempt~~ have been exempted from taxation by either the tax 66763  
commissioner under section 5715.27 of the Revised Code or by the 66764  
housing officer under section 3735.67 of the Revised Code. ~~He~~ The 66765  
auditor shall value such houses, buildings, property, and lots and 66766  
tracts of land at their taxable value in the same manner as ~~he~~ the 66767  
auditor is required to value other real property, designating in 66768  
each case the township, municipal corporation, and number of the 66769  
school district, or the name or designation of the school, 66770  
religious society, or institution to which each house, lot, or 66771

tract belongs. If such property is held and used for other public 66772  
purposes, ~~he~~ the auditor shall state by whom or how it is held. 66773

**Sec. 5713.08.** (A) The county auditor shall make a list of all 66774  
real and personal property in the auditor's county, including 66775  
money, credits, and investments in bonds, stocks, or otherwise, 66776  
which is exempted from taxation. Such list shall show the name of 66777  
the owner, the value of the property exempted, and a statement in 66778  
brief form of the ground on which such exemption has been granted. 66779  
It shall be corrected annually by adding thereto the items of 66780  
property which have been exempted during the year, and by striking 66781  
therefrom the items which in the opinion of the auditor have lost 66782  
their right of exemption and which have been reentered on the 66783  
taxable list. No additions shall be made to such exempt lists and 66784  
no additional items of property shall be exempted from taxation 66785  
without the consent of the tax commissioner as is provided for in 66786  
section 5715.27 of the Revised Code, ~~but when or without the~~ 66787  
consent of the housing officer under section 3735.67 of the 66788  
Revised Code. When any personal property or endowment fund of an 66789  
institution has once been held by the commissioner to be properly 66790  
exempt from taxation, it is not necessary to obtain the 66791  
commissioner's consent to the exemption of additional property or 66792  
investments of the same kind belonging to the same institution, 66793  
but such property shall appear on the abstract filed annually with 66794  
the commissioner. The commissioner may revise at any time the list 66795  
in every county so that no property is improperly or illegally 66796  
exempted from taxation. The auditor shall follow the orders of the 66797  
commissioner given under this section. An abstract of such list 66798  
shall be filed annually with the commissioner, on a form approved 66799  
by the commissioner, and a copy thereof shall be kept on file in 66800  
the office of each auditor for public inspection. 66801

The commissioner shall not consider an application for 66802  
exemption of property unless the application has attached thereto 66803

a certificate executed by the county treasurer certifying one of 66804  
the following: 66805

(1) That all taxes, assessments, interest, and penalties 66806  
levied and assessed against the property sought to be exempted 66807  
have been paid in full to the date upon which the application for 66808  
exemption is filed, except for such taxes, interest, and penalties 66809  
that may be remitted under division (B) of this section; 66810

(2) That the applicant has entered into a valid delinquent 66811  
tax contract with the county treasurer pursuant to division (A) of 66812  
section 323.31 of the Revised Code to pay all of the delinquent 66813  
taxes, assessments, interest, and penalties charged against the 66814  
property, except for such taxes, interest, and penalties that may 66815  
be remitted under division (B) of this section. If the auditor 66816  
receives notice under section 323.31 of the Revised Code that such 66817  
a written delinquent tax contract has become void, the auditor 66818  
shall strike such property from the list of exempted property and 66819  
reenter such property on the taxable list. If property is removed 66820  
from the exempt list because a written delinquent tax contract has 66821  
become void, current taxes shall first be extended against that 66822  
property on the general tax list and duplicate of real and public 66823  
utility property for the tax year in which the auditor receives 66824  
the notice required by division (A) of section 323.31 of the 66825  
Revised Code that the delinquent tax contract has become void or, 66826  
if that notice is not timely made, for the tax year in which falls 66827  
the latest date by which the treasurer is required by such section 66828  
to give such notice. A county auditor shall not remove from any 66829  
tax list and duplicate the amount of any unpaid delinquent taxes, 66830  
assessments, interest, or penalties owed on property that is 66831  
placed on the exempt list pursuant to this division. 66832

(3) That a tax certificate has been issued under section 66833  
5721.32 or 5721.33 of the Revised Code with respect to the 66834  
property that is the subject of the application, and the tax 66835

certificate is outstanding. 66836

(B) Any taxes, interest, and penalties which have become a 66837  
lien after the property was first used for the exempt purpose, but 66838  
in no case prior to the date of acquisition of the title to the 66839  
property by the applicant, may be remitted by the commissioner, 66840  
except as is provided in division (A) of section 5713.081 of the 66841  
Revised Code. 66842

(C) Real property acquired by the state in fee simple is 66843  
exempt from taxation from the date of acquisition of title or date 66844  
of possession, whichever is the earlier date, provided that all 66845  
taxes, interest, and penalties as provided in the apportionment 66846  
provisions of section 319.20 of the Revised Code have been paid to 66847  
the date of acquisition of title or date of possession by the 66848  
state, whichever is earlier. The proportionate amount of taxes 66849  
that are a lien but not yet determined, assessed, and levied for 66850  
the year in which the property is acquired, shall be remitted by 66851  
the county auditor for the balance of the year from date of 66852  
acquisition of title or date of possession, whichever is earlier. 66853  
This section shall not be construed to authorize the exemption of 66854  
such property from taxation or the remission of taxes, interest, 66855  
and penalties thereon until all private use has terminated. 66856

**Sec. 5713.081.** (A) No application for real property tax 66857  
exemption and tax remission shall be filed with, or considered by, 66858  
the tax commissioner in which tax remission is requested for more 66859  
than three tax years, and the commissioner shall not remit more 66860  
than three years' ~~delinquent~~ taxes, penalties, and interest. 66861

(B) All taxes, penalties, and interest, that have been 66862  
delinquent for more than three years, appearing on the general tax 66863  
list and duplicate of real property which have been levied and 66864  
assessed against parcels of real property owned by the state, any 66865  
political subdivision, or any other entity whose ownership of real 66866

property would constitute public ownership, shall be collected by 66867  
the county auditor of the county where the real property is 66868  
located. Such ~~official~~ auditor shall deduct from each distribution 66869  
made by ~~him~~ the auditor, the amount necessary to pay the tax 66870  
delinquency from any revenues or funds to the credit of the state, 66871  
any political subdivision, or any other entity whose ownership of 66872  
real property would constitute public ownership thereof, passing 66873  
under ~~his~~ the auditor's control, or which come into ~~his~~ the 66874  
auditor's possession, and such deductions shall be made on a 66875  
continuing basis until all delinquent taxes, penalties, and 66876  
interest noted in this section have been paid. 66877

(C) As used in division (B) of this section, "political 66878  
subdivision" includes townships, municipalities, counties, school 66879  
districts, boards of education, all state and municipal 66880  
universities, park boards, and any other entity whose ownership of 66881  
real property would constitute public ownership. 66882

**Sec. 5713.082.** (A) Whenever the county auditor reenters an 66883  
item of property to the tax list as provided in section 5713.08 of 66884  
the Revised Code and there has been no conveyance of the property 66885  
between separate entities, the auditor shall send notice by 66886  
certified mail to the owner of the property that it is now subject 66887  
to property taxation as a result of such action. The auditor shall 66888  
send the notice at the same time ~~he~~ the auditor certifies the real 66889  
property tax duplicate to the county treasurer. The notice shall 66890  
describe the property and indicate that the owner may reapply for 66891  
tax exemption by filing an application for exemption as provided 66892  
in section 5715.27 of the Revised Code, and that failure to file 66893  
such an application within the proper time period will result in 66894  
the owner having to pay the taxes even if the property continued 66895  
to be used for an exempt purpose. 66896

(B) If the auditor failed to send the notice required by this 66897



section, and if the owner of the property subsequently files an application for tax exemption for the property for the current tax year, the tax commissioner may grant exemption to the property, and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties for each prior year since the property was reentered on the tax list notwithstanding the provisions of division (A) of section 5713.081 of the Revised Code.

**Sec. 5713.30.** As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use, or were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government;

(2) Tracts, lots, or parcels of land totaling less than ten acres that, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code and through the last day of May of such year, were devoted exclusively to commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery

stock, ornamental trees, sod, or flowers where such activities 66929  
produced an average yearly gross income of at least twenty-five 66930  
hundred dollars during such three-year period or where there is 66931  
evidence of an anticipated gross income of such amount from such 66932  
activities during the tax year in which application is made, or 66933  
were devoted to and qualified for payments or other compensation 66934  
under a land retirement or conservation program under an agreement 66935  
with an agency of the federal government; 66936

(3) A tract, lot, or parcel of land taxed under sections 66937  
5713.22 to 5713.26 of the Revised Code is not land devoted 66938  
exclusively to agricultural use; 66939

(4) Tracts, lots, or parcels of land, or portions thereof 66940  
~~which~~ that, during the previous three consecutive calendar years 66941  
have been designated as land devoted exclusively to agricultural 66942  
use, but such land has been lying idle or fallow for up to one 66943  
year and no action has occurred to such land that is either 66944  
inconsistent with the return of it to agricultural production or 66945  
converts the land devoted exclusively to agricultural use as 66946  
defined in this section. Such land shall remain designated as land 66947  
devoted exclusively to agricultural use provided that beyond one 66948  
year, but less than three years, the landowner proves good cause 66949  
as determined by the board of revision. 66950

"Land devoted exclusively to agricultural use" includes 66951  
tracts, lots, or parcels of land or portions thereof that are used 66952  
for conservation practices, provided that the tracts, lots, or 66953  
parcels of land or portions thereof comprise twenty-five per cent 66954  
or less of the total of the tracts, lots, or parcels of land that 66955  
satisfy the criteria established in division (A)(1), (2), or (4) 66956  
of this section together with the tracts, lots, or parcels of land 66957  
or portions thereof that are used for conservation practices. 66958

(B) "Conversion of land devoted exclusively to agricultural 66959  
use" means any of the following: 66960

(1) The failure of the owner of land devoted exclusively to agricultural use during the next preceding calendar year to file a renewal application under section 5713.31 of the Revised Code without good cause as determined by the board of revision;

(2) The failure of the new owner of such land to file an initial application under that section without good cause as determined by the board of revision;

(3) The failure of such land or portion thereof to qualify as land devoted exclusively to agricultural use for the current calendar year as requested by an application filed under such section;

(4) The failure of the owner of the land described in division (A)(4) of this section to act on such land in a manner that is consistent with the return of the land to agricultural production after three years.

(C) "Tax savings" means the difference between the dollar amount of real property taxes levied in any year on land valued and assessed in accordance with its current agricultural use value and the dollar amount of real property taxes ~~which~~ that would have been levied upon such land if it had been valued and assessed for such year in accordance with Section 2 of Article XII, Ohio Constitution.

(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate, or a buyer on a land installment contract.

(E) "Conservation practices" includes, but is not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops to abate soil erosion.

(F) "Wetlands" has the same meaning as in section 6111.02 of 66991  
the Revised Code. 66992

**Sec. 5715.27.** (A) The Except as provided in section 3735.67 66993  
of the Revised Code, the owner of any property may file an 66994  
application with the tax commissioner, on forms prescribed by the 66995  
commissioner, requesting that such property be exempted from 66996  
taxation and that ~~unpaid~~ taxes and penalties be remitted as 66997  
provided in division (B) of section 5713.08 of the Revised Code. 66998

(B) The board of education of any school district may request 66999  
the tax commissioner to provide it with notification of 67000  
applications for exemption from taxation for property located 67001  
within that district. If so requested, the commissioner shall send 67002  
to the board for the quarters ending on the last day of March, 67003  
June, September, and December of each year, reports that contain 67004  
sufficient information to enable the board to identify each 67005  
property that is the subject of an exemption application, 67006  
including, but not limited to, the name of the property owner or 67007  
applicant, the address of the property, and the auditor's parcel 67008  
number. The commissioner shall mail the reports on or about the 67009  
fifteenth day of the month following the end of the quarter. 67010

(C) A board of education that has requested notification 67011  
under division (B) of this section may, with respect to any 67012  
application for exemption of property located in the district and 67013  
included in the commissioner's most recent report provided under 67014  
that division, file a statement with the commissioner and with the 67015  
applicant indicating its intent to submit evidence and participate 67016  
in any hearing on the application. The statements shall be filed 67017  
prior to the first day of the third month following the end of the 67018  
quarter in which that application was docketed by the 67019  
commissioner. A statement filed in compliance with this division 67020  
entitles the district to submit evidence and to participate in any 67021

hearing on the property and makes the district a party for 67022  
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 67023  
appeal of the commissioner's decision to the board of tax appeals. 67024

(D) The commissioner shall not hold a hearing on or grant or 67025  
deny an application for exemption of property in a school district 67026  
whose board of education has requested notification under division 67027  
(B) of this section until the end of the period within which the 67028  
board may submit a statement with respect to that application 67029  
under division (C) of this section. The commissioner may act upon 67030  
an application at any time prior to that date upon receipt of a 67031  
written waiver from each such board of education, or, in the case 67032  
of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 67033  
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 67034  
of the property owner. Failure of a board of education to receive 67035  
the report required in division (B) of this section shall not void 67036  
an action of the commissioner with respect to any application. The 67037  
commissioner may extend the time for filing a statement under 67038  
division (C) of this section. 67039

(E) A complaint may also be filed with the commissioner by 67040  
any person, board, or officer authorized by section 5715.19 of the 67041  
Revised Code to file complaints with the county board of revision 67042  
against the continued exemption of any property granted exemption 67043  
by the commissioner under this section. 67044

(F) An application for exemption and a complaint against 67045  
exemption shall be filed prior to the thirty-first day of December 67046  
of the tax year for which exemption is requested or for which the 67047  
liability of ~~any~~ the property to taxation in that year is 67048  
requested. The commissioner shall consider such application or 67049  
complaint in accordance with procedures established by the 67050  
commissioner, determine whether the property is subject to 67051  
taxation or exempt therefrom, and certify the commissioner's 67052  
findings to the auditor, who shall correct the tax list and 67053

duplicate accordingly. If a tax certificate has been sold under 67054  
section 5721.32 or 5721.33 of the Revised Code with respect to 67055  
property for which an exemption has been requested, the tax 67056  
commissioner shall also certify the findings to the county 67057  
treasurer of the county in which the property is located. 67058

(G) Applications and complaints, and documents of any kind 67059  
related to applications and complaints, filed with the tax 67060  
commissioner under this section, are public records within the 67061  
meaning of section 149.43 of the Revised Code. 67062

(H) If the commissioner determines that the use of property 67063  
or other facts relevant to the taxability of property that is the 67064  
subject of an application for exemption or a complaint under this 67065  
section has changed while the application or complaint was 67066  
pending, the commissioner may make the determination under 67067  
division (F) of this section separately for each tax year 67068  
beginning with the year in which the application or complaint was 67069  
filed or the year for which remission of ~~unpaid~~ taxes under 67070  
division (B) of section 5713.08 of the Revised Code was requested, 67071  
and including each subsequent tax year during which the 67072  
application or complaint is pending before the commissioner. 67073

**Sec. 5715.39.** (A) The tax commissioner may remit real 67074  
property taxes, manufactured home taxes, penalties, and interest 67075  
found by the commissioner to have been illegally assessed. The 67076  
commissioner also may remit any penalty charged against any real 67077  
property or manufactured or mobile home that was the subject of an 67078  
application for exemption from taxation under section 5715.27 of 67079  
the Revised Code if the commissioner determines that the applicant 67080  
requested such exemption in good faith. The commissioner shall 67081  
include notice of the remission in the commissioner's 67082  
certification to the county auditor required under that section. 67083

(B) The ~~commissioner, on application by a taxpayer~~ county 67084

auditor, upon consultation with the county treasurer, shall remit 67085  
a penalty for late payment of any real property taxes or 67086  
manufactured home taxes when: 67087

~~(A)~~(1) The taxpayer could not make timely payment of the tax 67088  
because of the negligence or error of the county auditor or county 67089  
treasurer in the performance of a statutory duty relating to the 67090  
levy or collection of such tax. 67091

~~(B)~~(2) In cases other than those described in division 67092  
~~(A)~~(B)(1) of this section, the taxpayer failed to receive a tax 67093  
bill or a correct tax bill, and the taxpayer made a good faith 67094  
effort to obtain such bill within thirty days after the last day 67095  
for payment of the tax. 67096

~~(C)~~(3) The tax was not timely paid because of the death or 67097  
serious injury of the taxpayer, or the taxpayer's confinement in a 67098  
hospital within sixty days preceding the last day for payment of 67099  
the tax if, in any case, the tax was subsequently paid within 67100  
sixty days after the last day for payment of such tax. 67101

~~(D)~~(4) The taxpayer demonstrates ~~to the satisfaction of the~~ 67102  
~~commissioner~~ that the full payment was properly deposited in the 67103  
mail in sufficient time for the envelope to be postmarked by the 67104  
United States postal service on or before the last day for payment 67105  
of such tax. A private meter postmark on an envelope is not a 67106  
valid postmark for purposes of establishing the date of payment of 67107  
such tax. 67108

(5) In cases other than those described in division (B)(1) to 67109  
(4) of this section, the taxpayer's failure to make timely payment 67110  
of the tax is due to reasonable cause and not willful neglect. 67111

(C) The taxpayer, upon application within sixty days after 67112  
the mailing of the county auditor's decision, may request the tax 67113  
commissioner to review the denial of the remission of a penalty by 67114  
the auditor. The application may be filed in person or by 67115

certified mail. If the application is filed by certified mail, the 67116  
date of the United States postmark placed on the sender's receipt 67117  
by the postal service shall be treated as the date of filing. The 67118  
commissioner shall consider the application, determine whether the 67119  
penalty should be remitted, and certify the determination to the 67120  
taxpayer, to the county treasurer, and to the county auditor, who 67121  
shall correct the tax list and duplicate accordingly. The 67122  
commissioner may issue orders and instructions for the uniform 67123  
implementation of this section by all county auditors and county 67124  
treasurers, and such orders and instructions shall be followed by 67125  
such officers. 67126

(D) This section shall not provide to the taxpayer any remedy 67127  
with respect to any matter that the taxpayer may be authorized to 67128  
complain of under section 4503.06, 5715.19, 5717.02, ~~and~~ or 67129  
5727.47 of the Revised Code. 67130

(E) Applications for remission, and documents of any kind 67131  
related to those applications, filed with the tax commissioner 67132  
under this section, are public records within the meaning of 67133  
section 149.43 of the Revised Code, unless otherwise excepted 67134  
under that section. 67135

**Sec. 5717.011.** (A) As used in this chapter, "tax 67136  
administrator" has the same meaning as in section 718.01 of the 67137  
Revised Code. 67138

(B) Appeals from a municipal board of appeal created under 67139  
section 718.11 of the Revised Code may be taken by the taxpayer or 67140  
the tax administrator to the board of tax appeals or may be taken 67141  
by the taxpayer or the tax administrator to a court of common 67142  
pleas as otherwise provided by law. If the taxpayer or the tax 67143  
administrator elects to make an appeal to the board of tax appeals 67144  
or court of common pleas, the appeal shall be taken by the filing 67145  
of a notice of appeal with the board of tax appeals or court of 67146



common pleas, the municipal board of appeal, and the opposing 67147  
party. The notice of appeal shall be filed within sixty days after 67148  
the day the appellant receives notice of the decision issued under 67149  
section 718.11 of the Revised Code. The notice of appeal may be 67150  
filed in person or by certified mail, express mail, or authorized 67151  
delivery service as provided in section 5703.056 of the Revised 67152  
Code. If the notice of appeal is filed by certified mail, express 67153  
mail, or authorized delivery service as provided in section 67154  
5703.056 of the Revised Code, the date of the United States 67155  
postmark placed on the sender's receipt by the postal service or 67156  
the date of receipt recorded by the authorized delivery service 67157  
shall be treated as the date of filing. The notice of appeal shall 67158  
have attached thereto and incorporated therein by reference a true 67159  
copy of the decision issued under section 718.11 of the Revised 67160  
Code and shall specify the errors therein complained of, but 67161  
failure to attach a copy of such notice and incorporate it by 67162  
reference in the notice of appeal does not invalidate the appeal. 67163

(C) Upon the filing of a notice of appeal with the board of 67164  
tax appeals, the municipal board of appeal shall certify to the 67165  
board of tax appeals a transcript of the record of the proceedings 67166  
before it, together with all evidence considered by it in 67167  
connection therewith. Such appeals may be heard by the board at 67168  
its office in Columbus or in the county where the appellant 67169  
resides, or it may cause its examiners to conduct such hearings 67170  
and to report to it their findings for affirmation or rejection. 67171  
The board may order the appeal to be heard upon the record and the 67172  
evidence certified to it by the administrator, but upon the 67173  
application of any interested party the board shall order the 67174  
hearing of additional evidence, and the board may make such 67175  
investigation concerning the appeal as it considers proper. 67176

**Sec. 5717.03.** (A) A decision of the board of tax appeals on 67177  
an appeal filed with it pursuant to section 5717.01, 5717.011, or 67178

5717.02 of the Revised Code shall be entered of record on the 67179  
journal together with the date when the order is filed with the 67180  
secretary for journalization. 67181

(B) In case of an appeal from a decision of a county board of 67182  
revision, the board of tax appeals shall determine the taxable 67183  
value of the property whose valuation or assessment by the county 67184  
board of revision is complained of, or in the event the complaint 67185  
and appeal is against a discriminatory valuation, shall determine 67186  
a valuation which shall correct such discrimination, and shall 67187  
determine the liability of the property for taxation, if that 67188  
question is in issue, and ~~it~~ the board of tax appeals's decision 67189  
and the date when it was filed with the secretary for 67190  
journalization shall be certified by ~~it~~ the board by certified 67191  
mail to all persons who were parties to the appeal before ~~it~~ the 67192  
board, to the person in whose name the property is listed, or 67193  
sought to be listed, if such person is not a party to the appeal, 67194  
to the county auditor of the county in which the property involved 67195  
in the appeal is located, and to the tax commissioner. 67196

In correcting a discriminatory valuation, the board of tax 67197  
appeals shall increase or decrease the value of the property whose 67198  
valuation or assessment by the county board of revision is 67199  
complained of by a per cent or amount which will cause such 67200  
property to be listed and valued for taxation by an equal and 67201  
uniform rule. 67202

(C) In the case of an appeal from a review, redetermination, 67203  
or correction of a tax assessment, valuation, determination, 67204  
finding, computation, or order of the tax commissioner, the order 67205  
of the board of tax appeals and the date of the entry thereof upon 67206  
its journal shall be certified by ~~it~~ the board by certified mail 67207  
to all persons who were parties to the appeal before ~~it~~ the board, 67208  
the person in whose name the property is listed or sought to be 67209  
listed, if the decision determines the valuation or liability of 67210

property for taxation and if such person is not a party to the appeal, the taxpayer or other person to whom notice of the tax assessment, valuation, determination, finding, computation, or order, or correction or redetermination thereof, by the tax commissioner was by law required to be given, the director of budget and management, if the revenues affected by such decision would accrue primarily to the state treasury, and the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue.

(D) In the case of an appeal from a municipal board of appeal created under section 718.11 of the Revised Code, the order of the board of tax appeals and the date of the entry thereof upon the board's journal shall be certified by the board by certified mail to all persons who were parties to the appeal before the board.

(E) In the case of all other appeals or applications filed with and determined by the board ~~its~~, the board's order and the date when ~~it~~ the order was filed by the secretary for journalization shall be certified by ~~it~~ the board by certified mail to the person who is a party to such appeal or application, to such persons as the law requires, and to such other persons as the board deems proper.

(F) The orders of the board may affirm, reverse, vacate, modify, or remand the tax assessments, valuations, determinations, findings, computations, or orders complained of in the appeals determined by ~~it~~ the board, and ~~its~~ the board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in section 5717.04 of the Revised Code. When an order of the board becomes final the tax commissioner and all officers to whom such decision has been certified shall make the changes in their tax lists or other records which the decision requires.

(G) If the board finds that issues not raised on the appeal are important to a determination of a controversy, ~~it~~ the board may remand the cause for an administrative determination and the issuance of a new tax assessment, valuation, determination, finding, computation, or order, unless the parties stipulate to the determination of such other issues without remand. An order remanding the cause is a final order, ~~which~~. If the order relates to any issue other than a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals in Franklin county. If the order relates to a municipal income tax matter appealed under sections 718.11 and 5717.011 of the Revised Code, the order may be appealed to the court of appeals for the county in which the municipal corporation in which the dispute arose is primarily situated.

**Sec. 5719.07.** Subject to the rules prescribed by the tax commissioner, a county treasurer charged with the collection of delinquent taxes may issue a certificate of release of the lien provided for in section 5719.04 of the Revised Code if the amount secured thereby has been paid or omitted from the delinquent tax list and duplicate pursuant to section 5719.06 of the Revised Code. The treasurer shall issue a certificate of partial discharge of any part of the real property subject to the lien ~~if he finds~~ after finding that the value of the part of the property remaining subject to the lien is at least double the amount of the delinquent taxes and all prior liens upon such real property. Such certificate shall be filed and recorded with the county recorder of the county in which the notice of lien has been filed, for which recording the recorder shall charge a base fee of two dollars for services and a housing trust fund fee of two dollars pursuant to section 317.36 of the Revised Code.

Sec. 5727.111. The taxable property of each public utility, 67274  
except a railroad company, and of each interexchange 67275  
telecommunications company shall be assessed at the following 67276  
percentages of true value: 67277

(A)(1) Except as provided in division (A)(2) of this section, 67278  
fifty per cent in the case of a rural electric company; 67279

(2) For tax year 2001 and thereafter, fifty per cent in the 67280  
case of the taxable transmission and distribution property of a 67281  
rural electric company, and twenty-five per cent for all its other 67282  
taxable property; 67283

(B) In the case of a telephone or telegraph company, 67284  
twenty-five per cent for taxable property first subject to 67285  
taxation in this state for tax year 1995 or thereafter, and 67286  
~~eighty-eight per cent~~ the following for all other taxable 67287  
property: 67288

(1) For tax years prior to 2005, eighty-eight per cent; 67289

(2) For tax year 2005, sixty-seven per cent; 67290

(3) For tax year 2006, forty-six per cent; 67291

(4) For tax year 2007 and thereafter, twenty-five per cent. 67292

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 67293  
~~eighty-eight per cent in the case of a natural gas company;~~ 67294

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 67295  
per cent in the case of a natural gas company. 67296

(D) Eighty-eight per cent in the case of a pipe-line, 67297  
water-works, or heating company; 67298

(E)(1) Except as provided in division (E)(2) or (3) of this 67299  
section, one hundred per cent in the case of the taxable 67300  
production equipment of an electric company and eighty-eight per 67301  
cent for all its other taxable property; 67302

(2) For tax year 2001 and thereafter, eighty-eight per cent 67303  
in the case of the taxable transmission and distribution property 67304  
of an electric company, and twenty-five per cent for all its other 67305  
taxable property; 67306

(3) Property listed and assessed under divisions (B)(1) and 67307  
(2) of section 5711.22 of the Revised Code and leased to an 67308  
electric company shall continue to be assessed at one hundred per 67309  
cent for production equipment and eighty-eight per cent for all 67310  
such other taxable property until January 1, 2002. 67311

(F) Twenty-five per cent in the case of an interexchange 67312  
telecommunications company; 67313

(G) Twenty-five per cent in the case of a water 67314  
transportation company. 67315

**Sec. 5727.30.** (A) Except as provided in divisions (B) ~~and~~, 67316  
(C), and (D) of this section, each public utility, except railroad 67317  
companies, shall be subject to an annual excise tax, as provided 67318  
by sections 5727.31 to 5727.62 of the Revised Code, for the 67319  
privilege of owning property in this state or doing business in 67320  
this state during the twelve-month period next succeeding the 67321  
period upon which the tax is based. The tax shall be imposed 67322  
against each such public utility that, on the first day of such 67323  
twelve-month period, owns property in this state or is doing 67324  
business in this state, and the lien for the tax, including any 67325  
penalties and interest accruing thereon, shall attach on such day 67326  
to the property of the public utility in this state. 67327

(B) An electric company's or a rural electric company's gross 67328  
receipts received after April 30, 2001, are not subject to the 67329  
annual excise tax imposed by this section. 67330

(C) A natural gas company's gross receipts received after 67331  
April 30, 2000, are not subject to the annual excise tax imposed 67332

by this section. 67333

(D) A telephone company's gross receipts derived from amounts billed to customers after June 30, 2004, are not subject to the annual excise tax imposed by this section. Notwithstanding any other provision of law, gross receipts derived from amounts billed by a telephone company to customers prior to July 1, 2004, shall be included in the telephone company's annual statement filed on or before August 1, 2004, which shall be the last statement or report filed under section 5727.31 of the Revised Code by a telephone company. A telephone company shall not deduct from its gross receipts included in that last statement any receipts it was unable to collect from its customers for the period of July 1, 2003, to June 30, 2004. 67334  
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**Sec. 5727.32.** (A) For the purpose of the tax imposed by section 5727.30 of the Revised Code, the statement required by section 5727.31 of the Revised Code shall contain: 67346  
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(1) The name of the company; 67349

(2) The nature of the company, whether a person, association, or corporation, and under the laws of what state or country organized; 67350  
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(3) The location of its principal office; 67353

(4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager; 67354  
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(5) The name and post-office address of the chief officer or managing agent of the company in this state; 67357  
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(6) The amount of the excise taxes paid or to be paid with the reports made during the current calendar year as provided by section 5727.31 of the Revised Code; 67359  
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67361

(7) In the case of telegraph ~~and telephone~~ companies: 67362

(a) The gross receipts from all sources, whether messages, 67363  
telephone tolls, rentals, or otherwise, for business done within 67364  
this state, including all sums earned or charged, whether actually 67365  
received or not, for the year ending on the thirtieth day of June, 67366  
and the company's proportion of gross receipts for business done 67367  
by it within this state in connection with other companies, firms, 67368  
corporations, persons, or associations, but excluding all of the 67369  
following: 67370

(i) All of the receipts derived wholly from interstate 67371  
business or business done for or with the federal government; 67372

(ii) The receipts of amounts billed on behalf of other 67373  
entities; 67374

~~(iii) The receipts from sales to other telephone companies 67375  
for resale; 67376~~

~~(iv) The receipts from sales to providers of 67377  
telecommunications service for resale, receipts from incoming or 67378  
outgoing wide area transmission service or wide area transmission 67379  
type service, including eight hundred or eight hundred type 67380  
service, and receipts from private communications service. 67381~~

~~As used in this division, "receipts from sales to other 67382  
telephone companies for resale" and "receipts from sales to 67383  
providers of telecommunications service for resale" include but 67384  
are not limited to, receipts of carrier access charges. "Carrier 67385  
access charges" means compensation paid to the taxpayer telephone 67386  
company by another telephone company or by a provider of 67387  
telecommunications service for the use of the taxpayer's 67388  
facilities to originate or terminate telephone calls or 67389  
telecommunications service. 67390~~

(b) The total gross receipts for such period from business 67391  
done within this state. 67392



(8) In the case of all public utilities subject to the tax 67393  
imposed by section 5727.30 of the Revised Code, except telegraph 67394  
~~and telephone~~ companies: 67395

(a) The gross receipts of the company, actually received, 67396  
from all sources for business done within this state for the year 67397  
next preceding the first day of May, including the company's 67398  
proportion of gross receipts for business done by it within this 67399  
state in connection with other companies, firms, corporations, 67400  
persons, or associations, but excluding all both of the following: 67401

(i) Receipts from interstate business or business done for 67402  
the federal government; 67403

(ii) Receipts from sales to another public utility for 67404  
resale, provided such other public utility is subject to the tax 67405  
levied by section 5727.24 or 5727.30 of the Revised Code; 67406

~~(iii) Receipts from the transmission or delivery of 67407  
electricity to or for a rural electric company, provided that the 67408  
electricity that has been so transmitted or delivered is for 67409  
resale by the rural electric company. This division does not apply 67410  
to tax years 2002 and thereafter. 67411~~

~~(iv) Receipts of an electric company, derived from the 67412  
provision of electricity and other services to a qualified former 67413  
owner of the production facilities that generated the electricity 67414  
from which those receipts were derived. This division does not 67415  
apply to tax years 2002 and thereafter. As used in this division, 67416  
a "qualified former owner" means a person who meets both of the 67417  
following conditions: 67418~~

~~(I) On or before October 11, 1991, the person had sold to an 67419  
electric company part of the production facility at which the 67420  
electricity is generated, and, for at least twenty years prior to 67421  
that sale, the facility was used to generate electricity, but it 67422  
was not owned in whole or in part during that period by an 67423~~

~~electric company.~~ 67424

~~(II) At the time the electric company provided the 67425  
electricity or other services for which the exclusion is claimed, 67426  
the person, or a successor or assign of the person, owned not less 67427  
than twenty per cent of the production facility and the rights to 67428  
not less than twenty per cent of the production of that facility; 67429  
and the person, or a successor or assign of the person, engaged 67430  
primarily in a business other than providing electricity to 67431  
others.~~ 67432

~~(v) Receipts of a combined company derived from operating as 67433  
a natural gas company that is subject to the tax imposed by 67434  
section 5727.24 of the Revised Code. 67435~~

~~(b) The total gross receipts of the company, for the year 67436  
next preceding the first day of May, in this state from business 67437  
done within the state. 67438~~

~~(B) The reports required by section 5727.31 of the Revised 67439  
Code shall contain: 67440~~

~~(1) The name and principal mailing address of the company; 67441~~

~~(2) The total amount of the gross receipts excise taxes 67442  
charged or levied as based upon its last preceding annual 67443  
statement filed prior to the first day of January of the year in 67444  
which such report is filed; 67445~~

~~(3) The amount of the excise taxes due with the report as 67446  
provided by section 5727.31 of the Revised Code. 67447~~

**Sec. 5727.33.** ~~(A) For the purpose of computing the excise tax 67448  
imposed by section 5727.24 or 5727.30 of the Revised Code, the 67449  
entire gross receipts actually received from all sources for 67450  
business done within this state are taxable gross receipts, 67451  
excluding the receipts described in divisions (B), (C), and (D), 67452  
~~and (E)~~ of this section. The gross receipts for the tax year of 67453~~

each telegraph ~~and telephone~~ company shall be computed for the 67454  
period of the first day of July prior to the tax year to the 67455  
thirtieth day of June of the tax year. The gross receipts of each 67456  
natural gas company, including a combined company's taxable gross 67457  
receipts attributed to a natural gas company activity, shall be 67458  
computed in the manner required by section 5727.25 of the Revised 67459  
Code. The gross receipts for the tax year of any other public 67460  
utility subject to section 5727.30 of the Revised Code shall be 67461  
computed for the period of the first day of May prior to the tax 67462  
year to the thirtieth day of April of the tax year. 67463

(B) In ascertaining and determining the gross receipts of 67464  
each public utility subject to this section, the following gross 67465  
receipts are excluded: 67466

(1) All receipts derived wholly from interstate business; 67467

(2) All receipts derived wholly from business done for or 67468  
with the federal government; 67469

~~(3) All receipts derived wholly from the transmission or 67470  
delivery of electricity to or for a rural electric company, 67471  
provided that the electricity that has been so transmitted or 67472  
delivered is for resale by the rural electric company. This 67473  
division does not apply to tax years 2002 and thereafter. 67474~~

~~(4) All receipts from the sale of merchandise; 67475~~

~~(5)~~(4) All receipts from sales to other public utilities, 67476  
except railroad, and telegraph, ~~and telephone~~ companies, for 67477  
resale, provided the other public utility is subject to the tax 67478  
levied by section 5727.24 or 5727.30 of the Revised Code. 67479

~~(C) In ascertaining and determining the gross receipts of a 67480  
telephone company, the following gross receipts are excluded: 67481~~

~~(1) Receipts of amounts billed on behalf of other entities; 67482~~

~~(2) Receipts from sales to other telephone companies for 67483~~

~~resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;~~ 67484  
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~~(3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service;~~ 67486  
67487  
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~~(4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;~~ 67489  
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~~(5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.~~ 67491  
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~~(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived are excluded. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:~~ 67494  
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~~(1) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or part during that period by an electric company.~~ 67502  
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~~(2) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than a twenty per cent ownership of the production facility and the rights to not less than twenty per cent of the production of that facility.~~ 67508  
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~~(E)(C) In ascertaining and determining the gross receipts of~~ 67514

a natural gas company, receipts billed on behalf of other entities 67515  
are excluded. The tax imposed by section 5729.811 of the Revised 67516  
Code, along with transportation and billing and collection fees 67517  
charged to other entities, shall be included in the gross receipts 67518  
of a natural gas company. 67519

~~(F)~~(D) In ascertaining and determining the gross receipts of 67520  
a combined company subject to the tax imposed by section 5727.30 67521  
of the Revised Code, all receipts derived from operating as a 67522  
natural gas company that are subject to the tax imposed by section 67523  
5727.24 of the Revised Code are excluded. 67524

~~(G)~~(E) Except as provided in division ~~(H)~~(F) of this section, 67525  
the amount ascertained by the commissioner under this section, 67526  
less a deduction of twenty-five thousand dollars, shall be the 67527  
taxable gross receipts of such companies for business done within 67528  
this state for that year. 67529

~~(H)~~(F) The amount ascertained under this section, less the 67530  
following deduction, shall be the taxable gross receipts of a 67531  
natural gas company or combined company subject to the tax imposed 67532  
by section 5727.24 of the Revised Code for business done within 67533  
this state: 67534

(1) For a natural gas company that files quarterly returns of 67535  
the tax imposed by section 5727.24 of the Revised Code, six 67536  
thousand two hundred fifty dollars for each quarterly return; 67537

(2) For a natural gas company that files an annual return of 67538  
the tax imposed by section 5727.24 of the Revised Code, 67539  
twenty-five thousand dollars for each annual return; 67540

(3) For a combined company, twenty-five thousand dollars on 67541  
the annual statement filed under section 5727.31 of the Revised 67542  
Code. A combined company shall not be entitled to a deduction in 67543  
computing gross receipts subject to the tax imposed by section 67544  
5727.24 of the Revised Code. 67545

Sec. 5727.56. Any public utility whose articles of 67546  
incorporation or license certificate to do or transact business in 67547  
this state has expired or has been canceled or revoked by the 67548  
secretary of state, as provided by law for failure to make any 67549  
report or return or to pay any tax or fee, upon payment to the 67550  
secretary of state of any additional fees and penalties required 67551  
to be paid to ~~him~~ the secretary of state, and upon the filing with 67552  
the secretary of state of a certificate from the tax commissioner 67553  
that it has complied with all the requirements of law as to 67554  
franchise or excise tax reports and paid all franchise or excise 67555  
taxes, fees, or penalties due thereon for every year of its 67556  
delinquency, and upon the payment to the secretary of state of an 67557  
additional fee of ten dollars, shall be reinstated and again 67558  
entitled to exercise its rights, privileges, and franchises in 67559  
this state, and the secretary of state shall cancel the entry of 67560  
cancellation or expiration to exercise its rights, privileges, and 67561  
franchises. If the reinstatement is not made within one year from 67562  
the date of the cancellation of its articles of incorporation or 67563  
date of the cancellation or expiration of its license to do 67564  
business, and it appears that articles of incorporation or license 67565  
certificate have been issued to a corporation of the same or 67566  
similar name, the applicant for reinstatement shall be required by 67567  
the secretary of state, as a condition prerequisite to such 67568  
reinstatement, to amend its articles by changing its name. A 67569  
certificate of reinstatement may be filed in the county recorder's 67570  
office of any county in the state, for which the recorder shall 67571  
charge and collect a base fee of three dollars for services and a 67572  
housing trust fund fee of three dollars pursuant to section 317.36 67573  
of the Revised Code. 67574

If a domestic public utility applying for reinstatement has 67575  
not previously designated an agent upon whom process may be served 67576  
as required by section 1701.07 of the Revised Code, such public 67577

utility shall at the time of reinstatement and as a prerequisite 67578  
thereto designate an agent in accordance with such section. 67579

Any officer, shareholder, creditor, or receiver of any such 67580  
public utility may at any time take all steps required by this 67581  
section to effect such reinstatement, and in such case the 67582  
designation of an agent upon whom process may be served shall not 67583  
be a prerequisite to the reinstatement of the public utility. 67584

**Sec. 5727.84.** (A) As used in this section and sections 67585  
5727.85, 5727.86, and 5727.87 of the Revised Code: 67586

(1) "School district" means a city, local, or exempted 67587  
village school district. 67588

(2) "Joint vocational school district" means a joint 67589  
vocational school district created under section 3311.16 of the 67590  
Revised Code, and includes a cooperative education school district 67591  
created under section 3311.52 or 3311.521 of the Revised Code and 67592  
a county school financing district created under section 3311.50 67593  
of the Revised Code. 67594

(3) "Local taxing unit" means a subdivision or taxing unit, 67595  
as defined in section 5705.01 of the Revised Code, a park district 67596  
created under Chapter 1545. of the Revised Code, or a township 67597  
park district established under section 511.23 of the Revised 67598  
Code, but excludes school districts and joint vocational school 67599  
districts. 67600

(4) "State education aid" means the sum of state aid amounts 67601  
computed for a school district or joint vocational school district 67602  
under Chapter 3317. of the Revised Code. 67603

(5) "State education aid offset" means the amount determined 67604  
for each school district or joint vocational school district under 67605  
division (A)(1) of section 5727.85 of the Revised Code. 67606

(6) "Recognized valuation" has the same meaning as in section 67607

3317.02 of the Revised Code. 67608

(7) "Electric company tax value loss" means the amount 67609  
determined under division (D) of this section. 67610

(8) "Natural gas company tax value loss" means the amount 67611  
determined under division (E) of this section. 67612

(9) "Tax value loss" means the sum of the electric company 67613  
tax value loss and the natural gas company tax value loss. 67614

(10) "Fixed-rate levy" means any tax levied on property other 67615  
than a fixed-sum levy. 67616

(11) "Fixed-rate levy loss" means the amount determined under 67617  
division (G) of this section. 67618

(12) "Fixed-sum levy" means a tax levied on property at 67619  
whatever rate is required to produce a specified amount of tax 67620  
money or levied in excess of the ten-mill limitation to pay debt 67621  
charges, and includes school district emergency levies imposed 67622  
pursuant to section 5705.194 of the Revised Code. 67623

(13) "Fixed-sum levy loss" means the amount determined under 67624  
division (H) of this section. 67625

(14) "Consumer price index" means the consumer price index 67626  
(all items, all urban consumers) prepared by the bureau of labor 67627  
statistics of the United States department of labor. 67628

(B) The kilowatt-hour tax receipts fund is hereby created in 67629  
the state treasury and shall consist of money arising from the tax 67630  
imposed by section 5727.81 of the Revised Code. All money in the 67631  
kilowatt-hour tax receipts fund shall be credited as follows: 67632

(1) Fifty-nine and nine hundred seventy-six one-thousandths 67633  
per cent, shall be credited to the general revenue fund. 67634

(2) Two and six hundred forty-six one-thousandths per cent 67635  
shall be credited to the local government fund, for distribution 67636  
in accordance with section 5747.50 of the Revised Code. 67637



(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) Twenty-five and four-tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) Eleven and six-tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2) and (3) of this section the amount it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.

(7) Beginning in fiscal year 2007, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount that it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and

management the amounts to be credited under division (B)(7) of 67669  
this section. 67670

(C) The natural gas tax receipts fund is hereby created in 67671  
the state treasury and shall consist of money arising from the tax 67672  
imposed by section 5727.811 of the Revised Code. All money in the 67673  
fund shall be credited as follows: 67674

(1) Sixty-eight and seven-tenths per cent shall be credited 67675  
to the school district property tax replacement fund for the 67676  
purpose of making the payments described in section 5727.85 of the 67677  
Revised Code. 67678

(2) Thirty-one and three-tenths per cent shall be credited to 67679  
the local government property tax replacement fund for the purpose 67680  
of making the payments described in section 5727.86 of the Revised 67681  
Code. 67682

(3) Beginning in fiscal year 2007, if the revenue arising 67683  
from the tax levied by section 5727.811 of the Revised Code is 67684  
less than ninety million dollars, an amount equal to the 67685  
difference between the amount collected and ninety million dollars 67686  
shall be transferred from the general revenue fund to each of the 67687  
funds in divisions (C)(1) and (2) of this section in the same 67688  
percentages as if that amount had been collected as taxes under 67689  
section 5727.811 of the Revised Code. The tax commissioner shall 67690  
certify to the director of budget and management the amounts that 67691  
shall be transferred under this division. 67692

(D) Not later than January 1, 2002, the tax commissioner 67693  
shall determine for each taxing district its electric company tax 67694  
value loss, which is the sum of the applicable amounts described 67695  
in divisions (D)(1) ~~and (2)~~ to (3) of this section: 67696

(1) The difference obtained by subtracting the amount 67697  
described in division (D)(1)(b) from the amount described in 67698  
division (D)(1)(a) of this section. 67699

(a) The value of electric company and rural electric company  
tangible personal property as assessed by the tax commissioner for  
tax year 1998 on a preliminary assessment, or an amended  
preliminary assessment if issued prior to March 1, 1999, and as  
apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company  
tangible personal property as assessed by the tax commissioner for  
tax year 1998 had the property been apportioned to the taxing  
district for tax year 2001, and assessed at the rates in effect  
for tax year 2001.

(2) The difference obtained by subtracting the amount  
described in division (D)(2)(b) from the amount described in  
division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998  
of the assessed value from nuclear fuel materials and assemblies  
assessed against a person under Chapter 5711. of the Revised Code  
from the leasing of them to an electric company for those  
respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel  
materials and assemblies assessed under division (D)(2)(a) of this  
section for tax years 1996, 1997, and 1998, as reflected in the  
preliminary assessments, using an assessment rate of twenty-five  
per cent.

(3) In the case of a taxing district having a nuclear power  
plant within its territory, any amount, resulting in an electric  
company tax value loss, obtained by subtracting the amount  
described in division (D)(1) of this section from the difference  
obtained by subtracting the amount described in division (D)(3)(b)  
of this section from the amount described in division (D)(3)(a) of  
this section.

(a) The value of electric company tangible personal property

as assessed by the tax commissioner for tax year 2000 on a 67731  
preliminary assessment, or an amended preliminary assessment if 67732  
issued prior to March 1, 2001, and as apportioned to the taxing 67733  
district for tax year 2000; 67734

(b) The value of electric company tangible personal property 67735  
as assessed by the tax commissioner for tax year 2001 on a 67736  
preliminary assessment, or an amended preliminary assessment if 67737  
issued prior to March 1, 2002, and as apportioned to the taxing 67738  
district for tax year 2001. 67739

(E) Not later than January 1, 2002, the tax commissioner 67740  
shall determine for each taxing district its natural gas company 67741  
tax value loss, which is the sum of the amounts described in 67742  
divisions (E)(1) and (2) of this section: 67743

(1) The difference obtained by subtracting the amount 67744  
described in division (E)(1)(b) from the amount described in 67745  
division (E)(1)(a) of this section. 67746

(a) The value of all natural gas company tangible personal 67747  
property, other than property described in division (E)(2) of this 67748  
section, as assessed by the tax commissioner for tax year 1999 on 67749  
a preliminary assessment, or an amended preliminary assessment if 67750  
issued prior to March 1, 2000, and apportioned to the taxing 67751  
district for tax year 1999; 67752

(b) The value of all natural gas company tangible personal 67753  
property, other than property described in division (E)(2) of this 67754  
section, as assessed by the tax commissioner for tax year 1999 had 67755  
the property been apportioned to the taxing district for tax year 67756  
2001, and assessed at the rates in effect for tax year 2001. 67757

(2) The difference in the value of current gas obtained by 67758  
subtracting the amount described in division (E)(2)(b) from the 67759  
amount described in division (E)(2)(a) of this section. 67760

(a) The three-year average assessed value of current gas as 67761

assessed by the tax commissioner for tax years 1997, 1998, and 67762  
1999 on a preliminary assessment, or an amended preliminary 67763  
assessment if issued prior to March 1, 2001, and as apportioned in 67764  
the taxing district for those respective years; 67765

(b) The three-year average assessed value from current gas 67766  
under division (E)(2)(a) of this section for tax years 1997, 1998, 67767  
and 1999, as reflected in the preliminary assessment, using an 67768  
assessment rate of twenty-five per cent. 67769

(F) The tax commissioner may request that natural gas 67770  
companies, electric companies, and rural electric companies file a 67771  
report to help determine the tax value loss under divisions (D) 67772  
and (E) of this section. The report shall be filed within thirty 67773  
days of the commissioner's request. A company that fails to file 67774  
the report or does not timely file the report is subject to the 67775  
penalty in section 5727.60 of the Revised Code. 67776

(G) Not later than January 1, 2002, the tax commissioner 67777  
shall determine for each school district, joint vocational school 67778  
district, and local taxing unit its fixed-rate levy loss, which is 67779  
the sum of its electric company tax value loss multiplied by the 67780  
tax rate in effect in tax year 1998 for fixed-rate levies and its 67781  
natural gas company tax value loss multiplied by the tax rate in 67782  
effect in tax year 1999 for fixed-rate levies. 67783

(H) Not later than January 1, 2002, the tax commissioner 67784  
shall determine for each school district, joint vocational school 67785  
district, and local taxing unit its fixed-sum levy loss, which is 67786  
the amount obtained by subtracting the amount described in 67787  
division (H)(2) of this section from the amount described in 67788  
division (H)(1) of this section: 67789

(1) The sum of the electric company tax value loss multiplied 67790  
by the tax rate in effect in tax year 1998, and the natural gas 67791  
company tax value loss multiplied by the tax rate in effect in tax 67792

year 1999, for fixed-sum levies for all taxing districts within 67793  
each school district, joint vocational school district, and local 67794  
taxing unit. For the years 2002 through 2006, this computation 67795  
shall include school district emergency levies that existed in 67796  
1998 in the case of the electric company tax value loss, and 1999 67797  
in the case of the natural gas company tax value loss, and all 67798  
other fixed-sum levies that existed in 1998 in the case of the 67799  
electric company tax value loss and 1999 in the case of the 67800  
natural gas company tax value loss and continue to be charged in 67801  
the tax year preceding the distribution year. For the years 2007 67802  
through 2016 in the case of school district emergency levies, and 67803  
for all years after 2006 in the case of all other fixed-sum 67804  
levies, this computation shall exclude all fixed-sum levies that 67805  
existed in 1998 in the case of the electric company tax value loss 67806  
and 1999 in the case of the natural gas company tax value loss, 67807  
but are no longer in effect in the tax year preceding the 67808  
distribution year. For the purposes of this section, an emergency 67809  
levy that existed in 1998 in the case of the electric company tax 67810  
value loss, and 1999 in the case of the natural gas company tax 67811  
value loss, continues to exist in a year beginning on or after 67812  
January 1, 2007, but before January 1, 2017, if, in that year, the 67813  
board of education levies a school district emergency levy for an 67814  
annual sum at least equal to the annual sum levied by the board in 67815  
tax year 1998 or 1999, respectively, less the amount of the 67816  
payment certified under this division for 2002. 67817

(2) The total taxable value in tax year 1999 less the tax 67818  
value loss in each school district, joint vocational school 67819  
district, and local taxing unit multiplied by one-fourth of one 67820  
mill. 67821

If the amount computed under division (H) of this section for 67822  
any school district, joint vocational school district, or local 67823  
taxing unit is greater than zero, that amount shall equal the 67824

fixed-sum levy loss reimbursed pursuant to division (E) of section 67825  
5727.85 of the Revised Code or division (A)(2) of section 5727.86 67826  
of the Revised Code, and the one-fourth of one mill that is 67827  
subtracted under division (H)(2) of this section shall be 67828  
apportioned among all contributing fixed-sum levies in the 67829  
proportion of each levy to the sum of all fixed-sum levies within 67830  
each school district, joint vocational school district, or local 67831  
taxing unit. 67832

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 67833  
section, in computing the tax value loss, fixed-rate levy loss, 67834  
and fixed-sum levy loss, the tax commissioner shall use the 67835  
greater of the 1998 tax rate or the 1999 tax rate in the case of 67836  
levy losses associated with the electric company tax value loss, 67837  
but the 1999 tax rate shall not include for this purpose any tax 67838  
levy approved by the voters after June 30, 1999, and the tax 67839  
commissioner shall use the greater of the 1999 or the 2000 tax 67840  
rate in the case of levy losses associated with the natural gas 67841  
company tax value loss. 67842

(J) Not later than January 1, 2002, the tax commissioner 67843  
shall certify to the department of education the tax value loss 67844  
determined under divisions (D) and (E) of this section for each 67845  
taxing district, the fixed-rate levy loss calculated under 67846  
division (G) of this section, and the fixed-sum levy loss 67847  
calculated under division (H) of this section. The calculations 67848  
under divisions (G) and (H) of this section shall separately 67849  
display the levy loss for each levy eligible for reimbursement. 67850

(K) Not later than September 1, 2001, the tax commissioner 67851  
shall certify the amount of the fixed-sum levy loss to the county 67852  
auditor of each county in which a school district with a fixed-sum 67853  
levy loss has territory. 67854

**Sec. 5728.04.** (A) It is unlawful for any person to operate a 67855

commercial car with three or more axles when operated alone or as 67856  
part of a commercial tandem, a commercial car with two axles that 67857  
is to be operated as part of a commercial tandem with a gross 67858  
vehicle weight or a registered gross vehicle weight exceeding 67859  
twenty-six thousand pounds, or a commercial tractor when operated 67860  
alone or as part of a commercial tractor combination or commercial 67861  
tandem on a public highway ~~without~~ under either of the following 67862  
circumstances: 67863

(1) Without a ~~valid~~ fuel use permit for such commercial car 67864  
or commercial tractor. 67865

(2) With a suspended or surrendered fuel use permit for such 67866  
commercial car or commercial tractor. 67867

(B) The judge or magistrate of any court finding any person 67868  
guilty of unlawfully operating a commercial car or commercial 67869  
tractor as provided for in this section shall immediately notify 67870  
the tax commissioner of such violation and shall transmit to the 67871  
tax commissioner the name and the permanent address of the owner 67872  
of the commercial car or commercial tractor operated in violation 67873  
of this section, the registration number, the state of 67874  
registration, and the certificate of title number of the 67875  
commercial car or commercial tractor. The commercial car or 67876  
commercial tractor involved in a violation of division (A)(1) or 67877  
(2) of this section may be detained until a valid fuel use permit 67878  
is obtained or reinstated. 67879

**Sec. 5728.06.** (A) For the following purposes, an excise tax 67880  
is hereby imposed on the use of motor fuel to operate on the 67881  
public highways of this state a commercial car with three or more 67882  
axles operated alone or as part of a commercial tandem, a 67883  
commercial car with two axles operated as part of a commercial 67884  
tandem having a gross vehicle weight or registered gross vehicle 67885  
weight exceeding twenty-six thousand pounds, or a commercial 67886



tractor operated alone or as part of a commercial tractor 67887  
combination or commercial tandem: to provide revenue for 67888  
maintaining the state highway system, to widen existing surfaces 67889  
on such highways, to resurface such highways, to enable the 67890  
counties of the state properly to plan for, maintain, and repair 67891  
their roads, to enable the municipal corporations to plan, 67892  
construct, reconstruct, repave, widen, maintain, repair, clear, 67893  
and clean public highways, roads, and streets; to pay that portion 67894  
of the construction cost of a highway project that a county, 67895  
township, or municipal corporation normally would be required to 67896  
pay, but that the director of transportation, pursuant to division 67897  
(B) of section 5531.08 of the Revised Code, determines instead 67898  
will be paid from moneys in the highway operating fund; to 67899  
maintain and repair bridges and viaducts; to purchase, erect, and 67900  
maintain street and traffic signs and markers; to purchase, erect, 67901  
and maintain traffic lights and signals; to pay the costs 67902  
apportioned to the public under section 4907.47 of the Revised 67903  
Code; and to supplement revenue already available for such 67904  
purposes, to distribute equitably among those persons using the 67905  
privilege of driving motor vehicles upon such highways and streets 67906  
the cost of maintaining and repairing the same, and to pay the 67907  
interest, principal, and charges on bonds and other obligations 67908  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 67909  
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 67910  
imposed in the same amount as the motor fuel tax imposed under 67911  
Chapter 5735. of the Revised Code plus an additional tax of three 67912  
cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ 67913  
provided that the additional tax ~~of~~ shall be reduced to two cents 67914  
per gallon of motor fuel used ~~before~~ from July 1, 2004 through 67915  
June 30, 2005, as determined by the gallons consumed while 67916  
operated on the public highways of this state. Subject to section 67917  
5735.292 of the Revised Code, on and after July 1, 2005, the tax 67918  
shall be imposed in the same amount as the motor fuel tax imposed 67919

under Chapter 5735. of the Revised Code. Payment of the fuel use 67920  
tax shall be made by the purchase of motor fuel within Ohio of 67921  
such gallons as is equivalent to the gallons consumed while 67922  
operating such a motor vehicle on the public highways of this 67923  
state, or by direct remittance to the treasurer of state with the 67924  
fuel use tax return filed pursuant to section 5728.08 of the 67925  
Revised Code. 67926

Any person subject to the tax imposed under this section who 67927  
purchases motor fuel in this state for use in another state in 67928  
excess of the amount consumed while operating such motor vehicle 67929  
on the public highways of this state shall be allowed a credit 67930  
against the tax imposed by this section or a refund equal to the 67931  
motor fuel tax paid to this state on such excess. No such credit 67932  
or refund shall be allowed for taxes paid to any state that 67933  
imposes a tax on motor fuel purchased or obtained in this state 67934  
and used on the highways of such other state but does not allow a 67935  
similar credit or refund for the tax paid to this state on motor 67936  
fuel purchased or acquired in the other state and used on the 67937  
public highways of this state. 67938

The tax commissioner is authorized to determine whether such 67939  
credits or refunds are available and to prescribe such rules as 67940  
are required for the purpose of administering this chapter. 67941

(B) Within sixty days after the last day of each month, the 67942  
tax commissioner shall determine the amount of motor fuel tax 67943  
allowed as a credit against the tax imposed by this section. The 67944  
commissioner shall certify the amount to the director of budget 67945  
and management and the treasurer of state, who shall credit the 67946  
amount in accordance with section 5728.08 of the Revised Code from 67947  
current revenue arising from the tax levied by section 5735.05 of 67948  
the Revised Code. 67949

(C) The owner of each commercial car and commercial tractor 67950  
subject to sections 5728.01 to 5728.14 of the Revised Code is 67951

liable for the payment of the full amount of the taxes imposed by 67952  
this section. 67953

An owner who is a person regularly engaged, for compensation, 67954  
in the business of leasing or renting motor vehicles without 67955  
furnishing drivers may designate that the lessee of a motor 67956  
vehicle leased for a period of thirty days or more shall report 67957  
and pay the tax incurred during the duration of the lease. An 67958  
owner who is an independent contractor that furnishes both the 67959  
driver and motor vehicle, may designate that the person so 67960  
furnished with the driver and motor vehicle for a period of thirty 67961  
days or more shall report and pay the tax incurred during that 67962  
period. An independent contractor that is not an owner, but that 67963  
furnishes both the driver and motor vehicle and that has been 67964  
designated by the owner of the motor vehicle to report and pay the 67965  
tax, may designate that the person so furnished with driver and 67966  
motor vehicle for a period of thirty days or more shall report and 67967  
pay the tax incurred during that period. 67968

**Sec. 5728.99.** (A)(1) Except as provided in division (A)(2) of 67969  
this section, whoever violates any provision of sections 5728.01 67970  
to 5728.14 of the Revised Code, or any rule promulgated by the tax 67971  
commissioner under the authority of any provision of those 67972  
sections, for the violation of which no penalty is provided 67973  
elsewhere, shall be fined not less than twenty-five nor more than 67974  
one hundred dollars. 67975

(2) Division (A)(1) of this section does not apply to the 67976  
filing of any false or fraudulent return, application, or permit 67977  
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 67978  
The filing of any false or fraudulent return, application, or 67979  
permit under any of those sections is a violation of section 67980  
2921.13 of the Revised Code. 67981

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 67982

the Revised Code is guilty of a misdemeanor of the fourth degree. 67983

(2) Whoever violates division (A)(2) of section 5728.04 of 67984

the Revised Code is guilty of a felony of the fifth degree. 67985

**Sec. 5733.04.** As used in this chapter: 67986

(A) "Issued and outstanding shares of stock" applies to 67987  
nonprofit corporations, as provided in section 5733.01 of the 67988  
Revised Code, and includes, but is not limited to, membership 67989  
certificates and other instruments evidencing ownership of an 67990  
interest in such nonprofit corporations, and with respect to a 67991  
financial institution that does not have capital stock, "issued 67992  
and outstanding shares of stock" includes, but is not limited to, 67993  
ownership interests of depositors in the capital employed in such 67994  
an institution. 67995

(B) "Taxpayer" means a corporation subject to the tax imposed 67996  
by section 5733.06 of the Revised Code. 67997

(C) "Resident" means a corporation organized under the laws 67998  
of this state. 67999

(D) "Commercial domicile" means the principal place from 68000  
which the trade or business of the taxpayer is directed or 68001  
managed. 68002

(E) "Taxable year" means the period prescribed by division 68003  
(A) of section 5733.031 of the Revised Code upon the net income of 68004  
which the value of the taxpayer's issued and outstanding shares of 68005  
stock is determined under division (B) of section 5733.05 of the 68006  
Revised Code or the period prescribed by division (A) of section 68007  
5733.031 of the Revised Code that immediately precedes the date as 68008  
of which the total value of the corporation is determined under 68009  
division (A) or (C) of section 5733.05 of the Revised Code. 68010

(F) "Tax year" means the calendar year in and for which the 68011  
tax imposed by section 5733.06 of the Revised Code is required to 68012

be paid. 68013

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 68014  
68015

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code. 68016  
68017

(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: 68018  
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(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. 68023  
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(b) For losses incurred in taxable years ending on or before 68044  
December 31, 1981, the designated carryover period shall be the 68045  
five consecutive taxable years after the taxable year in which the 68046  
net operating loss occurred. For losses incurred in taxable years 68047  
ending on or after January 1, 1982, and beginning before August 6, 68048  
1997, the designated carryover period shall be the fifteen 68049  
consecutive taxable years after the taxable year in which the net 68050  
operating loss occurs. For losses incurred in taxable years 68051  
beginning on or after August 6, 1997, the designated carryover 68052  
period shall be the twenty consecutive taxable years after the 68053  
taxable year in which the net operating loss occurs. 68054

(c) The tax commissioner may require a taxpayer to furnish 68055  
any information necessary to support a claim for deduction under 68056  
division (I)(1)(a) of this section and no deduction shall be 68057  
allowed unless the information is furnished. 68058

(2) Deduct any amount included in net income by application 68059  
of section 78 or 951 of the Internal Revenue Code, amounts 68060  
received for royalties, technical or other services derived from 68061  
sources outside the United States, and dividends received from a 68062  
subsidiary, associate, or affiliated corporation that neither 68063  
transacts any substantial portion of its business nor regularly 68064  
maintains any substantial portion of its assets within the United 68065  
States. For purposes of determining net foreign source income 68066  
deductible under division (I)(2) of this section, the amount of 68067  
gross income from all such sources other than dividend income and 68068  
income derived by application of section 78 or 951 of the Internal 68069  
Revenue Code shall be reduced by: 68070

(a) The amount of any reimbursed expenses for personal 68071  
services performed by employees of the taxpayer for the 68072  
subsidiary, associate, or affiliated corporation; 68073

(b) Ten per cent of the amount of royalty income and 68074

technical assistance fees; 68075

(c) Fifteen per cent of the amount of all other income. 68076

The amounts described in divisions (I)(2)(a) to (c) of this 68077  
section are deemed to be the expenses attributable to the 68078  
production of deductible foreign source income unless the taxpayer 68079  
shows, by clear and convincing evidence, less actual expenses, or 68080  
the tax commissioner shows, by clear and convincing evidence, more 68081  
actual expenses. 68082

(3) Add any loss or deduct any gain resulting from the sale, 68083  
exchange, or other disposition of a capital asset, or an asset 68084  
described in section 1231 of the Internal Revenue Code, to the 68085  
extent that such loss or gain occurred prior to the first taxable 68086  
year on which the tax provided for in section 5733.06 of the 68087  
Revised Code is computed on the corporation's net income. For 68088  
purposes of division (I)(3) of this section, the amount of the 68089  
prior loss or gain shall be measured by the difference between the 68090  
original cost or other basis of the asset and the fair market 68091  
value as of the beginning of the first taxable year on which the 68092  
tax provided for in section 5733.06 of the Revised Code is 68093  
computed on the corporation's net income. At the option of the 68094  
taxpayer, the amount of the prior loss or gain may be a percentage 68095  
of the gain or loss, which percentage shall be determined by 68096  
multiplying the gain or loss by a fraction, the numerator of which 68097  
is the number of months from the acquisition of the asset to the 68098  
beginning of the first taxable year on which the fee provided in 68099  
section 5733.06 of the Revised Code is computed on the 68100  
corporation's net income, and the denominator of which is the 68101  
number of months from the acquisition of the asset to the sale, 68102  
exchange, or other disposition of the asset. The adjustments 68103  
described in this division do not apply to any gain or loss where 68104  
the gain or loss is recognized by a qualifying taxpayer, as 68105  
defined in section 5733.0510 of the Revised Code, with respect to 68106

a qualifying taxable event, as defined in that section. 681107

(4) Deduct the dividend received deduction provided by 681108  
section 243 of the Internal Revenue Code. 681109

(5) Deduct any interest or interest equivalent on public 681110  
obligations and purchase obligations to the extent included in 681111  
federal taxable income. As used in divisions (I)(5) and (6) of 681112  
this section, "public obligations," "purchase obligations," and 681113  
"interest or interest equivalent" have the same meanings as in 681114  
section 5709.76 of the Revised Code. 681115

(6) Add any loss or deduct any gain resulting from the sale, 681116  
exchange, or other disposition of public obligations to the extent 681117  
included in federal taxable income. 681118

(7) To the extent not otherwise allowed, deduct any dividends 681119  
or distributions received by a taxpayer from a public utility, 681120  
excluding an electric company and a combined company, and, for tax 681121  
years 2005 and thereafter, a telephone company, if the taxpayer 681122  
owns at least eighty per cent of the issued and outstanding common 681123  
stock of the public utility. As used in division (I)(7) of this 681124  
section, "public utility" means a public utility as defined in 681125  
Chapter 5727. of the Revised Code, whether or not the public 681126  
utility is doing business in the state. 681127

(8) To the extent not otherwise allowed, deduct any dividends 681128  
received by a taxpayer from an insurance company, if the taxpayer 681129  
owns at least eighty per cent of the issued and outstanding common 681130  
stock of the insurance company. As used in division (I)(8) of this 681131  
section, "insurance company" means an insurance company that is 681132  
taxable under Chapter 5725. or 5729. of the Revised Code. 681133

(9) Deduct expenditures for modifying existing buildings or 681134  
structures to meet American national standards institute standard 681135  
A-117.1-1961 (R-1971), as amended; provided, that no deduction 681136  
shall be allowed to the extent that such deduction is not 681137



permitted under federal law or under rules of the tax 68138  
commissioner. Those deductions as are allowed may be taken over a 68139  
period of five years. The tax commissioner shall adopt rules under 68140  
Chapter 119. of the Revised Code establishing reasonable 68141  
limitations on the extent that expenditures for modifying existing 68142  
buildings or structures are attributable to the purpose of making 68143  
the buildings or structures accessible to and usable by physically 68144  
handicapped persons. 68145

(10) Deduct the amount of wages and salaries, if any, not 68146  
otherwise allowable as a deduction but that would have been 68147  
allowable as a deduction in computing federal taxable income 68148  
before operating loss deduction and special deductions for the 68149  
taxable year, had the targeted jobs credit allowed and determined 68150  
under sections 38, 51, and 52 of the Internal Revenue Code not 68151  
been in effect. 68152

(11) Deduct net interest income on obligations of the United 68153  
States and its territories and possessions or of any authority, 68154  
commission, or instrumentality of the United States to the extent 68155  
the laws of the United States prohibit inclusion of the net 68156  
interest for purposes of determining the value of the taxpayer's 68157  
issued and outstanding shares of stock under division (B) of 68158  
section 5733.05 of the Revised Code. As used in division (I)(11) 68159  
of this section, "net interest" means interest net of any expenses 68160  
taken on the federal income tax return that would not have been 68161  
allowed under section 265 of the Internal Revenue Code if the 68162  
interest were exempt from federal income tax. 68163

(12)(a) Except as set forth in division (I)(12)(d) of this 68164  
section, to the extent not included in computing the taxpayer's 68165  
federal taxable income before operating loss deduction and special 68166  
deductions, add gains and deduct losses from direct or indirect 68167  
sales, exchanges, or other dispositions, made by a related entity 68168  
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 68169

constructive investment in the stock or debt of another entity, 68170  
unless the gain or loss has been included in computing the federal 68171  
taxable income before operating loss deduction and special 68172  
deductions of another taxpayer with a more closely related 68173  
investment in the stock or debt of the other entity. The amount of 68174  
gain added or loss deducted shall not exceed the product obtained 68175  
by multiplying such gain or loss by the taxpayer's proportionate 68176  
share, directly, indirectly, beneficially, or constructively, of 68177  
the outstanding stock of the related entity immediately prior to 68178  
the direct or indirect sale, exchange, or other disposition. 68179

(b) Except as set forth in division (I)(12)(e) of this 68180  
section, to the extent not included in computing the taxpayer's 68181  
federal taxable income before operating loss deduction and special 68182  
deductions, add gains and deduct losses from direct or indirect 68183  
sales, exchanges, or other dispositions made by a related entity 68184  
who is not a taxpayer, of intangible property other than stock, 68185  
securities, and debt, if such property was owned, or used in whole 68186  
or in part, at any time prior to or at the time of the sale, 68187  
exchange, or disposition by either the taxpayer or by a related 68188  
entity that was a taxpayer at any time during the related entity's 68189  
ownership or use of such property, unless the gain or loss has 68190  
been included in computing the federal taxable income before 68191  
operating loss deduction and special deductions of another 68192  
taxpayer with a more closely related ownership or use of such 68193  
intangible property. The amount of gain added or loss deducted 68194  
shall not exceed the product obtained by multiplying such gain or 68195  
loss by the taxpayer's proportionate share, directly, indirectly, 68196  
beneficially, or constructively, of the outstanding stock of the 68197  
related entity immediately prior to the direct or indirect sale, 68198  
exchange, or other disposition. 68199

(c) As used in division (I)(12) of this section, "related 68200  
entity" means those entities described in divisions (I)(12)(c)(i) 68201

to (iii) of this section: 68202

(i) An individual stockholder, or a member of the 68203  
stockholder's family enumerated in section 318 of the Internal 68204  
Revenue Code, if the stockholder and the members of the 68205  
stockholder's family own, directly, indirectly, beneficially, or 68206  
constructively, in the aggregate, at least fifty per cent of the 68207  
value of the taxpayer's outstanding stock; 68208

(ii) A stockholder, or a stockholder's partnership, estate, 68209  
trust, or corporation, if the stockholder and the stockholder's 68210  
partnerships, estates, trusts, and corporations own directly, 68211  
indirectly, beneficially, or constructively, in the aggregate, at 68212  
least fifty per cent of the value of the taxpayer's outstanding 68213  
stock; 68214

(iii) A corporation, or a party related to the corporation in 68215  
a manner that would require an attribution of stock from the 68216  
corporation to the party or from the party to the corporation 68217  
under division (I)(12)(c)(iv) of this section, if the taxpayer 68218  
owns, directly, indirectly, beneficially, or constructively, at 68219  
least fifty per cent of the value of the corporation's outstanding 68220  
stock. 68221

(iv) The attribution rules of section 318 of the Internal 68222  
Revenue Code apply for purposes of determining whether the 68223  
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 68224  
section have been met. 68225

(d) For purposes of the adjustments required by division 68226  
(I)(12)(a) of this section, the term "investment in the stock or 68227  
debt of another entity" means only those investments where the 68228  
taxpayer and the taxpayer's related entities directly, indirectly, 68229  
beneficially, or constructively own, in the aggregate, at any time 68230  
during the twenty-four month period commencing one year prior to 68231  
the direct or indirect sale, exchange, or other disposition of 68232

such investment at least fifty per cent or more of the value of 68233  
either the outstanding stock or such debt of such other entity. 68234

(e) For purposes of the adjustments required by division 68235  
(I)(12)(b) of this section, the term "related entity" excludes all 68236  
of the following: 68237

(i) Foreign corporations as defined in section 7701 of the 68238  
Internal Revenue Code; 68239

(ii) Foreign partnerships as defined in section 7701 of the 68240  
Internal Revenue Code; 68241

(iii) Corporations, partnerships, estates, and trusts created 68242  
or organized in or under the laws of the Commonwealth of Puerto 68243  
Rico or any possession of the United States; 68244

(iv) Foreign estates and foreign trusts as defined in section 68245  
7701 of the Internal Revenue Code. 68246

The exclusions described in divisions (I)(12)(e)(i) to (iv) 68247  
of this section do not apply if the corporation, partnership, 68248  
estate, or trust is described in any one of divisions (C)(1) to 68249  
(5) of section 5733.042 of the Revised Code. 68250

(f) Nothing in division (I)(12) of this section shall require 68251  
or permit a taxpayer to add any gains or deduct any losses 68252  
described in divisions (I)(12)(f)(i) and (ii) of this section: 68253

(i) Gains or losses recognized for federal income tax 68254  
purposes by an individual, estate, or trust without regard to the 68255  
attribution rules described in division (I)(12)(c) of this 68256  
section; 68257

(ii) A related entity's gains or losses described in division 68258  
(I)(12)(b) of this section if the taxpayer's ownership of or use 68259  
of such intangible property was limited to a period not exceeding 68260  
nine months and was attributable to a transaction or a series of 68261  
transactions executed in accordance with the election or elections 68262

made by the taxpayer or a related entity pursuant to section 338 68263  
of the Internal Revenue Code. 68264

(13) Any adjustment required by section 5733.042 of the 68265  
Revised Code. 68266

(14) Add any amount claimed as a credit under section 68267  
5733.0611 of the Revised Code to the extent that such amount 68268  
satisfies either of the following: 68269

(a) It was deducted or excluded from the computation of the 68270  
corporation's taxable income before operating loss deduction and 68271  
special deductions as required to be reported for the 68272  
corporation's taxable year under the Internal Revenue Code; 68273

(b) It resulted in a reduction of the corporation's taxable 68274  
income before operating loss deduction and special deductions as 68275  
required to be reported for any of the corporation's taxable years 68276  
under the Internal Revenue Code. 68277

(15) Deduct the amount contributed by the taxpayer to an 68278  
individual development account program established by a county 68279  
department of job and family services pursuant to sections 329.11 68280  
to 329.14 of the Revised Code for the purpose of matching funds 68281  
deposited by program participants. On request of the tax 68282  
commissioner, the taxpayer shall provide any information that, in 68283  
the tax commissioner's opinion, is necessary to establish the 68284  
amount deducted under division (I)(15) of this section. 68285

(16) Any adjustment required by section 5733.0510 or 68286  
5733.0511 of the Revised Code. 68287

(17)(a) Add five-sixths of the amount of depreciation expense 68288  
allowed under subsection (k) of section 168 of the Internal 68289  
Revenue Code, including a person's proportionate or distributive 68290  
share of the amount of depreciation expense allowed by that 68291  
subsection to any pass-through entity in which the person has 68292  
direct or indirect ownership. The tax commissioner, under 68293

procedures established by the commissioner, may waive the add-back 68294  
related to a pass-through entity if the person owns, directly or 68295  
indirectly, less than five per cent of the pass-through entity. 68296

(b) Nothing in division (I)(17) of this section shall be 68297  
construed to adjust or modify the adjusted basis of any asset. 68298

(c) To the extent the add-back is attributable to property 68299  
generating income or loss allocable under section 5733.051 of the 68300  
Revised Code, the add-back shall be allocated to the same location 68301  
as the income or loss generated by that property. Otherwise, the 68302  
add-back shall be apportioned, subject to division (B)(2)(d) of 68303  
section 5733.05 of the Revised Code. 68304

(18)(a) If a person is required to make the add-back under 68305  
division (I)(17)(a) of this section for a tax year, the person 68306  
shall deduct one-fifth of the amount added back for each of the 68307  
succeeding five tax years. 68308

(b) If the amount deducted under division (I)(18)(a) of this 68309  
section is attributable to an add-back allocated under division 68310  
(I)(17)(c) of this section, the amount deducted shall be allocated 68311  
to the same location. Otherwise, the amount shall be apportioned 68312  
using the apportionment factors for the taxable year in which the 68313  
deduction is taken, subject to division (B)(2)(d) of section 68314  
5733.05 of the Revised Code. 68315

(J) Any term used in this chapter has the same meaning as 68316  
when used in comparable context in the laws of the United States 68317  
relating to federal income taxes unless a different meaning is 68318  
clearly required. Any reference in this chapter to the Internal 68319  
Revenue Code includes other laws of the United States relating to 68320  
federal income taxes. 68321

(K) "Financial institution" has the meaning given by section 68322  
5725.01 of the Revised Code but does not include a production 68323  
credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091. 68324

(L)(1) A "qualifying holding company" is any corporation 68325  
satisfying all of the following requirements: 68326

(a) Subject to divisions (L)(2) and (3) of this section, the 68327  
net book value of the corporation's intangible assets is greater 68328  
than or equal to ninety per cent of the net book value of all of 68329  
its assets and at least fifty per cent of the net book value of 68330  
all of its assets represents direct or indirect investments in the 68331  
equity of, loans and advances to, and accounts receivable due from 68332  
related members; 68333

(b) At least ninety per cent of the corporation's gross 68334  
income for the taxable year is attributable to the following: 68335

(i) The maintenance, management, ownership, acquisition, use, 68336  
and disposition of its intangible property, its aircraft the use 68337  
of which is not subject to regulation under 14 C.F.R. part 121 or 68338  
part 135, and any real property described in division (L)(2)(c) of 68339  
this section; 68340

(ii) The collection and distribution of income from such 68341  
property. 68342

(c) The corporation is not a financial institution on the 68343  
last day of the taxable year ending prior to the first day of the 68344  
tax year; 68345

(d) The corporation's related members make a good faith and 68346  
reasonable effort to make timely and fully the adjustments 68347  
required by division (C)(2) of section 5733.05 of the Revised Code 68348  
and to pay timely and fully all uncontested taxes, interest, 68349  
penalties, and other fees and charges imposed under this chapter; 68350

(e) Subject to division (L)(4) of this section, the 68351  
corporation elects to be treated as a qualifying holding company 68352  
for the tax year. 68353

A corporation otherwise satisfying divisions (L)(1)(a) to (e) 68354

of this section that does not elect to be a qualifying holding 68355  
company is not a qualifying holding company for the purposes of 68356  
this chapter. 68357

(2)(a)(i) For purposes of making the ninety per cent 68358  
computation under division (L)(1)(a) of this section, the net book 68359  
value of the corporation's assets shall not include the net book 68360  
value of aircraft or real property described in division 68361  
(L)(1)(b)(i) of this section. 68362

(ii) For purposes of making the fifty per cent computation 68363  
under division (L)(1)(a) of this section, the net book value of 68364  
assets shall include the net book value of aircraft or real 68365  
property described in division (L)(1)(b)(i) of this section. 68366

(b)(i) As used in division (L) of this section, "intangible 68367  
asset" includes, but is not limited to, the corporation's direct 68368  
interest in each pass-through entity only if at all times during 68369  
the corporation's taxable year ending prior to the first day of 68370  
the tax year the corporation's and the corporation's related 68371  
members' combined direct and indirect interests in the capital or 68372  
profits of such pass-through entity do not exceed fifty per cent. 68373  
If the corporation's interest in the pass-through entity is an 68374  
intangible asset for that taxable year, then the distributive 68375  
share of any income from the pass-through entity shall be income 68376  
from an intangible asset for that taxable year. 68377

(ii) If a corporation's and the corporation's related 68378  
members' combined direct and indirect interests in the capital or 68379  
profits of a pass-through entity exceed fifty per cent at any time 68380  
during the corporation's taxable year ending prior to the first 68381  
day of the tax year, "intangible asset" does not include the 68382  
corporation's direct interest in the pass-through entity, and the 68383  
corporation shall include in its assets its proportionate share of 68384  
the assets of any such pass-through entity and shall include in 68385  
its gross income its distributive share of the gross income of 68386



such pass-through entity in the same form as was earned by the 68387  
pass-through entity. 68388

(iii) A pass-through entity's direct or indirect 68389  
proportionate share of any other pass-through entity's assets 68390  
shall be included for the purpose of computing the corporation's 68391  
proportionate share of the pass-through entity's assets under 68392  
division (L)(2)(b)(ii) of this section, and such pass-through 68393  
entity's distributive share of any other pass-through entity's 68394  
gross income shall be included for purposes of computing the 68395  
corporation's distributive share of the pass-through entity's 68396  
gross income under division (L)(2)(b)(ii) of this section. 68397

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 68398  
(2)(a)(i), and (2)(a)(ii) of this section, real property is 68399  
described in division (L)(2)(c) of this section only if all of the 68400  
following conditions are present at all times during the taxable 68401  
year ending prior to the first day of the tax year: 68402

(i) The real property serves as the headquarters of the 68403  
corporation's trade or business, or is the place from which the 68404  
corporation's trade or business is principally managed or 68405  
directed; 68406

(ii) Not more than ten per cent of the value of the real 68407  
property and not more than ten per cent of the square footage of 68408  
the building or buildings that are part of the real property is 68409  
used, made available, or occupied for the purpose of providing, 68410  
acquiring, transferring, selling, or disposing of tangible 68411  
property or services in the normal course of business to persons 68412  
other than related members, the corporation's employees and their 68413  
families, and such related members' employees and their families. 68414

(d) As used in division (L) of this section, "related member" 68415  
has the same meaning as in division (A)(6) of section 5733.042 of 68416  
the Revised Code without regard to division (B) of that section. 68417

(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. 68418  
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(4) With respect to the election described in division (L)(1)(e) of this section: 68422  
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(a) The election need not accompany a timely filed report; 68424

(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; 68425  
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(c) The election is not irrevocable; 68429

(d) The election applies only to the tax year specified by the corporation; 68430  
68431

(e) The corporation's related members comply with division (L)(1)(d) of this section. 68432  
68433

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter. 68434  
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(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. 68436  
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(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. 68439  
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(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 68442  
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income tax purposes as an association taxed as a corporation. 68448

(P) "Electric company," ~~and~~ "combined company," and 68449  
"telephone company" have the same meanings as in section 5727.01 68450  
of the Revised Code. 68451

**Sec. 5733.05.** As used in this section, "qualified research" 68452  
means laboratory research, experimental research, and other 68453  
similar types of research; research in developing or improving a 68454  
product; or research in developing or improving the means of 68455  
producing a product. It does not include market research, consumer 68456  
surveys, efficiency surveys, management studies, ordinary testing 68457  
or inspection of materials or products for quality control, 68458  
historical research, or literary research. "Product" as used in 68459  
this paragraph does not include services or intangible property. 68460

The annual report determines the value of the issued and 68461  
outstanding shares of stock of the taxpayer, which under division 68462  
(A) or divisions (B) and (C) of this section is the base or 68463  
measure of the franchise tax liability. Such determination shall 68464  
be made as of the date shown by the report to have been the 68465  
beginning of the corporation's annual accounting period that 68466  
includes the first day of January of the tax year. For the 68467  
purposes of this chapter, the value of the issued and outstanding 68468  
shares of stock of any corporation that is a financial institution 68469  
shall be deemed to be the value as calculated in accordance with 68470  
division (A) of this section. For the purposes of this chapter, 68471  
the value of the issued and outstanding shares of stock of any 68472  
corporation that is not a financial institution shall be deemed to 68473  
be the values as calculated in accordance with divisions (B) and 68474  
(C) of this section. Except as otherwise required by this section 68475  
or section 5733.056 of the Revised Code, the value of a taxpayer's 68476  
issued and outstanding shares of stock under division (A) or (C) 68477  
of this section does not include any amount that is treated as a 68478

liability under generally accepted accounting principles. 68479

(A) The total value, as shown by the books of the financial 68480  
institution, of its capital, surplus, whether earned or unearned, 68481  
undivided profits, and reserves shall be determined as prescribed 68482  
by section 5733.056 of the Revised Code for tax years 1998 and 68483  
thereafter. 68484

(B) The sum of the corporation's net income during the 68485  
corporation's taxable year, allocated or apportioned to this state 68486  
as prescribed in divisions (B)(1) and (2) of this section, and 68487  
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 68488  
5733.059, and 5733.0510 of the Revised Code: 68489

(1) The net income allocated to this state as provided by 68490  
section 5733.051 of the Revised Code. 68491

(2) The amount of Ohio apportioned net income from sources 68492  
other than those allocated under section 5733.051 of the Revised 68493  
Code, which shall be determined by multiplying the corporation's 68494  
net income by a fraction. The numerator of the fraction is the sum 68495  
of the following products: the property factor multiplied by 68496  
twenty, the payroll factor multiplied by twenty, and the sales 68497  
factor multiplied by sixty. The denominator of the fraction is one 68498  
hundred, provided that the denominator shall be reduced by twenty 68499  
if the property factor has a denominator of zero, by twenty if the 68500  
payroll factor has a denominator of zero, and by sixty if the 68501  
sales factor has a denominator of zero. 68502

The property, payroll, and sales factors shall be determined 68503  
as follows: 68504

(a) The property factor is a fraction the numerator of which 68505  
is the average value of the corporation's real and tangible 68506  
personal property owned or rented, and used in the trade or 68507  
business in this state during the taxable year, and the 68508  
denominator of which is the average value of all the corporation's 68509

real and tangible personal property owned or rented, and used in 68510  
the trade or business everywhere during such year. There shall be 68511  
excluded from the numerator and denominator of the property factor 68512  
the original cost of all of the following property within Ohio: 68513  
property with respect to which a "pollution control facility" 68514  
certificate has been issued pursuant to section 5709.21 of the 68515  
Revised Code; property with respect to which an "industrial water 68516  
pollution control certificate" has been issued pursuant to that 68517  
section or former section 6111.31 of the Revised Code; and 68518  
property used exclusively during the taxable year for qualified 68519  
research. 68520

(i) Property owned by the corporation is valued at its 68521  
original cost. Property rented by the corporation is valued at 68522  
eight times the net annual rental rate. "Net annual rental rate" 68523  
means the annual rental rate paid by the corporation less any 68524  
annual rental rate received by the corporation from subrentals. 68525

(ii) The average value of property shall be determined by 68526  
averaging the values at the beginning and the end of the taxable 68527  
year, but the tax commissioner may require the averaging of 68528  
monthly values during the taxable year, if reasonably required to 68529  
reflect properly the average value of the corporation's property. 68530

(b) The payroll factor is a fraction the numerator of which 68531  
is the total amount paid in this state during the taxable year by 68532  
the corporation for compensation, and the denominator of which is 68533  
the total compensation paid everywhere by the corporation during 68534  
such year. There shall be excluded from the numerator and the 68535  
denominator of the payroll factor the total compensation paid in 68536  
this state to employees who are primarily engaged in qualified 68537  
research. 68538

(i) Compensation means any form of remuneration paid to an 68539  
employee for personal services. 68540

(ii) Compensation is paid in this state if: (1) the 68541  
recipient's service is performed entirely within this state, (2) 68542  
the recipient's service is performed both within and without this 68543  
state, but the service performed without this state is incidental 68544  
to the recipient's service within this state, (3) some of the 68545  
service is performed within this state and either the base of 68546  
operations, or if there is no base of operations, the place from 68547  
which the service is directed or controlled is within this state, 68548  
or the base of operations or the place from which the service is 68549  
directed or controlled is not in any state in which some part of 68550  
the service is performed, but the recipient's residence is in this 68551  
state. 68552

(iii) Compensation is paid in this state to any employee of a 68553  
common or contract motor carrier corporation, who performs the 68554  
employee's regularly assigned duties on a motor vehicle in more 68555  
than one state, in the same ratio by which the mileage traveled by 68556  
such employee within the state bears to the total mileage traveled 68557  
by such employee everywhere during the taxable year. 68558

(c) Except as provided in section 5733.059 of the Revised 68559  
Code, the sales factor is a fraction the numerator of which is the 68560  
total sales in this state by the corporation during the taxable 68561  
year, and the denominator of which is the total sales by the 68562  
corporation everywhere during such year. In determining the 68563  
numerator and denominator of the sales factor, receipts from the 68564  
sale or other disposal of a capital asset or an asset described in 68565  
section 1231 of the Internal Revenue Code shall be eliminated. 68566  
Also, in determining the numerator and denominator of the sales 68567  
factor, in the case of a reporting corporation owning at least 68568  
eighty per cent of the issued and outstanding common stock of one 68569  
or more insurance companies or public utilities, except an 68570  
electric company and a combined company, and, for tax years 2005 68571  
and thereafter, a telephone company, or owning at least 68572

twenty-five per cent of the issued and outstanding common stock of 68573  
one or more financial institutions, receipts received by the 68574  
reporting corporation from such utilities, insurance companies, 68575  
and financial institutions shall be eliminated. 68576

For the purpose of this section and section 5733.03 of the 68577  
Revised Code, sales of tangible personal property are in this 68578  
state where such property is received in this state by the 68579  
purchaser. In the case of delivery of tangible personal property 68580  
by common carrier or by other means of transportation, the place 68581  
at which such property is ultimately received after all 68582  
transportation has been completed shall be considered as the place 68583  
at which such property is received by the purchaser. Direct 68584  
delivery in this state, other than for purposes of transportation, 68585  
to a person or firm designated by a purchaser constitutes delivery 68586  
to the purchaser in this state, and direct delivery outside this 68587  
state to a person or firm designated by a purchaser does not 68588  
constitute delivery to the purchaser in this state, regardless of 68589  
where title passes or other conditions of sale. 68590

Except as provided in section 5733.059 of the Revised Code, 68591  
sales, other than sales of tangible personal property, are in this 68592  
state if either: 68593

(i) The income-producing activity is performed solely in this 68594  
state; 68595

(ii) The income-producing activity is performed both within 68596  
and without this state and a greater proportion of the 68597  
income-producing activity is performed within this state than in 68598  
any other state, based on costs of performance. 68599

(d) If the allocation and apportionment provisions of 68600  
division (B) of this section do not fairly represent the extent of 68601  
the taxpayer's business activity in this state, the taxpayer may 68602  
request, which request must be in writing and must accompany the 68603

report, timely filed petition for reassessment, or timely filed 68604  
amended report, or the tax commissioner may require, in respect to 68605  
all or any part of the taxpayer's allocated or apportioned base, 68606  
if reasonable, any one or more of the following: 68607

(i) Separate accounting; 68608

(ii) The exclusion of any one or more of the factors; 68609

(iii) The inclusion of one or more additional factors that 68610  
will fairly represent the taxpayer's allocated or apportioned base 68611  
in this state. 68612

An alternative method will be effective only with approval by 68613  
the tax commissioner. 68614

Nothing in this section shall be construed to extend any 68615  
statute of limitations set forth in this chapter. 68616

(e) The tax commissioner may adopt rules providing for 68617  
alternative allocation and apportionment methods, and alternative 68618  
calculations of a corporation's base, that apply to corporations 68619  
engaged in telecommunications. 68620

(C)(1) Subject to divisions (C)(2) and (3) of this section, 68621  
the total value, as shown on the books of each corporation that is 68622  
not a qualified holding company, of the net book value of a 68623  
corporation's assets less the net carrying value of its 68624  
liabilities, and excluding from the corporation's assets land 68625  
devoted exclusively to agricultural use as of the first Monday of 68626  
June in the corporation's taxable year as determined by the county 68627  
auditor of the county in which the land is located pursuant to 68628  
section 5713.31 of the Revised Code. For the purposes of 68629  
determining that total value, any reserves shown on the 68630  
corporation's books shall be considered liabilities or contra 68631  
assets, except for any reserves that are deemed appropriations of 68632  
retained earnings under generally accepted accounting principles. 68633



(2)(a) If, on the last day of the taxpayer's taxable year 68634  
preceding the tax year, the taxpayer is a related member to a 68635  
corporation that elects to be a qualifying holding company for the 68636  
tax year beginning after the last day of the taxpayer's taxable 68637  
year, or if, on the last day of the taxpayer's taxable year 68638  
preceding the tax year, a corporation that elects to be a 68639  
qualifying holding company for the tax year beginning after the 68640  
last day of the taxpayer's taxable year is a related member to the 68641  
taxpayer, then the taxpayer's total value shall be adjusted by the 68642  
qualifying amount. Except as otherwise provided under division 68643  
(C)(2)(b) of this section, "qualifying amount" means the amount 68644  
that, when added to the taxpayer's total value, and when 68645  
subtracted from the net carrying value of the taxpayer's 68646  
liabilities computed without regard to division (C)(2) of this 68647  
section, or when subtracted from the taxpayer's total value and 68648  
when added to the net carrying value of the taxpayer's liabilities 68649  
computed without regard to division (C)(2) of this section, 68650  
results in the taxpayer's debt-to-equity ratio equaling the 68651  
debt-to-equity ratio of the qualifying controlled group on the 68652  
last day of the taxable year ending prior to the first day of the 68653  
tax year computed on a consolidated basis in accordance with 68654  
general accepted accounting principles. For the purposes of 68655  
division (C)(2)(a) of this section, the corporation's total value, 68656  
after the adjustment required by that division, shall not exceed 68657  
the net book value of the corporation's assets. 68658

(b)(i) The amount added to the taxpayer's total value and 68659  
subtracted from the net carrying value of the taxpayer's 68660  
liabilities shall not exceed the amount of the net carrying value 68661  
of the taxpayer's liabilities owed to the taxpayer's related 68662  
members. 68663

(ii) A liability owed to the taxpayer's related members 68664  
includes, but is not limited to, any amount that the corporation 68665

owes to a person that is not a related member if the corporation's 68666  
related member or related members in whole or in part guarantee 68667  
any portion or all of that amount, or pledge, hypothecate, 68668  
mortgage, or carry out any similar transactions to secure any 68669  
portion or all of that amount. 68670

(3) The base upon which the tax is levied under division (C) 68671  
of section 5733.06 of the Revised Code shall be computed by 68672  
multiplying the amount determined under divisions (C)(1) and (2) 68673  
of this section by the fraction determined under divisions 68674  
(B)(2)(a) to (c) of this section and, if applicable, divisions 68675  
(B)(2)(d)(ii) to (iv) of this section but without regard to 68676  
section 5733.052 of the Revised Code. 68677

(4) For purposes of division (C) of this section, "related 68678  
member" has the same meaning as in division (A)(6) of section 68679  
5733.042 of the Revised Code without regard to division (B) of 68680  
that section. 68681

**Sec. 5733.051.** Subject to section 5733.0510 of the Revised 68682  
Code, net income of a corporation subject to the tax imposed by 68683  
section 5733.06 of the Revised Code shall be allocated and 68684  
apportioned to this state as follows: 68685

(A) Net rents and royalties from real property located in 68686  
this state are allocable to this state. 68687

(B) Net rents and royalties from tangible personal property, 68688  
to the extent such property is utilized in this state, are 68689  
allocable to this state if the taxpayer is otherwise subject to 68690  
the tax imposed by section 5733.06 of the Revised Code. 68691

(C) Capital gains and losses from the sale or other 68692  
disposition of real property located in this state are allocable 68693  
to this state. 68694

(D) Capital gains and losses from the sale or other 68695

disposition of tangible personal property are allocable to this 68696  
state if the property had a situs in this state at the time of 68697  
sale and the taxpayer is otherwise subject to the tax imposed by 68698  
section 5733.06 of the Revised Code. 68699

(E) Capital gains and losses from the sale or other 68700  
disposition of intangible property which may produce income 68701  
enumerated in division (F) of this section are allocable on the 68702  
same basis as set forth in that division. Capital gains and losses 68703  
from the sale or other disposition of all other intangible 68704  
property are apportionable under division (I) of this section. 68705

(F) Dividends or distributions which are not otherwise 68706  
deducted or excluded from net income, other than dividends or 68707  
distributions from a domestic international sales corporation, are 68708  
allocable to this state in accordance with the ratio of the book 68709  
value of the physical assets of the payor of the dividends or 68710  
distributions located in this state divided by the book value of 68711  
the total physical assets of the payor located everywhere. 68712  
Dividends or distributions received from a domestic international 68713  
sales corporation, or from a payor the location of whose physical 68714  
assets is unavailable to the taxpayer, are apportionable under 68715  
division (I) of this section. 68716

(G) Patent and copyright royalties and technical assistance 68717  
fees, not representing the principal source of gross receipts of 68718  
the taxpayer, are allocable to this state to the extent that the 68719  
activity of the payor thereof giving rise to the payment takes 68720  
place in this state. If the location of the payor's activity is 68721  
unavailable to the taxpayer, such royalties and fees are 68722  
apportionable under division (I) of this section. 68723

(H) The following amounts ~~described in division (B)(5) of~~ 68724  
~~section 5747.20 of the Revised Code~~ are allocable to this state: 68725

(1)(a) All lottery prize awards paid by the state lottery 68726

commission pursuant to Chapter 3770. of the Revised Code. 68727

(b) All earnings, profit, income, and gain from the sale, 68728  
exchange, or other disposition of lottery prize awards paid or to 68729  
be paid to any person by the state lottery commission pursuant to 68730  
Chapter 3770. of the Revised Code. 68731

(c) All earnings, profit, income, and gain from the direct or 68732  
indirect ownership of lottery prize awards paid or to be paid to 68733  
any person by the state lottery commission pursuant to Chapter 68734  
3770. of the Revised Code. 68735

(d) All earnings, profit, income, and gain from the direct or 68736  
indirect interest in any right in or to any lottery prize awards 68737  
paid or to be paid to any person by the state lottery commission 68738  
pursuant to Chapter 3770. of the Revised Code. 68739

(2) Lottery prize awards and related earnings, profit, 68740  
income, or gain with regard to lotteries sponsored by persons or 68741  
agencies outside this state are allocable outside this state. 68742

(I) Any other net income, from sources other than those 68743  
enumerated in divisions (A) to (H) of this section, is 68744  
apportionable to this state on the basis of the mechanism provided 68745  
in division (B)(2) of section 5733.05 of the Revised Code. 68746

**Sec. 5733.056.** (A) As used in this section: 68747

(1) "Billing address" means the address where any notice, 68748  
statement, or bill relating to a customer's account is mailed, as 68749  
indicated in the books and records of the taxpayer on the first 68750  
day of the taxable year or on such later date in the taxable year 68751  
when the customer relationship began. 68752

(2) "Borrower or credit card holder located in this state" 68753  
means: 68754

(a) A borrower, other than a credit card holder, that is 68755  
engaged in a trade or business and maintains its commercial 68756

domicile in this state; or 68757

(b) A borrower that is not engaged in a trade or business, or 68758  
a credit card holder, whose billing address is in this state. 68759

(3) "Branch" means a "domestic branch" as defined in section 68760  
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 68761  
1813(o), as amended. 68762

(4) "Compensation" means wages, salaries, commissions, and 68763  
any other form of remuneration paid to employees for personal 68764  
services that are included in such employee's gross income under 68765  
the Internal Revenue Code. In the case of employees not subject to 68766  
the Internal Revenue Code, such as those employed in foreign 68767  
countries, the determination of whether such payments would 68768  
constitute gross income to such employees under the Internal 68769  
Revenue Code shall be made as though such employees were subject 68770  
to the Internal Revenue Code. 68771

(5) "Credit card" means a credit, travel, or entertainment 68772  
card. 68773

(6) "Credit card issuer's reimbursement fee" means the fee a 68774  
taxpayer receives from a merchant's bank because one of the 68775  
persons to whom the taxpayer has issued a credit card has charged 68776  
merchandise or services to the credit card. 68777

(7) "Deposits" has the meaning given in section 3 of the 68778  
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 68779  
as amended. 68780

(8) "Employee" means, with respect to a particular taxpayer, 68781  
any individual who under the usual common law rules applicable in 68782  
determining the employer-employee relationship, has the status of 68783  
an employee of that taxpayer. 68784

(9) "Gross rents" means the actual sum of money or other 68785  
consideration payable for the use or possession of property. 68786

"Gross rents" includes:	68787
(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;	68788 68789 68790 68791
(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and	68792 68793 68794 68795
(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.	68796 68797 68798 68799 68800 68801 68802 68803 68804 68805
(d) The following are not included in the term "gross rents":	68806
(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;	68807 68808
(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;	68809 68810
(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and	68811 68812 68813
(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.	68814 68815
(10) "Loan" means any extension of credit resulting from	68816

direct negotiations between the taxpayer and its customer, or the 68817  
purchase, in whole or in part, of such extension of credit from 68818  
another. Loans include debt obligations of subsidiaries, 68819  
participations, syndications, and leases treated as loans for 68820  
federal income tax purposes. "Loan" does not include: properties 68821  
treated as loans under section 595 of the Internal Revenue Code; 68822  
futures or forward contracts; options; notional principal 68823  
contracts such as swaps; credit card receivables, including 68824  
purchased credit card relationships; non-interest bearing balances 68825  
due from depositor institutions; cash items in the process of 68826  
collection; federal funds sold; securities purchased under 68827  
agreements to resell; assets held in a trading account; 68828  
securities; interests in a real estate mortgage investment conduit 68829  
or other mortgage-backed or asset-backed security; and other 68830  
similar items. 68831

(11) "Loan secured by real property" means that fifty per 68832  
cent or more of the aggregate value of the collateral used to 68833  
secure a loan or other obligation, when valued at fair market 68834  
value as of the time the original loan or obligation was incurred, 68835  
was real property. 68836

(12) "Merchant discount" means the fee, or negotiated 68837  
discount, charged to a merchant by the taxpayer for the privilege 68838  
of participating in a program whereby a credit card is accepted in 68839  
payment for merchandise or services sold to the card holder. 68840

(13) "Participation" means an extension of credit in which an 68841  
undivided ownership interest is held on a pro rata basis in a 68842  
single loan or pool of loans and related collateral. In a loan 68843  
participation, the credit originator initially makes the loan and 68844  
then subsequently resells all or a portion of it to other lenders. 68845  
The participation may or may not be known to the borrower. 68846

(14) "Principal base of operations" with respect to 68847  
transportation property means the place of more or less permanent 68848

nature from which the property is regularly directed or 68849  
controlled. With respect to an employee, the "principal base of 68850  
operations" means the place of more or less permanent nature from 68851  
which the employee regularly (a) starts work and to which the 68852  
employee customarily returns in order to receive instructions from 68853  
the employer or (b) communicates with the employee's customers or 68854  
other persons or (c) performs any other functions necessary to the 68855  
exercise of the trade or profession at some other point or points. 68856

(15) "Qualified institution" means a financial institution 68857  
that on or after June 1, 1997: 68858

(a)(i) Has consummated one or more approved transactions with 68859  
insured banks with different home states that would qualify under 68860  
section 102 of the "Riegle-Neal Interstate Banking and Branching 68861  
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 68862

(ii) Is a federal savings association or federal savings bank 68863  
that has consummated one or more interstate acquisitions that 68864  
result in a financial institution that has branches in more than 68865  
one state; or 68866

(iii) Has consummated one or more approved interstate 68867  
acquisitions under authority of Title XI of the Revised Code that 68868  
result in a financial institution that has branches in more than 68869  
one state; and 68870

(b) Has at least nine per cent of its deposits in this state 68871  
as of the last day of June prior to the beginning of the tax year. 68872

(16) "Real property owned" and "tangible personal property 68873  
owned" mean real and tangible personal property, respectively, on 68874  
which the taxpayer may claim depreciation for federal income tax 68875  
purposes, or to which the taxpayer holds legal title and on which 68876  
no other person may claim depreciation for federal income tax 68877  
purposes, or could claim depreciation if subject to federal income 68878  
tax. Real and tangible personal property do not include coin, 68879



currency, or property acquired in lieu of or pursuant to a 68880  
foreclosure. 68881

(17) "Regular place of business" means an office at which the 68882  
taxpayer carries on its business in a regular and systematic 68883  
manner and which is continuously maintained, occupied, and used by 68884  
employees of the taxpayer. 68885

(18) "State" means a state of the United States, the District 68886  
of Columbia, the commonwealth of Puerto Rico, or any territory or 68887  
possession of the United States. 68888

(19) "Syndication" means an extension of credit in which two 68889  
or more persons fund and each person is at risk only up to a 68890  
specified percentage of the total extension of credit or up to a 68891  
specified dollar amount. 68892

(20) "Transportation property" means vehicles and vessels 68893  
capable of moving under their own power, such as aircraft, trains, 68894  
water vessels and motor vehicles, as well as any equipment or 68895  
containers attached to such property, such as rolling stock, 68896  
barges, trailers, or the like. 68897

(B) The annual financial institution report determines the 68898  
value of the issued and outstanding shares of stock of the 68899  
taxpayer, and is the base or measure of the franchise tax 68900  
liability. Such determination shall be made as of the date shown 68901  
by the report to have been the beginning of the financial 68902  
institution's annual accounting period that includes the first day 68903  
of January of the tax year. For purposes of this section, division 68904  
(A) of section 5733.05, and division (D) of section 5733.06 of the 68905  
Revised Code, the value of the issued and outstanding shares of 68906  
stock of the financial institution shall include the total value, 68907  
as shown by the books of the financial institution, of its 68908  
capital, surplus, whether earned or unearned, undivided profits, 68909  
and reserves, but exclusive of: 68910

(1) Reserves for accounts receivable, depreciation,	68911
depletion, and any other valuation reserves with respect to	68912
specific assets;	68913
(2) Taxes due and payable during the year for which such	68914
report was made;	68915
(3) Voting stock and participation certificates in	68916
corporations chartered pursuant to the "Farm Credit Act of 1971,"	68917
85 Stat. 597, 12 U.S.C. 2091, as amended;	68918
(4) Good will, appreciation, and abandoned property as set up	68919
in the annual report of the financial institution, provided a	68920
certified balance sheet of the company is made available upon the	68921
request of the tax commissioner. Such balance sheet shall not be a	68922
part of the public records, but shall be a confidential report for	68923
use of the tax commissioner only.	68924
(5) A portion of the value of the issued and outstanding	68925
shares of stock of such financial institution equal to the amount	68926
obtained by multiplying such value by the quotient obtained by:	68927
(a) Dividing (1) the amount of the financial institution's	68928
assets, as shown on its books, represented by investments in the	68929
capital stock and indebtedness of public utilities, <u>except</u>	68930
<u>electric companies and combined companies, and, for tax years 2005</u>	68931
<u>and thereafter, telephone companies,</u> of which at least eighty per	68932
cent of the utility's issued and outstanding common stock is owned	68933
by the financial institution by (2) the total assets of such	68934
financial institution as shown on its books;	68935
(b) Dividing (1) the amount of the financial institution's	68936
assets, as shown on its books, represented by investments in the	68937
capital stock and indebtedness of insurance companies of which at	68938
least eighty per cent of the insurance company's issued and	68939
outstanding common stock is owned by the financial institution by	68940
(2) the total assets of such financial institution as shown on its	68941

books; 68942

(c) Dividing (1) the amount of the financial institution's 68943  
assets, as shown on its books, represented by investments in the 68944  
capital stock and indebtedness of other financial institutions of 68945  
which at least twenty-five per cent of the other financial 68946  
institution's issued and outstanding common stock is owned by the 68947  
financial institution by (2) the total assets of the financial 68948  
institution as shown on its books. Division (B)(5)(c) of this 68949  
section applies only with respect to such other financial 68950  
institutions that for the tax year immediately following the 68951  
taxpayer's taxable year will pay the tax imposed by division (D) 68952  
of section 5733.06 of the Revised Code. 68953

(6) Land that has been determined pursuant to section 5713.31 68954  
of the Revised Code by the county auditor of the county in which 68955  
the land is located to be devoted exclusively to agricultural use 68956  
as of the first Monday of June in the financial institution's 68957  
taxable year. 68958

(7) Property within this state used exclusively during the 68959  
taxable year for qualified research as defined in section 5733.05 68960  
of the Revised Code. 68961

(C) The base upon which the tax levied under division (D) of 68962  
section 5733.06 of the Revised Code shall be computed by 68963  
multiplying the value of a financial institution's issued and 68964  
outstanding shares of stock as determined in division (B) of this 68965  
section by a fraction. The numerator of the fraction is the sum of 68966  
the following: the property factor multiplied by fifteen, the 68967  
payroll factor multiplied by fifteen, and the sales factor 68968  
multiplied by seventy. The denominator of the fraction is one 68969  
hundred, provided that the denominator shall be reduced by fifteen 68970  
if the property factor has a denominator of zero, by fifteen if 68971  
the payroll factor has a denominator of zero, and by seventy if 68972  
the sales factor has a denominator of zero. 68973

(D) A financial institution shall calculate the property factor as follows:

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is

computed on an annual basis by adding the value of the property on 69005  
the first day of the taxable year and the value on the last day of 69006  
the taxable year and dividing the sum by two. If averaging on this 69007  
basis does not properly reflect average value, the tax 69008  
commissioner may require averaging on a more frequent basis. The 69009  
taxpayer may elect to average on a more frequent basis. When 69010  
averaging on a more frequent basis is required by the tax 69011  
commissioner or is elected by the taxpayer, the same method of 69012  
valuation must be used consistently by the taxpayer with respect 69013  
to property within and without this state and on all subsequent 69014  
returns unless the taxpayer receives prior permission from the tax 69015  
commissioner or the tax commissioner requires a different method 69016  
of determining value. 69017

(4)(a) The average value of real property and tangible 69018  
personal property that the taxpayer has rented from another and is 69019  
not treated as property owned by the taxpayer for federal income 69020  
tax purposes, shall be determined annually by multiplying the 69021  
gross rents payable during the taxable year by eight. 69022

(b) Where the use of the general method described in division 69023  
(D)(4)(a) of this section results in inaccurate valuations of 69024  
rented property, any other method which properly reflects the 69025  
value may be adopted by the tax commissioner or by the taxpayer 69026  
when approved in writing by the tax commissioner. Once approved, 69027  
such other method of valuation must be used on all subsequent 69028  
returns unless the taxpayer receives prior approval from the tax 69029  
commissioner or the tax commissioner requires a different method 69030  
of valuation. 69031

(5)(a) Except as described in division (D)(5)(b) of this 69032  
section, real property and tangible personal property owned by or 69033  
rented to the taxpayer is considered to be located within this 69034  
state if it is physically located, situated, or used within this 69035  
state. 69036

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the load to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided 69068  
in division (D)(6)(a)(ii) of this section may be rebutted upon a 69069  
showing by the tax commissioner, supported by a preponderance of 69070  
the evidence, that the preponderance of substantive contacts 69071  
regarding such loan did not occur at the regular place of business 69072  
to which it was assigned on the taxpayer's records. When such 69073  
presumption has been rebutted, the loan shall then be located 69074  
within this state if (1) the taxpayer had a regular place of 69075  
business within this state at the time the loan was made; and (2) 69076  
the taxpayer fails to show, by a preponderance of the evidence, 69077  
that the preponderance of substantive contacts regarding such loan 69078  
did not occur within this state. 69079

(b) In the case of a loan which is assigned by the taxpayer 69080  
to a place without this state which is not a regular place of 69081  
business, it shall be presumed, subject to rebuttal by the 69082  
taxpayer on a showing supported by the preponderance of evidence, 69083  
that the preponderance of substantive contacts regarding the loan 69084  
occurred within this state if, at the time the loan was made the 69085  
taxpayer's commercial domicile was within this state. 69086

(c) To determine the state in which the preponderance of 69087  
substantive contacts relating to a loan have occurred, the facts 69088  
and circumstances regarding the loan at issue shall be reviewed on 69089  
a case-by-case basis and consideration shall be given to such 69090  
activities as the solicitation, investigation, negotiation, 69091  
approval, and administration of the loan. The terms 69092  
"solicitation," "investigation," "negotiation," "approval," and 69093  
"administration" are defined as follows: 69094

(i) "Solicitation" is either active or passive. Active 69095  
solicitation occurs when an employee of the taxpayer initiates the 69096  
contact with the customer. Such activity is located at the regular 69097  
place of business which the taxpayer's employee is regularly 69098  
connected with or working out of, regardless of where the services 69099

of such employee were actually performed. Passive solicitation 69100  
occurs when the customer initiates the contact with the taxpayer. 69101  
If the customer's initial contact was not at a regular place of 69102  
business of the taxpayer, the regular place of business, if any, 69103  
where the passive solicitation occurred is determined by the facts 69104  
in each case. 69105

(ii) "Investigation" is the procedure whereby employees of 69106  
the taxpayer determine the creditworthiness of the customer as 69107  
well as the degree of risk involved in making a particular 69108  
agreement. Such activity is located at the regular place of 69109  
business which the taxpayer's employees are regularly connected 69110  
with or working out of, regardless of where the services of such 69111  
employees were actually performed. 69112

(iii) Negotiation is the procedure whereby employees of the 69113  
taxpayer and its customer determine the terms of the agreement, 69114  
such as the amount, duration, interest rate, frequency of 69115  
repayment, currency denomination, and security required. Such 69116  
activity is located at the regular place of business to which the 69117  
taxpayer's employees are regularly connected or working from, 69118  
regardless of where the services of such employees were actually 69119  
performed. 69120

(iv) "Approval" is the procedure whereby employees or the 69121  
board of directors of the taxpayer make the final determination 69122  
whether to enter into the agreement. Such activity is located at 69123  
the regular place of business to which the taxpayer's employees 69124  
are regularly connected or working from, regardless of where the 69125  
services of such employees were actually performed. If the board 69126  
of directors makes the final determination, such activity is 69127  
located at the commercial domicile of the taxpayer. 69128

(v) "Administration" is the process of managing the account. 69129  
This process includes bookkeeping, collecting the payments, 69130  
corresponding with the customer, reporting to management regarding 69131



the status of the agreement, and proceeding against the borrower 69132  
or the security interest if the borrower is in default. Such 69133  
activity is located at the regular place of business that oversees 69134  
this activity. 69135

(d) A loan or advance to a subsidiary corporation at least 69136  
fifty-one per cent of whose common stock is owned by the financial 69137  
institution shall be allocated in and out of the state by the 69138  
application of a ratio whose numerator is the sum of the net book 69139  
value of the subsidiary's real property owned in this state and 69140  
the subsidiary's tangible personal property owned in this state 69141  
and whose denominator is the sum of the subsidiary's real property 69142  
owned wherever located and the subsidiary's tangible personal 69143  
property owned wherever located. For purposes of calculating this 69144  
ratio, the taxpayer shall determine net book value in accordance 69145  
with generally accepted accounting principles. If the subsidiary 69146  
corporation owns at least fifty-one per cent of the common stock 69147  
of another corporation, the ratio shall be calculated by including 69148  
the other corporation's real property and tangible personal 69149  
property. The calculation of the ratio applies with respect to all 69150  
lower-tiered subsidiaries, provided that the immediate parent 69151  
corporation of the subsidiary owns at least fifty-one per cent of 69152  
the common stock of that subsidiary. 69153

(7) For purposes of determining the location of credit card 69154  
receivables, credit card receivables shall be treated as loans and 69155  
shall be subject to division (D)(6) of this section. 69156

(8) A loan that has been properly assigned to a state shall, 69157  
absent any change of material fact, remain assigned to that state 69158  
for the length of the original term of the loan. Thereafter, the 69159  
loan may be properly assigned to another state if the loan has a 69160  
preponderance of substantive contact to a regular place of 69161  
business there. 69162

(E) A financial institution shall calculate the payroll 69163

factor as follows: 69164

(1) The payroll factor is a fraction, the numerator of which 69165  
is the total amount paid in this state during the taxable year by 69166  
the taxpayer for compensation, and the denominator of which is the 69167  
total compensation paid both within and without this state during 69168  
the taxable year. 69169

(2) Compensation is paid in this state if any one of the 69170  
following tests, applied consecutively, is met: 69171

(a) The employee's services are performed entirely within 69172  
this state. 69173

(b) The employee's services are performed both within and 69174  
without this state, but the service performed without this state 69175  
is incidental to the employee's service within this state. The 69176  
term "incidental" means any service which is temporary or 69177  
transitory in nature, or which is rendered in connection with an 69178  
isolated transaction. 69179

(c) The employee's services are performed both within and 69180  
without this state, and: 69181

(i) The employee's principal base of operations is within 69182  
this state; or 69183

(ii) There is no principal base of operations in any state in 69184  
which some part of the services are performed, but the place from 69185  
which the services are directed or controlled is in this state; or 69186

(iii) The principal base of operations and the place from 69187  
which the services are directed or controlled are not in any state 69188  
in which some part of the service is performed but the employee's 69189  
residence is in this state. 69190

(F) A financial institution shall calculate the sales factor 69191  
as follows: 69192

(1) The sales factor is a fraction, the numerator of which is 69193

the receipts of the taxpayer in this state during the taxable year 69194  
and the denominator of which is the receipts of the taxpayer 69195  
within and without this state during the taxable year. The method 69196  
of calculating receipts for purposes of the denominator is the 69197  
same as the method used in determining receipts for purposes of 69198  
the numerator. 69199

(2) The numerator of the sales factor includes receipts from 69200  
the lease or rental of real property owned by the taxpayer if the 69201  
property is located within this state, or receipts from the 69202  
sublease of real property if the property is located within this 69203  
state. 69204

(3)(a) Except as described in division (F)(3)(b) of this 69205  
section the numerator of the sales factor includes receipts from 69206  
the lease or rental of tangible personal property owned by the 69207  
taxpayer if the property is located within this state when it is 69208  
first placed in service by the lessee. 69209

(b) Receipts from the lease or rental of transportation 69210  
property owned by the taxpayer are included in the numerator of 69211  
the sales factor to the extent that the property is used in this 69212  
state. The extent an aircraft will be deemed to be used in this 69213  
state and the amount of receipts that is to be included in the 69214  
numerator of this state's sales factor is determined by 69215  
multiplying all the receipts from the lease or rental of the 69216  
aircraft by a fraction, the numerator of which is the number of 69217  
landings of the aircraft in this state and the denominator of 69218  
which is the total number of landings of the aircraft. If the 69219  
extent of the use of any transportation property within this state 69220  
cannot be determined, then the property will be deemed to be used 69221  
wholly in the state in which the property has its principal base 69222  
of operations. A motor vehicle will be deemed to be used wholly in 69223  
the state in which it is registered. 69224

(4)(a) The numerator of the sales factor includes interest 69225

and fees or penalties in the nature of interest from loans secured 69226  
by real property if the property is located within this state. If 69227  
the property is located both within this state and one or more 69228  
other states, the receipts described in this paragraph are 69229  
included in the numerator of the sales factor if more than fifty 69230  
per cent of the fair market value of the real property is located 69231  
within this state. If more than fifty per cent of the fair market 69232  
value of the real property is not located within any one state, 69233  
then the receipts described in this paragraph shall be included in 69234  
the numerator of the sales factor if the borrower is located in 69235  
this state. 69236

(b) The determination of whether the real property securing a 69237  
loan is located within this state shall be made as of the time the 69238  
original agreement was made and any and all subsequent 69239  
substitutions of collateral shall be disregarded. 69240

(5) The numerator of the sales factor includes interest and 69241  
fees or penalties in the nature of interest from loans not secured 69242  
by real property if the borrower is located in this state. 69243

(6) The numerator of the sales factor includes net gains from 69244  
the sale of loans. Net gains from the sale of loans includes 69245  
income recorded under the coupon stripping rules of section 1286 69246  
of the Internal Revenue Code. 69247

(a) The amount of net gains, but not less than zero, from the 69248  
sale of loans secured by real property included in the numerator 69249  
is determined by multiplying such net gains by a fraction the 69250  
numerator of which is the amount included in the numerator of the 69251  
sales factor pursuant to division (F)(4) of this section and the 69252  
denominator of which is the total amount of interest and fees or 69253  
penalties in the nature of interest from loans secured by real 69254  
property. 69255

(b) The amount of net gains, but not less than zero, from the 69256

sale of loans not secured by real property included in the 69257  
numerator is determined by multiplying such net gains by a 69258  
fraction the numerator of which is the amount included in the 69259  
numerator of the sales factor pursuant to division (F)(5) of this 69260  
section and the denominator of which is the total amount of 69261  
interest and fees or penalties in the nature of interest from 69262  
loans not secured by real property. 69263

(7) The numerator of the sales factor includes interest and 69264  
fees or penalties in the nature of interest from credit card 69265  
receivables and receipts from fees charged to card holders, such 69266  
as annual fees, if the billing address of the card holder is in 69267  
this state. 69268

(8) The numerator of the sales factor includes net gains, but 69269  
not less than zero, from the sale of credit card receivables 69270  
multiplied by a fraction, the numerator of which is the amount 69271  
included in the numerator of the sales factor pursuant to division 69272  
(F)(7) of this section and the denominator of which is the 69273  
taxpayer's total amount of interest and fees or penalties in the 69274  
nature of interest from credit card receivables and fees charged 69275  
to card holders. 69276

(9) The numerator of the sales factor includes all credit 69277  
card issuer's reimbursement fees multiplied by a fraction, the 69278  
numerator of which is the amount included in the numerator of the 69279  
sales factor pursuant to division (F)(7) of this section and the 69280  
denominator of which is the taxpayer's total amount of interest 69281  
and fees or penalties in the nature of interest from credit card 69282  
receivables and fees charged to card holders. 69283

(10) The numerator of the sales factor includes receipts from 69284  
merchant discount if the commercial domicile of the merchant is in 69285  
this state. Such receipts shall be computed net of any card holder 69286  
charge backs, but shall not be reduced by any interchange 69287  
transaction fees or by any issuer's reimbursement fees paid to 69288

another for charges made by its card holders. 69289

(11)(a)(i) The numerator of the sales factor includes loan 69290  
servicing fees derived from loans secured by real property 69291  
multiplied by a fraction the numerator of which is the amount 69292  
included in the numerator of the sales factor pursuant to division 69293  
(F)(4) of this section and the denominator of which is the total 69294  
amount of interest and fees or penalties in the nature of interest 69295  
from loans secured by real property. 69296

(ii) The numerator of the sales factor includes loan 69297  
servicing fees derived from loans not secured by real property 69298  
multiplied by a fraction the numerator of which is the amount 69299  
included in the numerator of the sales factor pursuant to division 69300  
(F)(5) of this section and the denominator of which is the total 69301  
amount of interest and fees or penalties in the nature of interest 69302  
from loans not secured by real property. 69303

(b) In circumstances in which the taxpayer receives loan 69304  
servicing fees for servicing either the secured or the unsecured 69305  
loans of another, the numerator of the sales factor shall include 69306  
such fees if the borrower is located in this state. 69307

(12) The numerator of the sales factor includes receipts from 69308  
services not otherwise apportioned under this section if the 69309  
service is performed in this state. If the service is performed 69310  
both within and without this state, the numerator of the sales 69311  
factor includes receipts from services not otherwise apportioned 69312  
under this section, if a greater proportion of the income 69313  
producing activity is performed in this state based on cost of 69314  
performance. 69315

(13)(a) Interest, dividends, net gains, but not less than 69316  
zero, and other income from investment assets and activities and 69317  
from trading assets and activities shall be included in the sales 69318  
factor. Investment assets and activities and trading assets and 69319

activities include but are not limited to: investment securities; 69320  
trading account assets; federal funds; securities purchased and 69321  
sold under agreements to resell or repurchase; options; futures 69322  
contracts; forward contracts; notional principal contracts such as 69323  
swaps; equities; and foreign currency transactions. With respect 69324  
to the investment and trading assets and activities described in 69325  
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 69326  
shall include the amounts described in such divisions. 69327

(i) The sales factor shall include the amount by which 69328  
interest from federal funds sold and securities purchased under 69329  
resale agreements exceeds interest expense on federal funds 69330  
purchased and securities sold under repurchase agreements. 69331

(ii) The sales factor shall include the amount by which 69332  
interest, dividends, gains, and other income from trading assets 69333  
and activities, including, but not limited to, assets and 69334  
activities in the matched book, in the arbitrage book, and foreign 69335  
currency transactions, exceed amounts paid in lieu of interest, 69336  
amounts paid in lieu of dividends, and losses from such assets and 69337  
activities. 69338

(b) The numerator of the sales factor includes interest, 69339  
dividends, net gains, but not less than zero, and other income 69340  
from investment assets and activities and from trading assets and 69341  
activities described in division (F)(13)(a) of this section that 69342  
are attributable to this state. 69343

(i) The amount of interest, other than interest described in 69344  
division (F)(13)(b)(iv) of this section, dividends, other than 69345  
dividends described in that division, net gains, but not less than 69346  
zero, and other income from investment assets and activities in 69347  
the investment account to be attributed to this state and included 69348  
in the numerator is determined by multiplying all such income from 69349  
such assets and activities by a fraction, the numerator of which 69350  
is the average value of such assets which are properly assigned to 69351

a regular place of business of the taxpayer within this state and 69352  
the denominator of which is the average value of all such assets. 69353

(ii) The amount of interest from federal funds sold and 69354  
purchased and from securities purchased under resale agreements 69355  
and securities sold under repurchase agreements attributable to 69356  
this state and included in the numerator is determined by 69357  
multiplying the amount described in division (F)(13)(a)(i) of this 69358  
section from such funds and such securities by a fraction, the 69359  
numerator of which is the average value of federal funds sold and 69360  
securities purchased under agreements to resell which are properly 69361  
assigned to a regular place of business of the taxpayer within 69362  
this state and the denominator of which is the average value of 69363  
all such funds and such securities. 69364

(iii) The amount of interest, dividends, gains, and other 69365  
income from trading assets and activities, including but not 69366  
limited to assets and activities in the matched book, in the 69367  
arbitrage book, and foreign currency transaction, but excluding 69368  
amounts described in division (F)(13)(b)(i) or (ii) of this 69369  
section, attributable to this state and included in the numerator 69370  
is determined by multiplying the amount described in division 69371  
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69372  
which is the average value of such trading assets which are 69373  
properly assigned to a regular place of business of the taxpayer 69374  
within this state and the denominator of which is the average 69375  
value of all such assets. 69376

(iv) The amount of dividends received on the capital stock 69377  
of, and the amount of interest received from loans and advances 69378  
to, subsidiary corporations at least fifty-one per cent of whose 69379  
common stock is owned by the reporting financial institution shall 69380  
be allocated in and out of this state by the application of a 69381  
ratio whose numerator is the sum of the net book value of the 69382  
payor's real property owned in this state and the payor's tangible 69383



personal property owned in this state and whose denominator is the 69384  
sum of the net book value of the payor's real property owned 69385  
wherever located and the payor's tangible personal property owned 69386  
wherever located. For purposes of calculating this ratio, the 69387  
taxpayer shall determine net book value in accordance with 69388  
generally accepted accounting principles. 69389

(v) For purposes of this division, average value shall be 69390  
determined using the rules for determining the average value of 69391  
tangible personal property set forth in division (D)(2) and (3) of 69392  
this section. 69393

(c) In lieu of using the method set forth in division 69394  
(F)(13)(b) of this section, the taxpayer may elect, or the tax 69395  
commissioner may require in order to fairly represent the business 69396  
activity of the taxpayer in this state, the use of the method set 69397  
forth in division (F)(13)(c) of this section. 69398

(i) The amount of interest, other than interest described in 69399  
division (F)(13)(b)(iv) of this section, dividends, other than 69400  
dividends described in that division, net gains, but not less than 69401  
zero, and other income from investment assets and activities in 69402  
the investment account to be attributed to this state and included 69403  
in the numerator is determined by multiplying all such income from 69404  
such assets and activities by a fraction, the numerator of which 69405  
is the gross income from such assets and activities which are 69406  
properly assigned to a regular place of business of the taxpayer 69407  
within this state, and the denominator of which is the gross 69408  
income from all such assets and activities. 69409

(ii) The amount of interest from federal funds sold and 69410  
purchased and from securities purchased under resale agreements 69411  
and securities sold under repurchase agreements attributable to 69412  
this state and included in the numerator is determined by 69413  
multiplying the amount described in division (F)(13)(a)(i) of this 69414  
section from such funds and such securities by a fraction, the 69415

numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on all subsequent returns

unless the taxpayer receives prior permission from the tax 69448  
commissioner to use or the tax commissioner requires a different 69449  
method. 69450

(e) The taxpayer shall have the burden of proving that an 69451  
investment asset or activity or trading asset or activity was 69452  
properly assigned to a regular place of business outside of this 69453  
state by demonstrating that the day-to-day decisions regarding the 69454  
asset or activity occurred at a regular place of business outside 69455  
this state. Where the day-to-day decisions regarding an investment 69456  
asset or activity or trading asset or activity occur at more than 69457  
one regular place of business and one such regular place of 69458  
business is in this state and one such regular place of business 69459  
is outside this state such asset or activity shall be considered 69460  
to be located at the regular place of business of the taxpayer 69461  
where the investment or trading policies or guidelines with 69462  
respect to the asset or activity are established. Unless the 69463  
taxpayer demonstrates to the contrary, such policies and 69464  
guidelines shall be presumed to be established at the commercial 69465  
domicile of the taxpayer. 69466

(14) The numerator of the sales factor includes all other 69467  
receipts if either: 69468

(a) The income-producing activity is performed solely in this 69469  
state; or 69470

(b) The income-producing activity is performed both within 69471  
and without this state and a greater proportion of the 69472  
income-producing activity is performed within this state than in 69473  
any other state, based on costs of performance. 69474

(G) A qualified institution may calculate the base upon which 69475  
the fee provided for in division (D) of section 5733.06 of the 69476  
Revised Code is determined for each tax year by multiplying the 69477  
value of its issued and outstanding shares of stock determined 69478

under division (B) of this section by a single deposits fraction 69479  
whose numerator is the deposits assigned to branches in this state 69480  
and whose denominator is the deposits assigned to branches 69481  
everywhere. Deposits shall be assigned to branches in the same 69482  
manner in which the assignment is made for regulatory purposes. If 69483  
the base calculated under this division is less than the base 69484  
calculated under division (C) of this section, then the qualifying 69485  
institution may elect to substitute the base calculated under this 69486  
division for the base calculated under division (C) of this 69487  
section. Such election may be made annually for each tax year on 69488  
the corporate report. The election need not accompany the report; 69489  
rather, the election may accompany a subsequently filed but timely 69490  
application for refund, a subsequently filed but timely amended 69491  
report, or a subsequently filed but timely petition for 69492  
reassessment. The election is not irrevocable and it applies only 69493  
to the specified tax year. Nothing in this division shall be 69494  
construed to extend any statute of limitations set forth in this 69495  
chapter. 69496

(H) If the apportionment provisions of this section do not 69497  
fairly represent the extent of the taxpayer's business activity in 69498  
this state, the taxpayer may petition for or the tax commissioner 69499  
may require, in respect to all or any part of the taxpayer's 69500  
business activity, if reasonable: 69501

(1) Separate accounting; 69502

(2) The exclusion of any one or more of the factors; 69503

(3) The inclusion of one or more additional factors which 69504  
will fairly represent the taxpayer's business activity in this 69505  
state; or 69506

(4) The employment of any other method to effectuate an 69507  
equitable allocation and apportionment of the taxpayer's value. 69508

Sec. 5733.059. (A) As used in this section: 69509

(1) "Customer" means a person who purchases electricity for 69510  
consumption either by that person or by the person's related 69511  
member and the electricity is not for resale directly or 69512  
indirectly to any person other than a related member. 69513

(2) "Related member" has the same meaning as in division 69514  
(A)(6) of section 5733.042 of the Revised Code without regard to 69515  
division (B) of that section. 69516

(B) Except as provided in division (C) of this section, this 69517  
division applies only to sales of electric transmission and 69518  
distribution services. For purposes of sections 5733.05 and 69519  
5747.21 of the Revised Code: 69520

(1) Sales of the transmission of electricity are in this 69521  
state in proportion to the ratio of the wire mileage of the 69522  
taxpayer's transmission lines located in this state divided by the 69523  
wire mileage of the taxpayer's transmission lines located 69524  
everywhere. Transmission wire mileage shall be weighted for the 69525  
voltage capacity of each line. 69526

(2) Sales of the distribution of electricity are in this 69527  
state in proportion to the ratio of the wire mileage of the 69528  
taxpayer's distribution lines located in this state divided by the 69529  
wire mileage of the taxpayer's distribution lines located 69530  
everywhere. Distribution wire mileage shall not be weighted for 69531  
the voltage capacity of each line. 69532

(C) This division applies only to a person that has 69533  
transmission or distribution lines in this state. If a contract 69534  
for the sale of electricity includes the seller's or the seller's 69535  
related member's obligation to transmit or distribute the 69536  
electricity and if the sales contract separately identifies the 69537  
price charged for the transmission or distribution of electricity, 69538

the price charged for the transmission and distribution of 69539  
electricity shall be apportioned to this state in accordance with 69540  
division (B) of this section. Any remaining portion of the sales 69541  
price of the electricity shall be sitused to this state in 69542  
accordance with division (D) of this section. 69543

If the sales contract does not separately identify the price 69544  
charged for the transmission or distribution of electricity, the 69545  
sales price of the electricity shall be sitused to this state in 69546  
accordance with division (D) of this section. 69547

(D) Any person who makes a sale of electricity shall situs 69548  
the following to this state: 69549

(1) A sale of electricity directly or indirectly to a 69550  
customer to the extent the customer consumes the electricity in 69551  
this state; 69552

(2) A sale of electricity directly or indirectly to a related 69553  
member where the related member directly or indirectly sells 69554  
electricity to a customer to the extent the customer consumes the 69555  
electricity in this state; 69556

(3) A sale of electricity if the seller or the seller's 69557  
related member directly or indirectly delivers the electricity to 69558  
a location in this state or directly or indirectly delivers the 69559  
electricity exactly to the border of this state and another state; 69560

(4) A sale of electricity if the seller or the seller's 69561  
related member directly or indirectly directs the delivery of the 69562  
electricity to a location in this state or directly or indirectly 69563  
directs the delivery of the electricity exactly to the border of 69564  
this state and another state. 69565

(E) If the situsing provisions of this section do not fairly 69566  
represent the extent of the taxpayer's or the taxpayer's related 69567  
member's activity in this state, the taxpayer may request, or the 69568  
tax commissioner may require, in respect to all or part of a 69569

taxpayer's or related member's sales, if reasonable, any of the 69570  
following: 69571

(1) Separate accounting; 69572

(2) The exclusion of one or more additional situsing factors 69573  
that will fairly represent the taxpayer's and the related member's 69574  
sales in this state; 69575

(3) The inclusion of one or more additional situsing factors 69576  
that will fairly represent the taxpayer's and the related member's 69577  
sales in this state. 69578

The taxpayer's request shall be in writing and shall be filed 69579  
with the report required by section 5733.02 of the Revised Code, a 69580  
timely filed petition for reassessment, or a timely filed amended 69581  
report. An alternative situsing method shall be effective with the 69582  
approval of the tax commissioner. 69583

Nothing in this section shall be construed to extend any 69584  
statute of limitations set forth in this chapter. 69585

(F) If the situsing provisions of this section do not fairly 69586  
represent activity in this state, the tax commissioner may 69587  
promulgate rules to situs sales using a methodology that fairly 69588  
reflects sales in this state. 69589

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69590  
5703.56 of the Revised Code to the contrary, a person situsing a 69591  
sale outside this state has the burden to establish by a 69592  
preponderance of the evidence that the doctrines enumerated in 69593  
~~those sections~~ that section do not apply. 69594

**Sec. 5733.0511.** (A) As used in this section: 69595

(1) "Qualifying telephone company taxpayer" means either of 69596  
the following: 69597

(a) A telephone company, but only if the telephone company 69598

was subject to the tax imposed by section 5727.30 of the Revised Code for gross receipts received during the period from July 1, 2003, to June 30, 2004, and the telephone company's property subject to taxation under Chapter 5727. of the Revised Code for tax years 2003 through 2006 was assessed using the true value percentages provided for in division (B) of section 5727.111 of the Revised Code.

(b) Any taxpayer not described in division (A)(1)(a) of this section if a telephone company described in division (A)(1)(a) of this section transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization, or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue Code on account of a transfer as part of an entity organization or reorganization, or subsequent entity organization or reorganization.

(2) "Qualifying telephone company asset" means any asset shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles.

(3) "Net income" has the same meaning as in division (I) of section 5733.04 of the Revised Code.

(4) "Book-tax difference" means the difference, if any, between a qualifying telephone company asset's net book value shown on the qualifying telephone company taxpayer's books and records on December 31, 2003, in accordance with generally accepted accounting principles, and such asset's adjusted basis on December 31, 2003. The book-tax difference may be a negative number.



(5) Solely for purposes of division (A)(1)(a) of this section, "tax year" has the same meaning as used in section 5727.01 of the Revised Code. 69630  
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(B) In computing net income under division (I) of section 5733.04 of the Revised Code, a qualifying telephone company taxpayer shall adjust net income to reflect a ten-year amortization of the book-tax difference for each qualifying telephone company asset, in equal installments over each of the ten tax years beginning with 2010. If the net book value exceeds the adjusted basis of the asset as of December 31, 2003, net income shall be reduced in each of the ten years beginning with tax year 2010 by one-tenth of the book-tax difference. If the adjusted basis exceeds the net book value of the asset as of December 31, 2003, net income shall be increased in each of the ten years beginning with tax year 2010 by one-tenth of the absolute value of the book-tax difference. The adjustment to net income provided for by this division shall apply without regard to the disposal of those assets after December 31, 2003. 69633  
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(C) The allocation and apportionment of this amortization of the book-tax difference under this section shall be governed by division (B) of section 5733.05 and by section 5733.051 of the Revised Code. The tax commissioner may prescribe rules regarding the apportionment of the amortization of the book-tax difference under this section. 69648  
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(D) Nothing in this section shall allow for an adjustment more than once with respect to the same qualifying asset or allow more than one corporation to claim an adjustment with respect to the same qualifying telephone company asset. 69654  
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**Sec. 5733.06.** The tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by 69658  
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division (J) of this section, or division (C) of this section, 69661  
after the reduction, if any, provided by division (J) of this 69662  
section, except that the tax hereby charged each financial 69663  
institution subject to this chapter shall be the amount computed 69664  
under division (D) of this section: 69665

(A) Except as set forth in division (F) of this section, five 69666  
and one-tenth per cent upon the first fifty thousand dollars of 69667  
the value of the taxpayer's issued and outstanding shares of stock 69668  
as determined under division (B) of section 5733.05 of the Revised 69669  
Code; 69670

(B) Except as set forth in division (F) of this section, 69671  
eight and one-half per cent upon the value so determined in excess 69672  
of fifty thousand dollars; or 69673

(C)(1) Except as otherwise provided under division (G) of 69674  
this section, four mills times that portion of the value of the 69675  
issued and outstanding shares of stock as determined under 69676  
division (C) of section 5733.05 of the Revised Code. For the 69677  
purposes of division (C) of this section, division (C)(2) of 69678  
section 5733.065, and division (C) of section 5733.066 of the 69679  
Revised Code, the value of the issued and outstanding shares of 69680  
stock of an eligible corporation for tax year 2003 through tax 69681  
year 2007, or of a qualified holding company, is zero. 69682

(2) As used in division (C) of this section, "eligible 69683  
corporation" means a person treated as a corporation for federal 69684  
income tax purposes that meets all of the following criteria: 69685

(a) The corporation conducts business for an entire taxable 69686  
year as a qualified trade or business as defined by division (C) 69687  
of section 122.15 of the Revised Code. 69688

(b) The corporation uses more than fifty per cent of the 69689  
corporation's assets, based on net book value, that are located in 69690  
Ohio solely to conduct activities that constitute a qualified 69691

trade or business as defined by section 122.15 of the Revised Code. 69692  
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(c) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions. 69694  
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(d) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business. 69698  
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(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts: 69710  
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(1) For tax years prior to the 1999 tax year, fifteen mills; 69715

(2) For the 1999 tax year, fourteen mills; 69716

(3) For tax year 2000 and thereafter, thirteen mills. 69717

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the 69718  
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power to exercise its corporate franchise unimpaired by such 69723  
proceedings or act. The minimum payment for ~~all corporations~~ each 69724  
corporation shall be ~~fifty dollars~~ as follows: 69725

(1) One thousand dollars in the case of a corporation having 69726  
gross receipts for the taxable year equal to at least five million 69727  
dollars from activities within or outside this state or in the 69728  
case of a corporation employing at least three hundred employees 69729  
at some time during the taxable year within or outside this state; 69730

(2) Fifty dollars in the case of any other corporation. 69731

The tax charged to corporations under this chapter for the 69732  
privilege of engaging in business in this state, which is an 69733  
excise tax levied on the value of the issued and outstanding 69734  
shares of stock, shall in no manner be construed as prohibiting or 69735  
otherwise limiting the powers of municipal corporations, joint 69736  
economic development zones created under section 715.691 of the 69737  
Revised Code, and joint economic development districts created 69738  
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 69739  
Revised Code in this state to impose an income tax on the income 69740  
of such corporations. 69741

(F) If two or more taxpayers satisfy the ownership or control 69742  
requirements of division (A) of section 5733.052 of the Revised 69743  
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 69744  
amount" for "fifty thousand dollars" in divisions (A) and (B) of 69745  
this section. For purposes of this division, "the taxpayer's 69746  
pro-rata amount" is an amount that, when added to the other such 69747  
taxpayers' pro-rata amounts, does not exceed fifty thousand 69748  
dollars. For the purpose of making that computation, the 69749  
taxpayer's pro-rata amount shall not be less than zero. Nothing in 69750  
this division derogates from or eliminates the requirement to make 69751  
the alternative computation of tax under division (C) of this 69752  
section. 69753

(G) The tax liability of any corporation under division (C) 69754  
of this section shall not exceed one hundred fifty thousand 69755  
dollars. 69756

(H)(1) For the purposes of division (H) of this section, 69757  
"exiting corporation" means a corporation that satisfies all of 69758  
the following conditions: 69759

(a) The corporation had nexus with or in this state under the 69760  
Constitution of the United States during any portion of a calendar 69761  
year; 69762

(b) The corporation was not a corporation described in 69763  
division (A) of section 5733.01 of the Revised Code on the first 69764  
day of January immediately following that calendar year; 69765

(c) The corporation was not a financial institution on the 69766  
first day of January immediately following that calendar year; 69767

(d) If the corporation was a transferor as defined in section 69768  
5733.053 of the Revised Code, the corporation's transferee was not 69769  
required to add to the transferee's net income the income of the 69770  
transferor pursuant to division (B) of that section; 69771

(e) During any portion of that calendar year, or any portion 69772  
of the immediately preceding calendar year, the corporation had 69773  
net income that was not included in a report filed by the 69774  
corporation or its transferee pursuant to section 5733.02, 69775  
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 69776

(f) The corporation would have been subject to the tax 69777  
computed under divisions (A), (B), (C), (F), and (G) of this 69778  
section if the corporation is assumed to be a corporation 69779  
described in division (A) of section 5733.01 of the Revised Code 69780  
on the first day of January immediately following the calendar 69781  
year to which division (H)(1)(a) of this section refers. 69782

(2) For the purposes of division (H) of this section, 69783

"unreported net income" means net income that was not previously 69784  
included in a report filed pursuant to section 5733.02, 5733.021, 69785  
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 69786  
realized or recognized during the calendar year to which division 69787  
(H)(1) of this section refers or the immediately preceding 69788  
calendar year. 69789

(3) Each exiting corporation shall pay a tax computed by 69790  
first allocating and apportioning the unreported net income 69791  
pursuant to division (B) of section 5733.05 and section 5733.051 69792  
and, if applicable, section 5733.052 of the Revised Code. The 69793  
exiting corporation then shall compute the tax due on its 69794  
unreported net income allocated and apportioned to this state by 69795  
applying divisions (A), (B), and (F) of this section to that 69796  
income. 69797

(4) Divisions (C) and (G) of this section, division (D)(2) of 69798  
section 5733.065, and division (C) of section 5733.066 of the 69799  
Revised Code do not apply to an exiting corporation, but exiting 69800  
corporations are subject to every other provision of this chapter. 69801

(5) Notwithstanding division (B) of section 5733.01 or 69802  
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 69803  
contrary, each exiting corporation shall report and pay the tax 69804  
due under division (H) of this section on or before the 69805  
thirty-first day of May immediately following the calendar year to 69806  
which division (H)(1)(a) of this section refers. The exiting 69807  
corporation shall file that report on the form most recently 69808  
prescribed by the tax commissioner for the purposes of complying 69809  
with sections 5733.02 and 5733.03 of the Revised Code. Upon 69810  
request by the corporation, the tax commissioner may extend the 69811  
date for filing the report. 69812

(6) If, on account of the application of section 5733.053 of 69813  
the Revised Code, net income is subject to the tax imposed by 69814  
divisions (A) and (B) of this section, such income shall not be 69815

subject to the tax imposed by division (H)(3) of this section. 69816

(7) The amendments made to division (H) of this section by 69817  
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 69818  
any transfer, as defined in section 5733.053 of the Revised Code, 69819  
for which negotiations began prior to January 1, 2001, and that 69820  
was commenced in and completed during calendar year 2001, unless 69821  
the taxpayer makes an election prior to December 31, 2001, to 69822  
apply those amendments. 69823

(8) The tax commissioner may adopt rules governing division 69824  
(H) of this section. 69825

(I) Any reference in the Revised Code to "the tax imposed by 69826  
section 5733.06 of the Revised Code" or "the tax due under section 69827  
5733.06 of the Revised Code" includes the taxes imposed under 69828  
sections 5733.065 and 5733.066 of the Revised Code. 69829

(J)(1) Division (J) of this section applies solely to a 69830  
combined company. Section 5733.057 of the Revised Code shall apply 69831  
when calculating the adjustments required by division (J) of this 69832  
section. 69833

(2) Subject to division (J)(4) of this section, the total tax 69834  
calculated in divisions (A) and (B) of this section shall be 69835  
reduced by an amount calculated by multiplying such tax by a 69836  
fraction, the numerator of which is the total taxable gross 69837  
receipts attributed to providing public utility activity other 69838  
than as an electric company under section 5727.03 of the Revised 69839  
Code for the year upon which the taxable gross receipts are 69840  
measured immediately preceding the tax year, and the denominator 69841  
of which is the total gross receipts from all sources for the year 69842  
upon which the taxable gross receipts are measured immediately 69843  
preceding the tax year. Nothing herein shall be construed to 69844  
exclude from the denominator any item of income described in 69845  
section 5733.051 of the Revised Code. 69846

(3) Subject to division (J)(4) of this section, the total tax  
calculated in division (C) of this section shall be reduced by an  
amount calculated by multiplying such tax by the fraction  
described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division  
(J)(2) or (J)(3) of this section exceed the amount of the excise  
tax paid in accordance with section 5727.38 of the Revised Code,  
for the year upon which the taxable gross receipts are measured  
immediately preceding the tax year.

**Sec. 5733.0611.** (A) There is hereby allowed a nonrefundable  
credit against the tax imposed under section 5733.06 of the  
Revised Code. The credit shall be equal to the taxpayer's  
proportionate share of the lesser of either the tax due or the tax  
paid by any qualifying entity under section 5733.41 of the Revised  
Code for the qualifying taxable year of the qualifying entity that  
ends in the taxable year of the taxpayer. The taxpayer shall claim  
the credit for the taxpayer's taxable year in which ends the  
qualifying entity's qualifying taxable year.

In claiming the credit and determining its proportionate  
share of the tax due and the tax paid by the qualifying entity,  
the person claiming the credit shall follow the concepts set forth  
in subchapter K of the Internal Revenue Code. Nothing in this  
division shall be construed to limit or disallow pass-through  
treatment of a pass-through entity's income, deductions, credits,  
or other amounts necessary to compute the tax imposed and the  
credits allowed under this chapter.

The credit shall be claimed in the order required under  
section 5733.98 of the Revised Code. Any unused credit shall be  
allowed as a credit in the ensuing tax year. Any such amount  
allowed as a credit in an ensuing tax year shall be deducted from  
the balance carried forward to the next ensuing tax year.



(B) Any person that is not a taxpayer solely by reason of 69878  
division (A) or (C) of section 5733.09 of the Revised Code or a 69879  
person described in section 501(c) of the Internal Revenue Code or 69880  
division (F) of section 3334.01 of the Revised Code, but that 69881  
would be entitled to claim the nonrefundable credit under this 69882  
section if that person were a taxpayer, may file an application 69883  
for refund pursuant to section 5733.12 of the Revised Code. Upon 69884  
proper application for refund under that section, the tax 69885  
commissioner shall issue a refund in the amount of the credit to 69886  
which that person would have been entitled under division (A)(1) 69887  
of this section if the person had been a taxpayer, and as if the 69888  
credit were a refundable credit. 69889

(C) If an organization described in section 401(a) of the 69890  
Internal Revenue Code or a trust or fund is entitled to a 69891  
proportionate share of the lesser of either the tax due or the tax 69892  
paid by any qualifying entity under section 5733.41 of the Revised 69893  
Code, and if that proportionate share is then or could be 69894  
allocable to an exempt person as defined in division (D) of this 69895  
section, then the organization, trust, or fund may file an 69896  
application for refund with respect to such allocable amounts 69897  
pursuant to section 5733.12 of the Revised Code. Upon proper 69898  
application for refund under that section, the tax commissioner 69899  
shall issue a refund in the amount of the credit to which the 69900  
organization, trust, or fund would have been entitled under 69901  
division (A)(1) of this section had the organization, trust, or 69902  
fund been a taxpayer, and as if the credit were a refundable 69903  
credit. To the extent that such an organization, trust, or fund is 69904  
permitted to apply for a refund under this division, or to the 69905  
extent that such an organization, trust, or fund has applied for 69906  
such a refund, exempt persons are not entitled to the credit 69907  
authorized under this section or section 5747.059 of the Revised 69908  
Code. 69909

(D)(1) For the purposes of division (C) of this section only, 69910  
"exempt person" means any of the following: 69911

(a) A person that is or may be the beneficiary of a trust if 69912  
the trust is subject to Subchapter D of Chapter 1 of Subtitle A of 69913  
the Internal Revenue Code. 69914

(b) A person that is or may be the beneficiary of or the 69915  
recipient of payments from a nuclear decommissioning reserve fund, 69916  
a designated settlement fund, or any other trust or fund 69917  
established to resolve and satisfy claims that may otherwise be 69918  
asserted by the beneficiary or a member of the beneficiary's 69919  
family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the 69920  
Internal Revenue Code apply to the determination of whether such a 69921  
person is an exempt person under division (D) of this section. 69922

(c) A person, other than a person that is treated as a C 69923  
corporation for federal income tax purposes, who is or may be the 69924  
beneficiary of a trust that, under its governing instrument, is 69925  
not required to distribute all of its income currently. Division 69926  
(D)(1)(c) of this section applies only if the trust irrevocably 69927  
agrees that for the taxable year during or for which the trust 69928  
distributes any of its income to any of the beneficiaries, the 69929  
trust is a qualifying trust as defined in section 5733.40 of the 69930  
Revised Code and will pay the estimated tax, and will withhold and 69931  
pay the withheld tax as required under section 5733.41 and 69932  
sections 5747.40 to 5747.453 of the Revised Code. 69933

(2) An exempt person does not include any person that would 69934  
not qualify as an exempt person under the doctrines of "economic 69935  
reality," "sham transaction," "step doctrine," or "substance over 69936  
form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69937  
5703.56 of the Revised Code to the contrary, an organization, 69938  
trust, or fund described in division (C) of this section bears the 69939  
burden of establishing by a preponderance of the evidence that any 69940

transaction giving rise to a claim for a refundable credit under 69941  
this section does not have as a principal purpose a claim for that 69942  
credit. Nothing in this section shall be construed to limit solely 69943  
to this section the application of the doctrines referred to in 69944  
division (D)(2) of this section. 69945

(E) Nothing in this section shall be construed to allow a 69946  
refund more than once with respect to the taxes imposed under 69947  
section 5733.41 or 5747.41 of the Revised Code. 69948

**Sec. 5733.09.** (A) ~~An~~ (1) Except as provided in divisions 69949  
(A)(2) and (3) of this section, an incorporated company, whether 69950  
foreign or domestic, owning and operating a public utility in this 69951  
state, and required by law to file reports with the tax 69952  
commissioner and to pay an excise tax upon its gross receipts, and 69953  
insurance, fraternal, beneficial, bond investment, and other 69954  
corporations required by law to file annual reports with the 69955  
superintendent of insurance and dealers in intangibles, the shares 69956  
of which are, or the capital or ownership in capital employed by 69957  
such dealer is, subject to the taxes imposed by section 5707.03 of 69958  
the Revised Code, shall not be subject to this chapter, except for 69959  
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 69960  
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 69961  
5747.453 of the Revised Code. However, for reports required to be 69962  
filed under section 5725.14 of the Revised Code in 2003 and 69963  
thereafter, nothing in this section shall be construed to exempt 69964  
the property of any dealer in intangibles under section 5725.13 of 69965  
the Revised Code from the tax imposed under section 5707.03 of the 69966  
Revised Code. ~~An~~ 69967

(2) An electric company subject to the filing requirements of 69968  
section 5727.08 of the Revised Code or otherwise having nexus with 69969  
or in this state under the Constitution of the United States, or 69970  
any other corporation having any gross receipts directly 69971

attributable to providing public utility service as an electric 69972  
company or having any property directly attributable to providing 69973  
public utility service as an electric company, is subject to this 69974  
chapter. 69975

(3) A telephone company that no longer pays an excise tax 69976  
under section 5727.30 of the Revised Code on its gross receipts 69977  
billed after June 30, 2004, is first subject to taxation under 69978  
this chapter for tax year 2005. For that tax year, a telephone 69979  
company with a taxable year ending in 2004 shall compute the tax 69980  
imposed under this chapter, and shall compute the net operating 69981  
loss carry forward for tax year 2005, by multiplying the tax owed 69982  
under this chapter, net of all nonrefundable credits, or the loss 69983  
for the taxable year, by fifty per cent. 69984

(B) A corporation that has made an election under subchapter 69985  
S, chapter one, subtitle A, of the Internal Revenue Code for its 69986  
taxable year under such code is exempt from the tax imposed by 69987  
section 5733.06 of the Revised Code that is based on that taxable 69988  
year. 69989

A corporation that makes such an election shall file a notice 69990  
of such election with the tax commissioner between the first day 69991  
of January and the thirty-first day of March of each tax year that 69992  
the election is in effect. 69993

(C) An entity defined to be a "real estate investment trust" 69994  
by section 856 of the Internal Revenue Code, a "regulated 69995  
investment company" by section 851 of the Internal Revenue Code, 69996  
or a "real estate mortgage investment conduit" by section 860D of 69997  
the Internal Revenue Code, is exempt from taxation for a tax year 69998  
as a corporation under this chapter and is exempt from taxation 69999  
for a return year as a dealer in intangibles under Chapter 5725. 70000  
of the Revised Code if it provides the report required by this 70001  
division. By the last day of March of the tax or return year the 70002  
entity shall submit to the tax commissioner the name of the entity 70003

with a list of the names, addresses, and social security or 70004  
federal identification numbers of all investors, shareholders, and 70005  
other similar investors who owned any interest or invested in the 70006  
entity during the preceding calendar year. The commissioner may 70007  
extend the date by which the report must be submitted for 70008  
reasonable cause shown by the entity. The commissioner may 70009  
prescribe the form of the report required for exemption under this 70010  
division. 70011

(D)(1) As used in this division: 70012

(a) "Commercial printer" means a person primarily engaged in 70013  
the business of commercial printing. However, "commercial printer" 70014  
does not include a person primarily engaged in the business of 70015  
providing duplicating services using photocopy machines or other 70016  
xerographic processes. 70017

(b) "Commercial printing" means printing by one or more 70018  
common processes such as letterpress, lithography, gravure, 70019  
screen, or digital imaging, and includes related activities such 70020  
as binding, platemaking, prepress operation, cartographic 70021  
composition, and typesetting. 70022

(c) "Contract for printing" means an oral or written 70023  
agreement for the purchase of printed materials produced by a 70024  
commercial printer. 70025

(d) "Intangible property located at the premises of a 70026  
commercial printer" means intangible property of any kind owned or 70027  
licensed by a customer of the commercial printer and furnished to 70028  
the commercial printer for use in commercial printing. 70029

(e) "Printed material" means any tangible personal property 70030  
produced or processed by a commercial printer pursuant to a 70031  
contract for printing. 70032

(f) "Related member" has the same meaning as in ~~division~~ 70033  
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 70034

division (B) of that section. 70035

(2) Except as provided in divisions (D)(3) and (4) of this 70036  
section, a corporation not otherwise subject to the tax imposed by 70037  
section 5733.06 of the Revised Code for a tax year does not become 70038  
subject to that tax for the tax year solely by reason of any one 70039  
or more of the following occurring in this state during the 70040  
taxable year that ends immediately prior to the tax year: 70041

(a) Ownership by the corporation or a related member of the 70042  
corporation of tangible personal property or intangible property 70043  
located during all or any portion of the taxable year or on the 70044  
first day of the tax year at the premises of a commercial printer 70045  
with which the corporation or the corporation's related member has 70046  
a contract for printing with respect to such property or the 70047  
premises of a commercial printer's related member with which the 70048  
corporation or the corporation's related member has a contract for 70049  
printing with respect to such property; 70050

(b) Sales by the corporation or a related member of the 70051  
corporation of property produced at and shipped or distributed 70052  
from the premises of a commercial printer with which the 70053  
corporation or the corporation's related member has a contract for 70054  
printing with respect to such property or the premises of a 70055  
commercial printer's related member with which the corporation or 70056  
the corporation's related member has a contract for printing with 70057  
respect to such property; 70058

(c) Activities of employees, officers, agents, or contractors 70059  
of the corporation or a related member of the corporation on the 70060  
premises of a commercial printer with which the corporation or the 70061  
corporation's related member has a contract for printing or the 70062  
premises of a commercial printer's related member with which the 70063  
corporation or the corporation's related member has a contract for 70064  
printing, where the activities are directly and solely related to 70065  
quality control, distribution, or printing services, or any 70066

combination thereof, performed by or at the direction of the 70067  
commercial printer or the commercial printer's related member. 70068

(3) The exemption under this division does not apply for a 70069  
taxable year to any corporation having on the first day of January 70070  
of the tax year or at any time during the taxable year ending 70071  
immediately preceding the first day of January of the tax year a 70072  
related member which, on the first day of January of the tax year 70073  
or during any portion of such taxable year of the corporation, has 70074  
nexus in or with this state under the Constitution of the United 70075  
States or holds a certificate of compliance with the laws of this 70076  
state authorizing it to do business in this state. 70077

(4) With respect to allowing the exemption under this 70078  
division, the tax commissioner shall be guided by the doctrines of 70079  
"economic reality," "sham transaction," "step transaction," and 70080  
"substance over form." A corporation shall bear the burden of 70081  
establishing by a preponderance of the evidence that any 70082  
transaction giving rise to an exemption claimed under this 70083  
division did not have as a principal purpose the avoidance of any 70084  
portion of the tax imposed by section 5733.06 of the Revised Code. 70085

Application of the doctrines listed in division (D)(4) of 70086  
this section is not limited to this division. 70087

**Sec. 5733.121.** If a corporation entitled to a refund under 70088  
section 5733.11 or 5733.12 of the Revised Code is indebted to this 70089  
state for any tax, workers' compensation premium due under section 70090  
4123.35 of the Revised Code, unemployment compensation 70091  
contribution due under section 4141.25 of the Revised Code, or 70092  
unemployment compensation payment in lieu of contribution under 70093  
section 4141.241 of the Revised Code or fee administered by the 70094  
~~tax commissioner~~ that is paid to the state or to the clerk of 70095  
courts pursuant to section 4505.06 of the Revised Code, or any 70096  
charge, penalty, or interest arising from such a tax, workers' 70097

compensation premium, unemployment compensation contribution, or 70098  
unemployment compensation payment in lieu of contribution under 70099  
section 4141.241 of the Revised Code or fee, the amount refundable 70100  
may be applied in satisfaction of the debt. If the amount 70101  
refundable is less than the amount of the debt, it may be applied 70102  
in partial satisfaction of the debt. If the amount refundable is 70103  
greater than the amount of the debt, the amount remaining after 70104  
satisfaction of the debt shall be refunded. If the corporation has 70105  
more than one such debt, any debt subject to section 5739.33 or 70106  
division (G) of section 5747.07 of the Revised Code shall be 70107  
satisfied first. This section applies only to debts that have 70108  
become final. 70109

The tax commissioner may, with the consent of the taxpayer, 70110  
provide for the crediting, against tax due for any tax year, of 70111  
the amount of any refund due the taxpayer under this chapter for a 70112  
preceding tax year. 70113

**Sec. 5733.18.** Annually, on the day fixed for the payment of 70114  
any excise or franchise tax required to be paid by law, such tax, 70115  
together with any penalties subsequently accruing thereon, shall 70116  
become a lien on all property in this state of a corporation, 70117  
whether such property is employed by the corporation in the 70118  
prosecution of its business or is in the hands of an assignee, 70119  
trustee, or receiver for the benefit of the creditors and 70120  
stockholders. Such lien shall continue until such taxes, together 70121  
with any penalties subsequently accruing, are paid. 70122

Upon failure of such corporation to pay such tax on the day 70123  
fixed for payment, the tax commissioner may file, for which filing 70124  
no fee shall be charged, in the office of the county recorder in 70125  
each county in this state in which such corporation owns or has a 70126  
beneficial interest in real estate, notice of such lien containing 70127  
a brief description of such real estate. Such lien shall not be 70128



valid as against any mortgagee, purchaser, or judgment creditor 70129  
whose rights have attached prior to the time such notice is so 70130  
filed in the county in which the real estate which is the subject 70131  
of such mortgage, purchase, or judgment lien is located. Such 70132  
notice shall be recorded in a book kept by the recorder, called 70133  
the corporation franchise lien record, and indexed under the name 70134  
of the corporation charged with such tax. When such tax, together 70135  
with any penalties subsequently accruing thereon, has been paid, 70136  
the tax commissioner shall furnish to the corporation an 70137  
acknowledgment of such payment which the corporation may record 70138  
with the recorder of each county in which notice of such lien has 70139  
been filed, for which recording the recorder shall charge and 70140  
receive a base fee of two dollars for services and a housing trust 70141  
fund fee of two dollars pursuant to section 317.36 of the Revised 70142  
Code. 70143

**Sec. 5733.22.** (A)(1) Any corporation whose articles of 70144  
incorporation or license certificate to do or transact business in 70145  
this state has been canceled by the secretary of state pursuant to 70146  
section 5733.20 of the Revised Code for failure to make any report 70147  
or return or to pay any tax or fee, shall be reinstated and again 70148  
entitled to exercise its rights, privileges, and franchises in 70149  
this state, and the secretary of state shall cancel the entry of 70150  
cancellation to exercise its rights, privileges, and franchises 70151  
upon compliance with all of the following: 70152

(a) Payment to the secretary of state of any additional fees 70153  
and penalties required to be paid to the secretary of state; 70154

(b) Filing with the secretary of state a certificate from the 70155  
tax commissioner that it has complied with all the requirements of 70156  
law as to franchise or excise tax reports and paid all franchise 70157  
or excise taxes, fees, or penalties due thereon for every year of 70158  
its delinquency; 70159

(c) Payment to the secretary of state of an additional fee of ten dollars. 70160  
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(2) The applicant for reinstatement shall be required by the secretary of state, as a condition prerequisite to such reinstatement, to amend its articles by changing its name if all of the following apply: 70162  
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(a) The reinstatement is not made within one year from the date of the cancellation of its articles of incorporation or date of the cancellation of its license to do business; 70166  
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(b) It appears that the applicant's articles of incorporation or license certificate has been issued to another entity and is not distinguishable upon the record from the name of the applicant; 70169  
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(c) It appears that the articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name has been issued to another entity and is not distinguishable upon the record from the name of the applicant. A certificate of reinstatement may be filed in the recorder's office of any county in the state, for which the recorder shall charge and collect a base fee of three dollars for services and a housing trust fund fee of three dollars pursuant to section 317.36 of the Revised Code. 70173  
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Any officer, shareholder, creditor, or receiver of any such corporation may at any time take all steps required by this section to effect such reinstatement. 70185  
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(B) The rights, privileges, and franchises of a corporation whose articles of incorporation have been reinstated in accordance with this section, are subject to section 1701.922 of the Revised 70188  
70189  
70190

Code. 70191

(C) Notwithstanding a violation of section 5733.21 of the 70192  
Revised Code, upon reinstatement of a corporation's articles of 70193  
incorporation in accordance with this section, neither section 70194  
5733.20 nor section 5733.21 of the Revised Code shall be applied 70195  
to invalidate the exercise or attempt to exercise any right, 70196  
privilege, or franchise on behalf of the corporation by an 70197  
officer, agent, or employee of the corporation after cancellation 70198  
and prior to the reinstatement of the articles, if the conditions 70199  
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 70200  
the Revised Code are met. 70201

**Sec. 5733.45.** (A) For purposes of this section, a "qualifying 70202  
dealer in intangibles" is a dealer in intangibles that is a member 70203  
of a qualifying controlled group of which a financial institution 70204  
is also a member on the first day of the financial institution's 70205  
tax year. 70206

(B) For tax years 2002 and thereafter, there is hereby 70207  
allowed to each financial institution a nonrefundable credit 70208  
against the tax imposed by section 5733.06 of the Revised Code. 70209  
The amount of the credit shall be computed in accordance with 70210  
division (C) of this section. The credit shall be claimed in the 70211  
order prescribed by section 5733.98 of the Revised Code. The 70212  
credit shall not exceed the amount of tax otherwise due under 70213  
section 5733.06 of the Revised Code after deducting any other 70214  
credits that precede the credit claimed under this section in that 70215  
order. 70216

(C) Subject to division (D) of this section, the amount of 70217  
the nonrefundable credit is the lesser of the amount described in 70218  
division (C)(1) of this section or the amount described in 70219  
division (C)(2) of this section. 70220

(1) The amount of tax that a qualifying dealer in intangibles 70221

paid under Chapter 5707. of the Revised Code during the calendar 70222  
year immediately preceding the financial institution's tax year. 70223  
Such amount shall be reduced, but not below zero, by any refunds 70224  
of such tax received by the qualifying dealer in intangibles under 70225  
Chapter 5703. of the Revised Code during that calendar year. 70226

(2) The product of the amounts described in division 70227  
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 70228  
division (C)(2)(a) of this section shall be ascertained on the 70229  
last day of the financial institution's taxable year immediately 70230  
preceding the tax year. 70231

(a) The cost of the financial institution's direct investment 70232  
in the capital stock of the qualifying dealer in intangibles. The 70233  
cost does not include any appreciation or goodwill to the extent 70234  
those amounts are allowed as an exempted asset on the financial 70235  
institution's annual report. 70236

(b) The ratio described in section 5725.15 of the Revised 70237  
Code for the calendar year immediately preceding the financial 70238  
institution's tax year; 70239

(c) The tax rate imposed under division (D) of section 70240  
5707.03 of the Revised Code for the calendar year immediately 70241  
preceding the financial institution's tax year. 70242

(D)(1) The principles and concepts set forth in section 70243  
5733.057 of the Revised Code shall apply to ascertain if a dealer 70244  
in intangibles is a member of a qualifying controlled group of 70245  
which the financial institution also is a member and to ascertain 70246  
the cost of the financial institution's direct investment in the 70247  
capital stock of the qualifying dealer in intangibles. 70248

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 70249  
Code to the contrary, a financial institution claiming the credit 70250  
provided by this section has the burden to establish by a 70251  
preponderance of the evidence that none of the doctrines 70252

enumerated in that section would apply to deny to the financial 70253  
institution all or a part of the credit otherwise provided by this 70254  
section. 70255

(E) For tax years 2002 and 2003, the credit allowed by this 70256  
section applies only if the qualifying dealer in intangibles on 70257  
account of which the financial institution is claiming the credit 70258  
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 70259  
January 15, 2002, a written statement that the qualifying dealer 70260  
in intangibles irrevocably agrees that it will not seek a refund 70261  
of the tax paid by the dealer under section 5707.03 of the Revised 70262  
Code in 2000 and 2001, and irrevocably agrees to continue paying 70263  
that tax in 2002, regardless of the amendment of section 5725.26 70264  
of the Revised Code by Am. Sub. H.B. 405 of the 124th general 70265  
assembly. 70266

Sec. 5733.55. (A) As used in this section: 70267

(1) "9-1-1 system" has the same meaning as in section 4931.40 70268  
of the Revised Code. 70269

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 70270  
approved by the public utilities commission for the telephone 70271  
network portion of a 9-1-1 system pursuant to section 4931.47 of 70272  
the Revised Code. 70273

(3) "Eligible nonrecurring 9-1-1 charges" means all 70274  
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 70275

(a) Charges for a system that was not established pursuant to 70276  
a plan adopted under section 4931.44 of the Revised Code or an 70277  
agreement under section 4931.48 of the Revised Code; 70278

(b) Charges for that part of a system established pursuant to 70279  
such a plan or agreement that are excluded from the credit by 70280  
division (C)(2) of section 4931.47 of the Revised Code. 70281

(4) "Telephone company" has the same meaning as in section 70282

5727.01 of the Revised Code. 70283

(B) Beginning in tax year 2005, a telephone company shall be 70284  
allowed a nonrefundable credit against the tax imposed by section 70285  
5733.06 of the Revised Code equal to the amount of its eligible 70286  
nonrecurring 9-1-1 charges. The credit shall be claimed for the 70287  
company's taxable year that covers the period in which the 9-1-1 70288  
service for which the credit is claimed becomes available for use. 70289  
The credit shall be claimed in the order required by section 70290  
5733.98 of the Revised Code. If the credit exceeds the total taxes 70291  
due under section 5733.06 of the Revised Code for the tax year, 70292  
the commissioner shall credit the excess against taxes due under 70293  
that section for succeeding tax years until the full amount of the 70294  
credit is granted. 70295

(C) After the last day a return, with any extensions, may be 70296  
filed by any telephone company that is eligible to claim a credit 70297  
under this section, the commissioner shall determine whether the 70298  
sum of the credits allowed for prior tax years commencing with tax 70299  
year 2005 plus the sum of the credits claimed for the current tax 70300  
year exceeds fifteen million dollars. If it does, the credits 70301  
allowed under this section for the current tax year shall be 70302  
reduced by a uniform percentage such that the sum of the credits 70303  
allowed for the current tax year do not exceed fifteen million 70304  
dollars claimed by all telephone companies for all tax years. 70305  
Thereafter, no credit shall be granted under this section, except 70306  
for the remaining portions of any credits allowed under division 70307  
(B) of this section. 70308

(D) A telephone company that is entitled to carry forward a 70309  
credit against its public utility excise tax liability under 70310  
section 5727.39 of the Revised Code is entitled to carry forward 70311  
any amount of that credit remaining after its last public utility 70312  
excise tax payment for the period of July 1, 2003, through June 70313  
30, 2004, and claim that amount as a credit against its 70314

corporation franchise tax liability under this section. Nothing in 70315  
this section authorizes a telephone company to claim a credit 70316  
under this section for any eligible nonrecurring 9-1-1 charges for 70317  
which it has already claimed a credit under section 5727.39 of the 70318  
Revised Code. 70319

**Sec. 5733.56.** Beginning in tax year 2005, a telephone company 70320  
that provides any telephone service program to aid the 70321  
communicatively impaired in accessing the telephone network under 70322  
section 4905.79 of the Revised Code is allowed a nonrefundable 70323  
credit against the tax imposed by section 5733.06 of the Revised 70324  
Code. The amount of the credit is the cost incurred by the company 70325  
for providing the telephone service program during its taxable 70326  
year, excluding any costs incurred prior to July 1, 2004. If the 70327  
tax commissioner determines that the credit claimed under this 70328  
section by a telephone company was not correct, the commissioner 70329  
shall determine the proper credit. 70330

A telephone company shall claim the credit in the order 70331  
required by section 5733.98 of the Revised Code. If the credit 70332  
exceeds the total taxes due under section 5733.06 of the Revised 70333  
Code for the tax year, the commissioner shall credit the excess 70334  
against taxes due under that section for succeeding tax years 70335  
until the full amount of the credit is granted. Nothing in this 70336  
section authorizes a telephone company to claim a credit under 70337  
this section for any costs incurred for providing a telephone 70338  
service program for which it is claiming a credit under section 70339  
5727.44 of the Revised Code. 70340

**Sec. 5733.57.** (A) As used in this section: 70341

(1) "Small telephone company" means a telephone company, 70342  
existing as such as of January 1, 2003, with twenty-five thousand 70343  
or fewer access lines as shown on the company's annual report 70344

filed under section 4905.14 of the Revised Code for the calendar 70345  
year immediately preceding the tax year, and is an "incumbent 70346  
local exchange carrier" under 47 U.S.C. 251(h). 70347

(2) "Gross receipts tax amount" means the product obtained by 70348  
multiplying four and three-fourths per cent by the amount of a 70349  
small telephone company's taxable gross receipts, excluding the 70350  
deduction of twenty-five thousand dollars, that the tax 70351  
commissioner would have determined under section 5727.33 of the 70352  
Revised Code for that small telephone company for the annual 70353  
period ending on the thirtieth day of June of the calendar year 70354  
immediately preceding the tax year, as that section applied in the 70355  
measurement period from July 1, 2002, to June 30, 2003. 70356

(3) "Applicable percentage" means one hundred per cent for 70357  
tax year 2005; eighty per cent for tax year 2006; sixty per cent 70358  
for tax year 2007; forty per cent for tax year 2008; twenty per 70359  
cent for tax year 2009; and zero per cent for each subsequent tax 70360  
year thereafter. 70361

(4) "Applicable amount" means the amount resulting from 70362  
subtracting the gross receipts tax amount from the tax imposed by 70363  
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 70364  
the tax year, without regard to any credits available to the small 70365  
telephone company. 70366

(B)(1) Except as provided in division (B)(2) of this section, 70367  
beginning in tax year 2005, a small telephone company is hereby 70368  
allowed a nonrefundable credit against the tax imposed by sections 70369  
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 70370  
product obtained by multiplying the applicable percentage by the 70371  
applicable amount. The credit shall be claimed in the order 70372  
required by section 5733.98 of the Revised Code. 70373

(2) If the applicable amount for a tax year is less than 70374  
zero, a small telephone company shall not be allowed for that tax 70375



year the credit provided under this section. 70376

**Sec. 5733.98.** (A) To provide a uniform procedure for 70377  
calculating the amount of tax imposed by section 5733.06 of the 70378  
Revised Code that is due under this chapter, a taxpayer shall 70379  
claim any credits to which it is entitled in the following order, 70380  
except as otherwise provided in section 5733.058 of the Revised 70381  
Code: 70382

(1) The credit for taxes paid by a qualifying pass-through 70383  
entity allowed under section 5733.0611 of the Revised Code; 70384

(2) The credit allowed for financial institutions under 70385  
section 5733.45 of the Revised Code; 70386

(3) The credit for qualifying affiliated groups under section 70387  
5733.068 of the Revised Code; 70388

(4) The subsidiary corporation credit under section 5733.067 70389  
of the Revised Code; 70390

(5) The savings and loan assessment credit under section 70391  
5733.063 of the Revised Code; 70392

(6) The credit for recycling and litter prevention donations 70393  
under section 5733.064 of the Revised Code; 70394

(7) The credit for employers that enter into agreements with 70395  
child day-care centers under section 5733.36 of the Revised Code; 70396

(8) The credit for employers that reimburse employee child 70397  
day-care expenses under section 5733.38 of the Revised Code; 70398

(9) The credit for maintaining railroad active grade crossing 70399  
warning devices under section 5733.43 of the Revised Code; 70400

(10) The credit for purchases of lights and reflectors under 70401  
section 5733.44 of the Revised Code; 70402

(11) The job retention credit under division (B) of section 70403  
5733.0610 of the Revised Code; 70404

(12) The credit for losses on loans made under the Ohio	70405
venture capital program under sections 150.01 to 150.10 of <del>th</del> <u>the</u>	70406
Revised Code if the taxpayer elected a nonrefundable credit under	70407
section 150.07 of the Revised Code;	70408
(13) The credit for purchases of new manufacturing machinery	70409
and equipment under section 5733.31 or section 5733.311 of the	70410
Revised Code;	70411
(14) The second credit for purchases of new manufacturing	70412
machinery and equipment under section 5733.33 of the Revised Code;	70413
(15) The job training credit under section 5733.42 of the	70414
Revised Code;	70415
(16) The credit for qualified research expenses under section	70416
5733.351 of the Revised Code;	70417
(17) The enterprise zone credit under section 5709.66 of the	70418
Revised Code;	70419
(18) The credit for the eligible costs associated with a	70420
voluntary action under section 5733.34 of the Revised Code;	70421
(19) The credit for employers that establish on-site child	70422
day-care under section 5733.37 of the Revised Code;	70423
(20) The ethanol plant investment credit under section	70424
5733.46 of the Revised Code;	70425
(21) The credit for purchases of qualifying grape production	70426
property under section 5733.32 of the Revised Code;	70427
(22) The export sales credit under section 5733.069 of the	70428
Revised Code;	70429
(23) The credit for research and development and technology	70430
transfer investors under section 5733.35 of the Revised Code;	70431
(24) The enterprise zone credits under section 5709.65 of the	70432
Revised Code;	70433

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code; 70434  
70435

(26) The credit for small telephone companies under section 5733.57 of the Revised Code; 70436  
70437

(27) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code; 70438  
70439

(28) The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code; 70440  
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(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 70443  
70444

~~(27)~~(30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 70445  
70446

~~(28)~~(31) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code. 70447  
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(B) For any credit except the credits enumerated in divisions (A)~~(26)~~, ~~(27)~~, ~~(29)~~, ~~(30)~~, and ~~(28)~~(31) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 70451  
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**Sec. 5735.05.** (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of 70458  
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section 5531.08 of the Revised Code, determines instead will be 70464  
paid from moneys in the highway operating fund; to enable the 70465  
counties of the state properly to plan, maintain, and repair their 70466  
roads and to pay principal, interest, and charges on bonds and 70467  
other obligations issued pursuant to Chapter 133. of the Revised 70468  
Code for highway improvements; to enable the municipal 70469  
corporations to plan, construct, reconstruct, repave, widen, 70470  
maintain, repair, clear, and clean public highways, roads, and 70471  
streets, and to pay the principal, interest, and charges on bonds 70472  
and other obligations issued pursuant to Chapter 133. of the 70473  
Revised Code for highway improvements; to enable the Ohio turnpike 70474  
commission to construct, reconstruct, maintain, and repair 70475  
turnpike projects; to maintain and repair bridges and viaducts; to 70476  
purchase, erect, and maintain street and traffic signs and 70477  
markers; to purchase, erect, and maintain traffic lights and 70478  
signals; to pay the costs apportioned to the public under sections 70479  
4907.47 and 4907.471 of the Revised Code and to supplement revenue 70480  
already available for such purposes; to pay the costs incurred by 70481  
the public utilities commission in administering sections 4907.47 70482  
to 4907.476 of the Revised Code; to distribute equitably among 70483  
those persons using the privilege of driving motor vehicles upon 70484  
such highways and streets the cost of maintaining and repairing 70485  
them; to pay the interest, principal, and charges on highway 70486  
capital improvements bonds and other obligations issued pursuant 70487  
to Section 2m of Article VIII, Ohio Constitution, and section 70488  
151.06 of the Revised Code; to pay the interest, principal, and 70489  
charges on highway obligations issued pursuant to Section 2i of 70490  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 70491  
of the Revised Code; ~~and~~ to provide revenue for the purposes of 70492  
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 70493  
expenses of the department of taxation incident to the 70494  
administration of the motor fuel laws, a motor fuel excise tax is 70495  
hereby imposed on all motor fuel dealers upon receipt of motor 70496

fuel within this state at the rate of two cents plus the cents per 70497  
gallon rate on each gallon so received, to be computed in the 70498  
manner set forth in section 5735.06 of the Revised Code; provided 70499  
that no tax is hereby imposed upon the following transactions: 70500

(1) The sale of dyed diesel fuel by a licensed motor fuel 70501  
dealer from a location other than a retail service station 70502  
provided the licensed motor fuel dealer places on the face of the 70503  
delivery document or invoice, or both if both are used, a 70504  
conspicuous notice stating that the fuel is dyed and is not for 70505  
taxable use, and that taxable use of that fuel is subject to a 70506  
penalty. The tax commissioner, by rule, may provide that any 70507  
notice conforming to rules or regulations issued by the United 70508  
States department of the treasury or the Internal Revenue Service 70509  
is sufficient notice for the purposes of division (A)(1) of this 70510  
section. 70511

(2) The sale of K-1 kerosene to a retail service station, 70512  
except when placed directly in the fuel supply tank of a motor 70513  
vehicle. Such sale shall be rebuttably presumed to not be 70514  
distributed or sold for use or used to generate power for the 70515  
operation of motor vehicles upon the public highways or upon the 70516  
waters within the boundaries of this state. 70517

(3) The sale of motor fuel by a licensed motor fuel dealer to 70518  
another licensed motor fuel dealer; 70519

(4) The exportation of motor fuel by a licensed motor fuel 70520  
dealer from this state to any other state or foreign country; 70521

(5) The sale of motor fuel to the United States government or 70522  
any of its agencies, except such tax as is permitted by it, where 70523  
such sale is evidenced by an exemption certificate, in a form 70524  
approved by the tax commissioner, executed by the United States 70525  
government or an agency thereof certifying that the motor fuel 70526  
therein identified has been purchased for the exclusive use of the 70527

United States government or its agency; 70528

(6) The sale of motor fuel ~~which~~ that is in the process of 70529  
transportation in foreign or interstate commerce, except ~~in so far~~ 70530  
insofar as it may be taxable under the Constitution and statutes 70531  
of the United States, and except as may be agreed upon in writing 70532  
by the dealer and the commissioner; 70533

(7) The sale of motor fuel when sold exclusively for use in 70534  
the operation of aircraft, where such sale is evidenced by an 70535  
exemption certificate prescribed by the commissioner and executed 70536  
by the purchaser certifying that the motor fuel purchased has been 70537  
purchased for exclusive use in the operation of aircraft; 70538

(8) The sale for exportation of motor fuel by a licensed 70539  
motor fuel dealer to a licensed exporter type A; 70540

(9) The sale for exportation of motor fuel by a licensed 70541  
motor fuel dealer to a licensed exporter type B, provided that the 70542  
destination state motor fuel tax has been paid or will be accrued 70543  
and paid by the licensed motor fuel dealer. 70544

(10) The sale to a consumer of diesel fuel, by a motor fuel 70545  
dealer for delivery from a bulk lot vehicle, for consumption in 70546  
operating a vessel when the use of such fuel in a vessel would 70547  
otherwise qualify for a refund under section 5735.14 of the 70548  
Revised Code. 70549

Division (A)(1) of this section does not apply to the sale or 70550  
distribution of dyed diesel fuel used to operate a motor vehicle 70551  
on the public highways or upon water within the boundaries of this 70552  
state by persons permitted under regulations of the United States 70553  
department of the treasury or of the Internal Revenue Service to 70554  
so use dyed diesel fuel. 70555

(B) The two cent motor fuel tax levied by this section is 70556  
also for the purpose of paying the expenses of administering and 70557  
enforcing the state law relating to the registration and operation 70558

of motor vehicles. 70559

(C) After the tax provided for by this section on the receipt 70560  
of any motor fuel has been paid by the motor fuel dealer, the 70561  
motor fuel may thereafter be used, sold, or resold by any person 70562  
having lawful title to it, without incurring liability for such 70563  
tax. 70564

If a licensed motor fuel dealer sells motor fuel received by 70565  
the licensed motor fuel dealer to another licensed motor fuel 70566  
dealer, the seller may deduct on the report required by section 70567  
5735.06 of the Revised Code the number of gallons so sold for the 70568  
month within which the motor fuel was sold or delivered. In this 70569  
event the number of gallons is deemed to have been received by the 70570  
purchaser, who shall report and pay the tax imposed thereon. 70571

Sec. 5735.053. There is hereby created in the state treasury 70572  
the motor fuel tax administration fund for the purpose of paying 70573  
the expenses of the department of taxation incident to the 70574  
administration of the motor fuel laws. After the treasurer of 70575  
state credits the tax refund fund out of tax receipts as required 70576  
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 70577  
Code, the treasurer of state shall transfer to the motor fuel tax 70578  
administration fund two hundred seventy-five one-thousandths per 70579  
cent of the receipts from the taxes levied by sections 5735.05, 70580  
5735.25, 5735.29, and 5735.30 of the Revised Code. 70581

**Sec. 5735.14.** (A) Any person who uses any motor fuel, on 70582  
which the tax imposed by this chapter has been paid, for the 70583  
purpose of operating stationary gas engines, tractors not used on 70584  
public highways, unlicensed motor vehicles used exclusively in 70585  
intraplant operations, vessels when used in trade, including 70586  
vessels when used in connection with an activity that constitutes 70587  
a person's chief business or means of livelihood or any other 70588

vessel used entirely for commercial purposes, vessels used for 70589  
commercial fishing, vessels used by the sea scout department of 70590  
the boy scouts of America chiefly for training scouts in 70591  
seamanship, vessels used or owned by any railroad company, 70592  
railroad car ferry company, the United States, this state, or any 70593  
political subdivision of this state, or aircraft, or who uses any 70594  
such fuel upon which such tax has been paid, for cleaning or for 70595  
dyeing, or any purpose other than the operation of motor vehicles 70596  
upon highways or upon waters within the boundaries of this state, 70597  
shall be reimbursed in the amount of the tax so paid on such motor 70598  
fuel as provided in this section; provided, that any person 70599  
purchasing motor fuel in this state on which taxes levied under 70600  
Title LVII of the Revised Code have been paid shall be reimbursed 70601  
for such taxes paid in this state on such fuel used by that person 70602  
in another state on which a tax is paid for such usage, except 70603  
such tax used as a credit against the tax levied by section 70604  
5728.06 of the Revised Code. A person shall not be reimbursed for 70605  
taxes paid on fuel that is used while a motor vehicle is idling or 70606  
used to provide comfort or safety in the operation of a motor 70607  
vehicle. Sales of motor fuel, on which the tax imposed by this 70608  
chapter has been paid, from one person to another do not 70609  
constitute use of the fuel and are not subject to a refund under 70610  
this section. 70611

Such (B) Any person who uses in this state any motor fuel 70612  
with water intentionally added to the fuel, on which the taxes 70613  
imposed by this chapter or Chapter 5728. of the Revised Code have 70614  
been paid, shall be reimbursed in the amount of the taxes so paid 70615  
on ninety-five per cent of the water. This division applies only 70616  
to motor fuel that contains at least nine per cent water, by 70617  
volume. 70618

(C) A person claiming reimbursement under this section shall 70619  
file with the tax commissioner an application for refund within 70620



one year from the date of purchase, stating the quantity of fuel 70621  
used for the refundable purposes ~~other than the operation of motor~~ 70622  
~~vehicles~~ in division (A) or (B) of this section, except that no 70623  
person shall file a claim for the tax on fewer than one hundred 70624  
gallons of motor fuel. An application for refund filed for the 70625  
purpose of division (B) of this section also shall state the 70626  
quantity of water intentionally added to the motor fuel. No person 70627  
shall claim reimbursement under that division on fewer than one 70628  
hundred gallons of water. The application shall be accompanied by 70629  
the statement described in section 5735.15 of the Revised Code 70630  
showing such purchase, together with evidence of payment thereof. 70631

(D) After consideration of the application and statement, the 70632  
commissioner shall determine the amount of refund to which the 70633  
applicant is entitled. If the amount is not less than that 70634  
claimed, the commissioner shall certify the amount to the director 70635  
of budget and management and treasurer of state for payment from 70636  
the tax refund fund created by section 5703.052 of the Revised 70637  
Code. If the amount is less than that claimed, the commissioner 70638  
shall proceed in accordance with section 5703.70 of the Revised 70639  
Code. 70640

No refund shall be authorized or paid under this section on a 70641  
single claim for tax on fewer than one hundred gallons of motor 70642  
fuel. And, when water has been intentionally added to fuel, no 70643  
refund shall be authorized or paid under this section on a single 70644  
claim for tax on fewer than one hundred gallons of water. The 70645  
commissioner may require that the application be supported by the 70646  
affidavit of the claimant. 70647

The refund authorized by this section or section 5703.70 of 70648  
the Revised Code shall be reduced by the cents per gallon amount 70649  
of any qualified fuel credit received under section 5735.145 of 70650  
the Revised Code, as determined by the commissioner, for each 70651  
gallon of qualified fuel included in the total gallonage of motor 70652

fuel upon which the refund is computed. 70653

(E) The right to receive any refund under this section or 70654  
section 5703.70 of the Revised Code is not assignable. The payment 70655  
of this refund shall not be made to any person other than the 70656  
person originally entitled thereto who used the motor fuel upon 70657  
which the claim for refund is based, except that such refunds, 70658  
when allowed and certified as provided in this section, may be 70659  
paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 70660  
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 70661  
person. 70662

**Sec. 5735.142.** (A)(1) Any person who uses any motor fuel, on 70663  
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 70664  
the Revised Code has been paid, for the purpose of operating a 70665  
transit bus shall be reimbursed in the amount of the tax paid on 70666  
motor fuel used by public transportation systems providing transit 70667  
or paratransit service on a regular and continuing basis within 70668  
the state; 70669

(2) A city, exempted village, joint vocational, or local 70670  
school district or educational service center that ~~uses~~ purchases 70671  
any motor fuel for school district or service center operations, 70672  
on which any tax imposed by section 5735.29 of the Revised Code 70673  
that became effective on or after July 1, 2003, has been paid, 70674  
may, if an application is filed under this section, be reimbursed 70675  
in the amount of all but two cents per gallon of ~~that~~ the total 70676  
tax imposed by such section and paid on motor fuel, ~~used for~~ 70677  
~~providing transportation for pupils in a vehicle the district owns~~ 70678  
~~or leases.~~ 70679

(B) Such person, school district, or educational service 70680  
center shall file with the tax commissioner an application for 70681  
refund within one year from the date of purchase, stating the 70682  
quantity of fuel used for operating transit buses used by local 70683

transit systems in furnishing scheduled common carrier, public 70684  
passenger land transportation service along regular routes 70685  
primarily in one or more municipal corporations or for operating 70686  
vehicles used ~~by for school districts to transport pupils district~~ 70687  
or service center operations. However, no ~~person shall file a~~ 70688  
claim shall be made for the tax on fewer than one hundred gallons 70689  
of motor fuel. A school district or educational service center 70690  
shall not apply for a refund for any tax paid on motor fuel that 70691  
is sold by the district or educational service center. The 70692  
application shall be accompanied by the statement described in 70693  
section 5735.15 of the Revised Code showing the purchase, together 70694  
with evidence of payment thereof. 70695

(C) After consideration of the application and statement, the 70696  
commissioner shall determine the amount of refund to which the 70697  
applicant is entitled. If the amount is not less than that 70698  
claimed, the commissioner shall certify the amount to the director 70699  
of budget and management and treasurer of state for payment from 70700  
the tax refund fund created by section 5703.052 of the Revised 70701  
Code. If the amount is less than that claimed, the commissioner 70702  
shall proceed in accordance with section 5703.70 of the Revised 70703  
Code. 70704

The commissioner may require that the application be 70705  
supported by the affidavit of the claimant. No refund shall be 70706  
authorized or ordered for any single claim for the tax on fewer 70707  
than one hundred gallons of motor fuel. No refund shall be 70708  
authorized or ordered on motor fuel that is sold by a school 70709  
district or educational service center. 70710

(D) The refund authorized by this section or section 5703.70 70711  
of the Revised Code shall be reduced by the cents per gallon 70712  
amount of any qualified fuel credit received under section 70713  
5735.145 of the Revised Code, as determined by the commissioner, 70714  
for each gallon of qualified fuel included in the total gallonage 70715

of motor fuel upon which the refund is computed. 70716

(E) The right to receive any refund under this section or 70717  
section 5703.70 of the Revised Code is not assignable. The payment 70718  
of this refund shall not be made to any person or entity other 70719  
than the person or entity originally entitled thereto who used the 70720  
motor fuel upon which the claim for refund is based, except that 70721  
the refund when allowed and certified, as provided in this 70722  
section, may be paid to the executor, the administrator, the 70723  
receiver, the trustee in bankruptcy, or the assignee in insolvency 70724  
proceedings of the person. 70725

**Sec. 5735.15.** When motor fuel is sold to a person who claims 70726  
to be entitled to a refund under section 5735.14 or 5735.142 of 70727  
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 70728  
~~duplicate on forms prescribed and supplied by the tax~~ 70729  
~~commissioner, which forms shall have printed thereon~~ provide to 70730  
the person documentation that indicates that the liability to the 70731  
state for the excise tax imposed under the motor fuel laws of this 70732  
state on such motor fuel has been assumed by the seller, and that 70733  
said excise tax has already been paid or will be paid by the 70734  
seller when the same becomes payable, ~~a statement setting. The~~ 70735  
documentation also shall set forth the name and address of the 70736  
purchaser, the number of gallons of motor fuel sold, the price 70737  
paid for or the price per gallon of the motor fuel sold, the 70738  
proposed use for which such motor fuel is purchased, and such 70739  
other information as the commissioner requires. When motor fuel is 70740  
sold to a person who claims to be entitled to reimbursement under 70741  
division (B) of section 5735.14 of the Revised Code, the 70742  
documentation also shall state the number of gallons of water 70743  
intentionally added to the motor fuel. The ~~original of such~~ 70744  
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 70745  
~~duplicate~~ a copy shall be retained by the seller. 70746

Sec. 5735.19. (A) The tax commissioner may examine, during 70747  
the usual business hours of the day, the records, books, and 70748  
~~papers~~ invoices, storage tanks, and any other equipment of any 70749  
motor fuel dealer, retail dealer, exporter, terminal operator, 70750  
purchaser, or common carrier pertaining to motor fuel received, 70751  
sold, shipped, or delivered, to determine whether the taxes 70752  
imposed by this chapter have been paid and to verify the truth and 70753  
accuracy of any statement, report, or return. ~~The~~ 70754

(B) The tax commissioner may, in the enforcement of the motor 70755  
fuel laws of this state, hold hearings, take the testimony of any 70756  
person, issue subpoenas and compel the attendance of witnesses, 70757  
and conduct such investigations as the commissioner deems 70758  
necessary, ~~but no person shall disclose the information acquired~~ 70759  
~~by the commissioner under this section, except when required to do~~ 70760  
~~so in court.~~ Such information or evidence is not privileged when 70761  
used by the state or any officer thereof in any proceeding for the 70762  
collection of the tax, or any prosecution for violation of the 70763  
motor fuel laws. 70764

(C) The commissioner may prescribe all forms upon which 70765  
reports shall be made to the commissioner, forms for claims for 70766  
refund presented to the commissioner, or forms of records to be 70767  
used by motor fuel dealers. 70768

(D)(1) As used in this division, "designated inspection site" 70769  
means any state highway inspection station, weigh station, mobile 70770  
station, or other similar location designated by the tax 70771  
commissioner to be used as a fuel inspection site. 70772

(2) An employee of the department of taxation that is so 70773  
authorized by the tax commissioner may physically inspect, 70774  
examine, or otherwise search any tank, reservoir, or other 70775  
container that can or may be used for the production, storage, or 70776  
transportation of fuel, fuel dyes, or fuel markers, and books and 70777

records, if any, that are maintained at the place of inspection 70778  
and are kept to determine tax liability under this chapter. 70779  
Inspections may be performed at any place at which motor fuel is 70780  
or may be produced or stored, or at any designated inspection 70781  
site. 70782

(3) An employee of the department of taxation who is a duly 70783  
authorized enforcement agent may detain any motor vehicle, train, 70784  
barge, ship, or vessel for the purpose of inspecting its fuel 70785  
tanks and storage tanks. Detainment shall be on the premises under 70786  
inspection or at a designated inspection site. Detainment may 70787  
continue for a reasonable period of time as is necessary to 70788  
determine the amount and composition of the fuel. 70789

(4) Any employee described in division (D)(2) or (3) of this 70790  
section who has been properly trained may take and remove samples 70791  
of fuel in quantities as are reasonably necessary to determine the 70792  
composition of the fuel. 70793

(5) No person shall refuse to allow an inspection under 70794  
division (D) of this section. Any person who refuses to allow an 70795  
inspection shall be subject to revocation or cancellation of any 70796  
license or permit issued under Chapter 5728. or 5735. of the 70797  
Revised Code. 70798

**Sec. 5735.23.** (A) Out of receipts from the tax levied by 70799  
section 5735.05 of the Revised Code, the treasurer of state shall 70800  
place to the credit of the tax refund fund established by section 70801  
5703.052 of the Revised Code amounts equal to the refunds 70802  
certified by the tax commissioner pursuant to sections 5735.13, 70803  
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 70804  
treasurer of state shall then transfer the amount required by 70805  
section 5735.051 of the Revised Code to the waterways safety fund 70806  
and, the amount required by section 4907.472 of the Revised Code 70807  
to the grade crossing protection fund, and the amount required by 70808

section 5735.053 of the Revised Code to the motor fuel tax 70809  
administration fund. 70810

(B) Except as provided in division (D) of this section, each 70811  
month the balance of the receipts from the tax levied by section 70812  
5735.05 of the Revised Code shall be credited, after receipt by 70813  
the treasurer of state of certification from the commissioners of 70814  
the sinking fund, as required by section 5528.35 of the Revised 70815  
Code, that there are sufficient moneys to the credit of the 70816  
highway obligations bond retirement fund to meet in full all 70817  
payments of interest, principal, and charges for the retirement of 70818  
highway obligations issued pursuant to Section 2i of Article VIII, 70819  
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 70820  
Code due and payable during the current calendar year, as follows: 70821

(1) To the state and local government highway distribution 70822  
fund, which is hereby created in the state treasury, an amount 70823  
that is the same percentage of the balance to be credited as that 70824  
portion of the tax per gallon determined under division (B)(2)(a) 70825  
of section 5735.06 of the Revised Code is of the total tax per 70826  
gallon determined under divisions (B)(2)(a) and (b) of that 70827  
section. 70828

(2) After making the distribution to the state and local 70829  
government highway distribution fund, the remainder shall be 70830  
credited as follows: 70831

(a) Thirty per cent to the gasoline excise tax fund for 70832  
distribution pursuant to division (A)(1) of section 5735.27 of the 70833  
Revised Code; 70834

(b) Twenty-five per cent to the gasoline excise tax fund for 70835  
distribution pursuant to division (A)(3) of section 5735.27 of the 70836  
Revised Code; 70837

(c) Except as provided in division (D) of this section, 70838  
forty-five per cent to the highway operating fund for distribution 70839

pursuant to division (B)(1) of section 5735.27 of the Revised Code. 70840  
70841

(C) From the balance in the state and local government highway distribution fund on the last day of each month there shall be paid the following amounts: 70842  
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70844

(1) To the local transportation improvement program fund created by section 164.14 of the Revised Code, an amount equal to a fraction of the balance in the state and local government highway distribution fund, the numerator of which fraction is one and the denominator of which fraction is that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code; 70845  
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(2) An amount equal to five cents multiplied by the number of gallons of motor fuel sold at stations operated by the Ohio turnpike commission, such gallonage to be certified by the commission to the treasurer of state not later than the last day of the month following. The funds paid to the commission pursuant to this section shall be expended for the construction, reconstruction, maintenance, and repair of turnpike projects, except that the funds may not be expended for the construction of new interchanges. The funds also may be expended for the construction, reconstruction, maintenance, and repair of those portions of connecting public roads that serve existing interchanges and are determined by the commission and the director of transportation to be necessary for the safe merging of traffic between the turnpike and those public roads. 70852  
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The remainder of the balance shall be distributed as follows on the fifteenth day of the following month: 70866  
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(a) Ten and seven-tenths per cent shall be paid to municipal corporations for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code and may be used for any 70868  
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purpose for which payments received under that division may be 70871  
used. Beginning August 15, 2004, the sum of two hundred 70872  
forty-eight thousand six hundred twenty-five dollars shall be 70873  
~~annually~~ monthly subtracted from the amount so computed and 70874  
credited to the highway operating fund. 70875

(b) Five per cent shall be paid to townships for distribution 70876  
pursuant to division (A)(5) of section 5735.27 of the Revised Code 70877  
and may be used for any purpose for which payments received under 70878  
that division may be used. Beginning August 15, 2004, the sum of 70879  
eighty-seven thousand seven hundred fifty dollars shall be 70880  
~~annually~~ monthly subtracted from the amount so computed and 70881  
credited to the highway operating fund. 70882

(c) Nine and three-tenths per cent shall be paid to counties 70883  
for distribution pursuant to division (A)(3) of section 5735.27 of 70884  
the Revised Code and may be used for any purpose for which 70885  
payments received under that division may be used. Beginning 70886  
August 15, 2004, the sum of two hundred forty-eight thousand six 70887  
hundred twenty-five dollars shall be ~~annually~~ monthly subtracted 70888  
from the amount so computed and credited to the highway operating 70889  
fund. 70890

(d) Except as provided in division (D) of this section, the 70891  
balance shall be transferred to the highway operating fund and 70892  
used for the purposes set forth in division (B)(1) of section 70893  
5735.27 of the Revised Code. 70894

(D) Beginning on the first day of September each fiscal year, 70895  
any amounts required to be credited or transferred to the highway 70896  
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 70897  
section shall be credited or transferred to the highway capital 70898  
improvement bond service fund created in section 151.06 of the 70899  
Revised Code, until such time as the office of budget and 70900  
management receives certification from the treasurer of state or 70901  
the treasurer of state's designee that sufficient money has been 70902

credited or transferred to the bond service fund to meet in full 70903  
all payments of debt service and financing costs due during the 70904  
fiscal year from that fund. 70905

**Sec. 5735.26.** The treasurer of state shall place to the 70906  
credit of the tax refund fund created by section 5703.052 of the 70907  
Revised Code, out of receipts from the tax levied by section 70908  
5735.25 of the Revised Code, amounts equal to the refunds 70909  
certified by the tax commissioner pursuant to sections 5735.142 70910  
and 5735.25 of the Revised Code, which shall be paid from such 70911  
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 70912  
~~for the maintenance and administration of the motor fuel laws.~~ The 70913  
treasurer of state shall then transfer the amount required by 70914  
section 5735.051 of the Revised Code to the waterways safety fund 70915  
and the amount required by section 5735.053 of the Revised Code to 70916  
the motor fuel tax administration fund. 70917

The balance of taxes collected under section 5735.25 of the 70918  
Revised Code shall be credited as follows, after the credits to 70919  
the tax refund fund, ~~and after deduction of the cost of~~ 70920  
~~administration of the motor fuel laws,~~ and after the transfer 70921  
transfers to the waterways safety fund and motor fuel tax 70922  
administration fund, and after receipt by the treasurer of state 70923  
of certifications from the commissioners of the sinking fund 70924  
certifying, as required by sections 5528.15 and 5528.35 of the 70925  
Revised Code, there are sufficient moneys to the credit of the 70926  
highway improvement bond retirement fund to meet in full all 70927  
payments of interest, principal, and charges for the retirement of 70928  
bonds and other obligations issued pursuant to Section 2g of 70929  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70930  
of the Revised Code due and payable during the current calendar 70931  
year, and that there are sufficient moneys to the credit of the 70932  
highway obligations bond retirement fund to meet in full all 70933  
payments of interest, principal, and charges for the retirement of 70934

highway obligations issued pursuant to Section 2i of Article VIII,  
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised  
Code due and payable during the current calendar year:

(A) Sixty-seven and one-half per cent to the highway  
operating fund for distribution pursuant to division (B)(2) of  
section 5735.27 of the Revised Code;

(B) Seven and one-half per cent to the gasoline excise tax  
fund for distribution pursuant to division (A)(2) of such section;

(C) Seven and one-half per cent to the gasoline excise tax  
fund for distribution pursuant to division (A)(4) of such section;

(D) Seventeen and one-half per cent to the gasoline excise  
tax fund for distribution pursuant to division (A)(5) of such  
section.

**Sec. 5735.291.** (A) The treasurer of state shall place to the  
credit of the tax refund fund created by section 5703.052 of the  
Revised Code, out of receipts from the tax levied by section  
5735.29 of the Revised Code, amounts equal to the refunds  
certified by the tax commissioner pursuant to sections 5735.142  
and 5735.29 of the Revised Code. The refunds provided for by  
sections 5735.142 and 5735.29 of the Revised Code shall be paid  
from such fund. The treasurer of state shall then transfer the  
amount required by section 5735.051 of the Revised Code to the  
waterways safety fund and the amount required by section 5735.053  
of the Revised Code to the motor fuel tax administration fund. ~~The~~

The specified portion of the balance of taxes collected under  
section 5735.29 of the Revised Code, after the credits to the tax  
refund fund, ~~and after the transfer~~ transfers to the waterways  
safety fund and the motor fuel tax administration fund, shall be  
credited to the gasoline excise tax fund. Subject to division (B)  
of this section, forty-two and eighty-six hundredths per cent of

the specified portion shall be distributed among the municipal 70965  
corporations within the state in accordance with division (A)(2) 70966  
of section 5735.27 of the Revised Code, thirty-seven and fourteen 70967  
hundredths per cent of the specified portion shall be distributed 70968  
among the counties within the state in accordance with division 70969  
(A)(3) of section 5735.27 of the Revised Code, and twenty per cent 70970  
of the specified portion shall be combined with twenty per cent of 70971  
any amounts transferred from the highway operating fund to the 70972  
gasoline excise tax fund through biennial appropriations acts of 70973  
the general assembly pursuant to the planned phase-in of a new 70974  
source of funding for the state highway patrol, and shall be 70975  
distributed among the townships within the state in accordance 70976  
with division (A)(5)(b) of section 5735.27 of the Revised Code. 70977  
Subject to division (B) of this section, the remainder of the tax 70978  
levied by section 5735.29 of the Revised Code after receipt by the 70979  
treasurer of state of certifications from the commissioners of the 70980  
sinking fund certifying, as required by sections 5528.15 and 70981  
5528.35 of the Revised Code, that there are sufficient moneys to 70982  
the credit of the highway improvement bond retirement fund created 70983  
by section 5528.12 of the Revised Code to meet in full all 70984  
payments of interest, principal, and charges for the retirement of 70985  
bonds and other obligations issued pursuant to Section 2g of 70986  
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70987  
of the Revised Code due and payable during the current calendar 70988  
year, and that there are sufficient moneys to the credit of the 70989  
highway obligations bond retirement fund created by section 70990  
5528.32 of the Revised Code to meet in full all payments of 70991  
interest, principal, and charges for the retirement of highway 70992  
obligations issued pursuant to Section 2i of Article VIII, Ohio 70993  
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 70994  
due and payable during the current calendar year, shall be 70995  
credited to the highway operating fund, which is hereby created in 70996  
the state treasury and shall be used solely for the purposes 70997

enumerated in section 5735.29 of the Revised Code. All investment 70998  
earnings of the fund shall be credited to the fund. 70999

(B)(1) Effective August 15, 2003, prior to the distribution 71000  
from the gasoline excise tax fund to municipal corporations of the 71001  
forty-two and eighty-six hundredths per cent of the specified 71002  
portion as provided in division (A) of this section, the 71003  
department of taxation shall deduct thirty-three and one-third per 71004  
cent of the amount specified in division (A)(5)(c) of section 71005  
5735.27 of the Revised Code and use it for distribution to 71006  
townships pursuant to division (A)(5)(b) of that section. 71007

(2) Effective August 15, 2003, prior to the distribution from 71008  
the gasoline excise tax fund to counties of the thirty-seven and 71009  
fourteen hundredths per cent of the specified portion as provided 71010  
in division (A) of this section, the department of taxation shall 71011  
deduct thirty-three and one-third per cent of the amount specified 71012  
in division (A)(5)(c) of section 5735.27 of the Revised Code and 71013  
use it for distribution to townships pursuant to division 71014  
(A)(5)(b) of that section. 71015

(3) Effective August 15, 2003, prior to crediting any revenue 71016  
resulting from the tax levied by section 5735.29 of the Revised 71017  
Code to the highway operating fund, the department of taxation 71018  
shall deduct thirty-three and one-third per cent of the amount 71019  
specified in division (A)(5)(c) of section 5735.27 of the Revised 71020  
Code and use it for distribution to townships pursuant to division 71021  
(A)(5)(b) of that section. 71022

(C) As used in this section, "specified portion" means all of 71023  
the following: 71024

(1) Until August 15, 2003, none of the taxes collected under 71025  
section 5735.29 of the Revised Code; 71026

(2) Effective August 15, 2003, one-eighth of the balance of 71027  
taxes collected under section 5735.29 of the Revised Code, after 71028

the credits to the tax refund fund and ~~after the transfer~~ 71029  
transfers to the waterways safety fund and the motor fuel tax 71030  
administration fund; 71031

(3) Effective August 15, 2004, one-sixth of the balance of 71032  
taxes described in division (C)(2) of this section; 71033

(4) Effective August 15, 2005, three-sixteenths of the 71034  
balance of taxes described in division (C)(2) of this section. 71035

**Sec. 5735.30. (A)** For the purpose of providing funds to pay 71036  
the state's share of the cost of constructing and reconstructing 71037  
highways and eliminating railway grade crossings on the major 71038  
thoroughfares of the state highway system and urban extensions 71039  
thereof, to pay that portion of the construction cost of a highway 71040  
project which a county, township, or municipal corporation 71041  
normally would be required to pay, but which the director of 71042  
transportation, pursuant to division (B) of section 5531.08 of the 71043  
Revised Code, determines instead will be paid from moneys in the 71044  
highway operating fund, to pay the interest, principal, and 71045  
charges on bonds and other obligations issued pursuant to Section 71046  
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 71047  
5528.11 of the Revised Code, to pay the interest, principal, and 71048  
charges on highway obligations issued pursuant to Section 2i of 71049  
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 71050  
of the Revised Code, ~~and~~ to provide revenues for the purposes of 71051  
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 71052  
expenses of the department of taxation incident to the 71053  
administration of the motor fuel laws, a motor fuel excise tax is 71054  
hereby imposed on all motor fuel dealers upon their receipt of 71055  
motor fuel within the state, at the rate of one cent on each 71056  
gallon so received, to be reported, computed, paid, collected, 71057  
administered, enforced, refunded, and subject to the same 71058  
exemptions and penalties as provided in this chapter of the 71059

Revised Code. 71060

The tax imposed by this section shall be in addition to the 71061  
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 71062  
Revised Code. 71063

(B) The treasurer of state shall place to the credit of the 71064  
tax refund fund created by section 5703.052 of the Revised Code, 71065  
out of receipts from the tax levied by this section, amounts equal 71066  
to the refunds certified by the tax commissioner pursuant to this 71067  
section. The refund provided for by ~~the first paragraph~~ division 71068  
(A) of this section shall be paid from such fund. The treasurer 71069  
shall then transfer the amount required by section 5735.051 of the 71070  
Revised Code to the waterways safety fund and the amount required 71071  
by section 5735.053 of the Revised Code to the motor fuel tax 71072  
administration fund. The balance of taxes for which the liability 71073  
has become fixed prior to July 1, 1955, under this section, after 71074  
the credit to the tax refund fund, shall be credited to the 71075  
highway operating fund. 71076

(C)(1) The moneys derived from the tax levied by this 71077  
section, after ~~the credit to the tax refund fund and the waterways~~ 71078  
~~safety fund as provided~~ and transfers required by division (B) of 71079  
this section, shall, during each calendar year, be credited to the 71080  
highway improvement bond retirement fund created by section 71081  
5528.12 of the Revised Code, until the commissioners of the 71082  
sinking fund certify to the treasurer of state, as required by 71083  
section 5528.17 of the Revised Code, that there are sufficient 71084  
moneys to the credit of the highway improvement bond retirement 71085  
fund to meet in full all payments of interest, principal, and 71086  
charges for the retirement of bonds and other obligations issued 71087  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71088  
sections 5528.10 and 5528.11 of the Revised Code due and payable 71089  
during the current calendar year and during the next succeeding 71090  
calendar year. From the date of the receipt of the certification 71091

required by section 5528.17 of the Revised Code by the treasurer 71092  
of state until the thirty-first day of December of the calendar 71093  
year in which such certification is made, all moneys received in 71094  
the state treasury from the tax levied by this section, after the 71095  
~~credit to the tax refund fund and the waterways safety fund as~~ 71096  
~~provided and transfers required by division (B) of this section,~~ 71097  
shall be credited to the highway obligations bond retirement fund 71098  
created by section 5528.32 of the Revised Code, until the 71099  
commissioners of the sinking fund certify to the treasurer of 71100  
state, as required by section 5528.38 of the Revised Code, that 71101  
there are sufficient moneys to the credit of the highway 71102  
obligations bond retirement fund to meet in full all payments of 71103  
interest, principal, and charges for the retirement of obligations 71104  
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 71105  
and sections 5528.30 and 5528.31 of the Revised Code due and 71106  
payable during the current calendar year and during the next 71107  
succeeding calendar year. ~~From~~ 71108

(2) From the date of the receipt of the certification 71109  
required by section 5528.38 of the Revised Code by the treasurer 71110  
of state until the thirty-first day of December of the calendar 71111  
year in which such certification is made, all moneys received in 71112  
the state treasury from the tax levied by this section, after the 71113  
~~credit to the tax refund fund and the waterways safety fund as~~ 71114  
~~provided and transfers required by division (B) of this section,~~ 71115  
shall be credited to the highway operating fund, except as 71116  
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 71117  
section. 71118

(3) From the date of the receipt by the treasurer of state of 71119  
certifications from the commissioners of the sinking fund, as 71120  
required by sections 5528.18 and 5528.39 of the Revised Code, 71121  
certifying that the moneys to the credit of the highway 71122  
improvement bond retirement fund are sufficient to meet in full 71123



all payments of interest, principal, and charges for the 71124  
retirement of all bonds and other obligations which may be issued 71125  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71126  
sections 5528.10 and 5528.11 of the Revised Code, and to the 71127  
credit of the highway obligations bond retirement fund are 71128  
sufficient to meet in full all payments of interest, principal, 71129  
and charges for the retirement of all obligations issued pursuant 71130  
to Section 2i of Article VIII, Ohio Constitution, and sections 71131  
5528.30 and 5528.31 of the Revised Code, the moneys derived from 71132  
the tax levied by this section, after ~~the credit to the tax refund~~ 71133  
~~fund and the waterways safety fund as provided and transfers~~ 71134  
required by division (B) of this section, shall be credited to the 71135  
highway operating fund. 71136

**Sec. 5735.99.** (A) Whoever violates division (F) of section 71137  
5735.02, division (D) of section 5735.021, division (B) of section 71138  
5735.063, division (B) of section 5735.064, or division (A)(2) of 71139  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71140  
the first degree. 71141

(B) Whoever violates division (E) of section 5735.06 of the 71142  
Revised Code is guilty of a felony of the fourth degree. 71143

(C) Whoever violates section 5735.025 or division (A)(1) of 71144  
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71145  
the first degree, if the tax owed or the fraudulent refund 71146  
received is not greater than five hundred dollars. If the tax owed 71147  
or the fraudulent refund received is greater than five hundred 71148  
dollars but not greater than ten thousand dollars, the offender is 71149  
guilty of a felony of the fourth degree; for each subsequent 71150  
offense when the tax owed or the fraudulent refund received is 71151  
greater than five hundred dollars but not greater than ten 71152  
thousand dollars, the offender is guilty of a felony of the third 71153  
degree. If the tax owed or the fraudulent refund received is 71154

greater than ten thousand dollars, the offender is guilty of a 71155  
felony of the second degree. 71156

(D) Whoever violates a provision of this chapter for which a 71157  
penalty is not otherwise prescribed under this section is guilty 71158  
of a misdemeanor of the fourth degree. 71159

(E) Whoever violates division (D)(5) of section 5735.19 of 71160  
the Revised Code is guilty of a misdemeanor of the first degree. 71161

**Sec. 5739.01.** As used in this chapter: 71162

(A) "Person" includes individuals, receivers, assignees, 71163  
trustees in bankruptcy, estates, firms, partnerships, 71164  
associations, joint-stock companies, joint ventures, clubs, 71165  
societies, corporations, the state and its political subdivisions, 71166  
and combinations of individuals of any form. 71167

(B) "Sale" and "selling" include all of the following 71168  
transactions for a consideration in any manner, whether absolutely 71169  
or conditionally, whether for a price or rental, in money or by 71170  
exchange, and by any means whatsoever: 71171

(1) All transactions by which title or possession, or both, 71172  
of tangible personal property, is or is to be transferred, or a 71173  
license to use or consume tangible personal property is or is to 71174  
be granted; 71175

(2) All transactions by which lodging by a hotel is or is to 71176  
be furnished to transient guests; 71177

(3) All transactions by which: 71178

(a) An item of tangible personal property is or is to be 71179  
repaired, except property, the purchase of which would not be 71180  
subject to the tax imposed by section 5739.02 of the Revised Code; 71181

(b) An item of tangible personal property is or is to be 71182  
installed, except property, the purchase of which would not be 71183

subject to the tax imposed by section 5739.02 of the Revised Code 71184  
or property that is or is to be incorporated into and will become 71185  
a part of a production, transmission, transportation, or 71186  
distribution system for the delivery of a public utility service; 71187

(c) The service of washing, cleaning, waxing, polishing, or 71188  
painting a motor vehicle is or is to be furnished; 71189

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 71190  
or are to be provided; 71191

(e) Automatic data processing, computer services, or 71192  
electronic information services are or are to be provided for use 71193  
in business when the true object of the transaction is the receipt 71194  
by the consumer of automatic data processing, computer services, 71195  
or electronic information services rather than the receipt of 71196  
personal or professional services to which automatic data 71197  
processing, computer services, or electronic information services 71198  
are incidental or supplemental. Notwithstanding any other 71199  
provision of this chapter, such transactions that occur between 71200  
members of an affiliated group are not sales. An affiliated group 71201  
means two or more persons related in such a way that one person 71202  
owns or controls the business operation of another member of the 71203  
group. In the case of corporations with stock, one corporation 71204  
owns or controls another if it owns more than fifty per cent of 71205  
the other corporation's common stock with voting rights. 71206

(f) Telecommunications service, other than mobile 71207  
telecommunications service after July 31, 2002, is or is to be 71208  
provided ~~that originates or terminates in this state and is~~ 71209  
~~charged in the records of the telecommunications service vendor to~~ 71210  
~~the consumer's telephone number or account in this state, or that~~ 71211  
~~both originates and terminates in this state;~~ but does not 71212  
include transactions by which ~~telecommunications service is paid~~ 71213  
~~for by using a prepaid authorization number or prepaid telephone~~ 71214  
~~calling card, or by which~~ local telecommunications service is 71215

obtained from a coin-operated telephone and paid for by using coin;	71216 71217
(g) Landscaping and lawn care service is or is to be provided;	71218 71219
(h) Private investigation and security service is or is to be provided;	71220 71221
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	71222 71223
(j) Building maintenance and janitorial service is or is to be provided;	71224 71225
(k) Employment service is or is to be provided;	71226
(l) Employment placement service is or is to be provided;	71227
(m) Exterminating service is or is to be provided;	71228
(n) Physical fitness facility service is or is to be provided;	71229 71230
(o) Recreation and sports club service is or is to be provided.	71231 71232
(p) After July 31, 2002, mobile telecommunications service is or is to be provided <del>in this state</del> when that service is situated to this state pursuant to the "Mobile Telecommunications Sourcing Act," P. Pub. L. No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126, as amended.	71233 71234 71235 71236 71237
<u>(q) Satellite broadcasting service is or is to be provided;</u>	71238
<u>(r) Personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by individuals licensed under Title</u>	71239 71240 71241 71242 71243 71244

XLVII of the Revised Code who are authorized to perform 71245  
therapeutic massage pursuant to their scope of practice, or the 71246  
cutting, coloring, or styling of an individual's hair. 71247

(s) The transportation of persons by motor vehicle or 71248  
aircraft is or is to be provided, when the point of origin and the 71249  
point of termination are both within this state, except for 71250  
transportation provided by an ambulance service, by a transit bus, 71251  
as defined in section 5735.01 of the Revised Code, and 71252  
transportation provided by a citizen of the United States holding 71253  
a certificate of public convenience and necessity issued under 49 71254  
U.S.C. 41102; 71255

(t) Motor vehicle towing service is or is to be provided. As 71256  
used in this division, "motor vehicle towing service" means the 71257  
towing or conveyance of a wrecked, disabled, or illegally parked 71258  
motor vehicle. 71259

(u) Snow removal service is or is to be provided. As used in 71260  
this division, "snow removal" means the removal of snow by any 71261  
mechanized means. 71262

(4) All transactions by which printed, imprinted, 71263  
overprinted, lithographic, multilithic, blueprinted, photostatic, 71264  
or other productions or reproductions of written or graphic matter 71265  
are or are to be furnished or transferred; 71266

(5) The production or fabrication of tangible personal 71267  
property for a consideration for consumers who furnish either 71268  
directly or indirectly the materials used in the production of 71269  
fabrication work; and include the furnishing, preparing, or 71270  
serving for a consideration of any tangible personal property 71271  
consumed on the premises of the person furnishing, preparing, or 71272  
serving such tangible personal property. Except as provided in 71273  
section 5739.03 of the Revised Code, a construction contract 71274  
pursuant to which tangible personal property is or is to be 71275

incorporated into a structure or improvement on and becoming a 71276  
part of real property is not a sale of such tangible personal 71277  
property. The construction contractor is the consumer of such 71278  
tangible personal property, provided that the sale and 71279  
installation of carpeting, the sale and installation of 71280  
agricultural land tile, the sale and erection or installation of 71281  
portable grain bins, or the provision of landscaping and lawn care 71282  
service and the transfer of property as part of such service is 71283  
never a construction contract. The transfer of copyrighted motion 71284  
picture films for exhibition purposes is not a sale, except such 71285  
films as are used solely for advertising purposes. ~~Other than as~~ 71286  
~~provided in this section, "sale" and "selling" do not include~~ 71287  
~~transfers of interest in leased property where the original lessee~~ 71288  
~~and the terms of the original lease agreement remain unchanged, or~~ 71289  
~~professional, insurance, or personal service transactions that~~ 71290  
~~involve the transfer of tangible personal property as an~~ 71291  
~~inconsequential element, for which no separate charges are made.~~ 71292

As used in division (B)(5) of this section: 71293

(a) "Agricultural land tile" means fired clay or concrete 71294  
tile, or flexible or rigid perforated plastic pipe or tubing, 71295  
incorporated or to be incorporated into a subsurface drainage 71296  
system appurtenant to land used or to be used directly in 71297  
production by farming, agriculture, horticulture, or floriculture. 71298  
The term does not include such materials when they are or are to 71299  
be incorporated into a drainage system appurtenant to a building 71300  
or structure even if the building or structure is used or to be 71301  
used in such production. 71302

(b) "Portable grain bin" means a structure that is used or to 71303  
be used by a person engaged in farming or agriculture to shelter 71304  
the person's grain and that is designed to be disassembled without 71305  
significant damage to its component parts. 71306

(6) All transactions in which all of the shares of stock of a 71307

closely held corporation are transferred, if the corporation is 71308  
not engaging in business and its entire assets consist of boats, 71309  
planes, motor vehicles, or other tangible personal property 71310  
operated primarily for the use and enjoyment of the shareholders; 71311

(7) All transactions in which a warranty, maintenance or 71312  
service contract, or similar agreement by which the vendor of the 71313  
warranty, contract, or agreement agrees to repair or maintain the 71314  
tangible personal property of the consumer is or is to be 71315  
provided; 71316

(8) ~~All transactions by which a prepaid authorization number 71317  
or a prepaid telephone calling card is or is to be transferred~~ All 71318  
transactions by which tangible personal property is or is to be 71319  
stored, except such property that the consumer of the storage 71320  
holds for sale in the regular course of business. 71321

Except as provided in this section, "sale" and "selling" do 71322  
not include transfers of interest in leased property where the 71323  
original lessee and the terms of the original lease agreement 71324  
remain unchanged, or professional, insurance, or personal service 71325  
transactions that involve the transfer of tangible personal 71326  
property as an inconsequential element, for which no separate 71327  
charges are made. 71328

(C) "Vendor" means the person providing the service or by 71329  
whom the transfer effected or license given by a sale is or is to 71330  
be made or given and, for sales described in division (B)(3)(i) of 71331  
this section, the telecommunications service vendor that provides 71332  
the nine hundred telephone service; if two or more persons are 71333  
engaged in business at the same place of business under a single 71334  
trade name in which all collections on account of sales by each 71335  
are made, such persons shall constitute a single vendor. 71336

Physicians, dentists, hospitals, and veterinarians who are 71337  
engaged in selling tangible personal property as received from 71338

others, such as eyeglasses, mouthwashes, dentifrices, or similar 71339  
articles, are vendors. Veterinarians who are engaged in 71340  
transferring to others for a consideration drugs, the dispensing 71341  
of which does not require an order of a licensed veterinarian or 71342  
physician under federal law, are vendors. 71343

(D)(1) "Consumer" means the person for whom the service is 71344  
provided, to whom the transfer effected or license given by a sale 71345  
is or is to be made or given, to whom the service described in 71346  
division (B)(3)(f) or (i) of this section is charged, or to whom 71347  
the admission is granted. 71348

(2) Physicians, dentists, hospitals, and blood banks operated 71349  
by nonprofit institutions and persons licensed to practice 71350  
veterinary medicine, surgery, and dentistry are consumers of all 71351  
tangible personal property and services purchased by them in 71352  
connection with the practice of medicine, dentistry, the rendition 71353  
of hospital or blood bank service, or the practice of veterinary 71354  
medicine, surgery, and dentistry. In addition to being consumers 71355  
of drugs administered by them or by their assistants according to 71356  
their direction, veterinarians also are consumers of drugs that 71357  
under federal law may be dispensed only by or upon the order of a 71358  
licensed veterinarian or physician, when transferred by them to 71359  
others for a consideration to provide treatment to animals as 71360  
directed by the veterinarian. 71361

(3) A person who performs a facility management, or similar 71362  
service contract for a contractee is a consumer of all tangible 71363  
personal property and services purchased for use in connection 71364  
with the performance of such contract, regardless of whether title 71365  
to any such property vests in the contractee. The purchase of such 71366  
property and services is not subject to the exception for resale 71367  
under division (E)(1) of this section. 71368

(4)(a) In the case of a person who purchases printed matter 71369  
for the purpose of distributing it or having it distributed to the 71370



public or to a designated segment of the public, free of charge, 71371  
that person is the consumer of that printed matter, and the 71372  
purchase of that printed matter for that purpose is a sale. 71373

(b) In the case of a person who produces, rather than 71374  
purchases, printed matter for the purpose of distributing it or 71375  
having it distributed to the public or to a designated segment of 71376  
the public, free of charge, that person is the consumer of all 71377  
tangible personal property and services purchased for use or 71378  
consumption in the production of that printed matter. That person 71379  
is not entitled to claim ~~exception~~ exemption under division 71380  
~~(E)(8)(B)(43)(f)~~ of ~~this~~ section 5739.02 of the Revised Code for 71381  
any material incorporated into the printed matter or any 71382  
equipment, supplies, or services primarily used to produce the 71383  
printed matter. 71384

(c) The distribution of printed matter to the public or to a 71385  
designated segment of the public, free of charge, is not a sale to 71386  
the members of the public to whom the printed matter is 71387  
distributed or to any persons who purchase space in the printed 71388  
matter for advertising or other purposes. 71389

(5) A person who makes sales of any of the services listed in 71390  
division (B)(3) of this section is the consumer of any tangible 71391  
personal property used in performing the service. The purchase of 71392  
that property is not subject to the resale exception under 71393  
division (E)(1) of this section. 71394

(E) "Retail sale" and "sales at retail" include all sales, 71395  
except those in which the purpose of the consumer is+ 71396

~~(1) To~~ to resell the thing transferred or benefit of the 71397  
service provided, by a person engaging in business, in the form in 71398  
which the same is, or is to be, received by the person+ 71399

~~(2) To incorporate the thing transferred as a material or a 71400  
part, into tangible personal property to be produced for sale by 71401~~

~~manufacturing, assembling, processing, or refining, or to use or 71402  
consume the thing transferred directly in producing a product for 71403  
sale by mining, including without limitation the extraction from 71404  
the earth of all substances that are classed geologically as 71405  
minerals, production of crude oil and natural gas, farming, 71406  
agriculture, horticulture, or floriculture, and persons engaged in 71407  
rendering farming, agricultural, horticultural, or floricultural 71408  
services, and services in the exploration for, and production of, 71409  
crude oil and natural gas, for others are deemed engaged directly 71410  
in farming, agriculture, horticulture, and floriculture, or 71411  
exploration for, and production of, crude oil and natural gas; 71412  
directly in the rendition of a public utility service, except that 71413  
the sales tax levied by section 5739.02 of the Revised Code shall 71414  
be collected upon all meals, drinks, and food for human 71415  
consumption sold upon Pullman and railroad coaches. This paragraph 71416  
does not exempt or except from "retail sale" or "sales at retail" 71417  
the sale of tangible personal property that is to be incorporated 71418  
into a structure or improvement to real property. 71419~~

~~(3) To hold the thing transferred as security for the 71420  
performance of an obligation of the vendor; 71421~~

~~(4) To use or consume the thing transferred in the process of 71422  
reclamation as required by Chapters 1513. and 1514. of the Revised 71423  
Code; 71424~~

~~(5) To resell, hold, use, or consume the thing transferred as 71425  
evidence of a contract of insurance; 71426~~

~~(6) To use or consume the thing directly in commercial 71427  
fishing; 71428~~

~~(7) To incorporate the thing transferred as a material or a 71429  
part into, or to use or consume the thing transferred directly in 71430  
the production of, magazines distributed as controlled circulation 71431  
publications; 71432~~

~~(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;~~ 71433  
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~~(9) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;~~ 71438  
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~~(10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its purchase from the tax imposed by section 5739.02 of the Revised Code;~~ 71441  
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~~(11) To use the thing transferred as qualified research and development equipment;~~ 71447  
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~~(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(c) of this section and "direct marketing" has the same meaning as in division (B)(36) of section 5739.02 of the Revised Code.~~ 71449  
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~~(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a~~ 71462  
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~~warranty provided as a part of the price of the tangible personal 71464  
property sold or by a vendor of a warranty, maintenance or service 71465  
contract, or similar agreement the provision of which is defined 71466  
as a sale under division (B)(7) of this section; 71467~~

~~(14) To use or consume the thing transferred in the 71468  
production of a newspaper for distribution to the public; 71469~~

~~(15) To use tangible personal property to perform a service 71470  
listed in division (B)(3) of this section, if the property is or 71471  
is to be permanently transferred to the consumer of the service as 71472  
an integral part of the performance of the service. 71473~~

~~As used in division (E) of this section, "thing" includes all 71474  
transactions included in divisions (B)(3)(a), (b), and (c) of this 71475  
section. 71476~~

~~Sales conducted through a coin-operated device that activates 71477  
vacuum equipment or equipment that dispenses water, whether or not 71478  
in combination with soap or other cleaning agents or wax, to the 71479  
consumer for the consumer's use on the premises in washing, 71480  
cleaning, or waxing a motor vehicle, provided no other personal 71481  
property or personal service is provided as part of the 71482  
transaction, are not retail sales or sales at retail. 71483~~

~~(F) "Business" includes any activity engaged in by any person 71484  
with the object of gain, benefit, or advantage, either direct or 71485  
indirect. "Business" does not include the activity of a person in 71486  
managing and investing the person's own funds. 71487~~

~~(G) "Engaging in business" means commencing, conducting, or 71488  
continuing in business, and liquidating a business when the 71489  
liquidator thereof holds itself out to the public as conducting 71490  
such business. Making a casual sale is not engaging in business. 71491~~

~~(H)(1)(a) "Price," except as provided in divisions (H)(2) and 71492  
(3) of this section, means the aggregate value in money of 71493  
anything paid or delivered, or promised to be paid or delivered, 71494~~

~~in the complete performance of a retail sale, without any 71495  
deduction on account of the cost of the property sold, cost of 71496  
materials used, labor or service cost, interest, discount paid or 71497  
allowed after the sale is consummated, or any other expense. If 71498  
the retail sale consists of the rental or lease of tangible 71499  
personal property, "price" means the aggregate value in money of 71500  
anything paid or delivered, or promised to be paid or delivered, 71501  
in the complete performance of the rental or lease, without any 71502  
deduction for tax, interest, labor or service charge, damage 71503  
liability waiver, termination or damage charge, discount paid or 71504  
allowed after the lease is consummated, or any other expense. 71505  
Except as provided in division (H)(4) of this section, the sales 71506  
tax shall be calculated and collected by the lessor on each 71507  
payment made by the lessee. "Price" does not include the 71508  
consideration received as a deposit refundable to the consumer 71509  
upon return of a beverage container, the consideration received as 71510  
a deposit on a carton or case that is used for such returnable 71511  
containers, or the consideration received as a refundable security 71512  
deposit for the use of tangible personal property to the extent 71513  
that it actually is refunded, if the consideration for such 71514  
refundable deposit is separately stated from the consideration 71515  
received or to be received for the tangible personal property 71516  
transferred in the retail sale. Such separation must appear in the 71517  
sales agreement or on the initial invoice or initial billing 71518  
rendered by the vendor to the consumer. "Price" also does not 71519  
include delivery charges that are separately stated on the initial 71520  
invoice or initial billing rendered by the vendor. Price is the 71521  
amount received inclusive of the tax, provided the vendor 71522  
establishes to the satisfaction of the tax commissioner that the 71523  
tax was added to the price. When the price includes both a charge 71524  
for tangible personal property and a charge for providing a 71525  
service and the sale of the property and the charge for the 71526  
service are separately taxable, or have a separately determinable 71527~~

~~tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.~~ 71528  
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~~The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized in section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.~~ 71530  
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~~As used in division (H)(1) of this section, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:~~ 71541  
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~~(i) The vendor's cost of the property sold;~~ 71550

~~(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, and any other expense of the vendor;~~ 71551  
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~~(iii) Charges by the vendor for any services necessary to complete the sale;~~ 71554  
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~~(iv) Delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal~~ 71556  
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property or a service, including transportation, shipping, 71559  
postage, handling, crating, and packing. 71560

(v) Installation charges; 71561

(vi) The value of exempt tangible personal property given to 71562  
the consumer where taxable and exempt tangible personal property 71563  
have been bundled together and sold by the vendor as a single 71564  
product or piece of merchandise. 71565

(b) "Price" does not include any of the following: 71566

(i) Discounts, including cash, term, or coupons that are not 71567  
reimbursed by a third party that are allowed by a vendor and taken 71568  
by a consumer on a sale; 71569

(ii) Interest, financing, and carrying charges from credit 71570  
extended on the sale of tangible personal property or services, if 71571  
the amount is separately stated on the invoice, bill of sale, or 71572  
similar document given to the purchaser; 71573

(iii) Any taxes legally imposed directly on the consumer that 71574  
are separately stated on the invoice, bill of sale, or similar 71575  
document given to the consumer. 71576

(2) In the case of a sale of any new motor vehicle by a new 71577  
motor vehicle dealer, as defined in section 4517.01 of the Revised 71578  
Code, in which another motor vehicle is accepted by the dealer as 71579  
part of the consideration received, "price" has the same meaning 71580  
as in division (H)(1) of this section, reduced by the credit 71581  
afforded the consumer by the dealer for the motor vehicle received 71582  
in trade. 71583

(3) In the case of a sale of any watercraft or outboard motor 71584  
by a watercraft dealer licensed in accordance with section 71585  
1547.543 of the Revised Code, in which another watercraft, 71586  
watercraft and trailer, or outboard motor is accepted by the 71587  
dealer as part of the consideration received, "price" has the same 71588

meaning as in division (H)(1) of this section, reduced by the 71589  
credit afforded the consumer by the dealer for the watercraft, 71590  
watercraft and trailer, or outboard motor received in trade. As 71591  
used in this division, "watercraft" includes an outdrive unit 71592  
attached to the watercraft. 71593

~~(4) In the case of the lease of any motor vehicle designed by 71594  
the manufacturer to carry a load of not more than one ton, 71595  
watercraft, outboard motor, or aircraft, or the lease of any 71596  
tangible personal property, other than motor vehicles designed by 71597  
the manufacturer to carry a load of more than one ton, to be used 71598  
by the lessee primarily for business purposes, the sales tax shall 71599  
be collected by the vendor at the time the lease is consummated 71600  
and shall be calculated by the vendor on the basis of the total 71601  
amount to be paid by the lessee under the lease agreement. If the 71602  
total amount of the consideration for the lease includes amounts 71603  
that are not calculated at the time the lease is executed, the tax 71604  
shall be calculated and collected by the vendor at the time such 71605  
amounts are billed to the lessee. In the case of an open end 71606  
lease, the sales tax shall be calculated by the vendor on the 71607  
basis of the total amount to be paid during the initial fixed term 71608  
of the lease, and then for each subsequent renewal period as it 71609  
comes due. 71610~~

~~As used in divisions (H)(3) and (4) of this section, "motor 71611  
vehicle" has the same meaning as in section 4501.01 of the Revised 71612  
Code, and "watercraft" includes an outdrive unit attached to the 71613  
watercraft. 71614~~

In the case of a transaction in which telecommunications 71615  
service, mobile telecommunications service, or cable television 71616  
service is sold in a bundled transaction with other distinct 71617  
services for a single price that is not itemized, the entire price 71618  
is subject to the taxes levied under sections 5739.02, 5739.021, 71619  
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71620



reasonably identify the nontaxable portion from its books and 71621  
records kept in the regular course of business. Upon the request 71622  
of the consumer, the vendor shall disclose to the consumer the 71623  
selling price for the taxable services included in the selling 71624  
price for the taxable and nontaxable services billed on an 71625  
aggregated basis. The burden of proving any nontaxable charges is 71626  
on the vendor. 71627

(I) "Receipts" means the total amount of the prices of the 71628  
sales of vendors, provided that cash discounts allowed and taken 71629  
on sales at the time they are consummated are not included, minus 71630  
any amount deducted as a bad debt pursuant to section 5739.121 of 71631  
the Revised Code. "Receipts" does not include the sale price of 71632  
property returned or services rejected by consumers when the full 71633  
sale price and tax are refunded either in cash or by credit. 71634

(J) "Place of business" means any location at which a person 71635  
engages in business. 71636

(K) "Premises" includes any real property or portion thereof 71637  
upon which any person engages in selling tangible personal 71638  
property at retail or making retail sales and also includes any 71639  
real property or portion thereof designated for, or devoted to, 71640  
use in conjunction with the business engaged in by such person. 71641

(L) "Casual sale" means a sale of an item of tangible 71642  
personal property that was obtained by the person making the sale, 71643  
through purchase or otherwise, for the person's own use and was 71644  
previously subject to any state's taxing jurisdiction on its sale 71645  
or use, and includes such items acquired for the seller's use that 71646  
are sold by an auctioneer employed directly by the person for such 71647  
purpose, provided the location of such sales is not the 71648  
auctioneer's permanent place of business. As used in this 71649  
division, "permanent place of business" includes any location 71650  
where such auctioneer has conducted more than two auctions during 71651  
the year. 71652

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property ~~which~~ that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in ~~providing~~ the rendition of a public utility

service ~~as defined in this division.~~ 71685

(Q) "Refining" means removing or separating a desirable 71686  
product from raw or contaminated materials by distillation or 71687  
physical, mechanical, or chemical processes. 71688

(R) "Assembly" and "assembling" mean attaching or fitting 71689  
together parts to form a product, but do not include packaging a 71690  
product. 71691

(S) "Manufacturing operation" means a process in which 71692  
materials are changed, converted, or transformed into a different 71693  
state or form from which they previously existed and includes 71694  
refining materials, assembling parts, and preparing raw materials 71695  
and parts by mixing, measuring, blending, or otherwise committing 71696  
such materials or parts to the manufacturing process. 71697  
"Manufacturing operation" does not include packaging. 71698

(T) "Fiscal officer" means, with respect to a regional 71699  
transit authority, the secretary-treasurer thereof, and with 71700  
respect to a county that is a transit authority, the fiscal 71701  
officer of the county transit board if one is appointed pursuant 71702  
to section 306.03 of the Revised Code or the county auditor if the 71703  
board of county commissioners operates the county transit system. 71704

(U) "Transit authority" means a regional transit authority 71705  
created pursuant to section 306.31 of the Revised Code or a county 71706  
in which a county transit system is created pursuant to section 71707  
306.01 of the Revised Code. For the purposes of this chapter, a 71708  
transit authority must extend to at least the entire area of a 71709  
single county. A transit authority that includes territory in more 71710  
than one county must include all the area of the most populous 71711  
county that is a part of such transit authority. County population 71712  
shall be measured by the most recent census taken by the United 71713  
States census bureau. 71714

(V) "Legislative authority" means, with respect to a regional 71715

transit authority, the board of trustees thereof, and with respect 71716  
to a county that is a transit authority, the board of county 71717  
commissioners. 71718

(W) "Territory of the transit authority" means all of the 71719  
area included within the territorial boundaries of a transit 71720  
authority as they from time to time exist. Such territorial 71721  
boundaries must at all times include all the area of a single 71722  
county or all the area of the most populous county that is a part 71723  
of such transit authority. County population shall be measured by 71724  
the most recent census taken by the United States census bureau. 71725

(X) "Providing a service" means providing or furnishing 71726  
anything described in division (B)(3) of this section for 71727  
consideration. 71728

(Y)(1)(a) "Automatic data processing" means processing of 71729  
others' data, including keypunching or similar data entry services 71730  
together with verification thereof, or providing access to 71731  
computer equipment for the purpose of processing data. 71732

(b) "Computer services" means providing services consisting 71733  
of specifying computer hardware configurations and evaluating 71734  
technical processing characteristics, computer programming, and 71735  
training of computer programmers and operators, provided in 71736  
conjunction with and to support the sale, lease, or operation of 71737  
taxable computer equipment or systems. 71738

(c) "Electronic information services" means providing access 71739  
to computer equipment by means of telecommunications equipment for 71740  
the purpose of either of the following: 71741

(i) Examining or acquiring data stored in or accessible to 71742  
the computer equipment; 71743

(ii) Placing data into the computer equipment to be retrieved 71744  
by designated recipients with access to the computer equipment. 71745

(d) "Automatic data processing, computer services, or  
electronic information services" shall not include personal or  
professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this  
section, "personal and professional services" means all services  
other than automatic data processing, computer services, or  
electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax  
matters, asset management, budgetary matters, quality control,  
information security, and auditing and any other situation where  
the service provider receives data or information and studies,  
alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical  
analysis of existing or potential computer hardware or software  
needs and alternatives;

(e) Designing policies, procedures, and custom software for  
collecting business information, and determining how data should  
be summarized, sequenced, formatted, processed, controlled, and  
reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how  
business events and transactions are to be authorized, executed,  
and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information  
by a consumer reporting agency, as defined in the "Fair Credit  
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or  
as hereafter amended, including but not limited to gathering,

organizing, analyzing, recording, and furnishing such information 71776  
by any oral, written, graphic, or electronic medium; 71777

(j) Providing debt collection services by any oral, written, 71778  
graphic, or electronic means. 71779

The services listed in divisions (Y)(2)(a) to (j) of this 71780  
section are not automatic data processing or computer services. 71781

(Z) "Highway transportation for hire" means the 71782  
transportation of personal property belonging to others for 71783  
consideration by any of the following: 71784

(1) The holder of a permit or certificate issued by this 71785  
state or the United States authorizing the holder to engage in 71786  
transportation of personal property belonging to others for 71787  
consideration over or on highways, roadways, streets, or any 71788  
similar public thoroughfare; 71789

(2) A person who engages in the transportation of personal 71790  
property belonging to others for consideration over or on 71791  
highways, roadways, streets, or any similar public thoroughfare 71792  
but who could not have engaged in such transportation on December 71793  
11, 1985, unless the person was the holder of a permit or 71794  
certificate of the types described in division (Z)(1) of this 71795  
section; 71796

(3) A person who leases a motor vehicle to and operates it 71797  
for a person described by division (Z)(1) or (2) of this section. 71798

(AA) "Telecommunications service" means the transmission of 71799  
any interactive, two-way electromagnetic communications, including 71800  
voice, image, data, and information, through the use of any medium 71801  
such as wires, cables, microwaves, cellular radio, radio waves, 71802  
light waves, or any combination of those or similar media. 71803  
"Telecommunications service" includes message toll service even 71804  
though the vendor provides the message toll service by means of 71805  
wide area transmission type service or private communications 71806

service purchased from another telecommunications service 71807  
provider, ~~but~~ and other related fees and ancillary services, 71808  
including universal service fees, detailed billing service, 71809  
directory assistance, service initiation, voice mail service, and 71810  
vertical services, such as caller ID and three-way calling. 71811  
"Telecommunications service" does not include any of the 71812  
following: 71813

(1) Sales of incoming or outgoing wide area transmission 71814  
service or wide area transmission type service, including eight 71815  
hundred or eight-hundred-type service, but not including local 71816  
exchange service as defined in division (A) of section 4927.01 of 71817  
the Revised Code, to the person contracting for the receipt of 71818  
that service for business use; 71819

(2) Sales of private communications service to the person 71820  
contracting for the receipt of that service ~~that entitles the~~ 71821  
~~purchaser to exclusive or priority use of a communications channel~~ 71822  
~~or group of channels between exchanges;~~ As used in this division, 71823  
"private communications service" means a telecommunication service 71824  
that entitles the customer to exclusive or priority use of a 71825  
communications channel or group of channels between or among 71826  
termination points, regardless of the manner in which such channel 71827  
or channels are connected, and includes switching capacity, 71828  
extension lines, stations, and any other associated services that 71829  
are provided in connection with the use of such channel or 71830  
channels. 71831

(3) Sales of telecommunications service billed to persons 71832  
before January 1, 2004, by telephone companies subject to the 71833  
excise tax imposed by Chapter 5727. of the Revised Code; 71834

(4) Sales of telecommunications service to a provider of 71835  
telecommunications service or of mobile telecommunications 71836  
service, including access services, for use in providing 71837  
telecommunications service or mobile telecommunications service; 71838

(5) Value-added nonvoice services in which computer 71839  
processing applications are used to act on the form, content, 71840  
code, or protocol of the information to be transmitted; 71841

(6) Transmission of interactive video programming by a cable 71842  
television system as defined in section 505.90 of the Revised 71843  
Code; 71844

(7) After July 31, 2002, mobile telecommunications service. 71845

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" 71846  
means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ 71847  
articles of clothing, or other fabric items that belong to others 71848  
and ~~are used in a trade or business~~ supplying towels, linens, 71849  
articles of clothing, or other fabric items. "Laundry and dry 71850  
cleaning services" does not include the provision of self-service 71851  
facilities for use by consumers to remove soil or dirt from 71852  
towels, linens, articles of clothing, or other fabric items. 71853

(CC) "Magazines distributed as controlled circulation 71854  
publications" means magazines containing at least twenty-four 71855  
pages, at least twenty-five per cent editorial content, issued at 71856  
regular intervals four or more times a year, and circulated 71857  
without charge to the recipient, provided that such magazines are 71858  
not owned or controlled by individuals or business concerns which 71859  
conduct such publications as an auxiliary to, and essentially for 71860  
the advancement of the main business or calling of, those who own 71861  
or control them. 71862

(DD) "Landscaping and lawn care service" means the services 71863  
of planting, seeding, sodding, removing, cutting, trimming, 71864  
pruning, mulching, aerating, applying chemicals, watering, 71865  
fertilizing, and providing similar services to establish, promote, 71866  
or control the growth of trees, shrubs, flowers, grass, ground 71867  
cover, and other flora, or otherwise maintaining a lawn or 71868  
landscape grown or maintained by the owner for ornamentation or 71869



other nonagricultural purpose. However, "landscaping and lawn care  
service" does not include the providing of such services by a  
person who has less than five thousand dollars in sales of such  
services during the calendar year.

(EE) "Private investigation and security service" means the  
performance of any activity for which the provider of such service  
is required to be licensed pursuant to Chapter 4749. of the  
Revised Code, or would be required to be so licensed in performing  
such services in this state, and also includes the services of  
conducting polygraph examinations and of monitoring or overseeing  
the activities on or in, or the condition of, the consumer's home,  
business, or other facility by means of electronic or similar  
monitoring devices. "Private investigation and security service"  
does not include special duty services provided by off-duty police  
officers, deputy sheriffs, and other peace officers regularly  
employed by the state or a political subdivision.

(FF) "Information services" means providing conversation,  
giving consultation or advice, playing or making a voice or other  
recording, making or keeping a record of the number of callers,  
and any other service provided to a consumer by means of a nine  
hundred telephone call, except when the nine hundred telephone  
call is the means by which the consumer makes a contribution to a  
recognized charity.

(GG) "Research and development" means designing, creating, or  
formulating new or enhanced products, equipment, or manufacturing  
processes, and also means conducting scientific or technological  
inquiry and experimentation in the physical sciences with the goal  
of increasing scientific knowledge which may reveal the bases for  
new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means  
capitalized tangible personal property, and leased personal  
property that would be capitalized if purchased, used by a person

primarily to perform research and development. Tangible personal 71902  
property primarily used in testing, as defined in division (A)(4) 71903  
of section 5739.011 of the Revised Code, or used for recording or 71904  
storing test results, is not qualified research and development 71905  
equipment unless such property is primarily used by the consumer 71906  
in testing the product, equipment, or manufacturing process being 71907  
created, designed, or formulated by the consumer in the research 71908  
and development activity or in recording or storing such test 71909  
results. 71910

(II) "Building maintenance and janitorial service" means 71911  
cleaning the interior or exterior of a building and any tangible 71912  
personal property located therein or thereon, including any 71913  
services incidental to such cleaning for which no separate charge 71914  
is made. However, "building maintenance and janitorial service" 71915  
does not include the providing of such service by a person who has 71916  
less than five thousand dollars in sales of such service during 71917  
the calendar year. 71918

(JJ) "Employment service" means providing or supplying 71919  
personnel, on a temporary or long-term basis, to perform work or 71920  
labor under the supervision or control of another, when the 71921  
personnel so supplied receive their wages, salary, or other 71922  
compensation from the provider of the service. "Employment 71923  
service" does not include: 71924

(1) Acting as a contractor or subcontractor, where the 71925  
personnel performing the work are not under the direct control of 71926  
the purchaser. 71927

(2) Medical and health care services. 71928

(3) Supplying personnel to a purchaser pursuant to a contract 71929  
of at least one year between the service provider and the 71930  
purchaser that specifies that each employee covered under the 71931  
contract is assigned to the purchaser on a permanent basis. 71932

(4) Transactions between members of an affiliated group, as 71933  
defined in division (B)(3)(e) of this section. 71934

(KK) "Employment placement service" means locating or finding 71935  
employment for a person or finding or locating an employee to fill 71936  
an available position. 71937

(LL) "Exterminating service" means eradicating or attempting 71938  
to eradicate vermin infestations from a building or structure, or 71939  
the area surrounding a building or structure, and includes 71940  
activities to inspect, detect, or prevent vermin infestation of a 71941  
building or structure. 71942

(MM) "Physical fitness facility service" means all 71943  
transactions by which a membership is granted, maintained, or 71944  
renewed, including initiation fees, membership dues, renewal fees, 71945  
monthly minimum fees, and other similar fees and dues, by a 71946  
physical fitness facility such as an athletic club, health spa, or 71947  
gymnasium, which entitles the member to use the facility for 71948  
physical exercise. 71949

(NN) "Recreation and sports club service" means all 71950  
transactions by which a membership is granted, maintained, or 71951  
renewed, including initiation fees, membership dues, renewal fees, 71952  
monthly minimum fees, and other similar fees and dues, by a 71953  
recreation and sports club, which entitles the member to use the 71954  
facilities of the organization. "Recreation and sports club" means 71955  
an organization that has ownership of, or controls or leases on a 71956  
continuing, long-term basis, the facilities used by its members 71957  
and includes an aviation club, gun or shooting club, yacht club, 71958  
card club, swimming club, tennis club, golf club, country club, 71959  
riding club, amateur sports club, or similar organization. 71960

(OO) "Livestock" means farm animals commonly raised for food 71961  
or food production, and includes but is not limited to cattle, 71962  
sheep, goats, swine, and poultry. "Livestock" does not include 71963

invertebrates, fish, amphibians, reptiles, horses, domestic pets, 71964  
animals for use in laboratories or for exhibition, or other 71965  
animals not commonly raised for food or food production. 71966

(PP) "Livestock structure" means a building or structure used 71967  
exclusively for the housing, raising, feeding, or sheltering of 71968  
livestock, and includes feed storage or handling structures and 71969  
structures for livestock waste handling. 71970

(QQ) "Horticulture" means the growing, cultivation, and 71971  
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 71972  
and nursery stock. As used in this division, "nursery stock" has 71973  
the same meaning as in section 927.51 of the Revised Code. 71974

(RR) "Horticulture structure" means a building or structure 71975  
used exclusively for the commercial growing, raising, or 71976  
overwintering of horticultural products, and includes the area 71977  
used for stocking, storing, and packing horticultural products 71978  
when done in conjunction with the production of those products. 71979

(SS) "Newspaper" means an unbound publication bearing a title 71980  
or name that is regularly published, at least as frequently as 71981  
biweekly, and distributed from a fixed place of business to the 71982  
public in a specific geographic area, and that contains a 71983  
substantial amount of news matter of international, national, or 71984  
local events of interest to the general public. 71985

(TT) "Professional racing team" means a person that employs 71986  
at least twenty full-time employees for the purpose of conducting 71987  
a motor vehicle racing business for profit. The person must 71988  
conduct the business with the purpose of racing one or more motor 71989  
racing vehicles in at least ten competitive professional racing 71990  
events each year that comprise all or part of a motor racing 71991  
series sanctioned by one or more motor racing sanctioning 71992  
organizations. A "motor racing vehicle" means a vehicle for which 71993  
the chassis, engine, and parts are designed exclusively for motor 71994

racing, and does not include a stock or production model vehicle 71995  
that may be modified for use in racing. For the purposes of this 71996  
division: 71997

(1) A "competitive professional racing event" is a motor 71998  
vehicle racing event sanctioned by one or more motor racing 71999  
sanctioning organizations, at which aggregate cash prizes in 72000  
excess of eight hundred thousand dollars are awarded to the 72001  
competitors. 72002

(2) "Full-time employee" means an individual who is employed 72003  
for consideration for thirty-five or more hours a week, or who 72004  
renders any other standard of service generally accepted by custom 72005  
or specified by contract as full-time employment. 72006

~~(UU)(1) "Prepaid authorization number" means a numeric or 72007  
alphanumeric combination that represents a prepaid account that 72008  
can be used by the account holder solely to obtain 72009  
telecommunications service, and includes any renewals or increases 72010  
in the prepaid account. 72011~~

~~(2) "Prepaid telephone calling card" means a tangible item 72012  
that contains a prepaid authorization number that can be used 72013  
solely to obtain telecommunications service, and includes any 72014  
renewals or increases in the prepaid account. 72015~~

~~(VV) "Lease" or "rental" means any transfer for a 72016  
consideration of the possession or control of and right to use, 72017  
but not title to, tangible personal property for a fixed period of 72018  
time greater than thirty days or for an open ended period of time 72019  
with a minimum fixed period of more than thirty days or indefinite 72020  
term, for consideration. "Lease" or "rental" includes future 72021  
options to purchase or extend, and agreements described in 26 72022  
U.S.C. 7701(h)(1) covering motor vehicles and trailers where the 72023  
amount of consideration may be increased or decreased by reference 72024  
to the amount realized upon the sale or disposition of the 72025~~

property. "Lease" or "rental" does not include: 72026

(a) A transfer of possession or control of tangible personal 72027  
property under a security agreement or a deferred payment plan 72028  
that requires the transfer of title upon completion of the 72029  
required payments; 72030

(b) A transfer of possession or control of tangible personal 72031  
property under an agreement that requires the transfer of title 72032  
upon completion of required payments and payment of an option 72033  
price that does not exceed the greater of one hundred dollars or 72034  
one per cent of the total required payments; 72035

(c) Providing tangible personal property along with an 72036  
operator for a fixed or indefinite period of time, if the operator 72037  
is necessary for the property to perform as designed. For purposes 72038  
of this division, the operator must do more than maintain, 72039  
inspect, or set-up the tangible personal property. 72040

(2) "Lease" and "rental," as defined in division (UU) of this 72041  
section, shall not apply to leases or rentals that exist before 72042  
the effective date of this amendment. 72043

(3) "Lease" and "rental" have the same meaning as in division 72044  
(UU)(1) of this section regardless of whether a transaction is 72045  
characterized as a lease or rental under generally accepted 72046  
accounting principles, the Internal Revenue Code, Title XIII of 72047  
the Revised Code, or other federal, state, or local laws. 72048

~~(WW)~~(VV) "Mobile telecommunications service" has the same 72049  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 72050  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 72051  
amended, and includes related fees and ancillary services, 72052  
including universal service fees, detailed billing service, 72053  
directory assistance, service initiation, voice mail service, and 72054  
vertical services, such as caller ID and three-way calling. 72055

~~(XX)~~(WW) "Certified service provider" has the same meaning as 72056

in section 5740.01 of the Revised Code. 72057

(XX) "Satellite broadcasting service" means the distribution 72058  
or broadcasting of programming or services by satellite directly 72059  
to the subscriber's premises without the use of ground receiving 72060  
or distribution equipment, except at the subscriber's premises or 72061  
in the uplink process to the satellite, and includes all service 72062  
and rental charges, premium channels or other special services, 72063  
installation and repair service charges, and any other charges 72064  
having any connection with the provision of the satellite 72065  
broadcasting service. 72066

(YY) "Tangible personal property" means personal property 72067  
that can be seen, weighed, measured, felt, or touched, or that is 72068  
in any other manner perceptible to the senses. For purposes of 72069  
this chapter and Chapter 5741. of the Revised Code, "tangible 72070  
personal property" includes motor vehicles, electricity, water, 72071  
gas, steam, and prewritten computer software. 72072

(ZZ) "Direct mail" means printed material delivered or 72073  
distributed by United States mail or other delivery service to a 72074  
mass audience or to addressees on a mailing list provided by the 72075  
consumer or at the direction of the consumer when the cost of the 72076  
items are not billed directly to the recipients. "Direct mail" 72077  
includes tangible personal property supplied directly or 72078  
indirectly by the consumer to the direct mail vendor for inclusion 72079  
in the package containing the printed material. "Direct mail" does 72080  
not include multiple items of printed material delivered to a 72081  
single address. 72082

(AAA) "Computer" means an electronic device that accepts 72083  
information in digital or similar form and manipulates it for a 72084  
result based on a sequence of instructions. 72085

(BBB) "Computer software" means a set of coded instructions 72086  
designed to cause a computer or automatic data processing 72087

equipment to perform a task. 72088

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 72089  
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(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software. 72092  
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(EEE)(1) Prior to July 1, 2004, "food" means cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. "Food" does not include spirituous liquors, wine, mixed beverages, or 72113  
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beer; soft drinks; sodas and beverages that are ordinarily 72120  
dispensed at or in connection with bars and soda fountains, other 72121  
than coffee, tea, and cocoa; root beer and root beer extracts; 72122  
malt and malt extracts; mineral oils, cod liver oils, and halibut 72123  
liver oil; medicines, including tonics, vitamin preparations, and 72124  
other products sold primarily for their medicinal properties; and 72125  
water, including mineral, bottled, and carbonated waters, and ice. 72126

(2) On and after July 1, 2004, "food" means substances, 72127  
whether in liquid, concentrated, solid, frozen, dried, or 72128  
dehydrated form, that are sold for ingestion or chewing by humans 72129  
and are consumed for their taste or nutritional value. "Food" does 72130  
not include alcoholic beverages, dietary supplements, soft drinks, 72131  
or tobacco. 72132

(3) As used in division (EEE)(2) of this section: 72133

(a) "Alcoholic beverages" means beverages that are suitable 72134  
for human consumption and contain one-half of one per cent or more 72135  
of alcohol by volume. 72136

(b) "Dietary supplements" means any product, other than 72137  
tobacco, that is intended to supplement the diet and that is 72138  
intended for ingestion in tablet, capsule, powder, softgel, 72139  
gelcap, or liquid form, or, if not intended for ingestion in such 72140  
a form, is not represented as conventional food for use as a sole 72141  
item of a meal or of the diet; that is required to be labeled as a 72142  
dietary supplement, identifiable by the "supplement facts" box 72143  
found on the label, as required by 21 C.F.R. 101.36; and that 72144  
contains one or more of the following dietary ingredients: 72145

(i) A vitamin; 72146

(ii) A mineral; 72147

(iii) An herb or other botanical; 72148

(iv) An amino acid; 72149

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 72150  
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(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(3)(b)(i) to (v) of this section. 72152  
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(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume. 72155  
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 72160  
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(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body. 72162  
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(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription. 72171  
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(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. 72175  
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(III) "Mobility enhancing equipment" means equipment, 72180  
including repair and replacement parts for such equipment, that is 72181  
primarily and customarily used to provide or increase the ability 72182  
to move from one place to another and is appropriate for use 72183  
either in a home or a motor vehicle, that is not generally used by 72184  
persons with normal mobility, and that does not include any motor 72185  
vehicle or equipment on a motor vehicle normally provided by a 72186  
motor vehicle manufacturer. 72187

(JJJ) "Prosthetic device" means a replacement, corrective, or 72188  
supportive device, including repair and replacement parts for the 72189  
device, worn on or in the human body to artificially replace a 72190  
missing portion of the body, prevent or correct physical deformity 72191  
or malfunction, or support a weak or deformed portion of the body. 72192  
As used in this division, "prosthetic device" does not include 72193  
corrective eyeglasses, contact lenses, or dental prosthesis. 72194

(KKK)(1) "Fractional aircraft ownership program" means a 72195  
program in which persons within an affiliated group sell and 72196  
manage fractional ownership program aircraft, provided that at 72197  
least three hundred airworthy aircraft are operated in the program 72198  
and the program meets all of the following criteria: 72199

(a) Management services are provided by at least one program 72200  
manager within an affiliated group on behalf of the fractional 72201  
owners. 72202

(b) Each program aircraft is owned or possessed by at least 72203  
one fractional owner. 72204

(c) Each fractional owner owns or possesses at least a 72205  
one-sixteenth interest in at least one fixed-wing program 72206  
aircraft. 72207

(d) A dry-lease aircraft interchange arrangement is in effect 72208  
among all of the fractional owners. 72209

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program. 72210  
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(2) As used in division (KKK)(1) of this section: 72213

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section. 72214  
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(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section. 72216  
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(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program. 72220  
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(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program. 72227  
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(e) "Program manager" means the person that offers management 72240

services to fractional owners pursuant to a management services 72241  
agreement under division (KKK)(1)(e) of this section. 72242

**Sec. 5739.011.** (A) As used in this section: 72243

(1) "Manufacturer" means a person who is engaged in 72244  
manufacturing, processing, assembling, or refining a product for 72245  
sale. 72246

(2) "Manufacturing facility" means a single location where a 72247  
manufacturing operation is conducted, including locations 72248  
consisting of one or more buildings or structures in a contiguous 72249  
area owned or controlled by the manufacturer. 72250

(3) "Materials handling" means the movement of the product 72251  
being or to be manufactured, during which movement the product is 72252  
not undergoing any substantial change or alteration in its state 72253  
or form. 72254

(4) "Testing" means a process or procedure to identify the 72255  
properties or assure the quality of a material or product. 72256

(5) "Completed product" means a manufactured item that is in 72257  
the form and condition as it will be sold by the manufacturer. An 72258  
item is completed when all processes that change or alter its 72259  
state or form or enhance its value are finished, even though the 72260  
item subsequently will be tested to ensure its quality or be 72261  
packaged for storage or shipment. 72262

(6) "Continuous manufacturing operation" means the process in 72263  
which raw materials or components are moved through the steps 72264  
whereby manufacturing occurs. Materials handling of raw materials 72265  
or parts from the point of receipt or preproduction storage or of 72266  
a completed product, to or from storage, to or from packaging, or 72267  
to the place from which the completed product will be shipped, is 72268  
not a part of a continuous manufacturing operation. 72269

(B) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72270

~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" 72271  
includes, but is not limited to, any of the following: 72272

(1) Production machinery and equipment that act upon the 72273  
product or machinery and equipment that treat the materials or 72274  
parts in preparation for the manufacturing operation; 72275

(2) Materials handling equipment that moves the product 72276  
through a continuous manufacturing operation; equipment that 72277  
temporarily stores the product during the manufacturing operation; 72278  
or, excluding motor vehicles licensed to operate on public 72279  
highways, equipment used in intraplant or interplant transfers of 72280  
work in process where the plant or plants between which such 72281  
transfers occur are manufacturing facilities operated by the same 72282  
person; 72283

(3) Catalysts, solvents, water, acids, oil, and similar 72284  
consumables that interact with the product and that are an 72285  
integral part of the manufacturing operation; 72286

(4) Machinery, equipment, and other tangible personal 72287  
property used during the manufacturing operation that control, 72288  
physically support, produce power for, lubricate, or are otherwise 72289  
necessary for the functioning of production machinery and 72290  
equipment and the continuation of the manufacturing operation; 72291

(5) Machinery, equipment, fuel, power, material, parts, and 72292  
other tangible personal property used to manufacture machinery, 72293  
equipment, or other tangible personal property used in 72294  
manufacturing a product for sale; 72295

(6) Machinery, equipment, and other tangible personal 72296  
property used by a manufacturer to test raw materials, the product 72297  
being manufactured, or the completed product; 72298

(7) Machinery and equipment used to handle or temporarily 72299  
store scrap that is intended to be reused in the manufacturing 72300  
operation at the same manufacturing facility; 72301

(8) Coke, gas, water, steam, and similar substances used in 72302  
the manufacturing operation; machinery and equipment used for, and 72303  
fuel consumed in, producing or extracting those substances; 72304  
machinery, equipment, and other tangible personal property used to 72305  
treat, filter, pump, or otherwise make the substance suitable for 72306  
use in the manufacturing operation; and machinery and equipment 72307  
used for, and fuel consumed in, producing electricity for use in 72308  
the manufacturing operation; 72309

(9) Machinery, equipment, and other tangible personal 72310  
property used to transport or transmit electricity, coke, gas, 72311  
water, steam, or similar substances used in the manufacturing 72312  
operation from the point of generation, if produced by the 72313  
manufacturer, or from the point where the substance enters the 72314  
manufacturing facility, if purchased by the manufacturer, to the 72315  
manufacturing operation; 72316

(10) Machinery, equipment, and other tangible personal 72317  
property that treats, filters, cools, refines, or otherwise 72318  
renders water, steam, acid, oil, solvents, or similar substances 72319  
used in the manufacturing operation reusable, provided that the 72320  
substances are intended for reuse and not for disposal, sale, or 72321  
transportation from the manufacturing facility; 72322

(11) Parts, components, and repair and installation services 72323  
for items described in division (B) of this section. 72324

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section 72325  
~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does 72326  
not include any of the following: 72327

(1) Tangible personal property used in administrative, 72328  
personnel, security, inventory control, record-keeping, ordering, 72329  
billing, or similar functions; 72330

(2) Tangible personal property used in storing raw materials 72331  
or parts prior to the commencement of the manufacturing operation 72332

or used to handle or store a completed product, including storage 72333  
that actively maintains a completed product in a marketable state 72334  
or form; 72335

(3) Tangible personal property used to handle or store scrap 72336  
or waste intended for disposal, sale, or other disposition, other 72337  
than reuse in the manufacturing operation at the same 72338  
manufacturing facility; 72339

(4) Tangible personal property that is or is to be 72340  
incorporated into realty; 72341

(5) Machinery, equipment, and other tangible personal 72342  
property used for ventilation, dust or gas collection, humidity or 72343  
temperature regulation, or similar environmental control, except 72344  
machinery, equipment, and other tangible personal property that 72345  
totally regulates the environment in a special and limited area of 72346  
the manufacturing facility where the regulation is essential for 72347  
production to occur; 72348

(6) Tangible personal property used for the protection and 72349  
safety of workers, unless the property is attached to or 72350  
incorporated into machinery and equipment used in a continuous 72351  
manufacturing operation; 72352

(7) Tangible personal property used to store fuel, water, 72353  
solvents, acid, oil, or similar items consumed in the 72354  
manufacturing operation; 72355

(8) Machinery, equipment, and other tangible personal 72356  
property used to clean, repair, or maintain real or personal 72357  
property in the manufacturing facility; 72358

(9) Motor vehicles registered for operation on public 72359  
highways. 72360

(D) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72361  
~~5739.01~~ 5739.02 of the Revised Code, if the "thing transferred" is 72362



a machine used by a manufacturer in both a taxable and an exempt 72363  
manner, it shall be totally taxable or totally exempt from 72364  
taxation based upon its quantified primary use. If the "things 72365  
transferred" are fungibles, they shall be taxed based upon the 72366  
proportion of the fungibles used in a taxable manner. 72367

**Sec. 5739.012.** (A) As used in this section: 72368

(1) "Sham transaction" means a transaction or series of 72369  
transactions without economic substance because there is no 72370  
business purpose or expectation of profit other than obtaining tax 72371  
benefits. 72372

(2) "Tax" includes only those taxes levied by or pursuant to 72373  
Chapter 5739. of the Revised Code that are required to be 72374  
calculated and collected as prescribed by division ~~(H)(4)(A)(2)~~ of 72375  
section ~~5739.01~~ 5739.02 of the Revised Code. 72376

(3) "Taxpayer" includes any person required to pay or to 72377  
collect and remit tax. 72378

(B)(1) The tax commissioner may disregard any sham 72379  
transaction and ascertain a taxpayer's liability for tax without 72380  
the sham transaction. 72381

(2) A lease with a renewal clause and a termination penalty 72382  
or similar provision that applies if the renewal clause is not 72383  
exercised is presumed to be a sham transaction. In such a case, 72384  
the tax shall be calculated and paid on the basis of the entire 72385  
length of the lease period, including any renewal periods, until 72386  
the termination penalty or similar provision no longer applies. 72387  
The taxpayer shall bear the burden of establishing, by a 72388  
preponderance of the evidence, that the transaction or series of 72389  
transactions is not a sham transaction. 72390

(C) The tax commissioner may prescribe rules to administer 72391  
this section. 72392

Sec. 5739.02. For the purpose of providing revenue with which 72393  
to meet the needs of the state, for the use of the general revenue 72394  
fund of the state, for the purpose of securing a thorough and 72395  
efficient system of common schools throughout the state, for the 72396  
purpose of affording revenues, in addition to those from general 72397  
property taxes, permitted under constitutional limitations, and 72398  
from other sources, for the support of local governmental 72399  
functions, and for the purpose of reimbursing the state for the 72400  
expense of administering this chapter, an excise tax is hereby 72401  
levied on each retail sale made in this state. 72402

(A)(1) ~~The tax shall be collected pursuant to the schedules~~ 72403  
~~as provided~~ in section 5739.025 of the Revised Code, ~~provided that~~ 72404  
~~on and after July 1, 2003, and on or before June 30, 2005, the~~ 72405  
~~rate of tax shall be six per cent. On and after July 1, 2005, the~~ 72406  
~~rate of the tax shall be five per cent. The~~ 72407

~~The~~ tax applies and is collectible when the sale is made, 72408  
regardless of the time when the price is paid or delivered. 72409

~~In~~ (2) ~~In the case of the lease or rental, with a fixed term~~ 72410  
~~of more than thirty days or an indefinite term with a minimum~~ 72411  
~~period of more than thirty days, of any motor vehicles designed by~~ 72412  
~~the manufacturer to carry a load of not more than one ton,~~ 72413  
~~watercraft, outboard motor, or aircraft, or of any tangible~~ 72414  
~~personal property, other than motor vehicles designed by the~~ 72415  
~~manufacturer to carry a load of more than one ton, to be used by~~ 72416  
~~the lessee or renter primarily for business purposes, the tax~~ 72417  
~~shall be collected by the vendor at the time the lease or rental~~ 72418  
~~is consummated and shall be calculated by the vendor on the basis~~ 72419  
~~of the total amount to be paid by the lessee or renter under the~~ 72420  
~~lease agreement. If the total amount of the consideration for the~~ 72421  
~~lease or rental includes amounts that are not calculated at the~~ 72422  
~~time the lease or rental is executed, the tax shall be calculated~~ 72423

and collected by the vendor at the time such amounts are billed to 72424  
the lessee or renter. In the case of an open-end lease or rental, 72425  
the tax shall be calculated by the vendor on the basis of the 72426  
total amount to be paid during the initial fixed term of the lease 72427  
or rental, and for each subsequent renewal period as it comes due. 72428  
As used in this division, "motor vehicle" has the same meaning as 72429  
in section 4501.01 of the Revised Code, and "watercraft" includes 72430  
an outdrive unit attached to the watercraft. 72431

(3) Except as provided in division (A)(2) of this section, in 72432  
the case of a sale, the price of which consists in whole or in 72433  
part of ~~rentals for the use of the thing transferred~~ the lease or 72434  
rental of tangible personal property, the tax, ~~as regards those~~ 72435  
~~rentals,~~ shall be measured by the installments of ~~those rentals~~ 72436  
that lease or rental. 72437

(4) In the case of a sale of a physical fitness facility 72438  
service or recreation and sports club service defined under 72439  
division (MM) or (NN) of section 5739.01 of the Revised Code, the 72440  
price of which consists in whole or in part of a membership for 72441  
the receipt of the benefit of the service, the tax applicable to 72442  
the sale shall be measured by the installments thereof. 72443

(B) The tax does not apply to the following: 72444

(1) Sales to the state or any of its political subdivisions, 72445  
or to any other state or its political subdivisions if the laws of 72446  
that state exempt from taxation sales made to this state and its 72447  
political subdivisions; 72448

(2) Sales of food for human consumption off the premises 72449  
where sold; 72450

(3) Sales of food sold to students only in a cafeteria, 72451  
dormitory, fraternity, or sorority maintained in a private, 72452  
public, or parochial school, college, or university; 72453

(4) Sales of newspapers and of magazine subscriptions and 72454

sales or transfers of magazines distributed as controlled 72455  
circulation publications; 72456

(5) The furnishing, preparing, or serving of meals without 72457  
charge by an employer to an employee provided the employer records 72458  
the meals as part compensation for services performed or work 72459  
done; 72460

(6) Sales of motor fuel upon receipt, use, distribution, or 72461  
sale of which in this state a tax is imposed by the law of this 72462  
state, but this exemption shall not apply to the sale of motor 72463  
fuel on which a refund of the tax is allowable under division (A) 72464  
of section 5735.14 of the Revised Code; and the tax commissioner 72465  
may deduct the amount of tax levied by this section applicable to 72466  
the price of motor fuel when granting a refund of motor fuel tax 72467  
pursuant to division (A) of section 5735.14 of the Revised Code 72468  
and shall cause the amount deducted to be paid into the general 72469  
revenue fund of this state; 72470

(7) Sales of natural gas by a natural gas company, of water 72471  
by a water-works company, or of steam by a heating company, if in 72472  
each case the thing sold is delivered to consumers through pipes 72473  
or conduits, and all sales of communications services by a 72474  
~~telephone or~~ telegraph company, all terms as defined in section 72475  
5727.01 of the Revised Code, and sales of electricity delivered 72476  
through wires; 72477

(8) Casual sales by a person, or auctioneer employed directly 72478  
by the person to conduct such sales, except as to such sales of 72479  
motor vehicles, watercraft or outboard motors required to be 72480  
titled under section 1548.06 of the Revised Code, watercraft 72481  
documented with the United States coast guard, snowmobiles, and 72482  
all-purpose vehicles as defined in section 4519.01 of the Revised 72483  
Code; 72484

(9) Sales of services or tangible personal property, other 72485

than motor vehicles, mobile homes, and manufactured homes, by 72486  
churches, organizations exempt from taxation under section 72487  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72488  
organizations operated exclusively for charitable purposes as 72489  
defined in division (B)(12) of this section, provided that the 72490  
number of days on which such tangible personal property or 72491  
services, other than items never subject to the tax, are sold does 72492  
not exceed six in any calendar year. If the number of days on 72493  
which such sales are made exceeds six in any calendar year, the 72494  
church or organization shall be considered to be engaged in 72495  
business and all subsequent sales by it shall be subject to the 72496  
tax. In counting the number of days, all sales by groups within a 72497  
church or within an organization shall be considered to be sales 72498  
of that church or organization, except that sales made by separate 72499  
student clubs and other groups of students of a primary or 72500  
secondary school, and sales made by a parent-teacher association, 72501  
booster group, or similar organization that raises money to 72502  
support or fund curricular or extracurricular activities of a 72503  
primary or secondary school, shall not be considered to be sales 72504  
of such school, and sales by each such club, group, association, 72505  
or organization shall be counted separately for purposes of the 72506  
six-day limitation. This division does not apply to sales by a 72507  
noncommercial educational radio or television broadcasting 72508  
station. 72509

(10) Sales not within the taxing power of this state under 72510  
the Constitution of the United States; 72511

(11) The Except for transactions that are sales under 72512  
division (B)(3)(s) of section 5739.01 of the Revised Code, the 72513  
transportation of persons or property, unless the transportation 72514  
is by a private investigation and security service; 72515

(12) Sales of tangible personal property or services to 72516  
churches, to organizations exempt from taxation under section 72517

501(c)(3) of the Internal Revenue Code of 1986, and to any other 72518  
nonprofit organizations operated exclusively for charitable 72519  
purposes in this state, no part of the net income of which inures 72520  
to the benefit of any private shareholder or individual, and no 72521  
substantial part of the activities of which consists of carrying 72522  
on propaganda or otherwise attempting to influence legislation; 72523  
sales to offices administering one or more homes for the aged or 72524  
one or more hospital facilities exempt under section 140.08 of the 72525  
Revised Code; and sales to organizations described in division (D) 72526  
of section 5709.12 of the Revised Code. 72527

"Charitable purposes" means the relief of poverty; the 72528  
improvement of health through the alleviation of illness, disease, 72529  
or injury; the operation of an organization exclusively for the 72530  
provision of professional, laundry, printing, and purchasing 72531  
services to hospitals or charitable institutions; the operation of 72532  
a home for the aged, as defined in section 5701.13 of the Revised 72533  
Code; the operation of a radio or television broadcasting station 72534  
that is licensed by the federal communications commission as a 72535  
noncommercial educational radio or television station; the 72536  
operation of a nonprofit animal adoption service or a county 72537  
humane society; the promotion of education by an institution of 72538  
learning that maintains a faculty of qualified instructors, 72539  
teaches regular continuous courses of study, and confers a 72540  
recognized diploma upon completion of a specific curriculum; the 72541  
operation of a parent-teacher association, booster group, or 72542  
similar organization primarily engaged in the promotion and 72543  
support of the curricular or extracurricular activities of a 72544  
primary or secondary school; the operation of a community or area 72545  
center in which presentations in music, dramatics, the arts, and 72546  
related fields are made in order to foster public interest and 72547  
education therein; the production of performances in music, 72548  
dramatics, and the arts; or the promotion of education by an 72549  
organization engaged in carrying on research in, or the 72550

dissemination of, scientific and technological knowledge and 72551  
information primarily for the public. 72552

Nothing in this division shall be deemed to exempt sales to 72553  
any organization for use in the operation or carrying on of a 72554  
trade or business, or sales to a home for the aged for use in the 72555  
operation of independent living facilities as defined in division 72556  
(A) of section 5709.12 of the Revised Code. 72557

(13) Building and construction materials and services sold to 72558  
construction contractors for incorporation into a structure or 72559  
improvement to real property under a construction contract with 72560  
this state or a political subdivision of this state, or with the 72561  
United States government or any of its agencies; building and 72562  
construction materials and services sold to construction 72563  
contractors for incorporation into a structure or improvement to 72564  
real property that are accepted for ownership by this state or any 72565  
of its political subdivisions, or by the United States government 72566  
or any of its agencies at the time of completion of the structures 72567  
or improvements; building and construction materials sold to 72568  
construction contractors for incorporation into a horticulture 72569  
structure or livestock structure for a person engaged in the 72570  
business of horticulture or producing livestock; building 72571  
materials and services sold to a construction contractor for 72572  
incorporation into a house of public worship or religious 72573  
education, or a building used exclusively for charitable purposes 72574  
under a construction contract with an organization whose purpose 72575  
is as described in division (B)(12) of this section; building 72576  
materials and services sold to a construction contractor for 72577  
incorporation into a building under a construction contract with 72578  
an organization exempt from taxation under section 501(c)(3) of 72579  
the Internal Revenue Code of 1986 when the building is to be used 72580  
exclusively for the organization's exempt purposes; building and 72581  
construction materials sold for incorporation into the original 72582

construction of a sports facility under section 307.696 of the Revised Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

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

(15) Sales to persons engaged in any of the activities mentioned in division ~~(E)(2)(B)(43)(a)~~ or ~~(9)(g)~~ of this section ~~5739.01 of the Revised Code~~, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division ~~(B)(16)~~ of ~~this section~~, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.



(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being, dispensed by a licensed pharmacist upon the order of a licensed health professional authorized to prescribe drugs to a human being, as the term "licensed health professional authorized to prescribe drugs" is defined in section 4729.01 of the Revised Code pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; ~~epoetin alfa when purchased for use in the treatment of persons with end-stage renal disease;~~ hospital beds when purchased for use by persons with medical problems for medical purposes; and medical oxygen and medical oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19)(a) Sales of ~~artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of~~

~~the human body; crutches or other devices to aid human 72647  
perambulation; and items of tangible personal property used to 72648  
supplement impaired functions of the human body such as 72649  
respiration, hearing, or elimination; 72650~~

~~(b) Sales of wheelchairs; items incorporated into or used in 72651  
conjunction with a motor vehicle for the purpose of transporting 72652  
wheelchairs, other than transportation conducted in connection 72653  
with the sale or delivery of wheelchairs; and items incorporated 72654  
into or used in conjunction with a motor vehicle that are 72655  
specifically designed to assist a person with a disability to 72656  
access or operate the motor vehicle. As used in this division, 72657  
"person with a disability" means any person who has lost the use 72658  
of one or both legs or one or both arms, who is blind, deaf, or 72659  
disabled to the extent that the person is unable to move about 72660  
without the aid of crutches or a wheelchair, or whose mobility is 72661  
restricted by a permanent cardiovascular, pulmonary, or other 72662  
disabling condition. 72663~~

~~(c) No exemption under this division shall be allowed for 72664  
nonprescription drugs, medicines, or remedies; items or devices 72665  
used to supplement vision; items or devices whose function is 72666  
solely or primarily cosmetic; or physical fitness equipment. This 72667  
division does not apply to sales to a physician or medical 72668  
facility for use in the treatment of a patient, durable medical 72669  
equipment for home use, or mobility enhancing equipment, when made 72670  
pursuant to a prescription and when such devices or equipment are 72671  
for use by a human being. 72672~~

(20) Sales of emergency and fire protection vehicles and 72673  
equipment to nonprofit organizations for use solely in providing 72674  
fire protection and emergency services, including trauma care and 72675  
emergency medical services, for political subdivisions of the 72676  
state; 72677

(21) Sales of tangible personal property manufactured in this 72678

state, if sold by the manufacturer in this state to a retailer for 72679  
use in the retail business of the retailer outside of this state 72680  
and if possession is taken from the manufacturer by the purchaser 72681  
within this state for the sole purpose of immediately removing the 72682  
same from this state in a vehicle owned by the purchaser; 72683

(22) Sales of services provided by the state or any of its 72684  
political subdivisions, agencies, instrumentalities, institutions, 72685  
or authorities, or by governmental entities of the state or any of 72686  
its political subdivisions, agencies, instrumentalities, 72687  
institutions, or authorities; 72688

(23) Sales of motor vehicles to nonresidents of this state 72689  
upon the presentation of an affidavit executed in this state by 72690  
the nonresident purchaser affirming that the purchaser is a 72691  
nonresident of this state, that possession of the motor vehicle is 72692  
taken in this state for the sole purpose of immediately removing 72693  
it from this state, that the motor vehicle will be permanently 72694  
titled and registered in another state, and that the motor vehicle 72695  
will not be used in this state; 72696

(24) Sales to persons engaged in the preparation of eggs for 72697  
sale of tangible personal property used or consumed directly in 72698  
such preparation, including such tangible personal property used 72699  
for cleaning, sanitizing, preserving, grading, sorting, and 72700  
classifying by size; packages, including material and parts for 72701  
packages, and machinery, equipment, and material for use in 72702  
packaging eggs for sale; and handling and transportation equipment 72703  
and parts therefor, except motor vehicles licensed to operate on 72704  
public highways, used in intraplant or interplant transfers or 72705  
shipment of eggs in the process of preparation for sale, when the 72706  
plant or plants within or between which such transfers or 72707  
shipments occur are operated by the same person. "Packages" 72708  
includes containers, cases, baskets, flats, fillers, filler flats, 72709  
cartons, closure materials, labels, and labeling materials, and 72710

"packaging" means placing therein.	72711
(25)(a) Sales of water to a consumer for residential use,	72712
except the sale of bottled water, distilled water, mineral water,	72713
carbonated water, or ice;	72714
(b) Sales of water by a nonprofit corporation engaged	72715
exclusively in the treatment, distribution, and sale of water to	72716
consumers, if such water is delivered to consumers through pipes	72717
or tubing.	72718
(26) Fees charged for inspection or reinspection of motor	72719
vehicles under section 3704.14 of the Revised Code;	72720
(27) Sales to persons licensed to conduct a food service	72721
operation pursuant to section 3717.43 of the Revised Code, of	72722
tangible personal property primarily used directly for the	72723
following:	72724
(a) To prepare food for human consumption for sale;	72725
(b) To preserve food that has been or will be prepared for	72726
human consumption for sale by the food service operator, not	72727
including tangible personal property used to display food for	72728
selection by the consumer;	72729
(c) To clean tangible personal property used to prepare or	72730
serve food for human consumption for sale.	72731
(28) Sales of animals by nonprofit animal adoption services	72732
or county humane societies;	72733
(29) Sales of services to a corporation described in division	72734
(A) of section 5709.72 of the Revised Code, and sales of tangible	72735
personal property that qualifies for exemption from taxation under	72736
section 5709.72 of the Revised Code;	72737
(30) Sales and installation of agricultural land tile, as	72738
defined in division (B)(5)(a) of section 5739.01 of the Revised	72739
Code;	72740

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code; 72741  
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(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire; 72744  
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(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters; 72748  
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(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division ~~(B)(34)~~ of ~~this section~~ shall be in lieu of all other ~~exceptions~~ exemptions under division ~~(E)(2)(B)(43)(a)~~ of this section 5739.01 ~~of the Revised Code~~ to which a ~~telecommunications service~~ the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service. 72753  
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(35) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, 72769  
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including, but not limited to, gold, silver, platinum, and 72772  
palladium, and which is in such state or condition that its value 72773  
depends upon its content and not upon its form. "Investment metal 72774  
bullion" does not include fabricated precious metal that has been 72775  
processed or manufactured for one or more specific and customary 72776  
industrial, professional, or artistic uses. "Investment coins" 72777  
means numismatic coins or other forms of money and legal tender 72778  
manufactured of gold, silver, platinum, palladium, or other metal 72779  
under the laws of the United States or any foreign nation with a 72780  
fair market value greater than any statutory or nominal value of 72781  
such coins. 72782

(36)(a) Sales where the purpose of the consumer is to use or 72783  
consume the things transferred in making retail sales and 72784  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72785  
certificates, or other advertising material that prices and 72786  
describes tangible personal property offered for retail sale. 72787

(b) Sales to direct marketing vendors of preliminary 72788  
materials such as photographs, artwork, and typesetting that will 72789  
be used in printing advertising material; of printed matter that 72790  
offers free merchandise or chances to win sweepstake prizes and 72791  
that is mailed to potential customers with advertising material 72792  
described in division (B)(36)(a) of this section; and of equipment 72793  
such as telephones, computers, facsimile machines, and similar 72794  
tangible personal property primarily used to accept orders for 72795  
direct marketing retail sales. 72796

(c) Sales of automatic food vending machines that preserve 72797  
food with a shelf life of forty-five days or less by refrigeration 72798  
and dispense it to the consumer. 72799

For purposes of division (B)(36) of this section, "direct 72800  
marketing" means the method of selling where consumers order 72801  
tangible personal property by United States mail, delivery 72802  
service, or telecommunication and the vendor delivers or ships the 72803

tangible personal property sold to the consumer from a warehouse, 72804  
catalogue distribution center, or similar fulfillment facility by 72805  
means of the United States mail, delivery service, or common 72806  
carrier. 72807

(37) Sales to a person engaged in the business of 72808  
horticulture or producing livestock of materials to be 72809  
incorporated into a horticulture structure or livestock structure; 72810

~~(38) The sale of a motor vehicle that is used exclusively for 72811  
a vanpool ridesharing arrangement to persons participating in the 72812  
vanpool ridesharing arrangement when the vendor is selling the 72813  
vehicle pursuant to a contract between the vendor and the 72814  
department of transportation; 72815~~

~~(39)~~ Sales of personal computers, computer monitors, computer 72816  
keyboards, modems, and other peripheral computer equipment to an 72817  
individual who is licensed or certified to teach in an elementary 72818  
or a secondary school in this state for use by that individual in 72819  
preparation for teaching elementary or secondary school students; 72820

~~(40)~~(39) Sales to a professional racing team of any of the 72821  
following: 72822

(a) Motor racing vehicles; 72823

(b) Repair services for motor racing vehicles; 72824

(c) Items of property that are attached to or incorporated in 72825  
motor racing vehicles, including engines, chassis, and all other 72826  
components of the vehicles, and all spare, replacement, and 72827  
rebuilt parts or components of the vehicles; except not including 72828  
tires, consumable fluids, paint, and accessories consisting of 72829  
instrumentation sensors and related items added to the vehicle to 72830  
collect and transmit data by means of telemetry and other forms of 72831  
communication. 72832

~~(41)~~(40) Sales of used manufactured homes and used mobile 72833

homes, as defined in section 5739.0210 of the Revised Code, made 72834  
on or after January 1, 2000; 72835

~~(42)~~(41) Sales of tangible personal property and services to 72836  
a provider of electricity used or consumed directly and primarily 72837  
in generating, transmitting, or distributing electricity for use 72838  
by others, including property that is or is to be incorporated 72839  
into and will become a part of the consumer's production, 72840  
transmission, or distribution system and that retains its 72841  
classification as tangible personal property after incorporation; 72842  
fuel or power used in the production, transmission, or 72843  
distribution of electricity; and tangible personal property and 72844  
services used in the repair and maintenance of the production, 72845  
transmission, or distribution system, including only those motor 72846  
vehicles as are specially designed and equipped for such use. The 72847  
exemption provided in this division shall be in lieu of all other 72848  
~~exceptions~~ exemptions in division ~~(E)(2)~~(B)(43)(a) of this section 72849  
~~5739.01 of the Revised Code~~ to which a provider of electricity may 72850  
otherwise be entitled based on the use of the tangible personal 72851  
property or service purchased in generating, transmitting, or 72852  
distributing electricity. 72853

(42) Sales to a person providing services under division 72854  
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 72855  
personal property and services used directly and primarily in 72856  
providing taxable services under that section. 72857

(43) Sales where the purpose of the purchaser is to do any of 72858  
the following: 72859

(a) To incorporate the thing transferred as a material or a 72860  
part into tangible personal property to be produced for sale by 72861  
manufacturing, assembling, processing, or refining; or to use or 72862  
consume the thing transferred directly in producing tangible 72863  
personal property for sale by mining, including, without 72864  
limitation, the extraction from the earth of all substances that 72865



are classed geologically as minerals, production of crude oil and 72866  
natural gas, farming, agriculture, horticulture, or floriculture, 72867  
or directly in the rendition of a public utility service, except 72868  
that the sales tax levied by this section shall be collected upon 72869  
all meals, drinks, and food for human consumption sold when 72870  
transporting persons. Persons engaged in rendering farming, 72871  
agricultural, horticultural, or floricultural services, and 72872  
services in the exploration for, and production of, crude oil and 72873  
natural gas, for others are deemed engaged directly in farming, 72874  
agriculture, horticulture, and floriculture, or exploration for, 72875  
and production of, crude oil and natural gas. This paragraph does 72876  
not exempt from "retail sale" or "sales at retail" the sale of 72877  
tangible personal property that is to be incorporated into a 72878  
structure or improvement to real property. 72879

(b) To hold the thing transferred as security for the 72880  
performance of an obligation of the vendor; 72881

(c) To resell, hold, use, or consume the thing transferred as 72882  
evidence of a contract of insurance; 72883

(d) To use or consume the thing directly in commercial 72884  
fishing; 72885

(e) To incorporate the thing transferred as a material or a 72886  
part into, or to use or consume the thing transferred directly in 72887  
the production of, magazines distributed as controlled circulation 72888  
publications; 72889

(f) To use or consume the thing transferred in the production 72890  
and preparation in suitable condition for market and sale of 72891  
printed, imprinted, overprinted, lithographic, multilithic, 72892  
blueprinted, photostatic, or other productions or reproductions of 72893  
written or graphic matter; 72894

(g) To use the thing transferred, as described in section 72895  
5739.011 of the Revised Code, primarily in a manufacturing 72896

<u>operation to produce tangible personal property for sale;</u>	72897
<u>(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;</u>	72898 72899 72900 72901 72902 72903
<u>(i) To use the thing transferred as qualified research and development equipment;</u>	72904 72905
<u>(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(36) of this section.</u>	72906 72907 72908 72909 72910 72911 72912 72913 72914 72915 72916 72917 72918
<u>(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;</u>	72919 72920 72921 72922 72923 72924 72925
<u>(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;</u>	72926 72927

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service. 72928  
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As used in division (B)(43) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code. 72933  
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(44) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction. 72936  
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(45) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services. 72943  
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(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established. 72949  
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~~As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee~~ 72953  
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~~substitutes, tea, and cocoa and cocoa products. It does not~~ 72959  
~~include: spirituous liquors, wine, mixed beverages, or beer; soft~~ 72960  
~~drinks; sodas and beverages that are ordinarily dispensed at or in~~ 72961  
~~connection with bars and soda fountains, other than coffee, tea,~~ 72962  
~~and cocoa; root beer and root beer extracts; malt and malt~~ 72963  
~~extracts; mineral oils, cod liver oils, and halibut liver oil;~~ 72964  
~~medicines, including tonics, vitamin preparations, and other~~ 72965  
~~products sold primarily for their medicinal properties; and water,~~ 72966  
~~including mineral, bottled, and carbonated waters, and ice.~~ 72967

~~(C)(D)~~ The levy of this tax on retail sales of recreation and 72968  
sports club service shall not prevent a municipal corporation from 72969  
levying any tax on recreation and sports club dues or on any 72970  
income generated by recreation and sports club dues. 72971

(E) The tax collected by the vendor from the consumer under 72972  
this chapter is not part of the price, but is a tax collection for 72973  
the benefit of the state, and of counties levying an additional 72974  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72975  
Code and of transit authorities levying an additional sales tax 72976  
pursuant to section 5739.023 of the Revised Code. Except for the 72977  
discount authorized under section 5739.12 of the Revised Code and 72978  
the effects of any rounding pursuant to section 5703.055 of the 72979  
Revised Code, no person other than the state or such a county or 72980  
transit authority shall derive any benefit from the collection or 72981  
payment of the tax levied by this section or section 5739.021, 72982  
5739.023, or 5739.026 of the Revised Code. 72983

**Sec. 5739.021.** (A) For the purpose of providing additional 72984  
general revenues for the county or supporting criminal and 72985  
administrative justice services in the county, or both, and to pay 72986  
the expenses of administering such levy, any county may levy a tax 72987  
at the rate of not more than one per cent at any multiple of 72988  
one-fourth of one per cent upon every retail sale made in the 72989

county, except sales of watercraft and outboard motors required to 72990  
be titled pursuant to Chapter 1548. of the Revised Code and sales 72991  
of motor vehicles, and may increase the rate of an existing tax to 72992  
not more than one per cent at any multiple of one-fourth of one 72993  
per cent. 72994

The tax shall be levied and the rate increased pursuant to a 72995  
resolution of the board of county commissioners. The resolution 72996  
shall state the purpose for which the tax is to be levied and the 72997  
number of years for which the tax is to be levied, or that it is 72998  
for a continuing period of time. If the tax is to be levied for 72999  
the purpose of providing additional general revenues and for the 73000  
purpose of supporting criminal and administrative justice 73001  
services, the resolution shall state the rate or amount of the tax 73002  
to be apportioned to each such purpose. The rate or amount may be 73003  
different for each year the tax is to be levied, but the rates or 73004  
amounts actually apportioned each year shall not be different from 73005  
that stated in the resolution for that year. If the resolution is 73006  
adopted as an emergency measure necessary for the immediate 73007  
preservation of the public peace, health, or safety, it must 73008  
receive an affirmative vote of all of the members of the board of 73009  
county commissioners and shall state the reasons for such 73010  
necessity. A The board shall deliver a certified copy of the 73011  
resolution shall be delivered to the tax commissioner either 73012  
personally or by certified mail, not later than the sixtieth 73013  
sixty-fifth day prior to the date on which the tax is to become 73014  
effective, which shall be the first day of the calendar quarter. 73015

Prior to the adoption of any resolution under this section, 73016  
the board of county commissioners shall conduct two public 73017  
hearings on the resolution, the second hearing to be not less than 73018  
three nor more than ten days after the first. Notice of the date, 73019  
time, and place of the hearings shall be given by publication in a 73020  
newspaper of general circulation in the county once a week on the 73021

same day of the week for two consecutive weeks, the second 73022  
publication being not less than ten nor more than thirty days 73023  
prior to the first hearing. 73024

Except as provided in division (B)(3) of this section, the 73025  
resolution shall ~~become effective on the first day of a calendar~~ 73026  
~~quarter following the expiration of sixty days from the date of~~ 73027  
~~its adoption,~~ be subject to a referendum as provided in sections 73028  
305.31 to 305.41 of the Revised Code. 73029

If a petition for a referendum is filed, the county auditor 73030  
with whom the petition was filed shall, within five days, notify 73031  
the board of county commissioners and the tax commissioner of the 73032  
filing of the petition by certified mail. If the board of 73033  
elections with which the petition was filed declares the petition 73034  
invalid, the board of elections, within five days, shall notify 73035  
the board of county commissioners and the tax commissioner of that 73036  
declaration by certified mail. If the petition is declared to be 73037  
invalid, the effective date of the tax or increased rate of tax 73038  
levied by this section shall be the first day of a calendar 73039  
quarter following the expiration of sixty-five days from the date 73040  
the ~~petition was declared invalid by~~ commissioner receives notice 73041  
from the board of elections that the petition is invalid. 73042

(B)(1) A resolution that is not adopted as an emergency 73043  
measure may direct the board of elections to submit the question 73044  
of levying the tax or increasing the rate of tax to the electors 73045  
of the county at a special election held on the date specified by 73046  
the board of county commissioners in the resolution, provided that 73047  
the election occurs not less than seventy-five days after a 73048  
certified copy of such resolution is transmitted to the board of 73049  
elections and the election is not held in February or August of 73050  
any year. Upon transmission of the resolution to the board of 73051  
elections, the board of county commissioners shall notify the tax 73052  
commissioner in writing of the levy question to be submitted to 73053

the electors. No resolution adopted under this division shall go 73054  
into effect unless approved by a majority of those voting upon it, 73055  
and, except as provided in division (B)(3) of this section, shall 73056  
become effective on the first day of a calendar quarter following 73057  
the expiration of sixty-five days from the date ~~of notice to~~ the 73058  
tax commissioner ~~by~~ receives notice from the board of elections of 73059  
the affirmative vote. 73060

(2) A resolution that is adopted as an emergency measure 73061  
shall go into effect as provided in division (A) of this section, 73062  
but may direct the board of elections to submit the question of 73063  
repealing the tax or increase in the rate of the tax to the 73064  
electors of the county at the next general election in the county 73065  
occurring not less than seventy-five days after a certified copy 73066  
of the resolution is transmitted to the board of elections. Upon 73067  
transmission of the resolution to the board of elections, the 73068  
board of county commissioners shall notify the tax commissioner in 73069  
writing of the levy question to be submitted to the electors. The 73070  
ballot question shall be the same as that prescribed in section 73071  
5739.022 of the Revised Code. The board of elections shall notify 73072  
the board of county commissioners and the tax commissioner of the 73073  
result of the election immediately after the result has been 73074  
declared. If a majority of the qualified electors voting on the 73075  
question of repealing the tax or increase in the rate of the tax 73076  
vote for repeal of the tax or repeal of the increase, the board of 73077  
county commissioners, on the first day of a calendar quarter 73078  
following the expiration of sixty-five days after the date ~~it~~ 73079  
~~received~~ the board and tax commissioner receive notice of the 73080  
result of the election, shall, in the case of a repeal of the tax, 73081  
cease to levy the tax, or, in the case of a repeal of an increase 73082  
in the rate of the tax, cease to levy the increased rate and levy 73083  
the tax at the rate at which it was imposed immediately prior to 73084  
the increase in rate. 73085

(3) If a vendor that is registered with the central 73086  
electronic registration system provided for in section 5740.05 of 73087  
the Revised Code makes a sale in this state by printed catalog and 73088  
the consumer computed the tax on the sale based on local rates 73089  
published in the catalog, any tax levied or repealed or rate 73090  
changed under this section shall not apply to such ~~sales~~ a sale 73091  
until the first day of a calendar quarter following the expiration 73092  
of one hundred twenty days from the date of notice by the tax 73093  
commissioner ~~to the vendor, or to the vendor's certified service~~ 73094  
~~provider, if the vendor has selected one~~ pursuant to division (H) 73095  
of this section. 73096

(C) If a resolution is rejected at a referendum or if a 73097  
resolution adopted after January 1, 1982, as an emergency measure 73098  
is repealed by the electors pursuant to division (B)(2) of this 73099  
section or section 5739.022 of the Revised Code, then for one year 73100  
after the date of the election at which the resolution was 73101  
rejected or repealed the board of county commissioners may not 73102  
adopt any resolution authorized by this section as an emergency 73103  
measure. 73104

(D) The board of county commissioners, at any time while a 73105  
tax levied under this section is in effect, may by resolution 73106  
reduce the rate at which the tax is levied to a lower rate 73107  
authorized by this section. Any reduction in the rate at which the 73108  
tax is levied shall be made effective on the first day of a 73109  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day after 73110  
~~the certification~~ a certified copy of the resolution is delivered 73111  
to the tax commissioner. 73112

(E) The tax on every retail sale subject to a tax levied 73113  
pursuant to this section shall be in addition to the tax levied by 73114  
section 5739.02 of the Revised Code and any tax levied pursuant to 73115  
section 5739.023 or 5739.026 of the Revised Code. 73116



A county that levies a tax pursuant to this section shall 73117  
levy a tax at the same rate pursuant to section 5741.021 of the 73118  
Revised Code. 73119

The additional tax levied by the county shall be collected 73120  
pursuant to section 5739.025 of the Revised Code. If the 73121  
additional tax or some portion thereof is levied for the purpose 73122  
of criminal and administrative justice services, the revenue from 73123  
the tax, or the amount or rate apportioned to that purpose, shall 73124  
be credited to a special fund created in the county treasury for 73125  
receipt of that revenue. 73126

Any tax levied pursuant to this section is subject to the 73127  
exemptions provided in section 5739.02 of the Revised Code and in 73128  
addition shall not be applicable to sales not within the taxing 73129  
power of a county under the Constitution of the United States or 73130  
the Ohio Constitution. 73131

(F) For purposes of this section, a copy of a resolution is 73132  
"certified" when it contains a written statement attesting that 73133  
the copy is a true and exact reproduction of the original 73134  
resolution. 73135

(G) If a board of commissioners intends to adopt a resolution 73136  
to levy a tax in whole or in part for the purpose of criminal and 73137  
administrative justice services, the board shall prepare and make 73138  
available at the first public hearing at which the resolution is 73139  
considered a statement containing the following information: 73140

(1) For each of the two preceding fiscal years, the amount of 73141  
expenditures made by the county from the county general fund for 73142  
the purpose of criminal and administrative justice services; 73143

(2) For the fiscal year in which the resolution is adopted, 73144  
the board's estimate of the amount of expenditures to be made by 73145  
the county from the county general fund for the purpose of 73146  
criminal and administrative justice services; 73147

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in

that office by law; the exercise by any court in the county of all 73180  
powers and duties vested in that court; the exercise by the clerk 73181  
of the court of common pleas, any clerk of a municipal court 73182  
having jurisdiction throughout the county, or the clerk of any 73183  
county court of all powers and duties vested in the clerk by law 73184  
except, in the case of the clerk of the court of common pleas, the 73185  
titling of motor vehicles or watercraft pursuant to Chapter 1548. 73186  
or 4505. of the Revised Code; the exercise by the county coroner 73187  
of all powers and duties vested in that office by law; making 73188  
payments to any other public agency or a private, nonprofit 73189  
agency, the purposes of which in the county include the diversion, 73190  
adjudication, detention, or rehabilitation of criminals or 73191  
juvenile offenders; the operation and maintenance of any detention 73192  
facility, as defined in section 2921.01 of the Revised Code; and 73193  
the construction, acquisition, equipping, or repair of such a 73194  
detention facility, including the payment of any debt charges 73195  
incurred in the issuance of securities pursuant to Chapter 133. of 73196  
the Revised Code for the purpose of constructing, acquiring, 73197  
equipping, or repairing such a facility. 73198

**Sec. 5739.022.** (A) The question of repeal of either a county 73199  
permissive tax or an increase in the rate of a county permissive 73200  
tax that was adopted as an emergency measure pursuant to section 73201  
5739.021 or 5739.026 of the Revised Code may be initiated by 73202  
filing with the board of elections of the county not less than 73203  
seventy-five days before the general election in any year a 73204  
petition requesting that an election be held on the question. The 73205  
question of repealing an increase in the rate of the county 73206  
permissive tax shall be submitted to the electors as a separate 73207  
question from the repeal of the tax in effect prior to the 73208  
increase in the rate. Any petition filed under this section shall 73209  
be signed by qualified electors residing in the county equal in 73210  
number to ten per cent of those voting for governor at the most 73211

recent gubernatorial election. 73212

After determination by it that the petition is valid, the 73213  
board of elections shall submit the question to the electors of 73214  
the county at the next general election. The election shall be 73215  
conducted, canvassed, and certified in the same manner as regular 73216  
elections for county offices in the county. The board of elections 73217  
shall notify the tax commissioner, in writing, of the election 73218  
upon determining that the petition is valid. Notice of the 73219  
election shall also be published in a newspaper of general 73220  
circulation in the district once a week for four consecutive weeks 73221  
prior to the election, stating the purpose, the time, and the 73222  
place of the election. The form of the ballot cast at the election 73223  
shall be prescribed by the secretary of state; however, the ballot 73224  
question shall read, "shall the tax (or, increase in the rate of 73225  
the tax) be retained? 73226

	Yes
	No

"

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The question covered by the petition shall be submitted as a 73231  
separate proposition, but it may be printed on the same ballot 73232  
with any other proposition submitted at the same election other 73233  
than the election of officers. 73234

(B) If a majority of the qualified electors voting on the 73235  
question of repeal of either a county permissive tax or an 73236  
increase in the rate of a county permissive tax approve the 73237  
repeal, the board of elections shall notify the board of county 73238  
commissioners and the tax commissioner of the result of the 73239  
election immediately after the result has been declared. The board 73240  
of county commissioners shall, on the first day of the ~~month~~ 73241  
calendar quarter following the expiration of ~~thirty~~ sixty-five 73242

days after the date ~~it receives~~ the board and the tax commissioner 73243  
receive the notice, in the case of a repeal of a county permissive 73244  
tax, cease to levy the tax, or, in the case of a repeal of an 73245  
increase in the rate of a county permissive tax, levy the tax at 73246  
the rate at which it was imposed immediately prior to the increase 73247  
in rate and cease to levy the increased rate. 73248

(C) Upon receipt from a board of elections of a notice of the 73249  
results of an election required by division (B) of this section, 73250  
the tax commissioner shall provide notice of a tax repeal or rate 73251  
change in a manner that is reasonably accessible to all affected 73252  
vendors. The commissioner shall provide this notice at least sixty 73253  
days prior to the effective date of the rate change. The 73254  
commissioner, by rule, may establish the method by which notice 73255  
will be provided. 73256

(D) If a vendor that is registered with the central 73257  
electronic registration system provided for in section 5740.05 of 73258  
the Revised Code makes a sale in this state by printed catalog and 73259  
the consumer computed the tax on the sale based on local rates 73260  
published in the catalog, any tax repealed or rate changed under 73261  
this section shall not apply to such a sale until the first day of 73262  
a calendar quarter following the expiration of one hundred twenty 73263  
days from the date of notice by the tax commissioner pursuant to 73264  
division (C) of this section. 73265

**Sec. 5739.023.** (A)(1) For the purpose of providing additional 73266  
general revenues for a transit authority and paying the expenses 73267  
of administering such levy, any transit authority as defined in 73268  
division (U) of section 5739.01 of the Revised Code may levy a tax 73269  
upon every retail sale made in the territory of the transit 73270  
authority, except sales of watercraft and outboard motors required 73271  
to be titled pursuant to Chapter 1548. of the Revised Code and 73272  
sales of motor vehicles, at a rate of not more than one and 73273

one-half per cent at any multiple of one-fourth of one per cent 73274  
and may increase the existing rate of tax to not more than one and 73275  
one-half per cent at any multiple of one-fourth of one per cent. 73276  
The tax shall be levied and the rate increased pursuant to a 73277  
resolution of the legislative authority of the transit authority 73278  
and a certified copy of the resolution shall be delivered by the 73279  
fiscal officer to the board of elections as provided in section 73280  
3505.071 of the Revised Code and to the tax commissioner. The 73281  
resolution shall specify the number of years for which the tax is 73282  
to be in effect or that the tax is for a continuing period of 73283  
time, and the date of the election on the question of the tax 73284  
pursuant to section 306.70 of the Revised Code. The board of 73285  
elections shall certify the results of the election to the transit 73286  
authority and tax commissioner. 73287

(2) Except as provided in division (C) of this section, the 73288  
tax levied by the resolution shall become effective on the first 73289  
day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth 73290  
day following the date the tax commissioner receives from the 73291  
board of elections the certification of the results of the 73292  
election on the question of the tax ~~by the board of elections~~. 73293

(B) The legislative authority may, at any time while the tax 73294  
is in effect, by resolution fix the rate of the tax at any rate 73295  
authorized by this section and not in excess of that approved by 73296  
the voters pursuant to section 306.70 of the Revised Code. Except 73297  
as provided in division (C) of this section, any change in the 73298  
rate of the tax shall be made effective on the first day of a 73299  
calendar quarter next following the ~~sixtieth~~ sixty-fifth day 73300  
following the date the tax commissioner receives the certification 73301  
of the resolution ~~to the tax commissioner~~; provided, that in any 73302  
case where bonds, or notes in anticipation of bonds, of a regional 73303  
transit authority have been issued under section 306.40 of the 73304  
Revised Code without a vote of the electors while the tax proposed 73305

to be reduced was in effect, the board of trustees of the regional 73306  
transit authority shall continue to levy and collect under 73307  
authority of the original election authorizing the tax a rate of 73308  
tax that the board of trustees reasonably estimates will produce 73309  
an amount in that year equal to the amount of principal of and 73310  
interest on those bonds as is payable in that year. 73311

(C) Upon receipt from the board of elections of the 73312  
certification of the results of the election required by division 73313  
(A) of this section, or from the legislative authority of the 73314  
certification of a resolution under division (B) of this section, 73315  
the tax commissioner shall provide notice of a tax rate change in 73316  
a manner that is reasonably accessible to all affected vendors. 73317  
The commissioner shall provide this notice at least sixty days 73318  
prior to the effective date of the rate change. The commissioner, 73319  
by rule, may establish the method by which notice will be 73320  
provided. 73321

(D) If a vendor that is registered with the central 73322  
electronic registration system provided for in section 5740.05 of 73323  
the Revised Code makes a sale in this state by printed catalog and 73324  
the consumer computed the tax on the sale based on local rates 73325  
published in the catalog, any tax levied or rate changed under 73326  
this section shall not apply to such a sale until the first day of 73327  
a calendar quarter following the expiration of one hundred twenty 73328  
days from the date of notice by the tax commissioner ~~to the~~ 73329  
~~vendor, or to the vendor's certified service provider, if the~~ 73330  
~~vendor has selected one~~ pursuant to division (C) of this section. 73331

~~(D)~~(E) The tax on every retail sale subject to a tax levied 73332  
pursuant to this section is in addition to the tax levied by 73333  
section 5739.02 of the Revised Code and any tax levied pursuant to 73334  
section 5739.021 or 5739.026 of the Revised Code. 73335

~~(E)~~(F) The additional tax levied by the transit authority 73336  
shall be collected pursuant to section 5739.025 of the Revised 73337

Code. 73338

~~(F)~~(G) Any tax levied pursuant to this section is subject to 73339  
the exemptions provided in section 5739.02 of the Revised Code and 73340  
in addition shall not be applicable to sales not within the taxing 73341  
power of a transit authority under the constitution of the United 73342  
States or the constitution of this state. 73343

~~(G)~~(H) The rate of a tax levied under this section is subject 73344  
to reduction under section 5739.028 of the Revised Code, if a 73345  
ballot question is approved by voters pursuant to that section. 73346

**Sec. 5739.025.** As used in this section, "local tax" means a 73347  
tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 73348  
5741.021, 5741.022, or 5741.023 of the Revised Code. 73349

(A) The taxes levied by sections 5739.02 and 5741.02 of the 73350  
Revised Code shall be collected as follows: 73351

(1) On and after July 1, 2003, and on or before June 30, 73352  
2005, in accordance with the following schedule: 73353

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73354
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73355
<u>.17</u>	<u>.33</u>	<u>2¢</u>	73356
<u>.34</u>	<u>.50</u>	<u>3¢</u>	73357
<u>.51</u>	<u>.66</u>	<u>4¢</u>	73358
<u>.67</u>	<u>.83</u>	<u>5¢</u>	73359
<u>.84</u>	<u>1.00</u>	<u>6¢</u>	73360

If the price exceeds one dollar, the tax is six cents on each 73363  
one dollar. If the price exceeds one dollar or a multiple thereof 73364  
by not more than seventeen cents, the amount of tax is six cents 73365  
for each one dollar plus one cent. If the price exceeds one dollar 73366  
or a multiple thereof by more than seventeen cents, the amount of 73367



tax is six cents for each one dollar plus the amount of tax for 73368  
prices eighteen cents through ninety-nine cents in accordance with 73369  
the schedule above. 73370

(2) On and after July 1, 2005, and on and before December 31, 73371  
2005, in accordance with the following schedule: 73372

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
\$ .01	\$ .15	No tax	73373
.16	.20	1¢	73374
.21	.40	2¢	73375
.41	.60	3¢	73376
.61	.80	4¢	73377
.81	1.00	5¢	73378

If the price exceeds one dollar, the tax is five cents on 73381  
each one dollar. If the price exceeds one dollar or a multiple 73382  
thereof by not more than twenty cents, the amount of tax is five 73383  
cents for each one dollar plus one cent. If the price exceeds one 73384  
dollar or a multiple thereof by more than twenty cents, the amount 73385  
of tax is five cents for each one dollar plus the amount of tax 73386  
for prices twenty-one cents through ninety-nine cents in 73387  
accordance with the schedule above. 73388

(B) ~~The~~ On and after July 1, 2003, and on and before June 30, 73389  
2005, the combined taxes levied by sections 5739.02 and 5741.02 73390  
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73391  
5741.022, and 5741.023 of the Revised Code shall be collected in 73392  
accordance with the following schedules: 73393

(1) When the combined rate of state and local tax is six and 73394  
one-fourth per cent: 73395

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73396
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73397

<u>.17</u>	<u>.32</u>	<u>2¢</u>	73400
<u>.33</u>	<u>.48</u>	<u>3¢</u>	73401
<u>.49</u>	<u>.64</u>	<u>4¢</u>	73402
<u>.65</u>	<u>.80</u>	<u>5¢</u>	73403
<u>.81</u>	<u>.96</u>	<u>6¢</u>	73404
<u>.97</u>	<u>1.12</u>	<u>7¢</u>	73405
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>	73406
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>	73407
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>	73408
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>	73409
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>	73410
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>	73411
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>	73412
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>	73413
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>	73414
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>	73415
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>	73416
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>	73417
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>	73418
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>	73419
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>	73420
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>	73421
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>	73422
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>	73423

If the price exceeds four dollars, the tax is twenty-five 73424  
cents on each four dollars. If the price exceeds four dollars or a 73425  
multiple thereof by not more than sixteen cents, the amount of tax 73426  
is twenty-five cents for each four dollars plus one cent. If the 73427  
price exceeds four dollars or a multiple thereof by more than 73428  
sixteen cents, the amount of tax is twenty-five cents for each 73429  
four dollars plus the amount of tax for prices seventeen cents 73430  
through three dollars and ninety-nine cents in accordance with the 73431  
schedule above. 73432

(2) When the combined rate of state and local tax is six and one-half per cent: 73433  
73434

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73437
<u>.16</u>	<u>.30</u>	<u>2¢</u>	73438
<u>.31</u>	<u>.46</u>	<u>3¢</u>	73439
<u>.47</u>	<u>.61</u>	<u>4¢</u>	73440
<u>.62</u>	<u>.76</u>	<u>5¢</u>	73441
<u>.77</u>	<u>.92</u>	<u>6¢</u>	73442
<u>.93</u>	<u>1.07</u>	<u>7¢</u>	73443
<u>1.08</u>	<u>1.23</u>	<u>8¢</u>	73444
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>	73445
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>	73446
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>	73447
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>	73448
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>	73449

If the price exceeds two dollars, the tax is thirteen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than fifteen cents, the amount of tax is thirteen cents for each two dollars plus the amount of tax for prices sixteen cents through one dollar and ninety-nine cents in accordance with the schedule above. 73450  
73451  
73452  
73453  
73454  
73455  
73456  
73457

(3) When the combined rate of state and local tax is six and three-fourths per cent: 73458  
73459

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73462
<u>.16</u>	<u>.29</u>	<u>2¢</u>	73463
<u>.30</u>	<u>.44</u>	<u>3¢</u>	73464

<u>.45</u>	<u>.59</u>	<u>4¢</u>	73465
<u>.60</u>	<u>.74</u>	<u>5¢</u>	73466
<u>.75</u>	<u>.88</u>	<u>6¢</u>	73467
<u>.89</u>	<u>1.03</u>	<u>7¢</u>	73468
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>	73469
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>	73470
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>	73471
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>	73472
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>	73473
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>	73474
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>	73475
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>	73476
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>	73477
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>	73478
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>	73479
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>	73480
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>	73481
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>	73482
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>	73483
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>	73484
<u>3.41</u>	<u>3.55</u>	<u>24¢</u>	73485
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>	73486
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>	73487
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>	73488

If the price exceeds four dollars, the tax is twenty-seven 73489  
cents on each four dollars. If the price exceeds four dollars or a 73490  
multiple thereof by not more than fourteen cents, the amount of 73491  
tax is twenty-seven cents for each four dollars plus one cent. If 73492  
the price exceeds four dollars or a multiple thereof by more than 73493  
fourteen but by not more than twenty-nine cents, the amount of tax 73494  
is twenty-seven cents for each four dollars plus two cents. If the 73495  
price exceeds four dollars or a multiple thereof by more than 73496  
twenty-nine cents the amount of tax is twenty-seven cents for each 73497

four dollars plus the amount of tax for prices thirty cents 73498  
through three dollars and ninety-nine cents in accordance with the 73499  
schedule above. 73500

(4) When the combined rate of state and local tax is seven 73501  
per cent: 73502

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73503
<u>.16</u>	<u>.28</u>	<u>2¢</u>	73504
<u>.29</u>	<u>.42</u>	<u>3¢</u>	73505
<u>.43</u>	<u>.57</u>	<u>4¢</u>	73506
<u>.58</u>	<u>.71</u>	<u>5¢</u>	73507
<u>.72</u>	<u>.85</u>	<u>6¢</u>	73508
<u>.86</u>	<u>1.00</u>	<u>7¢</u>	73509

If the price exceeds one dollar, the tax is seven cents on 73510  
each one dollar. If the price exceeds one dollar or a multiple 73511  
thereof by not more than fifteen cents, the amount of tax is seven 73512  
cents for each one dollar plus one cent. If the price exceeds one 73513  
dollar or a multiple thereof by more than fifteen cents, the 73514  
amount of tax is seven cents for each one dollar plus the amount 73515  
of tax for prices sixteen cents through ninety-nine cents in 73516  
accordance with the schedule above. 73517

(5) When the combined rate of state and local tax is seven 73518  
and one-fourth per cent: 73519

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73520
<u>.16</u>	<u>.27</u>	<u>2¢</u>	73521
<u>.28</u>	<u>.41</u>	<u>3¢</u>	73522
<u>.42</u>	<u>.55</u>	<u>4¢</u>	73523
<u>.56</u>	<u>.68</u>	<u>5¢</u>	73524
<u>.69</u>	<u>.82</u>	<u>6¢</u>	73525

<u>.83</u>	<u>.96</u>	<u>7¢</u>	73530
<u>.97</u>	<u>1.10</u>	<u>8¢</u>	73531
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>	73532
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>	73533
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>	73534
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>	73535
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>	73536
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>	73537
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>	73538
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>	73539
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>	73540
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>	73541
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>	73542
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>	73543
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>	73544
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>	73545
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>	73546
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>	73547
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>	73548
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>	73549
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>	73550
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>	73551
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>	73552

If the price exceeds four dollars, the tax is twenty-nine 73553  
cents on each four dollars. If the price exceeds four dollars or a 73554  
multiple thereof by not more than thirteen cents, the amount of 73555  
tax is twenty-nine cents for each four dollars plus one cent. If 73556  
the price exceeds four dollars or a multiple thereof by more than 73557  
thirteen cents but by not more than twenty-seven cents, the amount 73558  
of tax is twenty-nine cents for each four dollars plus two cents. 73559  
If the price exceeds four dollars or a multiple thereof by more 73560  
than twenty-seven cents, the amount of tax is twenty-nine cents 73561  
for each four dollars plus the amount of tax for prices 73562

twenty-eight cents through three dollars and ninety-nine cents in 73563  
accordance with the schedule above. 73564

(6) When the combined rate of state and local tax is seven 73565  
and one-half per cent: 73566

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73569
<u>.16</u>	<u>.26</u>	<u>2¢</u>	73570
<u>.27</u>	<u>.40</u>	<u>3¢</u>	73571
<u>.41</u>	<u>.53</u>	<u>4¢</u>	73572
<u>.54</u>	<u>.65</u>	<u>5¢</u>	73573
<u>.66</u>	<u>.80</u>	<u>6¢</u>	73574
<u>.81</u>	<u>.93</u>	<u>7¢</u>	73575
<u>.94</u>	<u>1.06</u>	<u>8¢</u>	73576
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>	73577
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>	73578
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>	73579
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>	73580
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>	73581
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>	73582
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>	73583

If the price exceeds two dollars, the tax is fifteen cents on 73584  
each two dollars. If the price exceeds two dollars or a multiple 73585  
thereof by not more than fifteen cents, the amount of tax is 73586  
fifteen cents for each two dollars plus one cent. If the price 73587  
exceeds two dollars or a multiple thereof by more than fifteen 73588  
cents, the amount of tax is fifteen cents for each two dollars 73589  
plus the amount of tax for prices sixteen cents through one dollar 73590  
and ninety-nine cents in accordance with the schedule above. 73591

(7) When the combined rate of state and local tax is seven 73592  
and three-fourths per cent: 73593

If the price 73594  
The amount of

<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
\$ <u>.01</u>	\$ <u>.15</u>	<u>No tax</u>	73595
<u>.16</u>	<u>.25</u>	<u>2¢</u>	73596
<u>.26</u>	<u>.38</u>	<u>3¢</u>	73597
<u>.39</u>	<u>.51</u>	<u>4¢</u>	73598
<u>.52</u>	<u>.64</u>	<u>5¢</u>	73599
<u>.65</u>	<u>.77</u>	<u>6¢</u>	73600
<u>.78</u>	<u>.90</u>	<u>7¢</u>	73601
<u>.91</u>	<u>1.03</u>	<u>8¢</u>	73602
<u>1.04</u>	<u>1.16</u>	<u>9¢</u>	73603
<u>1.17</u>	<u>1.29</u>	<u>10¢</u>	73604
<u>1.30</u>	<u>1.41</u>	<u>11¢</u>	73605
<u>1.42</u>	<u>1.54</u>	<u>12¢</u>	73606
<u>1.55</u>	<u>1.67</u>	<u>13¢</u>	73607
<u>1.68</u>	<u>1.80</u>	<u>14¢</u>	73608
<u>1.81</u>	<u>1.93</u>	<u>15¢</u>	73609
<u>1.94</u>	<u>2.06</u>	<u>16¢</u>	73610
<u>2.07</u>	<u>2.19</u>	<u>17¢</u>	73611
<u>2.20</u>	<u>2.32</u>	<u>18¢</u>	73612
<u>2.33</u>	<u>2.45</u>	<u>19¢</u>	73613
<u>2.46</u>	<u>2.58</u>	<u>20¢</u>	73614
<u>2.59</u>	<u>2.70</u>	<u>21¢</u>	73615
<u>2.71</u>	<u>2.83</u>	<u>22¢</u>	73616
<u>2.84</u>	<u>2.96</u>	<u>23¢</u>	73617
<u>2.97</u>	<u>3.09</u>	<u>24¢</u>	73618
<u>3.10</u>	<u>3.22</u>	<u>25¢</u>	73619
<u>3.23</u>	<u>3.35</u>	<u>26¢</u>	73620
<u>3.36</u>	<u>3.48</u>	<u>27¢</u>	73621
<u>3.49</u>	<u>3.61</u>	<u>28¢</u>	73622
<u>3.62</u>	<u>3.74</u>	<u>29¢</u>	73623
<u>3.75</u>	<u>3.87</u>	<u>30¢</u>	73624
<u>3.88</u>	<u>4.00</u>	<u>31¢</u>	73625
<u>If the price exceeds four dollars, the tax is thirty-one</u>			73626
			73627



cents on each four dollars. If the price exceeds four dollars or a 73628  
multiple thereof by not more than twelve cents, the amount of tax 73629  
is thirty-one cents for each four dollars plus one cent. If the 73630  
price exceeds four dollars or a multiple thereof by more than 73631  
twelve cents but by not more than twenty-five cents, the amount of 73632  
tax is thirty-one cents for each four dollars plus two cents. If 73633  
the price exceeds four dollars or a multiple thereof by more than 73634  
twenty-five cents, the amount of tax is thirty-one cents for each 73635  
four dollars plus the amount of tax for prices twenty-six cents 73636  
through three dollars and ninety-nine cents in accordance with the 73637  
schedule above. 73638

(8) When the combined rate of state and local tax is eight 73639  
per cent: 73640

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73641
<u>.16</u>	<u>.25</u>	<u>2¢</u>	73642
<u>.26</u>	<u>.37</u>	<u>3¢</u>	73643
<u>.38</u>	<u>.50</u>	<u>4¢</u>	73644
<u>.51</u>	<u>.62</u>	<u>5¢</u>	73645
<u>.63</u>	<u>.75</u>	<u>6¢</u>	73646
<u>.76</u>	<u>.87</u>	<u>7¢</u>	73647
<u>.88</u>	<u>1.00</u>	<u>8¢</u>	73648

If the price exceeds one dollar, the tax is eight cents on 73651  
each one dollar. If the price exceeds one dollar or a multiple 73652  
thereof by not more than twelve cents, the amount of tax is eight 73653  
cents for each one dollar plus one cent. If the price exceeds one 73654  
dollar or a multiple thereof by more than twelve cents but not 73655  
more than twenty-five cents, the amount of tax is eight cents for 73656  
each one dollar plus two cents. If the price exceeds one dollar or 73657  
a multiple thereof by more than twenty-five cents, the amount of 73658  
tax is eight cents for each one dollar plus the amount of tax for 73659

prices twenty-six cents through ninety-nine cents in accordance 73660  
with the schedule above. 73661

(9) When the combined rate of state and local tax is eight 73662  
and one-fourth per cent: 73663

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73666
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73667
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73668
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73669
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73670
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73671
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73672
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73673
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73674
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73675
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73676
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73677
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73678
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73679
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73680
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73681
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73682
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73683
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73684
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73685
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73686
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73687
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73688
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73689
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73690
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73691
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73692

<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73693
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73694
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73695
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73696
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	73697
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	73698

If the price exceeds four dollars, the tax is thirty-three 73699  
cents on each four dollars. If the price exceeds four dollars or a 73700  
multiple thereof by not more than eleven cents, the amount of tax 73701  
is thirty-three cents for each four dollars plus one cent. If the 73702  
price exceeds four dollars or a multiple thereof by more than 73703  
eleven cents but by not more than twenty-four cents, the amount of 73704  
tax is thirty-three cents for each four dollars plus two cents. If 73705  
the price exceeds four dollars or a multiple thereof by more than 73706  
twenty-four cents, the amount of tax is thirty-three cents for 73707  
each four dollars plus the amount of tax for prices twenty-six 73708  
cents through three dollars and ninety-nine cents in accordance 73709  
with the schedule above. 73710

(10) When the combined rate of state and local tax is eight 73711  
and one-half per cent: 73712

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73713
<u>.16</u>	<u>.23</u>	<u>2¢</u>	73714
<u>.24</u>	<u>.35</u>	<u>3¢</u>	73715
<u>.36</u>	<u>.47</u>	<u>4¢</u>	73716
<u>.48</u>	<u>.58</u>	<u>5¢</u>	73717
<u>.59</u>	<u>.70</u>	<u>6¢</u>	73718
<u>.71</u>	<u>.82</u>	<u>7¢</u>	73719
<u>.83</u>	<u>.94</u>	<u>8¢</u>	73720
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	73721
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	73722

<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	73725
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	73726
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	73727
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	73728
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	73729
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	73730
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	73731

If the price exceeds two dollars, the tax is seventeen cents 73732  
on each two dollars. If the price exceeds two dollars or a 73733  
multiple thereof by not more than eleven cents, the amount of tax 73734  
is seventeen cents for each two dollars plus one cent. If the 73735  
price exceeds two dollars or a multiple thereof by more than 73736  
eleven cents but by not more than twenty-three cents, the amount 73737  
of tax is seventeen cents for each two dollars plus two cents. If 73738  
the price exceeds two dollars or a multiple thereof by more than 73739  
twenty-three cents, the amount of tax is seventeen cents for each 73740  
two dollars plus the amount of tax for prices twenty-four cents 73741  
through one dollar and ninety-nine cents in accordance with the 73742  
schedule above. 73743

(11) When the combined rate of state and local tax is eight 73744  
and three-fourths per cent: 73745

<u>If the price</u>		<u>The amount of</u>	73746
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	73747
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73748
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73749
<u>.23</u>	<u>.34</u>	<u>3¢</u>	73750
<u>.35</u>	<u>.45</u>	<u>4¢</u>	73751
<u>.46</u>	<u>.57</u>	<u>5¢</u>	73752
<u>.58</u>	<u>.68</u>	<u>6¢</u>	73753
<u>.69</u>	<u>.80</u>	<u>7¢</u>	73754
<u>.81</u>	<u>.91</u>	<u>8¢</u>	73755
<u>.92</u>	<u>1.02</u>	<u>9¢</u>	73756

<u>1.03</u>	<u>1.14</u>	<u>10¢</u>	73757
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>	73758
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>	73759
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>	73760
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>	73761
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>	73762
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>	73763
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>	73764
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>	73765
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>	73766
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>	73767
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>	73768
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>	73769
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>	73770
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>	73771
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>	73772
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>	73773
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>	73774
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>	73775
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>	73776
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>	73777
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>	73778
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>	73779
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>	73780
<u>3.78</u>	<u>3.88</u>	<u>34¢</u>	73781
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>	73782

If the price exceeds four dollars, the tax is thirty-five 73783  
cents on each four dollars. If the price exceeds four dollars or a 73784  
multiple thereof by not more than eleven cents, the amount of tax 73785  
is thirty-five cents for each four dollars plus one cent. If the 73786  
price exceeds four dollars or a multiple thereof by more than 73787  
eleven cents but by not more than twenty-two cents, the amount of 73788  
tax is thirty-five cents for each four dollars plus two cents. If 73789

the price exceeds four dollars or a multiple thereof by more than 73790  
twenty-two cents, the amount of tax is thirty-five cents for each 73791  
four dollars plus the amount of tax for prices twenty-three cents 73792  
through three dollars and ninety-nine cents in accordance with the 73793  
schedule above. 73794

(12) When the combined rate of state and local tax is nine 73795  
per cent: 73796

<u>If the price</u>		<u>The amount of</u>	
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	
<u>\$ .01</u>	<u>\$ .15</u>	<u>No tax</u>	73799
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73800
<u>.23</u>	<u>.33</u>	<u>3¢</u>	73801
<u>.34</u>	<u>.44</u>	<u>4¢</u>	73802
<u>.45</u>	<u>.55</u>	<u>5¢</u>	73803
<u>.56</u>	<u>.66</u>	<u>6¢</u>	73804
<u>.67</u>	<u>.77</u>	<u>7¢</u>	73805
<u>.78</u>	<u>.88</u>	<u>8¢</u>	73806
<u>.89</u>	<u>1.00</u>	<u>9¢</u>	73807

If the price exceeds one dollar, the tax is nine cents on 73808  
each one dollar. If the price exceeds one dollar or a multiple 73809  
thereof by not more than eleven cents, the amount of tax is nine 73810  
cents for each one dollar plus one cent. If the price exceeds one 73811  
dollar or a multiple thereof by more than eleven cents but by not 73812  
more than twenty-two cents, the amount of tax is nine cents for 73813  
each one dollar plus two cents. If the price exceeds one dollar or 73814  
a multiple thereof by more than twenty-two cents, the amount of 73815  
tax is nine cents for each one dollar plus the amount of tax for 73816  
prices twenty-three cents through ninety-nine cents in accordance 73817  
with the schedule above. 73818

(C) On and after July 1, 2005, and on and before December 31, 73819  
2005, the combined taxes levied by sections 5739.02 and 5741.02 73820  
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73821

5741.022, and 5741.023 of the Revised Code shall be collected in 73822  
accordance with the following schedules: 73823

(1) When the total rate of local tax is one-fourth per cent: 73824

If the price	But not	The amount	73825
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is at least	more than	of the tax is	73826
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\$ .01	\$ .15	No tax	73827
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.16	.19	1¢	73828
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.20	.38	2¢	73829
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.39	.57	3¢	73830
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.58	.76	4¢	73831
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.77	.95	5¢	73832
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.96	1.14	6¢	73833
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1.15	1.33	7¢	73834
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1.34	1.52	8¢	73835
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1.53	1.71	9¢	73836
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1.72	1.90	10¢	73837
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1.91	2.09	11¢	73838
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2.10	2.28	12¢	73839
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2.29	2.47	13¢	73840
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2.48	2.66	14¢	73841
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2.67	2.85	15¢	73842
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2.86	3.04	16¢	73843
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3.05	3.23	17¢	73844
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3.24	3.42	18¢	73845
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3.43	3.61	19¢	73846
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3.62	3.80	20¢	73847
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3.81	4.00	21¢	73848
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If the price exceeds four dollars, the tax is twenty-one 73849

cents on each four dollars. If the price exceeds four dollars or a 73850

multiple thereof by not more than nineteen cents, the amount of 73851

tax is twenty-one cents for each four dollars plus one cent. If 73852

the price exceeds four dollars or a multiple thereof by more than 73853

nineteen cents, the amount of tax is twenty-one cents for each 73854  
four dollars plus the amount of tax for prices twenty cents 73855  
through three dollars and ninety-nine cents in accordance with the 73856  
schedule above. 73857

(2) When the combined rate of local tax is one-half per cent: 73858

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73861
.16	.18	1¢	73862
.19	.36	2¢	73863
.37	.54	3¢	73864
.55	.72	4¢	73865
.73	.90	5¢	73866
.91	1.09	6¢	73867
1.10	1.27	7¢	73868
1.28	1.46	8¢	73869
1.47	1.64	9¢	73870
1.65	1.82	10¢	73871
1.83	2.00	11¢	73872

If the price exceeds two dollars, the tax is eleven cents on 73873  
each two dollars. If the price exceeds two dollars or a multiple 73874  
thereof by not more than eighteen cents, the amount of tax is 73875  
eleven cents for each two dollars plus one cent. If the price 73876  
exceeds two dollars or a multiple thereof by more than eighteen 73877  
cents, the amount of tax is eleven cents for each two dollars plus 73878  
the amount of tax for prices nineteen cents through one dollar and 73879  
ninety-nine cents in accordance with the schedule above. 73880

(3) When the combined rate of local tax is three-fourths per 73881  
cent: 73882

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	73885



.16	.17	1¢	73886
.18	.34	2¢	73887
.35	.52	3¢	73888
.53	.69	4¢	73889
.70	.86	5¢	73890
.87	1.04	6¢	73891
1.05	1.21	7¢	73892
1.22	1.39	8¢	73893
1.40	1.56	9¢	73894
1.57	1.73	10¢	73895
1.74	1.91	11¢	73896
1.92	2.08	12¢	73897
2.09	2.26	13¢	73898
2.27	2.43	14¢	73899
2.44	2.60	15¢	73900
2.61	2.78	16¢	73901
2.79	2.95	17¢	73902
2.96	3.13	18¢	73903
3.14	3.30	19¢	73904
3.31	3.47	20¢	73905
3.48	3.65	21¢	73906
3.66	3.82	22¢	73907
3.83	4.00	23¢	73908

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

73909  
73910  
73911  
73912  
73913  
73914  
73915  
73916  
73917

(4) When the combined rate of local tax is one per cent:			73918
If the price	But not	The amount	73919
is at least	more than	of the tax is	73920
\$ .01	\$ .15	No tax	73921
.16	.17	1¢	73922
.18	.34	2¢	73923
.35	.50	3¢	73924
.51	.67	4¢	73925
.68	.83	5¢	73926
.84	1.00	6¢	73927

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(5) When the combined rate of local tax is one and one-fourth per cent:

If the price	But not	The amount	73938
is at least	more than	of the tax is	73939
\$ .01	\$ .15	No tax	73940
.16	.16	1¢	73941
.17	.32	2¢	73942
.33	.48	3¢	73943
.49	.64	4¢	73944
.65	.80	5¢	73945
.81	.96	6¢	73946
.97	1.12	7¢	73947
1.13	1.28	8¢	73948
1.29	1.44	9¢	73949

1.45	1.60	10¢	73950
1.61	1.76	11¢	73951
1.77	1.92	12¢	73952
1.93	2.08	13¢	73953
2.09	2.24	14¢	73954
2.25	2.40	15¢	73955
2.41	2.56	16¢	73956
2.57	2.72	17¢	73957
2.73	2.88	18¢	73958
2.89	3.04	19¢	73959
3.05	3.20	20¢	73960
3.21	3.36	21¢	73961
3.37	3.52	22¢	73962
3.53	3.68	23¢	73963
3.69	3.84	24¢	73964
3.85	4.00	25¢	73965

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of local tax is one and one-half per cent:

If the price is at least	But not more than	The amount of the tax is	
\$ .01	\$ .15	No tax	73977
.16	.30	2¢	73978
.31	.46	3¢	73979

.47	.61	4¢	73982
.62	.76	5¢	73983
.77	.92	6¢	73984
.93	1.07	7¢	73985
1.08	1.23	8¢	73986
1.24	1.38	9¢	73987
1.39	1.53	10¢	73988
1.54	1.69	11¢	73989
1.70	1.84	12¢	73990
1.85	2.00	13¢	73991

If the price exceeds two dollars, the tax is thirteen cents 73992  
on each two dollars. If the price exceeds two dollars or a 73993  
multiple thereof by not more than fifteen cents, the amount of tax 73994  
is thirteen cents for each two dollars plus one cent. If the price 73995  
exceeds two dollars or a multiple thereof by more than fifteen 73996  
cents, the amount of tax is thirteen cents for each two dollars 73997  
plus the amount of tax for prices sixteen cents through one dollar 73998  
and ninety-nine cents in accordance with the schedule above. 73999

(7) When the combined rate of local tax is one and 74000  
three-fourths per cent: 74001

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74002
.16	.29	2¢	74003
.30	.44	3¢	74004
.45	.59	4¢	74005
.60	.74	5¢	74006
.75	.88	6¢	74007
.89	1.03	7¢	74008
1.04	1.18	8¢	74009
1.19	1.33	9¢	74010
1.34	1.48	10¢	74011
			74012
			74013

1.49	1.62	11¢	74014
1.63	1.77	12¢	74015
1.78	1.92	13¢	74016
1.93	2.07	14¢	74017
2.08	2.22	15¢	74018
2.23	2.37	16¢	74019
2.38	2.51	17¢	74020
2.52	2.66	18¢	74021
2.67	2.81	19¢	74022
2.82	2.96	20¢	74023
2.97	3.11	21¢	74024
3.12	3.25	22¢	74025
3.26	3.40	23¢	74026
3.41	3.55	24¢	74027
3.56	3.70	25¢	74028
3.71	3.85	26¢	74029
3.86	4.00	27¢	74030

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(8) When the combined rate of local tax is two per cent:  
 If the price is at least                      But not more than                      The amount of the tax is

\$ .01	\$ .15	No tax	74046
.16	.28	2¢	74047
.29	.42	3¢	74048
.43	.57	4¢	74049
.58	.71	5¢	74050
.72	.85	6¢	74051
.86	1.00	7¢	74052

If the price exceeds one dollar, the tax is seven cents on 74053  
each one dollar. If the price exceeds one dollar or a multiple 74054  
thereof by not more than fifteen cents, the amount of tax is seven 74055  
cents for each one dollar plus one cent. If the price exceeds one 74056  
dollar or a multiple thereof by more than fifteen cents, the 74057  
amount of tax is seven cents for each one dollar plus the amount 74058  
of tax for prices sixteen cents through ninety-nine cents in 74059  
accordance with the schedule above. 74060

(9) When the combined rate of local tax is two and one-fourth 74061  
per cent: 74062

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74063
.16	.27	2¢	74064
.28	.41	3¢	74065
.42	.55	4¢	74066
.56	.68	5¢	74067
.69	.82	6¢	74068
.83	.96	7¢	74069
.97	1.10	8¢	74070
1.11	1.24	9¢	74071
1.25	1.37	10¢	74072
1.38	1.51	11¢	74073
1.52	1.65	12¢	74074
1.66	1.79	13¢	74075

1.80	1.93	14¢	74078
1.94	2.06	15¢	74079
2.07	2.20	16¢	74080
2.21	2.34	17¢	74081
2.35	2.48	18¢	74082
2.49	2.62	19¢	74083
2.63	2.75	20¢	74084
2.76	2.89	21¢	74085
2.90	3.03	22¢	74086
3.04	3.17	23¢	74087
3.18	3.31	24¢	74088
3.32	3.44	25¢	74089
3.45	3.58	26¢	74090
3.59	3.72	27¢	74091
3.73	3.86	28¢	74092
3.87	4.00	29¢	74093

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of local tax is two and one-half per cent:

If the price	But not	The amount	74108
is at least	more than	of the tax is	74109

\$ .01	\$ .15	No tax	74110
.16	.26	2¢	74111
.27	.40	3¢	74112
.41	.53	4¢	74113
.54	.65	5¢	74114
.66	.80	6¢	74115
.81	.93	7¢	74116
.94	1.06	8¢	74117
1.07	1.20	9¢	74118
1.21	1.33	10¢	74119
1.34	1.46	11¢	74120
1.47	1.60	12¢	74121
1.61	1.73	13¢	74122
1.74	1.86	14¢	74123
1.87	2.00	15¢	74124

If the price exceeds two dollars, the tax is fifteen cents on 74125  
each two dollars. If the price exceeds two dollars or a multiple 74126  
thereof by not more than fifteen cents, the amount of tax is 74127  
fifteen cents for each two dollars plus one cent. If the price 74128  
exceeds two dollars or a multiple thereof by more than fifteen 74129  
cents, the amount of tax is fifteen cents for each two dollars 74130  
plus the amount of tax for prices sixteen cents through one dollar 74131  
and ninety-nine cents in accordance with the schedule above. 74132

(11) When the combined rate of local tax is two and 74133  
three-fourths per cent: 74134

If the price	But not	The amount	74135
is at least	more than	of the tax is	74136
\$ .01	\$ .15	No tax	74137
.16	.25	2¢	74138
.26	.38	3¢	74139
.39	.51	4¢	74140
.52	.64	5¢	74141



.65	.77	6¢	74142
.78	.90	7¢	74143
.91	1.03	8¢	74144
1.04	1.16	9¢	74145
1.17	1.29	10¢	74146
1.30	1.41	11¢	74147
1.42	1.54	12¢	74148
1.55	1.67	13¢	74149
1.68	1.80	14¢	74150
1.81	1.93	15¢	74151
1.94	2.06	16¢	74152
2.07	2.19	17¢	74153
2.20	2.32	18¢	74154
2.33	2.45	19¢	74155
2.46	2.58	20¢	74156
2.59	2.70	21¢	74157
2.71	2.83	22¢	74158
2.84	2.96	23¢	74159
2.97	3.09	24¢	74160
3.10	3.22	25¢	74161
3.23	3.35	26¢	74162
3.36	3.48	27¢	74163
3.49	3.61	28¢	74164
3.62	3.74	29¢	74165
3.75	3.87	30¢	74166
3.88	4.00	31¢	74167

If the price exceeds four dollars, the tax is thirty-one 74168  
cents on each four dollars. If the price exceeds four dollars or a 74169  
multiple thereof by not more than twelve cents, the amount of tax 74170  
is thirty-one cents for each four dollars plus one cent. If the 74171  
price exceeds four dollars or a multiple thereof by more than 74172  
twelve cents but not more than twenty-five cents, the amount of 74173  
tax is thirty-one cents for each four dollars plus two cents. If 74174

the price exceeds four dollars or a multiple thereof by more than 74175  
twenty-five cents, the amount of tax is thirty-one cents for each 74176  
four dollars plus the amount of tax for prices twenty-six cents 74177  
through three dollars and ninety-nine cents in accordance with the 74178  
schedule above. 74179

(12) When the combined rate of local tax is three per cent: 74180

If the price	But not	The amount	
is at least	more than	of the tax is	
\$ .01	\$ .15	No tax	74183
.16	.25	2¢	74184
.26	.37	3¢	74185
.38	.50	4¢	74186
.51	.62	5¢	74187
.63	.75	6¢	74188
.76	.87	7¢	74189
.88	1.00	8¢	74190

If the price exceeds one dollar, the tax is eight cents on 74191  
each one dollar. If the price exceeds one dollar or a multiple 74192  
thereof by not more than twelve cents, the amount of tax is eight 74193  
cents for each one dollar plus one cent. If the price exceeds one 74194  
dollar or a multiple thereof by more than twelve cents but not 74195  
more than twenty-five cents, the amount of tax is eight cents for 74196  
each one dollar plus two cents. If the price exceeds one dollar or 74197  
a multiple thereof by more than twenty-five cents, the amount of 74198  
tax is eight cents for each one dollar plus the amount of tax for 74199  
prices twenty-six cents through ninety-nine cents in accordance 74200  
with the schedule above. 74201

~~(C)~~(D) In lieu of collecting the tax pursuant to the 74202  
schedules set forth in divisions (A) ~~and~~, (B), and (C) of this 74203  
section, a vendor may compute the tax on each sale as follows: 74204

(1) On sales of fifteen cents or less, no tax shall apply. 74205

(2) On sales in excess of fifteen cents, multiply the price 74206  
by the aggregate rate of taxes in effect under sections ~~5739.01~~ 74207  
5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 74208  
5741.021, 5741.022, and 5741.023 of the Revised Code. The 74209  
computation shall be carried out to six decimal places. If the 74210  
result is a fractional amount of a cent, the calculated tax shall 74211  
be increased to the next highest cent and that amount shall be 74212  
collected by the vendor. 74213

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute 74214  
the tax on each sale by multiplying the price by the aggregate 74215  
rate of taxes in effect under sections 5739.02 and 5741.02, and 74216  
sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 74217  
5741.023 of the Revised Code. The computation shall be carried out 74218  
to three decimal places. If the result is a fractional amount of a 74219  
cent, the calculated tax shall be rounded to a whole cent using a 74220  
method that rounds up to the next cent whenever the third decimal 74221  
place is greater than four. A vendor may elect to compute the tax 74222  
due on a transaction on an item or an invoice basis. 74223

(F) In auditing a vendor, the tax commissioner shall consider 74224  
the method prescribed by this section that was used by the vendor 74225  
in determining and collecting the tax due under this chapter on 74226  
taxable transactions. If the vendor correctly collects and remits 74227  
the tax due under this chapter in accordance with the schedules in 74228  
divisions (A) ~~and~~, (B), and (C) of this section or in accordance 74229  
with the computation prescribed in division ~~(C)~~(D) or (E) of this 74230  
section, the commissioner shall not assess any additional tax on 74231  
those transactions. 74232

(G)(1) With respect to a sale of a fractional ownership 74233  
program aircraft used primarily in a fractional aircraft ownership 74234  
program, including all accessories attached to such aircraft, the 74235  
tax shall be calculated pursuant to divisions (A) to (E) of this 74236  
section, provided that the tax commissioner shall modify those 74237

calculations so that the maximum tax on each program aircraft is 74238  
eight hundred dollars. In the case of a sale of a fractional 74239  
interest that is less than one hundred per cent of the program 74240  
aircraft, the tax charged on the transaction shall be eight 74241  
hundred dollars multiplied by a fraction, the numerator of which 74242  
is the percentage of ownership or possession in the aircraft being 74243  
purchased in the transaction, and the denominator of which is one 74244  
hundred per cent. 74245

(2) Notwithstanding any other provision of law to the 74246  
contrary, the tax calculated under division (G)(1) of this section 74247  
and paid with respect to the sale of a fractional ownership 74248  
program aircraft used primarily in a fractional aircraft ownership 74249  
program shall be credited to the general revenue fund. 74250

**Sec. 5739.026.** (A) A board of county commissioners may levy a 74251  
tax of one-fourth or one-half of one per cent on every retail sale 74252  
in the county, except sales of watercraft and outboard motors 74253  
required to be titled pursuant to Chapter 1548. of the Revised 74254  
Code and sales of motor vehicles, and may increase an existing 74255  
rate of one-fourth of one per cent to one-half of one per cent, to 74256  
pay the expenses of administering the tax and, except as provided 74257  
in division (A)(6) of this section, for any one or more of the 74258  
following purposes provided that the aggregate levy for all such 74259  
purposes does not exceed one-half of one per cent: 74260

(1) To provide additional revenues for the payment of bonds 74261  
or notes issued in anticipation of bonds issued by a convention 74262  
facilities authority established by the board of county 74263  
commissioners under Chapter 351. of the Revised Code and to 74264  
provide additional operating revenues for the convention 74265  
facilities authority; 74266

(2) To provide additional revenues for a transit authority 74267  
operating in the county; 74268

(3) To provide additional revenue for the county's general fund; 74269  
74270

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code; 74271  
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(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements; 74276  
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(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition. 74286  
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If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also 74298  
74299

shall levy the tax or increase the rate of the tax for one or more 74300  
of the purposes described in divisions (A)(1) to (5) of this 74301  
section and shall prescribe the method for allocating the revenues 74302  
from the tax each year in the manner required by division (C) of 74303  
this section. 74304

(7) To provide additional revenue for the operation or 74305  
maintenance of a detention facility, as that term is defined under 74306  
division (F) of section 2921.01 of the Revised Code; 74307

(8) To provide revenue to finance the construction or 74308  
renovation of a sports facility, but only if the tax is levied for 74309  
that purpose in the manner prescribed by section 5739.028 of the 74310  
Revised Code. 74311

As used in division (A)(8) of this section: 74312

(a) "Sports facility" means a facility intended to house 74313  
major league professional athletic teams. 74314

(b) "Constructing" or "construction" includes providing 74315  
fixtures, furnishings, and equipment. 74316

(9) To provide additional revenue for the acquisition of 74317  
agricultural easements, as defined in section 5301.67 of the 74318  
Revised Code; to pay principal, interest, and premium on bonds 74319  
issued under section 133.60 of the Revised Code; and for the 74320  
supervision and enforcement of agricultural easements held by the 74321  
county. 74322

Pursuant to section 755.171 of the Revised Code, a board of 74323  
county commissioners may pledge and contribute revenue from a tax 74324  
levied for the purpose of division (A)(5) of this section to the 74325  
payment of debt charges on bonds issued under section 755.17 of 74326  
the Revised Code. 74327

The rate of tax shall be a multiple of one-fourth of one per 74328  
cent, unless a portion of the rate of an existing tax levied under 74329

section 5739.023 of the Revised Code has been reduced, and the 74330  
rate of tax levied under this section has been increased, pursuant 74331  
to section 5739.028 of the Revised Code, in which case the 74332  
aggregate of the rates of tax levied under this section and 74333  
section 5739.023 of the Revised Code shall be a multiple of 74334  
one-fourth of one per cent. The tax shall be levied and the rate 74335  
increased pursuant to a resolution adopted by a majority of the 74336  
members of the board. The board shall deliver a certified copy of 74337  
the resolution to the tax commissioner, not later than the 74338  
sixty-fifth day prior to the date on which the tax is to become 74339  
effective, which shall be the first day of a calendar quarter. 74340

Prior to the adoption of any resolution to levy the tax or to 74341  
increase the rate of tax exclusively for the purpose set forth in 74342  
division (A)(3) of this section, the board of county commissioners 74343  
shall conduct two public hearings on the resolution, the second 74344  
hearing to be no fewer than three nor more than ten days after the 74345  
first. Notice of the date, time, and place of the hearings shall 74346  
be given by publication in a newspaper of general circulation in 74347  
the county once a week on the same day of the week for two 74348  
consecutive weeks, the second publication being no fewer than ten 74349  
nor more than thirty days prior to the first hearing. Except as 74350  
provided in division (E) of this section, the resolution shall 74351  
~~become effective on the first day of a calendar quarter following~~ 74352  
~~the expiration of sixty days from the date of its adoption, be~~ 74353  
subject to a referendum as provided in sections 305.31 to 305.41 74354  
of the Revised Code. If the resolution is adopted as an emergency 74355  
measure necessary for the immediate preservation of the public 74356  
peace, health, or safety, it must receive an affirmative vote of 74357  
all of the members of the board of county commissioners and shall 74358  
state the reasons for the necessity. 74359

If the tax is for more than one of the purposes set forth in 74360  
divisions (A)(1) to (7) and (9) of this section or is exclusively 74361

for one of the purposes set forth in division (A)(1), (2), (4), 74362  
(5), (6), (7), or (9) of this section, the resolution shall not go 74363  
into effect unless it is approved by a majority of the electors 74364  
voting on the question of the tax. 74365

(B) The board of county commissioners shall adopt a 74366  
resolution under section 351.02 of the Revised Code creating the 74367  
convention facilities authority, or under section 307.283 of the 74368  
Revised Code creating the community improvements board, before 74369  
adopting a resolution levying a tax for the purpose of a 74370  
convention facilities authority under division (A)(1) of this 74371  
section or for the purpose of a community improvements board under 74372  
division (A)(4) of this section. 74373

(C)(1) If the tax is to be used for more than one of the 74374  
purposes set forth in divisions (A)(1) to (7) and (9) of this 74375  
section, the board of county commissioners shall establish the 74376  
method that will be used to determine the amount or proportion of 74377  
the tax revenue received by the county during each year that will 74378  
be distributed for each of those purposes, including, if 74379  
applicable, provisions governing the reallocation of a convention 74380  
facilities authority's allocation if the authority is dissolved 74381  
while the tax is in effect. The allocation method may provide that 74382  
different proportions or amounts of the tax shall be distributed 74383  
among the purposes in different years, but it shall clearly 74384  
describe the method that will be used for each year. Except as 74385  
otherwise provided in division (C)(2) of this section, the 74386  
allocation method established by the board is not subject to 74387  
amendment during the life of the tax. 74388

(2) Subsequent to holding a public hearing on the proposed 74389  
amendment, the board of county commissioners may amend the 74390  
allocation method established under division (C)(1) of this 74391  
section for any year, if the amendment is approved by the 74392  
governing board of each entity whose allocation for the year would 74393



be reduced by the proposed amendment. In the case of a tax that is 74394  
levied for a continuing period of time, the board may not so amend 74395  
the allocation method for any year before the sixth year that the 74396  
tax is in effect. 74397

(a) If the additional revenues provided to the convention 74398  
facilities authority are pledged by the authority for the payment 74399  
of convention facilities authority revenue bonds for as long as 74400  
such bonds are outstanding, no reduction of the authority's 74401  
allocation of the tax shall be made for any year except to the 74402  
extent that the reduced authority allocation, when combined with 74403  
the authority's other revenues pledged for that purpose, is 74404  
sufficient to meet the debt service requirements for that year on 74405  
such bonds. 74406

(b) If the additional revenues provided to the county are 74407  
pledged by the county for the payment of bonds or notes described 74408  
in division (A)(4) or (5) of this section, for as long as such 74409  
bonds or notes are outstanding, no reduction of the county's or 74410  
the community improvements board's allocation of the tax shall be 74411  
made for any year, except to the extent that the reduced county or 74412  
community improvements board allocation is sufficient to meet the 74413  
debt service requirements for that year on such bonds or notes. 74414

(c) If the additional revenues provided to the transit 74415  
authority are pledged by the authority for the payment of revenue 74416  
bonds issued under section 306.37 of the Revised Code, for as long 74417  
as such bonds are outstanding, no reduction of the authority's 74418  
allocation of tax shall be made for any year, except to the extent 74419  
that the authority's reduced allocation, when combined with the 74420  
authority's other revenues pledged for that purpose, is sufficient 74421  
to meet the debt service requirements for that year on such bonds. 74422

(d) If the additional revenues provided to the county are 74423  
pledged by the county for the payment of bonds or notes issued 74424  
under section 133.60 of the Revised Code, for so long as the bonds 74425

or notes are outstanding, no reduction of the county's allocation 74426  
of the tax shall be made for any year, except to the extent that 74427  
the reduced county allocation is sufficient to meet the debt 74428  
service requirements for that year on the bonds or notes. 74429

(D)(1) The resolution levying the tax or increasing the rate 74430  
of tax shall state the rate of the tax or the rate of the 74431  
increase; the purpose or purposes for which it is to be levied; 74432  
the number of years for which it is to be levied or that it is for 74433  
a continuing period of time; the allocation method required by 74434  
division (C) of this section; and if required to be submitted to 74435  
the electors of the county under division (A) of this section, the 74436  
date of the election at which the proposal shall be submitted to 74437  
the electors of the county, which shall be not less than 74438  
seventy-five days after the certification of a copy of the 74439  
resolution to the board of elections and, if the tax is to be 74440  
levied exclusively for the purpose set forth in division (A)(3) of 74441  
this section, shall not occur in February or August of any year. 74442  
Upon certification of the resolution to the board of elections, 74443  
the board of county commissioners shall notify the tax 74444  
commissioner in writing of the levy question to be submitted to 74445  
the electors. If approved by a majority of the electors, the tax 74446  
shall become effective on the first day of a calendar quarter next 74447  
following the ~~sixtieth~~ sixty-fifth day following the ~~certification~~ 74448  
~~of the results of the election to~~ date the board of county 74449  
commissioners and ~~the~~ tax commissioner ~~by~~ receive from the board 74450  
of elections the certification of the results of the election, 74451  
except as provided in division (E) of this section. 74452

(2)(a) A resolution specifying that the tax is to be used 74453  
exclusively for the purpose set forth in division (A)(3) of this 74454  
section that is not adopted as an emergency measure may direct the 74455  
board of elections to submit the question of levying the tax or 74456  
increasing the rate of the tax to the electors of the county at a 74457

special election held on the date specified by the board of county 74458  
commissioners in the resolution, provided that the election occurs 74459  
not less than seventy-five days after the resolution is certified 74460  
to the board of elections and the election is not held in February 74461  
or August of any year. Upon certification of the resolution to the 74462  
board of elections, the board of county commissioners shall notify 74463  
the tax commissioner in writing of the levy question to be 74464  
submitted to the electors. No resolution adopted under division 74465  
(D)(2)(a) of this section shall go into effect unless approved by 74466  
a majority of those voting upon it and, except as provided in 74467  
division (E) of this section, not until the first day of a 74468  
calendar quarter following the expiration of sixty-five days from 74469  
the date ~~of the notice to~~ the tax commissioner ~~by~~ receives notice  
from the board of elections of the affirmative vote. 74470  
74471

(b) A resolution specifying that the tax is to be used 74472  
exclusively for the purpose set forth in division (A)(3) of this 74473  
section that is adopted as an emergency measure shall become 74474  
effective as provided in division (A) of this section, but may 74475  
direct the board of elections to submit the question of repealing 74476  
the tax or increase in the rate of the tax to the electors of the 74477  
county at the next general election in the county occurring not 74478  
less than seventy-five days after the resolution is certified to 74479  
the board of elections. Upon certification of the resolution to 74480  
the board of elections, the board of county commissioners shall 74481  
notify the tax commissioner in writing of the levy question to be 74482  
submitted to the electors. The ballot question shall be the same 74483  
as that prescribed in section 5739.022 of the Revised Code. The 74484  
board of elections shall notify the board of county commissioners 74485  
and the tax commissioner of the result of the election immediately 74486  
after the result has been declared. If a majority of the qualified 74487  
electors voting on the question of repealing the tax or increase 74488  
in the rate of the tax vote for repeal of the tax or repeal of the 74489  
increase, the board of county commissioners, on the first day of a 74490

calendar quarter following the expiration of ~~sixty-five~~ days after 74491  
the date ~~it~~ the board and tax commissioner received notice of the 74492  
result of the election, shall, in the case of a repeal of the tax, 74493  
cease to levy the tax, or, in the case of a repeal of an increase 74494  
in the rate of the tax, cease to levy the increased rate and levy 74495  
the tax at the rate at which it was imposed immediately prior to 74496  
the increase in rate. 74497

(c) A board of county commissioners, by resolution, may 74498  
reduce the rate of a tax levied exclusively for the purpose set 74499  
forth in division (A)(3) of this section to a lower rate 74500  
authorized by this section. Any such reduction shall be made 74501  
effective on the first day of the calendar quarter ~~specified in~~ 74502  
~~the resolution, but not sooner than the first day of the month~~ 74503  
next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution~~ 74504  
~~is certified to the~~ tax commissioner receives a certified copy of 74505  
the resolution from the board. 74506

(E) If a vendor that is registered with the central 74507  
electronic registration system provided for in section 5740.05 of 74508  
the Revised Code makes a sale in this state by printed catalog and 74509  
the consumer computed the tax on the sale based on local rates 74510  
published in the catalog, any tax levied or repealed or rate 74511  
changed under this section shall not apply to such a sale until 74512  
the first day of a calendar quarter following the expiration of 74513  
one hundred twenty days from the date of notice by the tax 74514  
commissioner ~~to the vendor, or to the vendor's certified service~~ 74515  
~~provider, if the vendor has selected one~~ pursuant to division (G) 74516  
of this section. 74517

(F) The tax levied pursuant to this section shall be in 74518  
addition to the tax levied by section 5739.02 of the Revised Code 74519  
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74520  
Revised Code. 74521

A county that levies a tax pursuant to this section shall 74522

levy a tax at the same rate pursuant to section 5741.023 of the Revised Code. 74523  
74524

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. 74525  
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Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution. 74527  
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(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided. 74532  
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**Sec. 5739.03.** Except as provided in section 5739.05 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows: 74542  
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(A) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with 74549  
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and at the same time as the price; 74554

(B) If the price is otherwise paid or to be paid, the vendor 74555  
or the vendor's agent shall, at or prior to the provision of the 74556  
service or the delivery of possession of the thing sold to the 74557  
consumer, charge the tax imposed by or pursuant to section 74558  
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74559  
the account of the consumer, which amount shall be collected by 74560  
the vendor from the consumer in addition to the price. Such sale 74561  
shall be reported on and the amount of the tax applicable thereto 74562  
shall be remitted with the return for the period in which the sale 74563  
is made, and the amount of the tax shall become a legal charge in 74564  
favor of the vendor and against the consumer. 74565

If any sale is claimed to be exempt under division (E) of 74566  
section 5739.01 of the Revised Code or under section 5739.02 of 74567  
the Revised Code, with the exception of divisions (B)(1) to (11) 74568  
or (28) of section 5739.02 of the Revised Code, the consumer must 74569  
furnish to the vendor, and the vendor must obtain from the 74570  
consumer, a certificate specifying the reason that the sale is not 74571  
legally subject to the tax. If the transaction is claimed to be 74572  
exempt under division (B)(13) of section 5739.02 of the Revised 74573  
Code, the exemption certificate shall be signed by both the 74574  
contractor and the contractee and such contractee shall be deemed 74575  
to be the consumer of all items purchased under such claim of 74576  
exemption in the event it is subsequently determined that the 74577  
exemption is not properly claimed. The certificate shall be in 74578  
such form as the tax commissioner by regulation prescribes. If no 74579  
certificate is furnished or obtained within the period for filing 74580  
the return for the period in which such sale is consummated, it 74581  
shall be presumed that the tax applies. ~~The~~ Failure to have so 74582  
furnished, or to have so obtained, a certificate shall not prevent 74583  
a vendor or consumer from establishing that the sale is not 74584  
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 74585

the giving of notice by the commissioner of intention to levy an ~~assassment~~ assessment, in which event the tax shall not apply. 74586  
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Certificates need not be obtained nor furnished where the 74588  
identity of the consumer is such that the transaction is never 74589  
subject to the tax imposed or where the item of tangible personal 74590  
property sold or the service provided is never subject to the tax 74591  
imposed, regardless of use, or when the sale is in interstate 74592  
commerce. 74593

(C) As used in this division, "contractee" means a person who 74594  
seeks to enter or enters into a contract or agreement with a 74595  
contractor or vendor for the construction of real property or for 74596  
the sale and installation onto real property of tangible personal 74597  
property. 74598

Any contractor or vendor may request from any contractee a 74599  
certification of what portion of the property to be transferred 74600  
under such contract or agreement is to be incorporated into the 74601  
realty and what portion will retain its status as tangible 74602  
personal property after installation is completed. The contractor 74603  
or vendor shall request the certification by certified mail 74604  
delivered to the contractee, return receipt requested. Upon 74605  
receipt of such request and prior to entering into the contract or 74606  
agreement, the contractee shall furnish to the contractor or 74607  
vendor a certification sufficiently detailed to enable the 74608  
contractor or vendor to ascertain the resulting classification of 74609  
all materials purchased or fabricated by the contractor or vendor 74610  
and transferred to the contractee. This requirement applies to a 74611  
contractee regardless of whether the contractee holds a direct 74612  
payment permit under section 5739.031 of the Revised Code or 74613  
furnishes to the contractor or vendor an exemption certificate as 74614  
provided under this section. 74615

For the purposes of the taxes levied by this chapter and 74616  
Chapter 5741. of the Revised Code, the contractor or vendor may in 74617

good faith rely on the contractee's certification. Notwithstanding 74618  
division (B) of section 5739.01 of the Revised Code, if the tax 74619  
commissioner determines that certain property certified by the 74620  
contractee as tangible personal property pursuant to this division 74621  
is, in fact, real property, the contractee shall be considered to 74622  
be the consumer of all materials so incorporated into that real 74623  
property and shall be liable for the applicable tax, and the 74624  
contractor or vendor shall be excused from any liability on those 74625  
materials. 74626

If a contractee fails to provide such certification upon the 74627  
request of the contractor or vendor, the contractor or vendor 74628  
shall comply with the provisions of this chapter and Chapter 5741. 74629  
of the Revised Code without the certification. If the tax 74630  
commissioner determines that such compliance has been performed in 74631  
good faith and that certain property treated as tangible personal 74632  
property by the contractor or vendor is, in fact, real property, 74633  
the contractee shall be considered to be the consumer of all 74634  
materials so incorporated into that real property and shall be 74635  
liable for the applicable tax and the construction contractor or 74636  
vendor shall be excused from any liability on those materials. 74637

This division does not apply to any contract or agreement 74638  
where the tax commissioner determines as a fact that a 74639  
certification under this division was made solely on the decision 74640  
or advice of the contractor or vendor. 74641

(D) Notwithstanding division (B) of section 5739.01 of the 74642  
Revised Code, whenever the total rate of tax imposed under this 74643  
chapter is increased after the date after a construction contract 74644  
is entered into, the contractee shall reimburse the construction 74645  
contractor for any additional tax paid on tangible property 74646  
consumed or services received pursuant to the contract. 74647

(E) A vendor who files a petition for reassessment contesting 74648  
the assessment of tax on sales for which the vendor obtained no 74649



valid exemption certificates and for which the vendor failed to 74650  
establish that the sales were properly not subject to the tax 74651  
during the one-hundred-twenty-day period allowed under division 74652  
(B) of this section, may present to the tax commissioner 74653  
additional evidence to prove that the sales were properly subject 74654  
to a claim of exception or exemption. The vendor shall file such 74655  
evidence within ninety days of the receipt by the vendor of the 74656  
notice of assessment, except that, upon application and for 74657  
reasonable cause, the period for submitting such evidence shall be 74658  
extended thirty days. 74659

The commissioner shall consider such additional evidence in 74660  
reaching the final determination on the assessment and petition 74661  
for reassessment. 74662

(F) Whenever a vendor refunds to the consumer the full price 74663  
of an item of tangible personal property on which the tax imposed 74664  
under this chapter has been paid, the vendor shall also refund the 74665  
full amount of the tax paid. 74666

**Sec. 5739.032.** (A) If the total amount of tax required to be 74667  
paid by a permit holder under section 5739.031 of the Revised Code 74668  
for any calendar year ~~indicated in the following schedule~~ equals 74669  
or exceeds ~~the amounts prescribed for that year in the schedule~~ 74670  
seventy-five thousand dollars, the permit holder shall remit each 74671  
monthly tax payment in the second ensuing and each succeeding year 74672  
by electronic funds transfer as prescribed by division (B) of this 74673  
section. 74674

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	
Tax payment	\$1,200,000	\$600,000	\$60,000	74676

If a permit holder's tax payment for each of two consecutive 74677  
years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 74678  
dollars, the permit holder is relieved of the requirement to remit 74679  
taxes by electronic funds transfer for the year that next follows 74680

the second of the consecutive years in which the tax payment is 74681  
less than ~~sixty thousand dollars~~ that amount, and is relieved of 74682  
that requirement for each succeeding year, unless the tax payment 74683  
in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 74684  
dollars. 74685

The tax commissioner shall notify each permit holder required 74686  
to remit taxes by electronic funds transfer of the permit holder's 74687  
obligation to do so, shall maintain an updated list of those 74688  
permit holders, and shall timely certify the list and any 74689  
additions thereto or deletions therefrom to the treasurer of 74690  
state. Failure by the tax commissioner to notify a permit holder 74691  
subject to this section to remit taxes by electronic funds 74692  
transfer does not relieve the permit holder of its obligation to 74693  
remit taxes by electronic funds transfer. 74694

(B) Permit holders required by division (A) of this section 74695  
to remit payments by electronic funds transfer shall remit such 74696  
payments to the treasurer of state in the manner prescribed by 74697  
this section and rules adopted by the treasurer of state under 74698  
section 113.061 of the Revised Code, and on or before the 74699  
following dates: 74700

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 74701  
and twenty-fifth days of each month, a permit holder shall remit 74702  
an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent 74703  
of the permit holder's total tax liability for the same month in 74704  
the preceding calendar year. 74705

(2) On or before the twenty-third day of each month, a permit 74706  
holder shall report the taxes due for the previous month and shall 74707  
remit that amount, less any amounts paid for that month as 74708  
required by division (B)(1) of this section. 74709

The payment of taxes by electronic funds transfer does not 74710  
affect a permit holder's obligation to file the monthly return as 74711

required under section 5739.031 of the Revised Code. 74712

(C) A permit holder required by this section to remit taxes 74713  
by electronic funds transfer may apply to the treasurer of state 74714  
in the manner prescribed by the treasurer of state to be excused 74715  
from that requirement. The treasurer of state may excuse the 74716  
permit holder from remittance by electronic funds transfer for 74717  
good cause shown for the period of time requested by the permit 74718  
holder or for a portion of that period. The treasurer of state 74719  
shall notify the tax commissioner and the permit holder of the 74720  
treasurer of state's decision as soon as is practicable. 74721

(D)(1) If a permit holder that is required to remit payments 74722  
under division (B) of this section fails to make a payment, the 74723  
commissioner may impose an additional charge not to exceed five 74724  
per cent of that unpaid amount. 74725

(2) If a permit holder required by this section to remit 74726  
taxes by electronic funds transfer remits those taxes by some 74727  
means other than by electronic funds transfer as prescribed by 74728  
this section and the rules adopted by the treasurer of state, and 74729  
the tax commissioner determines that such failure was not due to 74730  
reasonable cause or was due to willful neglect, the commissioner 74731  
may impose an additional charge not to exceed the lesser of five 74732  
per cent of the amount of the taxes required to be paid by 74733  
electronic funds transfer or five thousand dollars. 74734

(3) Any additional charge imposed under division (D)(1) or 74735  
(2) of this section is in addition to any other penalty or charge 74736  
imposed under this chapter, and shall be considered as revenue 74737  
arising from taxes imposed under this chapter. An additional 74738  
charge may be collected by assessment in the manner prescribed by 74739  
section 5739.13 of the Revised Code. The tax commissioner may 74740  
waive all or a portion of such a charge and may adopt rules 74741  
governing such waiver. 74742

No additional charge shall be imposed under division (D)(2) 74743  
of this section against a permit holder that has been notified of 74744  
its obligation to remit taxes under this section and that remits 74745  
its first two tax payments after such notification by some means 74746  
other than electronic funds transfer. The additional charge may be 74747  
imposed upon the remittance of any subsequent tax payment that the 74748  
permit holder remits by some means other than electronic funds 74749  
transfer. 74750

**Sec. 5739.033.** The amount of tax due pursuant to sections 74751  
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 74752  
the sum of the taxes imposed pursuant to those sections at the 74753  
situs of the sale as determined under this section or, if 74754  
applicable, under division (C) of section 5739.031 of the Revised 74755  
Code. 74756

(A) Except as otherwise provided in this section, division 74757  
(C) of section 5739.031, and section 5739.034 of the Revised Code, 74758  
the situs of all sales is the vendor's place of business. 74759

(1) If the consumer or the consumer's agent takes possession 74760  
of the tangible personal property at a place of business of the 74761  
vendor where the purchase contract or agreement was made, the 74762  
situs of the sale is that place of business. 74763

(2) If the consumer or the consumer's agent takes possession 74764  
of the tangible personal property other than at a place of 74765  
business of the vendor, or takes possession at a warehouse or 74766  
similar facility of the vendor, the situs of the sale is the 74767  
vendor's place of business where the purchase contract or 74768  
agreement was made or the purchase order was received. 74769

(3) If the vendor provides a service specified in division 74770  
(B)(3)(a), (b), (c), (d), (n), ~~or~~ (o), (r), (s), or (t) of section 74771  
5739.01 or makes a sale specified in division (B)(8) of section 74772

5739.01 of the Revised Code, the situs of the sale is the vendor's 74773  
place of business where the service is performed or the contract 74774  
or agreement for the service was made or the purchase order was 74775  
received. 74776

(B) If the vendor is a transient vendor as specified in 74777  
division (B) of section 5739.17 of the Revised Code, the situs of 74778  
the sale is the vendor's temporary place of business or, if the 74779  
transient vendor is the lessor of titled motor vehicles, titled 74780  
watercraft, or titled outboard motors, at the location where the 74781  
lessee keeps the leased property. 74782

(C) If the vendor makes sales of tangible personal property 74783  
from a stock of goods carried in a motor vehicle, from which the 74784  
purchaser makes selection and takes possession, or from which the 74785  
vendor sells tangible personal property the quantity of which has 74786  
not been determined prior to the time the purchaser takes 74787  
possession, the situs of the sale is the location of the motor 74788  
vehicle when the sale is made. 74789

(D) If the vendor is a delivery vendor as specified in 74790  
division (D) of section 5739.17 of the Revised Code, the situs of 74791  
the sale is the place where the tangible personal property is 74792  
delivered, where the leased property is used, or where the service 74793  
is performed or received. 74794

(E) If the vendor provides a service specified in division 74795  
(B)(3)(e), (g), (h), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 74796  
5739.01 of the Revised Code, the situs of the sale is the location 74797  
of the consumer where the service is performed or received. 74798

(F) ~~Except as provided in division (I) or (J) of this~~ 74799  
~~section:~~ 74800

~~(1) If the vendor provides a service specified in division 74801  
(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs 74802  
of the sale is the location of the telephone number or account as 74803~~

~~reflected in the records of the vendor.~~ 74804

~~(2) In the case of a telecommunications service, if the 74805  
telephone number or account is located outside this state, the 74806  
situs of the sale is the location in this state from which the 74807  
service originated.~~ 74808

~~(G) If the vendor provides lodging to transient guests as 74809  
specified in division (B)(2) of section 5739.01 of the Revised 74810  
Code, the situs of the sale is the location where the lodging is 74811  
located.~~ 74812

~~(H)(G) If the vendor sells a warranty, maintenance or service 74813  
contract, or similar agreement as specified in division (B)(7) of 74814  
section 5739.01 of the Revised Code and the vendor is a delivery 74815  
vendor, the situs of the sale is the location of the consumer. If 74816  
the vendor is not a delivery vendor, the situs of the sale is the 74817  
vendor's place of business where the contract or agreement was 74818  
made, unless the warranty or contract is a component of the sale 74819  
of a titled motor vehicle, titled watercraft, or titled outboard 74820  
motor, in which case the situs of the sale is the county of 74821  
titling.~~ 74822

~~(I) Except as otherwise provided in this division, if the 74823  
vendor sells a prepaid authorization number or a prepaid telephone 74824  
calling card, the situs of the sale is the vendor's place of 74825  
business and shall be taxed at the time of sale. If the vendor 74826  
sells a prepaid authorization number or prepaid telephone calling 74827  
card through a telephone call, electronic commerce, or any other 74828  
form of remote commerce, the situs of the sale is the consumer's 74829  
shipping address, or, if there is no item shipped, at the 74830  
consumer's billing address.~~ 74831

**Sec. 5739.034.** (A) As used in this section: 74832

(1) "Air-to-ground radiotelephone service" means a radio 74833

service, as defined in 47 C.F.R. 22.99, in which common carriers 74834  
are authorized to offer and provide radio telecommunications 74835  
service for hire to subscribers in aircraft. 74836

(2) "Call-by-call basis" means any method of charging for 74837  
telecommunications services where the price is measured by 74838  
individual calls. 74839

(3) "Customer" means the person or entity that contracts with 74840  
a seller of telecommunications service. If the end user of 74841  
telecommunications service is not the contracting party, the end 74842  
user of the telecommunications service is the customer of the 74843  
telecommunications service. "Customer" does not include a reseller 74844  
of telecommunications service or of mobile telecommunications 74845  
service of a serving carrier under an agreement to serve the 74846  
customer outside the home service provider's licensed service 74847  
area. 74848

(4) "End user" means the person who utilizes the 74849  
telecommunications service. In the case of a person other than an 74850  
individual, "end user" means the individual who utilizes the 74851  
service on behalf of the person. 74852

(5) "Home service provider" has the same meaning as in the 74853  
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 74854  
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74855

(6) "Place of primary use" means the street address 74856  
representative of where the customer's use of the 74857  
telecommunications service primarily occurs, which must be the 74858  
residential street address or the primary business street address 74859  
of the customer. In the case of mobile telecommunications 74860  
services, "place of primary use" must be within the licensed 74861  
service area of the home service provider. 74862

(7) "Post-paid calling service" means the telecommunications 74863  
service obtained by making a payment on a call-by-call basis 74864

either through the use of a credit card or payment mechanism such 74865  
as a bank card, travel card, credit card, or debit card, or by 74866  
charge made to a telephone number that is not associated with the 74867  
origination or termination of the telecommunications service. 74868  
"Post-paid calling service" includes a telecommunications service 74869  
that would be a prepaid calling service, but for the fact that it 74870  
is not exclusively a telecommunications service. 74871

(8) "Prepaid calling service" means the right to access 74872  
exclusively a telecommunications service that must be paid for in 74873  
advance, that enables the origination of calls using an access 74874  
number or authorization code, whether manually or electronically 74875  
dialed, and that is sold in predetermined units or dollars of 74876  
which the number declines with use in a known amount. 74877

(9) "Service address" means: 74878

(a) The location of the telecommunications equipment to which 74879  
a customer's call is charged and from which the call originates or 74880  
terminates, regardless of where the call is billed or paid. 74881

(b) If the location in division (A)(9)(a) of this section is 74882  
not known, "service address" means the origination point of the 74883  
signal of the telecommunications service first identified by 74884  
either the seller's telecommunications system or in information 74885  
received by the seller from its service provider, where the system 74886  
used to transport such signals is not that of the seller. 74887

(c) If the locations in divisions (A)(9)(a) and (b) of this 74888  
section are not known, "service address" means the location of the 74889  
customer's place of primary use. 74890

(B) The amount of tax due pursuant to sections 5739.02, 74891  
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 74892  
telecommunications service, information service, or mobile 74893  
telecommunications service, is the sum of the taxes imposed 74894  
pursuant to those sections at the sourcing location of the sale as 74895



determined under this section. 74896

(C) Except for the telecommunications services described in 74897  
division (E) of this section, the sale of telecommunications 74898  
service sold on a call-by-call basis shall be sourced to each 74899  
level of taxing jurisdiction where the call originates and 74900  
terminates in that jurisdiction, or each level of taxing 74901  
jurisdiction where the call either originates or terminates and in 74902  
which the service address also is located. 74903

(D) Except for the telecommunications services described in 74904  
division (E) of this section, a sale of telecommunications 74905  
services sold on a basis other than a call-by-call basis shall be 74906  
sourced to the customer's place of primary use. 74907

(E) The sale of the following telecommunications services 74908  
shall be sourced to each level of taxing jurisdiction, as follows: 74909

(1) A sale of mobile telecommunications service, other than 74910  
air-to-ground radiotelephone service and prepaid calling service, 74911  
shall be sourced to the customer's place of primary use as 74912  
required by the Mobile Telecommunications Sourcing Act. 74913

(2) A sale of post-paid calling service shall be sourced to 74914  
the origination point of the telecommunications signal as first 74915  
identified by the service provider's telecommunications system, or 74916  
information received by the seller from its service provider, 74917  
where the system used to transport such signals is not that of the 74918  
seller. 74919

(3) A sale of prepaid calling service shall be sourced under 74920  
section 5739.033 of the Revised Code; but in the case of a sale of 74921  
mobile telecommunications service that is a prepaid 74922  
telecommunications service, in lieu of sourcing the service under 74923  
division (A)(5) of section 5739.033 of the Revised Code, the 74924  
service may be sourced to the location associated with the mobile 74925  
telephone number. 74926

**Sec. 5739.10.** (A) In addition to the tax levied ~~in~~ by section 74927  
5739.02 of the Revised Code and any tax levied pursuant to section 74928  
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 74929  
the same objectives specified in ~~said those~~ sections, there is 74930  
hereby levied upon the privilege of engaging in the business of 74931  
making retail sales, an excise tax of five per cent, or, in the 74932  
case of retail sales subject to a tax levied pursuant to section 74933  
5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage 74934  
equal to the aggregate rate of such taxes and the tax levied by 74935  
section 5739.02 of the Revised Code of the receipts derived from 74936  
all retail sales, ~~except retail sales under sixteen cents and~~ 74937  
those to which the excise tax imposed by section 5739.02 of the 74938  
Revised Code is made inapplicable by division (B) of ~~said that~~ 74939  
section. 74940

(B) For the purpose of this section, ~~no~~ vendor shall be 74941  
required to maintain records of ~~individual retail sales of~~ 74942  
~~tangible personal property under sixteen cents or~~ sales of food 74943  
for human consumption off the premises where sold, and no 74944  
assessment shall be made against any vendor for ~~retail sales of~~ 74945  
~~less than sixteen cents or for~~ sales of food for human consumption 74946  
off the premises where sold, solely because the vendor has no 74947  
records of, or has inadequate records of, ~~retail sales of less~~ 74948  
~~than sixteen cents or such~~ sales of food for human consumption off 74949  
the ~~premises where sold~~; provided that where a vendor does not 74950  
have adequate records of receipts from ~~his retail sales in excess~~ 74951  
~~of fifteen cents or the vendor's~~ sales of food for human 74952  
consumption on the premises where sold, the tax commissioner may 74953  
refuse to accept the vendor's return and, upon the basis of test 74954  
checks of the vendor's business for a representative period, and 74955  
other information relating to the sales made by such vendor, 74956  
determine the proportion that taxable retail sales bear to all ~~his~~ 74957  
of the vendor's retail sales. The tax imposed by this section 74958

shall be determined by deducting from the sum representing five 74959  
per cent, or, in the case of retail sales subject to a tax levied 74960  
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 74961  
Code, a percentage equal to the aggregate rate of such taxes and 74962  
the tax levied by section 5739.02 of the Revised Code of the 74963  
receipts from such retail sales, the amount of tax paid to the 74964  
state or to a clerk of a court of common pleas. The section does 74965  
not affect any duty of the vendor under sections 5739.01 to 74966  
5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the 74967  
liability of any consumer to pay any tax imposed by or pursuant to 74968  
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 74969  
Code. 74970

**Sec. 5739.12.** (A) Each person who has or is required to have 74971  
a vendor's license, on or before the twenty-third day of each 74972  
month, shall make and file a return for the preceding month, on 74973  
forms prescribed by the tax commissioner, and shall pay the tax 74974  
shown on the return to be due. The commissioner may require a 74975  
vendor that operates from multiple locations or has multiple 74976  
vendor's licenses to report all tax liabilities on one 74977  
consolidated return. The return shall show the amount of tax due 74978  
from the vendor to the state for the period covered by the return 74979  
and such other information as the commissioner deems necessary for 74980  
the proper administration of this chapter. The commissioner may 74981  
extend the time for making and filing returns and paying the tax, 74982  
and may require that the return for the last month of any annual 74983  
or semiannual period, as determined by the commissioner, be a 74984  
reconciliation return detailing the vendor's sales activity for 74985  
the preceding annual or semiannual period. The reconciliation 74986  
return shall be filed by the last day of the month following the 74987  
last month of the annual or semiannual period. The commissioner 74988  
may remit all or any part of amounts or penalties that may become 74989  
due under this chapter and may adopt rules relating thereto. Such 74990

return shall be filed by mailing it to the tax commissioner, 74991  
together with payment of the amount of tax shown to be due thereon 74992  
after deduction of any discount provided for under this section. 74993  
Remittance shall be made payable to the treasurer of state. The 74994  
return shall be considered filed when received by the tax 74995  
commissioner, and the payment shall be considered made when 74996  
received by the tax commissioner or when credited to an account 74997  
designated by the treasurer of state or the tax commissioner. 74998

(B) If the return is filed and the amount of tax shown 74999  
thereon to be due is paid on or before the date such return is 75000  
required to be filed, the vendor shall be entitled to a the 75001  
following discount ~~of three-fourths~~: 75002

(1) On and after July 1, 2003, and on and before June 30, 75003  
2005, one and one-tenth per cent of the amount shown to be due on 75004  
the return; 75005

(2) On and after July 1, 2005, three-fourths of one per cent 75006  
of the amount shown to be due on the return, ~~but a.~~ 75007

A vendor that has selected a certified service provider as 75008  
its agent shall not be entitled to the discount. Amounts paid to 75009  
the clerk of courts pursuant to section 4505.06 of the Revised 75010  
Code shall be subject to the ~~three-fourths of one per cent~~ 75011  
applicable discount. The discount shall be in consideration for 75012  
prompt payment to the clerk of courts and for other services 75013  
performed by the vendor in the collection of the tax. 75014

(C)(1) Upon application to the commissioner, a vendor who is 75015  
required to file monthly returns may be relieved of the 75016  
requirement to report and pay the actual tax due, provided that 75017  
the vendor agrees to remit to the tax commissioner payment of not 75018  
less than an amount determined by the commissioner to be the 75019  
average monthly tax liability of the vendor, based upon a review 75020  
of the returns or other information pertaining to such vendor for 75021

a period of not less than six months nor more than two years 75022  
immediately preceding the filing of the application. Vendors who 75023  
agree to the above conditions shall make and file an annual or 75024  
semiannual reconciliation return, as prescribed by the 75025  
commissioner. The reconciliation return shall be filed by mailing 75026  
or delivering it to the tax commissioner, together with payment of 75027  
the amount of tax shown to be due thereon after deduction of any 75028  
discount provided in this section. Remittance shall be made 75029  
payable to the treasurer of state. Failure of a vendor to comply 75030  
with any of the above conditions may result in immediate 75031  
reinstatement of the requirement of reporting and paying the 75032  
actual tax liability on each monthly return, and the commissioner 75033  
may at the commissioner's discretion deny the vendor the right to 75034  
report and pay based upon the average monthly liability for a 75035  
period not to exceed two years. The amount ascertained by the 75036  
commissioner to be the average monthly tax liability of a vendor 75037  
may be adjusted, based upon a review of the returns or other 75038  
information pertaining to the vendor for a period of not less than 75039  
six months nor more than two years preceding such adjustment. 75040

(2) The commissioner may authorize vendors whose tax 75041  
liability is not such as to merit monthly returns, as ascertained 75042  
by the commissioner upon the basis of administrative costs to the 75043  
state, to make and file returns at less frequent intervals. When 75044  
returns are filed at less frequent intervals in accordance with 75045  
such authorization, the vendor shall be allowed the discount ~~of~~ 75046  
~~three-fourths of one per cent~~ provided in this section in 75047  
consideration for prompt payment with the return, provided the 75048  
return is filed together with payment of the amount of tax shown 75049  
to be due thereon, at the time specified by the commissioner, but 75050  
a vendor that has selected a certified service provider as its 75051  
agent shall not be entitled to the discount. 75052

(D) Any vendor who fails to file a return or pay the full 75053

amount of the tax shown on the return to be due under this section 75054  
and the rules of the commissioner may, for each such return the 75055  
vendor fails to file or each such tax the vendor fails to pay in 75056  
full as shown on the return within the period prescribed by this 75057  
section and the rules of the commissioner, be required to forfeit 75058  
and pay into the state treasury an additional charge not exceeding 75059  
fifty dollars or ten per cent of the tax required to be paid for 75060  
the reporting period, whichever is greater, as revenue arising 75061  
from the tax imposed by this chapter, and such sum may be 75062  
collected by assessment in the manner provided in section 5739.13 75063  
of the Revised Code. The commissioner may remit all or a portion 75064  
of the additional charge and may adopt rules relating to the 75065  
imposition and remission of the additional charge. 75066

(E) If the amount required to be collected by a vendor from 75067  
consumers is in excess of ~~five per cent~~ the applicable percentage 75068  
of the vendor's receipts from sales that are taxable under section 75069  
5739.02 of the Revised Code, or in the case of sales subject to a 75070  
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75071  
the Revised Code, in excess of the percentage equal to the 75072  
aggregate rate of such taxes and the tax levied by section 5739.02 75073  
of the Revised Code, such excess shall be remitted along with the 75074  
remittance of the amount of tax due under section 5739.10 of the 75075  
Revised Code. 75076

(F) The commissioner, if the commissioner deems it necessary 75077  
in order to insure the payment of the tax imposed by this chapter, 75078  
may require returns and payments to be made for other than monthly 75079  
periods. The returns shall be signed by the vendor or the vendor's 75080  
authorized agent. 75081

(G) Any vendor required to file a return and pay the tax 75082  
under this section, whose total payment ~~in any year indicated in~~ 75083  
~~division (A) of section 5739.122 of the Revised Code~~ equals or 75084  
exceeds the amount shown in ~~that~~ division (A) of section 5739.122 75085

of the Revised Code, shall make each payment required by this 75086  
section in the second ensuing and each succeeding year by 75087  
electronic funds transfer as prescribed by, and on or before the 75088  
dates specified in, section 5739.122 of the Revised Code, except 75089  
as otherwise prescribed by that section. For a vendor that 75090  
operates from multiple locations or has multiple vendor's 75091  
licenses, in determining whether the vendor's total payment equals 75092  
or exceeds the amount shown in division (A) of that section, the 75093  
vendor's total payment amount shall be the amount of the vendor's 75094  
total tax liability for the previous calendar year for all of the 75095  
vendor's locations or licenses. 75096

**Sec. 5739.121.** (A) As used in this section, "bad debt" means 75097  
any debt that has become worthless or uncollectible in the time 75098  
period between a vendor's preceding return and the present return, 75099  
~~have~~ has been uncollected for at least six months, and that may be 75100  
claimed as a deduction pursuant to the "Internal Revenue Code of 75101  
1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations 75102  
adopted pursuant thereto, or that could be claimed as such a 75103  
deduction if the vendor kept accounts on an accrual basis. "Bad 75104  
debt" does not include any interest or sales tax on the purchase 75105  
price, uncollectible amounts on property that remains in the 75106  
possession of the vendor until the full purchase price is paid, 75107  
expenses incurred in attempting to collect any account receivable 75108  
or for any portion of the debt recovered, ~~any accounts receivable~~ 75109  
~~that have been sold to a third party for collection,~~ and 75110  
repossessed property. 75111

(B) In computing taxable receipts for purposes of this 75112  
chapter, a vendor may deduct the amount of bad debts, ~~as defined~~ 75113  
~~in this section~~. The amount deducted must be charged off as 75114  
uncollectible on the books of the vendor. A deduction may be 75115  
claimed only with respect to bad debts on which the taxes pursuant 75116  
to sections 5739.10 and 5739.12 of the Revised Code were paid in a 75117

preceding tax period. If the vendor's business consists of taxable 75118  
and nontaxable transactions, the deduction shall equal the full 75119  
amount of the debt if the debt is documented as a taxable 75120  
transaction in the vendor's records. If no such documentation is 75121  
available, the maximum deduction on any bad debt shall equal the 75122  
amount of the bad debt multiplied by the quotient obtained by 75123  
dividing the sales taxed pursuant to this chapter during the 75124  
preceding calendar year by all sales during the preceding calendar 75125  
year, whether taxed or not. If a consumer or other person pays all 75126  
or part of a bad debt with respect to which a vendor claimed a 75127  
deduction under this section, the vendor shall be liable for the 75128  
amount of taxes deducted in connection with that portion of the 75129  
debt for which payment is received and shall remit such taxes in 75130  
the vendor's next payment to the tax commissioner. 75131

(C) Any claim for a bad debt deduction under this section 75132  
shall be supported by such evidence as the tax commissioner by 75133  
rule requires. The commissioner shall review any change in the 75134  
rate of taxation applicable to any taxable sales by a vendor 75135  
claiming a deduction pursuant to this section and adopt rules for 75136  
altering the deduction in the event of such a change in order to 75137  
ensure that the deduction on any bad debt does not result in the 75138  
vendor claiming the deduction recovering any more or less than the 75139  
taxes imposed on the sale that constitutes the bad debt. 75140

(D) In any reporting period in which the amount of bad debt 75141  
exceeds the amount of taxable sales for the period, the vendor may 75142  
file a refund claim for any tax collected on the bad debt in 75143  
excess of the tax reported on the return. The refund claim shall 75144  
be filed in the manner provided in section 5739.07 of the Revised 75145  
Code, except that the claim may be filed within four years of the 75146  
due date of the return on which the bad debt first could have been 75147  
claimed. 75148

(E) When the filing responsibilities of a vendor have been 75149



assumed by a certified service provider, the certified service 75150  
provider shall claim the bad debt allowance provided by this 75151  
section on behalf of the vendor. The certified service provider 75152  
shall credit or refund to the vendor the full amount of any bad 75153  
debt allowance or refund. 75154

(F) No person other than the vendor in the transaction that 75155  
generated the bad debt or, as provided in division (E) of this 75156  
section, a certified service provider, may claim the bad debt 75157  
allowance provided by this section. 75158

**Sec. 5739.122.** (A) If the total amount of tax required to be 75159  
paid by a vendor under section 5739.12 of the Revised Code for any 75160  
calendar year ~~indicated in the following schedule~~ equals or 75161  
exceeds ~~the amounts prescribed for that year in the schedule~~ 75162  
seventy-five thousand dollars, the vendor shall remit each monthly 75163  
tax payment in the second ensuing and each succeeding tax year by 75164  
electronic funds transfer as prescribed by divisions (B) and (C) 75165  
of this section. 75166

<del>Year</del>	<del>1992</del>	<del>1993 through 1999</del>	<del>2000 and thereafter</del>	75167
<del>Tax payment</del>	<del>\$1,200,000</del>	<del>\$600,000</del>	<del>\$60,000</del>	75168

If a vendor's tax payment for each of two consecutive years 75169  
~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 75170  
dollars, the vendor is relieved of the requirement to remit taxes 75171  
by electronic funds transfer for the year that next follows the 75172  
second of the consecutive years in which the tax payment is less 75173  
than ~~sixty thousand dollars~~ that amount, and is relieved of that 75174  
requirement for each succeeding year, unless the tax payment in a 75175  
subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 75176  
dollars. 75177

The tax commissioner shall notify each vendor required to 75178  
remit taxes by electronic funds transfer of the vendor's 75179  
obligation to do so, shall maintain an updated list of those 75180

vendors, and shall timely certify the list and any additions 75181  
thereto or deletions therefrom to the treasurer of state. Failure 75182  
by the tax commissioner to notify a vendor subject to this section 75183  
to remit taxes by electronic funds transfer does not relieve the 75184  
vendor of its obligation to remit taxes by electronic funds 75185  
transfer. 75186

(B) Vendors required by division (A) of this section to remit 75187  
payments by electronic funds transfer shall remit such payments to 75188  
the treasurer of state in the manner prescribed by this section 75189  
and rules adopted by the treasurer of state under section 113.061 75190  
of the Revised Code, and on or before the following dates: 75191

(1) On or before the ~~eleventh~~ fifteenth day of each month, a 75192  
vendor shall remit an amount equal to the taxes collected during 75193  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 75194  
~~eighteenth day of each month, a vendor shall remit an amount equal~~ 75195  
~~to the taxes collected on the eighth through the fourteenth day of~~ 75196  
~~the month.~~ On or before the twenty-fifth day of each month, a 75197  
vendor shall remit an amount equal to the taxes collected on the 75198  
fifteenth twelfth through the twenty-first day of the month. 75199

(2) In lieu of remitting the actual amounts collected for the 75200  
periods specified in division (B)(1) of this section, a vendor 75201  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 75202  
twenty-fifth days of each month, remit an amount equal to 75203  
~~one-fourth~~ thirty-seven and one-half per cent of the vendor's 75204  
total tax liability for the same month in the preceding calendar 75205  
year. 75206

(3) On or before the twenty-third day of each month, a vendor 75207  
shall report the taxes collected for the previous month and shall 75208  
remit that amount, less any amounts paid for that month as 75209  
required by division (B)(1) or (2) of this section. 75210

The payment of taxes by electronic funds transfer does not 75211

affect a vendor's obligation to file the monthly return as 75212  
required under section 5739.12 of the Revised Code. 75213

(C) A vendor required by this section to remit taxes by 75214  
electronic funds transfer may apply to the treasurer of state in 75215  
the manner prescribed by the treasurer of state to be excused from 75216  
that requirement. The treasurer of state may excuse the vendor 75217  
from remittance by electronic funds transfer for good cause shown 75218  
for the period of time requested by the vendor or for a portion of 75219  
that period. The treasurer of state shall notify the tax 75220  
commissioner and the vendor of the treasurer of state's decision 75221  
as soon as is practicable. 75222

(D)(1) If a vendor that is required to remit payments under 75223  
division (B) of this section fails to make a payment, the 75224  
commissioner may impose an additional charge not to exceed five 75225  
per cent of that unpaid amount. 75226

(2) If a vendor required by this section to remit taxes by 75227  
electronic funds transfer remits those taxes by some means other 75228  
than by electronic funds transfer as prescribed by this section 75229  
and the rules adopted by the treasurer of state, and the treasurer 75230  
of state determines that such failure was not due to reasonable 75231  
cause or was due to willful neglect, the treasurer of state shall 75232  
notify the tax commissioner of the failure to remit by electronic 75233  
funds transfer and shall provide the commissioner with any 75234  
information used in making that determination. The tax 75235  
commissioner may impose an additional charge not to exceed the 75236  
lesser of five per cent of the amount of the taxes required to be 75237  
paid by electronic funds transfer or five thousand dollars. 75238

(3) Any additional charge imposed under division (D)(1) or 75239  
(2) of this section is in addition to any other penalty or charge 75240  
imposed under this chapter, and shall be considered as revenue 75241  
arising from taxes imposed under this chapter. An additional 75242  
charge may be collected by assessment in the manner prescribed by 75243

section 5739.13 of the Revised Code. The tax commissioner may 75244  
waive all or a portion of such a charge and may adopt rules 75245  
governing such waiver. 75246

No additional charge shall be imposed under division (D)(2) 75247  
of this section against a vendor that has been notified of its 75248  
obligation to remit taxes under this section and that remits its 75249  
first two tax payments after such notification by some means other 75250  
than electronic funds transfer. The additional charge may be 75251  
imposed upon the remittance of any subsequent tax payment that the 75252  
vendor remits by some means other than electronic funds transfer. 75253

**Sec. 5739.17.** (A) No person shall engage in making retail 75254  
sales subject to a tax imposed by or pursuant to section 5739.02, 75255  
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75256  
without having a license therefor, except as otherwise provided in 75257  
divisions (A)(1), (2), and (3) of this section. 75258

(1) In the dissolution of a partnership by death, the 75259  
surviving partner may operate under the license of the partnership 75260  
for a period of sixty days. 75261

(2) The heirs or legal representatives of deceased persons, 75262  
and receivers and trustees in bankruptcy, appointed by any 75263  
competent authority, may operate under the license of the person 75264  
so succeeded in possession. 75265

(3) Two or more persons who are not partners may operate a 75266  
single place of business under one license. In such case neither 75267  
the retirement of any such person from business at that place of 75268  
business, nor the entrance of any person, under an existing 75269  
arrangement, shall affect the license or require the issuance of a 75270  
new license, unless the person retiring from the business is the 75271  
individual named on the vendor's license. 75272

Except as otherwise provided in this section, each applicant 75273

for a license shall make out and deliver to the county auditor of 75274  
each county in which the applicant desires to engage in business, 75275  
upon a blank to be furnished by such auditor for that purpose, a 75276  
statement showing the name of the applicant, each place of 75277  
business in the county where the applicant will make retail sales, 75278  
the nature of the business, and any other information the tax 75279  
commissioner reasonably prescribes in the form of a statement 75280  
prescribed by the commissioner. 75281

At the time of making the application, the applicant shall 75282  
pay into the county treasury a license fee in the sum of 75283  
twenty-five dollars for each fixed place of business in the county 75284  
that will be the situs of retail sales. Upon receipt of the 75285  
application and exhibition of the county treasurer's receipt, 75286  
showing the payment of the license fee, the county auditor shall 75287  
issue to the applicant a license for each fixed place of business 75288  
designated in the application, authorizing the applicant to engage 75289  
in business at that location. If a vendor's identity changes, the 75290  
vendor shall apply for a new license. If a vendor wishes to move 75291  
an existing fixed place of business to a new location within the 75292  
same county, the vendor shall obtain a new vendor's license or 75293  
submit a request to the tax commissioner to transfer the existing 75294  
vendor's license to the new location. When the new location has 75295  
been verified as being within the same county, the commissioner 75296  
shall authorize the transfer and notify the county auditor of the 75297  
change of location. If a vendor wishes to move an existing fixed 75298  
place of business to another county, the vendor's license shall 75299  
not transfer and the vendor shall obtain a new vendor's license 75300  
from the county in which the business is to be located. The form 75301  
of the license shall be prescribed by the commissioner. The fees 75302  
collected shall be credited to the general fund of the county. 75303

A vendor that makes retail sales subject to tax under Chapter 75304  
5739. of the Revised Code pursuant to a permit issued by the 75305

division of liquor control shall obtain a vendor's license in the 75306  
identical name and for the identical address as shown on the 75307  
permit. 75308

Except as otherwise provided in this section, if a vendor has 75309  
no fixed place of business and sells from a vehicle, each vehicle 75310  
intended to be used within a county constitutes a place of 75311  
business for the purpose of this section. 75312

(B) As used in this division, "transient vendor" means any 75313  
person who makes sales of tangible personal property from vending 75314  
machines located on land owned by others, who leases titled motor 75315  
vehicles, titled watercraft, or titled outboard motors, who 75316  
effectuates leases that are taxed according to division 75317  
~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or 75318  
who, in the usual course of the person's business, transports 75319  
inventory, stock of goods, or similar tangible personal property 75320  
to a temporary place of business or temporary exhibition, show, 75321  
fair, flea market, or similar event in a county in which the 75322  
person has no fixed place of business, for the purpose of making 75323  
retail sales of such property. A "temporary place of business" 75324  
means any public or quasi-public place including, but not limited 75325  
to, a hotel, rooming house, storeroom, building, part of a 75326  
building, tent, vacant lot, railroad car, or motor vehicle that is 75327  
temporarily occupied for the purpose of making retail sales of 75328  
goods to the public. A place of business is not temporary if the 75329  
same person conducted business at the place continuously for more 75330  
than six months or occupied the premises as the person's permanent 75331  
residence for more than six months, or if the person intends it to 75332  
be a fixed place of business. 75333

Any transient vendor, in lieu of obtaining a vendor's license 75334  
under division (A) of this section for counties in which the 75335  
transient vendor has no fixed place of business, may apply to the 75336  
tax commissioner, on a form prescribed by the commissioner, for a 75337

transient vendor's license. The transient vendor's license 75338  
authorizes the transient vendor to make retail sales in any county 75339  
in which the transient vendor does not maintain a fixed place of 75340  
business. Any holder of a transient vendor's license shall not be 75341  
required to obtain a separate vendor's license from the county 75342  
auditor in that county. Upon the commissioner's determination that 75343  
an applicant is a transient vendor, the applicant shall pay a 75344  
license fee in the amount of twenty-five dollars, at which time 75345  
the tax commissioner shall issue the license. The tax commissioner 75346  
may require a vendor to be licensed as a transient vendor if, in 75347  
the opinion of the commissioner, such licensing is necessary for 75348  
the efficient administration of the tax. 75349

Any holder of a valid transient vendor's license may make 75350  
retail sales at a temporary place of business or temporary 75351  
exhibition, show, fair, flea market, or similar event, held 75352  
anywhere in the state without complying with any provision of 75353  
section 311.37 of the Revised Code. Any holder of a valid vendor's 75354  
license may make retail sales as a transient vendor at a temporary 75355  
place of business or temporary exhibition, show, fair, flea 75356  
market, or similar event held in any county in which the vendor 75357  
maintains a fixed place of business for which the vendor holds a 75358  
vendor's license without obtaining a transient vendor's license. 75359

(C) As used in this division, "service vendor" means any 75360  
person who, in the usual course of the person's business, sells 75361  
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75362  
(k), (l), ~~or~~ (m), (q), or (u) of section 5739.01 of the Revised 75363  
Code. 75364

Every service vendor shall make application to the tax 75365  
commissioner for a service vendor's license. Each applicant shall 75366  
pay a license fee in the amount of twenty-five dollars. Upon the 75367  
commissioner's determination that an applicant is a service vendor 75368  
and payment of the fee, the commissioner shall issue the applicant 75369

a service vendor's license. 75370

Only sales described in division (B)(3)(e), (f), (g), (h), 75371  
(i), (j), (k), (l), ~~or (m)~~, (g), or (u) of section 5739.01 of the 75372  
Revised Code may be made under authority of a service vendor's 75373  
license, and that license authorizes sales to be made at any place 75374  
in this state. Any service vendor who makes sales of other 75375  
services or tangible personal property subject to the sales tax 75376  
also shall be licensed under division (A), (B), or (D) of this 75377  
section. 75378

(D) As used in this division, "delivery vendor" means any 75379  
vendor who engages in one or more of the activities described in 75380  
divisions (D)(1) to (4) of this section, and who maintains no 75381  
store, showroom, or similar fixed place of business or other 75382  
location where merchandise regularly is offered for sale or 75383  
displayed or shown in catalogs for selection or pick-up by 75384  
consumers, or where consumers bring goods for repair or other 75385  
service. 75386

(1) The vendor makes retail sales of tangible personal 75387  
property; 75388

(2) The vendor rents or leases, at retail, tangible personal 75389  
property, except titled motor vehicles, titled watercraft, or 75390  
titled outboard motors; 75391

(3) The vendor provides a service, at retail, described in 75392  
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 75393  
Revised Code; or 75394

(4) The vendor makes retail sales of warranty, maintenance or 75395  
service contracts, or similar agreements as described in division 75396  
(B)(7) of section 5739.01 of the Revised Code. 75397

A transient vendor or a seller registered pursuant to section 75398  
5741.17 of the Revised Code is not a delivery vendor. 75399



Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

**Sec. 5739.21.** (A) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in section 5739.102 of the Revised Code or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local

government revenue assistance fund for distribution in accordance 75431  
with section 5747.61 of the Revised Code, and ninety-five and 75432  
two-tenths per cent shall be credited to the general revenue fund. 75433

(B)(1) In any case where any county or transit authority has 75434  
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 75435  
5739.026 of the Revised Code, the tax commissioner shall, within 75436  
forty-five days after the end of each month, determine and certify 75437  
to the director of budget and management the amount of the 75438  
proceeds of such tax or taxes received during that month from 75439  
billings and assessments ~~received during that month~~, or ~~shown on~~ 75440  
associated with tax returns or reports filed during that month, to 75441  
be returned to the county or transit authority levying the tax or 75442  
taxes. The amount to be returned to each county and transit 75443  
authority shall be a fraction of the aggregate amount of money 75444  
collected with respect to each area in which one or more of such 75445  
taxes are concurrently in effect with the tax levied by section 75446  
5739.02 of the Revised Code, ~~the~~. The numerator of which the 75447  
fraction is the rate of the tax levied by the county or transit 75448  
authority and the denominator of ~~which the fraction~~ is the 75449  
aggregate rate of such taxes applicable to such area; ~~provided,~~ 75450  
~~that the~~. The amount to be returned to each county or transit 75451  
authority shall be reduced by the amount of any refunds of county 75452  
or transit authority tax paid pursuant to section 5739.07 of the 75453  
Revised Code during the same month, or transfers made pursuant to 75454  
division (B)(2) of section 5703.052 of the Revised Code. 75455

(2) On a periodic basis, using the best information 75456  
available, the tax commissioner shall distribute any amount of a 75457  
county or transit authority tax that cannot be distributed under 75458  
division (B)(1) of this section. Through audit or other means, the 75459  
commissioner shall attempt to obtain the information necessary to 75460  
make the distribution as provided under that division and, on 75461  
receipt of that information, shall make adjustments to 75462

distributions previously made under this division. 75463

(C) The aggregate amount to be returned to any county or 75464  
transit authority shall be reduced by one per cent, which shall be 75465  
certified directly to the credit of the local sales tax 75466  
administrative fund, which is hereby created in the state 75467  
treasury. For the purpose of determining the amount to be returned 75468  
to a county and transit authority in which the rate of tax imposed 75469  
by the transit authority has been reduced under section 5739.028 75470  
of the Revised Code, the tax commissioner shall use the respective 75471  
rates of tax imposed by the county or transit authority that 75472  
results from the change in the rates authorized under that 75473  
section. ~~The~~ 75474

(D) The director of budget and management shall transfer, 75475  
from the same funds and in the same proportions specified in 75476  
division (A) of this section, to the permissive tax distribution 75477  
fund created by division (B)(1) of section 4301.423 of the Revised 75478  
Code and to the local sales tax administrative fund, the amounts 75479  
certified by the tax commissioner. The tax commissioner shall 75480  
then, on or before the twentieth day of the month in which such 75481  
certification is made, provide for payment of such respective 75482  
amounts to the county treasurer and to the fiscal officer of the 75483  
transit authority levying the tax or taxes. The amount transferred 75484  
to the local sales tax administrative fund is for use by the tax 75485  
commissioner in defraying costs incurred in administering such 75486  
taxes levied by a county or transit authority. 75487

**Sec. 5739.33.** If any corporation, limited liability company, 75488  
or business trust required to file returns and to remit tax due to 75489  
the state under this chapter, including a holder of a direct 75490  
payment permit under section 5739.031 of the Revised Code, fails 75491  
for any reason to make the filing or payment, any of its employees 75492  
having control or supervision of or charged with the 75493

responsibility of filing returns and making payments, or any of 75494  
its officers, members, managers, or trustees who are responsible 75495  
for the execution of the corporation's, limited liability 75496  
company's, or business trust's fiscal responsibilities, shall be 75497  
personally liable for the failure. The dissolution, termination, 75498  
or bankruptcy of a corporation, limited liability company, or 75499  
business trust shall not discharge a responsible officer's, 75500  
member's, manager's, employee's, or trustee's liability for a 75501  
failure of the corporation, limited liability company, or business 75502  
trust to file returns or remit tax due. The sum due for the 75503  
liability may be collected by assessment in the manner provided in 75504  
section 5739.13 of the Revised Code. 75505

**Sec. 5741.01.** As used in this chapter: 75506

(A) "Person" includes individuals, receivers, assignees, 75507  
trustees in bankruptcy, estates, firms, partnerships, 75508  
associations, joint-stock companies, joint ventures, clubs, 75509  
societies, corporations, business trusts, governments, and 75510  
combinations of individuals of any form. 75511

(B) "Storage" means and includes any keeping or retention in 75512  
this state for use or other consumption in this state. 75513

(C) "Use" means and includes the exercise of any right or 75514  
power incidental to the ownership of the thing used. A thing is 75515  
also "used" in this state if its consumer gives or otherwise 75516  
distributes it, without charge, to recipients in this state. 75517

(D) "Purchase" means acquired or received for a 75518  
consideration, whether such acquisition or receipt was effected by 75519  
a transfer of title, or of possession, or of both, or a license to 75520  
use or consume; whether such transfer was absolute or conditional, 75521  
and by whatever means the transfer was effected; and whether the 75522  
consideration was money, credit, barter, or exchange. Purchase 75523  
includes production, even though the article produced was used, 75524

stored, or consumed by the producer. The transfer of copyrighted 75525  
motion picture films for exhibition purposes is not a purchase, 75526  
except such films as are used solely for advertising purposes. 75527

(E) "Seller" means the person from whom a purchase is made, 75528  
and includes every person engaged in this state or elsewhere in 75529  
the business of selling tangible personal property or providing a 75530  
service for storage, use, or other consumption or benefit in this 75531  
state; and when, in the opinion of the tax commissioner, it is 75532  
necessary for the efficient administration of this chapter, to 75533  
regard any salesman, representative, peddler, or canvasser as the 75534  
agent of a dealer, distributor, supervisor, or employer under whom 75535  
the person operates, or from whom the person obtains tangible 75536  
personal property, sold by the person for storage, use, or other 75537  
consumption in this state, irrespective of whether or not the 75538  
person is making such sales on the person's own behalf, or on 75539  
behalf of such dealer, distributor, supervisor, or employer, the 75540  
commissioner may regard the person as such agent, and may regard 75541  
such dealer, distributor, supervisor, or employer as the seller. 75542  
"Seller" does not include any person to the extent the person 75543  
provides a communications medium, such as, but not limited to, 75544  
newspapers, magazines, radio, television, or cable television, by 75545  
means of which sellers solicit purchases of their goods or 75546  
services. 75547

(F) "Consumer" means any person who has purchased tangible 75548  
personal property or has been provided a service for storage, use, 75549  
or other consumption or benefit in this state. "Consumer" does not 75550  
include a person who receives, without charge, tangible personal 75551  
property or a service. 75552

A person who performs a facility management or similar 75553  
service contract for a contractee is a consumer of all tangible 75554  
personal property and services purchased for use in connection 75555  
with the performance of such contract, regardless of whether title 75556

to any such property vests in the contractee. The purchase of such 75557  
property and services is not subject to the exception for resale 75558  
under division (E)~~(1)~~ of section 5739.01 of the Revised Code. 75559

(G)~~(1)~~ "Price," except as provided in the case of watercraft, 75560  
~~outboard motors, or new motor vehicles, means the aggregate value~~ 75561  
~~in money of anything paid or delivered, or promised to be paid or~~ 75562  
~~delivered, by a consumer to a seller in the complete performance~~ 75563  
~~of the transaction by which tangible personal property has been~~ 75564  
~~purchased or a service has been provided for storage, use, or~~ 75565  
~~other consumption or benefit in this state, without any deduction~~ 75566  
~~or exclusion on account of the cost of the property sold, cost of~~ 75567  
~~materials used, labor or service cost, interest, discount paid or~~ 75568  
~~allowed after the sale is consummated, or any other expense. If~~ 75569  
~~the transaction consists of the rental or lease of tangible~~ 75570  
~~personal property, "price" means the aggregate value in money of~~ 75571  
~~anything paid or delivered, or promised to be paid or delivered by~~ 75572  
~~the lessee to the lessor, in the complete performance of the~~ 75573  
~~rental or lease, without any deduction or exclusion of tax,~~ 75574  
~~interest, labor or service charge, damage liability waiver,~~ 75575  
~~termination or damage charge, discount paid or allowed after the~~ 75576  
~~lease is consummated, or any other expense. Except as provided in~~ 75577  
~~division (G)~~(6)~~ of this section, the tax shall be calculated and~~ 75578  
~~collected by the lessor on each payment made by the lessee. If a~~ 75579  
~~consumer produces the tangible personal property used by the~~ 75580  
~~consumer, the price is the produced cost of such tangible personal~~ 75581  
~~property. "Price" does not include delivery charges that are~~ 75582  
~~separately stated on the initial invoice or initial billing~~ 75583  
~~rendered by the seller.~~ 75584

~~The tax collected by the seller from the consumer under this~~ 75585  
~~chapter is not a part of the price, but is a tax collection for~~ 75586  
~~the benefit of the state, and of counties levying an additional~~ 75587  
~~use tax pursuant to section 5741.021 or 5741.023 of the Revised~~ 75588

~~Code and of transit authorities levying an additional use tax 75589  
pursuant to section 5741.022 of the Revised Code and, except for 75590  
the discount authorized under section 5741.12 of the Revised Code 75591  
and the effects of any rounding pursuant to section 5703.055 of 75592  
the Revised Code, no person other than the state or such a county 75593  
or transit authority shall derive any benefit from the collection 75594  
or payment of such tax. 75595~~

~~As used in ~~division~~ divisions (G)~~(1)~~(2) to (6) of this 75596  
section, "delivery charges" means charges by the seller for 75597  
~~preparation and delivery to a location designated by the consumer 75598  
of tangible personal property or a service, including 75599  
transportation, shipping, postage, handling, crating, and packing 75600  
has the same meaning as in division (H)(1) of section 5739.01 of 75601  
the Revised Code. 75602~~~~

~~(2) In the case of watercraft, outboard motors, or new motor 75603  
vehicles, "price" has the same meaning as in ~~division~~ divisions 75604  
(H)(2) and (3) of section 5739.01 of the Revised Code. 75605~~

~~(3) In the case of a nonresident business consumer that 75606  
purchases and uses tangible personal property outside this state 75607  
and subsequently temporarily stores, uses, or otherwise consumes 75608  
such tangible personal property in the conduct of business in this 75609  
state, the consumer or the tax commissioner may determine the 75610  
price based on the value of the temporary storage, use, or other 75611  
consumption, in lieu of determining the price pursuant to division 75612  
(G)(1) of this section. A price determination made by the consumer 75613  
is subject to review and redetermination by the commissioner. 75614~~

~~(4) In the case of tangible personal property held in this 75615  
state as inventory for sale or lease, and that is temporarily 75616  
stored, used, or otherwise consumed in a taxable manner, the price 75617  
is the value of the temporary use. A price determination made by 75618  
the consumer is subject to review and redetermination by the 75619  
commissioner. 75620~~

(5) In the case of tangible personal property originally 75621  
purchased and used by the consumer outside this state, and that 75622  
becomes permanently stored, used, or otherwise consumed in this 75623  
state more than six months after its acquisition by the consumer, 75624  
the consumer or the commissioner may determine the price based on 75625  
the current value of such tangible personal property, in lieu of 75626  
determining the price pursuant to division (G)(1) of this section. 75627  
A price determination made by the consumer is subject to review 75628  
and redetermination by the commissioner. 75629

~~(6) In the case of the purchase or lease of any motor vehicle 75630  
designed by the manufacturer to carry a load of not more than one 75631  
ton, watercraft, outboard motor, or aircraft, or the lease of any 75632  
tangible personal property, other than motor vehicles designed by 75633  
the manufacturer to carry a load of more than one ton, to be used 75634  
by the lessee primarily for business purposes, the tax shall be 75635  
collected by the vendor at the time the lease is consummated and 75636  
calculated by the vendor on the basis of the total amount to be 75637  
paid by the lessee under the lease agreement. If the total amount 75638  
of the consideration for the lease includes amounts that are not 75639  
calculated at the time the lease is executed, the tax shall be 75640  
calculated and collected by the vendor at the time such amounts 75641  
are billed to the lessee. In the case of an open end lease, the 75642  
tax shall be calculated by the vendor on the basis of the total 75643  
amount to be paid during the initial fixed term of the lease, and 75644  
then for each subsequent renewal period as it comes due. As used 75645  
in division (G)(6) of this section only, "motor vehicle" has the 75646  
same meaning as in section 4501.01 of the Revised Code If a 75647  
consumer produces tangible personal property for sale and removes 75648  
that property from inventory for the consumer's own use, the price 75649  
is the produced cost of that tangible personal property. 75650~~

(H) "Nexus with this state" means that the seller engages in 75651  
continuous and widespread solicitation of purchases from residents 75652



of this state or otherwise purposefully directs its business 75653  
activities at residents of this state. 75654

(I) "Substantial nexus with this state" means that the seller 75655  
has sufficient contact with this state, in accordance with Section 75656  
8 of Article I of the Constitution of the United States, to allow 75657  
the state to require the seller to collect and remit use tax on 75658  
sales of tangible personal property or services made to consumers 75659  
in this state. "Substantial nexus with this state" exists when the 75660  
seller does any of the following: 75661

(1) Maintains a place of business within this state, whether 75662  
operated by employees or agents of the seller, by a member of an 75663  
affiliated group, as ~~described~~ defined in division (B)(3)(e) of 75664  
section 5739.01 of the Revised Code, of which the seller is a 75665  
member, or by a franchisee using a trade name of the seller; 75666

(2) Regularly has employees, agents, representatives, 75667  
solicitors, installers, repairmen, salesmen, or other individuals 75668  
in this state for the purpose of conducting the business of the 75669  
seller; 75670

(3) Uses a person in this state for the purpose of receiving 75671  
or processing orders of the seller's goods or services; 75672

(4) Makes regular deliveries of tangible personal property 75673  
into this state by means other than common carrier; 75674

(5) Has membership in an affiliated group, as described in 75675  
division (B)(3)(e) of section 5739.01 of the Revised Code, at 75676  
least one other member of which has substantial nexus with this 75677  
state; 75678

(6) Owns tangible personal property that is rented or leased 75679  
to a consumer in this state, or offers tangible personal property, 75680  
on approval, to consumers in this state; 75681

(7) Except as provided in section 5703.65 of the Revised 75682

Code, is registered with the secretary of state to do business in 75683  
this state or is registered or licensed by any state agency, 75684  
board, or commission to transact business in this state or to make 75685  
sales to persons in this state; 75686

(8) Has any other contact with this state that would allow 75687  
this state to require the seller to collect and remit use tax 75688  
under Section 8 of Article I of the Constitution of the United 75689  
States. 75690

(J) "Fiscal officer" means, with respect to a regional 75691  
transit authority, the secretary-treasurer thereof, and with 75692  
respect to a county which is a transit authority, the fiscal 75693  
officer of the county transit board appointed pursuant to section 75694  
306.03 of the Revised Code or, if the board of county 75695  
commissioners operates the county transit system, the county 75696  
auditor. 75697

(K) "Territory of the transit authority" means all of the 75698  
area included within the territorial boundaries of a transit 75699  
authority as they from time to time exist. Such territorial 75700  
boundaries must at all times include all the area of a single 75701  
county or all the area of the most populous county which is a part 75702  
of such transit authority. County population shall be measured by 75703  
the most recent census taken by the United States census bureau. 75704

(L) "Transit authority" means a regional transit authority 75705  
created pursuant to section 306.31 of the Revised Code or a county 75706  
in which a county transit system is created pursuant to section 75707  
306.01 of the Revised Code. For the purposes of this chapter, a 75708  
transit authority must extend to at least the entire area of a 75709  
single county. A transit authority which includes territory in 75710  
more than one county must include all the area of the most 75711  
populous county which is a part of such transit authority. County 75712  
population shall be measured by the most recent census taken by 75713  
the United States census bureau. 75714

(M) "Providing a service" has the same meaning as in division 75715  
(X) of section 5739.01 of the Revised Code. 75716

(N) "Other consumption" includes receiving the benefits of a 75717  
service. 75718

(O) "~~Lease~~" ~~means any transfer for a consideration of the~~ 75719  
~~possession of and right to use, but not title to, tangible~~ 75720  
~~personal property for a fixed period of time greater than thirty~~ 75721  
~~days or for an open ended period of time with a minimum fixed~~ 75722  
~~period of more than thirty days or "rental" has the same meaning~~ 75723  
~~as in division (UU) of section 5739.01 of the Revised Code.~~ 75724

(P) "Certified service provider" has the same meaning as in 75725  
section 5740.01 of the Revised Code. 75726

**Sec. 5741.02.** (A)(1) For the use of the general revenue fund 75727  
of the state, an excise tax is hereby levied on the storage, use, 75728  
or other consumption in this state of tangible personal property 75729  
or the benefit realized in this state of any service provided. The 75730  
tax shall be collected ~~pursuant to the schedules as provided~~ in 75731  
section 5739.025 of the Revised Code, provided that on and after 75732  
July 1, 2003, and on or before June 30, 2005, the rate of the tax 75733  
shall be six per cent. On and after July 1, 2005, the rate of the 75734  
tax shall be five per cent. 75735

(2) In the case of the lease or rental, with a fixed term of 75736  
more than thirty days or an indefinite term with a minimum period 75737  
of more than thirty days, of any motor vehicles designed by the 75738  
manufacturer to carry a load of not more than one ton, watercraft, 75739  
outboard motor, or aircraft, or of any tangible personal property, 75740  
other than motor vehicles designed by the manufacturer to carry a 75741  
load of more than one ton, to be used by the lessee or renter 75742  
primarily for business purposes, the tax shall be collected by the 75743  
seller at the time the lease or rental is consummated and shall be 75744

calculated by the seller on the basis of the total amount to be 75745  
paid by the lessee or renter under the lease or rental agreement. 75746  
If the total amount of the consideration for the lease or rental 75747  
includes amounts that are not calculated at the time the lease or 75748  
rental is executed, the tax shall be calculated and collected by 75749  
the seller at the time such amounts are billed to the lessee or 75750  
renter. In the case of an open-end lease or rental, the tax shall 75751  
be calculated by the seller on the basis of the total amount to be 75752  
paid during the initial fixed term of the lease or rental, and for 75753  
each subsequent renewal period as it comes due. As used in this 75754  
division, "motor vehicle" has the same meaning as in section 75755  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 75756  
unit attached to the watercraft. 75757

(3) Except as provided in division (A)(2) of this section, in 75758  
the case of a transaction, the price of which consists in whole or 75759  
part of the lease or rental of tangible personal property, the tax 75760  
shall be measured by the installments of those leases or rentals. 75761

(B) Each consumer, storing, using, or otherwise consuming in 75762  
this state tangible personal property or realizing in this state 75763  
the benefit of any service provided, shall be liable for the tax, 75764  
and such liability shall not be extinguished until the tax has 75765  
been paid to this state; provided, that the consumer shall be 75766  
relieved from further liability for the tax if the tax has been 75767  
paid to a seller in accordance with section 5741.04 of the Revised 75768  
Code or prepaid by the seller in accordance with section 5741.06 75769  
of the Revised Code. 75770

(C) The tax does not apply to the storage, use, or 75771  
consumption in this state of the following described tangible 75772  
personal property or services, nor to the storage, use, or 75773  
consumption or benefit in this state of tangible personal property 75774  
or services purchased under the following described circumstances: 75775

(1) When the sale of property or service in this state is 75776

subject to the excise tax imposed by sections 5739.01 to 5739.31 75777  
of the Revised Code, provided said tax has been paid; 75778

(2) Except as provided in division (D) of this section, 75779  
tangible personal property or services, the acquisition of which, 75780  
if made in Ohio, would be a sale not subject to the tax imposed by 75781  
sections 5739.01 to 5739.31 of the Revised Code; 75782

(3) Property or services, the storage, use, or other 75783  
consumption of or benefit from which this state is prohibited from 75784  
taxing by the Constitution of the United States, laws of the 75785  
United States, or the Constitution of this state. This exemption 75786  
shall not exempt from the application of the tax imposed by this 75787  
section the storage, use, or consumption of tangible personal 75788  
property that was purchased in interstate commerce, but that has 75789  
come to rest in this state, provided that fuel to be used or 75790  
transported in carrying on interstate commerce that is stopped 75791  
within this state pending transfer from one conveyance to another 75792  
is exempt from the excise tax imposed by this section and section 75793  
5739.02 of the Revised Code; 75794

(4) Transient use of tangible personal property in this state 75795  
by a nonresident tourist or vacationer, or a non-business use 75796  
within this state by a nonresident of this state, if the property 75797  
so used was purchased outside this state for use outside this 75798  
state and is not required to be registered or licensed under the 75799  
laws of this state; 75800

(5) Tangible personal property or services rendered, upon 75801  
which taxes have been paid to another jurisdiction to the extent 75802  
of the amount of the tax paid to such other jurisdiction. Where 75803  
the amount of the tax imposed by this section and imposed pursuant 75804  
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 75805  
exceeds the amount paid to another jurisdiction, the difference 75806  
shall be allocated between the tax imposed by this section and any 75807  
tax imposed by a county or a transit authority pursuant to section 75808

5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 75809  
to the respective rates of such taxes. 75810

As used in this subdivision, "taxes paid to another 75811  
jurisdiction" means the total amount of retail sales or use tax or 75812  
similar tax based upon the sale, purchase, or use of tangible 75813  
personal property or services rendered legally, levied by and paid 75814  
to another state or political subdivision thereof, or to the 75815  
District of Columbia, where the payment of such tax does not 75816  
entitle the taxpayer to any refund or credit for such payment. 75817

(6) The transfer of a used manufactured home or used mobile 75818  
home, as defined by section 5739.0210 of the Revised Code, made on 75819  
or after January 1, 2000; 75820

(7) Drugs that are or are intended to be distributed free of 75821  
charge to a practitioner licensed to prescribe, dispense, and 75822  
administer drugs to a human being in the course of a professional 75823  
practice and that by law may be dispensed only by or upon the 75824  
order of such a practitioner. 75825

(D) The tax applies to the storage, use, or other consumption 75826  
in this state of tangible personal property or services, the 75827  
acquisition of which at the time of sale was excepted under 75828  
division (E)~~(1)~~ of section 5739.01 of the Revised Code from the 75829  
tax imposed by section 5739.02 of the Revised Code, but which has 75830  
subsequently been temporarily or permanently stored, used, or 75831  
otherwise consumed in a taxable manner. 75832

(E)(1) If any transaction is claimed to be exempt under 75833  
division (E) of section 5739.01 of the Revised Code or under 75834  
section 5739.02 of the Revised Code, with the exception of 75835  
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 75836  
Code, the consumer shall provide to the seller, and the seller 75837  
shall obtain from the consumer, a certificate specifying the 75838  
reason that the transaction is not subject to the tax. The 75839

certificate shall be provided either in a hard copy form or 75840  
electronic form, as prescribed by the tax commissioner. If the 75841  
transaction is claimed to be exempt under division (B)(13) of 75842  
section 5739.02 of the Revised Code, the exemption certificate 75843  
shall be provided by both the contractor and contractee. Such 75844  
contractee shall be deemed to be the consumer of all items 75845  
purchased under the claim of exemption if it is subsequently 75846  
determined that the exemption is not properly claimed. The 75847  
certificate shall be in such form as the tax commissioner by rule 75848  
prescribes. The seller shall maintain records, including exemption 75849  
certificates, of all sales on which a consumer has claimed an 75850  
exemption, and provide them to the tax commissioner on request. 75851

(2) If no certificate is provided or obtained within the 75852  
period for filing the return for the period in which the 75853  
transaction is consummated, it shall be presumed that the tax 75854  
applies. The failure to have so provided or obtained a certificate 75855  
shall not preclude a seller or consumer from establishing, within 75856  
one hundred twenty days of the giving of notice by the 75857  
commissioner of intention to levy an assessment, that the 75858  
transaction is not subject to the tax. 75859

(F) A seller who files a petition for reassessment contesting 75860  
the assessment of tax on transactions for which the seller 75861  
obtained no valid exemption certificates, and for which the seller 75862  
failed to establish that the transactions were not subject to the 75863  
tax during the one-hundred-twenty-day period allowed under 75864  
division (E) of this section, may present to the tax commissioner 75865  
additional evidence to prove that the transactions were exempt. 75866  
The seller shall file such evidence within ninety days of the 75867  
receipt by the seller of the notice of assessment, except that, 75868  
upon application and for reasonable cause, the tax commissioner 75869  
may extend the period for submitting such evidence thirty days. 75870

(G) For the purpose of the proper administration of sections 75871

5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 75872  
of the tax hereby levied, it shall be presumed that any use, 75873  
storage, or other consumption of tangible personal property in 75874  
this state is subject to the tax until the contrary is 75875  
established. 75876

(H) The tax collected by the seller from the consumer under 75877  
this chapter is not part of the price, but is a tax collection for 75878  
the benefit of the state, and of counties levying an additional 75879  
use tax pursuant to section 5741.021 or 5741.023 of the Revised 75880  
Code and of transit authorities levying an additional use tax 75881  
pursuant to section 5741.022 of the Revised Code. Except for the 75882  
discount authorized under section 5741.12 of the Revised Code and 75883  
the effects of any rounding pursuant to section 5703.055 of the 75884  
Revised Code, no person other than the state or such a county or 75885  
transit authority shall derive any benefit from the collection of 75886  
such tax. 75887

**Sec. 5741.021.** (A) For the purpose of providing additional 75888  
general revenues for the county or supporting criminal and 75889  
administrative justice services in the county, or both, and to pay 75890  
the expenses of administering such levy, any county which levies a 75891  
tax pursuant to section 5739.021 of the Revised Code shall levy a 75892  
tax at the same rate levied pursuant to section 5739.021 of the 75893  
Revised Code on the storage, use, or other consumption in the 75894  
county of the following: 75895

(1) Motor vehicles ~~acquired on or after May 1, 1970,~~ and 75896  
watercraft and outboard motors required to be titled in the county 75897  
pursuant to Chapter 1548. of the Revised Code and ~~acquired on or~~ 75898  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75899  
by section 5739.02 of the Revised Code; 75900

(2) In addition to the tax imposed by section 5741.02 of the 75901  
Revised Code, tangible personal property and services subject to 75902



the tax levied by this state as provided in section 5741.02 of the Revised Code, and tangible personal property and services purchased in another county within this state by a transaction subject to the tax imposed by section 5739.02 of the Revised Code.

The tax shall be levied pursuant to a resolution of the board of county commissioners which shall be adopted after publication of notice and hearing in the same manner as provided in section 5739.021 of the Revised Code. Such resolution shall be adopted and shall become effective on the same day as the resolution adopted by the board of county commissioners levying a sales tax pursuant to section 5739.021 of the Revised Code and shall remain in effect until such sales tax is repealed.

(B) The tax levied pursuant to this section on the storage, use, or other consumption of tangible personal property and on the benefit of a service realized shall be in addition to the tax levied by section 5741.02 of the Revised Code and, except as provided in division (D) of this section, any tax levied pursuant to sections 5741.022 and 5741.023 of the Revised Code.

(C) The additional tax levied by the county shall be collected pursuant to ~~the schedules in~~ section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

(D) The tax levied pursuant to this section shall not be applicable to any benefit of a service realized or to any storage, use, or consumption of property not within the taxing power of a county under the constitution of the United States or the constitution of this state, or to property or services on which a tax levied by a county or transit authority pursuant to this section or section 5739.021, 5739.023, 5739.026, 5741.022, or

5741.023 of the Revised Code has been paid, if the sum of the 75935  
taxes paid pursuant to those sections is equal to or greater than 75936  
the sum of the taxes due under this section and sections 5741.022 75937  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75938  
less than the sum of the taxes due under this section and sections 75939  
5741.022 and 5741.023 of the Revised Code, the amount of tax paid 75940  
shall be credited against the amount of tax due. 75941

(E) As used in this section, "criminal and administrative 75942  
justice services" has the same meaning as in section 5739.021 of 75943  
the Revised Code. 75944

**Sec. 5741.022.** (A) For the purpose of providing additional 75945  
general revenues for the transit authority and paying the expenses 75946  
of administering such levy, any transit authority as defined in 75947  
section 5741.01 of the Revised Code that levies a tax pursuant to 75948  
section 5739.023 of the Revised Code shall levy a tax at the same 75949  
rate levied pursuant to such section on the storage, use, or other 75950  
consumption in the territory of the transit authority of the 75951  
following: 75952

(1) Motor vehicles ~~acquired on or after June 29, 1974,~~ and 75953  
watercraft and outboard motors required to be titled in the county 75954  
pursuant to Chapter 1548. of the Revised Code and acquired ~~on or~~ 75955  
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75956  
by section 5739.02 of the Revised Code; 75957

(2) In addition to the tax imposed by section 5741.02 of the 75958  
Revised Code, tangible personal property and services subject to 75959  
the tax levied by this state as provided in section 5741.02 of the 75960  
Revised Code, and tangible personal property and services 75961  
purchased in another county within this state by a transaction 75962  
subject to the tax imposed by section 5739.02 of the Revised Code. 75963

The tax shall be in effect at the same time and at the same 75964  
rate and shall be levied pursuant to the resolution of the 75965

legislative authority of the transit authority levying a sales tax 75966  
pursuant to section 5739.023 of the Revised Code. 75967

(B) The tax levied pursuant to this section on the storage, 75968  
use, or other consumption of tangible personal property and on the 75969  
benefit of a service realized shall be in addition to the tax 75970  
levied by section 5741.02 of the Revised Code and, except as 75971  
provided in division (D) of this section, any tax levied pursuant 75972  
to sections 5741.021 and 5741.023 of the Revised Code. 75973

(C) The additional tax levied by the authority shall be 75974  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 75975  
Revised Code. 75976

(D) The tax levied pursuant to this section shall not be 75977  
applicable to any benefit of a service realized or to any storage, 75978  
use, or consumption of property not within the taxing power of a 75979  
transit authority under the constitution of the United States or 75980  
the constitution of this state, or to property or services on 75981  
which a tax levied by a county or transit authority pursuant to 75982  
this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 75983  
5741.023 of the Revised Code has been paid, if the sum of the 75984  
taxes paid pursuant to those sections is equal to or greater than 75985  
the sum of the taxes due under this section and sections 5741.021 75986  
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75987  
less than the sum of the taxes due under this section and sections 75988  
5741.021 and 5741.023 of the Revised Code, the amount of tax paid 75989  
shall be credited against the amount of tax due. 75990

(E) The rate of a tax levied under this section is subject to 75991  
reduction under section 5739.028 of the Revised Code if a ballot 75992  
question is approved by voters pursuant to that section. 75993

**Sec. 5741.023.** (A) For the same purposes for which it has 75994  
imposed a tax under section 5739.026 of the Revised Code, any 75995  
county ~~which~~ that levies a tax pursuant to such section shall levy 75996

a tax at the same rate levied pursuant to such section on the 75997  
storage, use, or other consumption in the county of the following: 75998

(1) Motor vehicles, and watercraft and outboard motors 75999  
required to be titled in the county pursuant to Chapter 1548. of 76000  
the Revised Code, acquired by a transaction subject to the tax 76001  
imposed by section 5739.02 of the Revised Code; 76002

(2) In addition to the tax imposed by section 5741.02 of the 76003  
Revised Code, tangible personal property and services subject to 76004  
the tax levied by this state as provided in section 5741.02 of the 76005  
Revised Code, and tangible personal property and services 76006  
purchased in another county within this state by a transaction 76007  
subject to the tax imposed by section 5739.02 of the Revised Code. 76008

The tax shall be levied pursuant to a resolution of the board 76009  
of county commissioners, which shall be adopted in the same manner 76010  
as provided in section 5739.026 of the Revised Code. Such 76011  
resolution shall be adopted and shall become effective on the same 76012  
day as the resolution adopted by the board of county commissioners 76013  
levying a sales tax pursuant to such section and shall remain in 76014  
effect until such sales tax is repealed or expires. 76015

(B) The tax levied pursuant to this section shall be in 76016  
addition to the tax levied by section 5741.02 of the Revised Code 76017  
and, except as provided in division (D) of this section, any tax 76018  
levied pursuant to sections 5741.021 and 5741.022 of the Revised 76019  
Code. 76020

(C) The additional tax levied by the county shall be 76021  
collected pursuant to ~~the schedules in~~ section 5739.025 of the 76022  
Revised Code. 76023

(D) The tax levied pursuant to this section shall not be 76024  
applicable to any benefit of a service realized or to any storage, 76025  
use, or consumption of property not within the taxing power of a 76026  
county under the constitution of the United States or the 76027

constitution of this state, or to property or services on which 76028  
tax levied by a county or transit authority pursuant to this 76029  
section or section 5739.021, 5739.023, 5739.026, 5741.021, or 76030  
5741.022 of the Revised Code has been paid, if the sum of the 76031  
taxes paid pursuant to those sections is equal to or greater than 76032  
the sum of the taxes due under this section and sections 5741.021 76033  
and 5741.022 of the Revised Code. If the sum of the taxes paid is 76034  
less than the sum of the taxes due under this section and sections 76035  
5741.021 and 5741.022 of the Revised Code, the amount of tax paid 76036  
shall be credited against the amount of tax due. 76037

**Sec. 5741.121.** (A) If the total amount of tax required to be 76038  
paid by a seller or consumer under section 5741.12 of the Revised 76039  
Code for any year ~~indicated in the following schedule~~ equals or 76040  
~~exceeds the amount prescribed for that year in the schedule~~ 76041  
seventy-five thousand dollars, the seller or consumer shall remit 76042  
each monthly tax payment in the second ensuing and each succeeding 76043  
year by electronic funds transfer as prescribed by division (B) of 76044  
this section. 76045

Year	1992	<del>1993 through 1999</del>	<del>2000 and thereafter</del>
Tax payment	\$1,200,000	\$600,000	\$60,000

If a seller's or consumer's tax payment for each of two 76048  
consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ 76049  
seventy-five thousand dollars, the seller or consumer is relieved 76050  
of the requirement to remit taxes by electronic funds transfer for 76051  
the year that next follows the second of the consecutive years in 76052  
which the tax payment is less than ~~sixty thousand dollars~~ that 76053  
amount, and is relieved of that requirement for each succeeding 76054  
year, unless the tax payment in a subsequent year equals or 76055  
exceeds ~~sixty~~ seventy-five thousand dollars. 76056

The tax commissioner shall notify each seller or consumer 76057  
required to remit taxes by electronic funds transfer of the 76058

seller's or consumer's obligation to do so, shall maintain an 76059  
updated list of those sellers and consumers, and shall timely 76060  
certify the list and any additions thereto or deletions therefrom 76061  
to the treasurer of state. Failure by the tax commissioner to 76062  
notify a seller or consumer subject to this section to remit taxes 76063  
by electronic funds transfer does not relieve the seller or 76064  
consumer of the obligation to remit taxes by electronic funds 76065  
transfer. 76066

(B) Sellers and consumers required by division (A) of this 76067  
section to remit payments by electronic funds transfer shall remit 76068  
such payments to the treasurer of state in the manner prescribed 76069  
by this section and rules adopted by the treasurer of state under 76070  
section 113.061 of the Revised Code, and on or before the 76071  
following dates: 76072

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, 76073  
a seller shall remit an amount equal to the taxes collected during 76074  
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 76075  
~~eighteenth day of each month, a seller shall remit an amount equal~~ 76076  
~~to the taxes collected on the eighth through the fourteenth day of~~ 76077  
~~the month.~~ On or before the twenty-fifth day of each month, a 76078  
seller shall remit an amount equal to the taxes collected on the 76079  
~~fifteenth~~ twelfth through the twenty-first day of the month. 76080

(b) In lieu of remitting the actual amounts collected for the 76081  
periods specified in division (B)(1)(a) of this section, a seller 76082  
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 76083  
twenty-fifth days of each month, remit an amount equal to 76084  
~~one-fourth~~ thirty-seven and one-half per cent of the seller's 76085  
total tax liability for the same month in the preceding calendar 76086  
year. 76087

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 76088  
and twenty-fifth days of each month, a consumer shall remit an 76089  
amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of 76090

the consumer's total tax liability for the same month in the 76091  
preceding calendar year. 76092

(3) On or before the twenty-third day of each month, a seller 76093  
shall report the taxes collected and a consumer shall report the 76094  
taxes due for the previous month and shall remit that amount, less 76095  
any amounts paid for that month as required by division (B)(1)(a) 76096  
or (b) or (B)(2) of this section. 76097

The payment of taxes by electronic funds transfer does not 76098  
affect a seller's or consumer's obligation to file the monthly 76099  
return as required under section 5741.12 of the Revised Code. 76100

(C) A seller or consumer required by this section to remit 76101  
taxes by electronic funds transfer may apply to the treasurer of 76102  
state in the manner prescribed by the treasurer of state to be 76103  
excused from that requirement. The treasurer of state may excuse 76104  
the seller or consumer from remittance by electronic funds 76105  
transfer for good cause shown for the period of time requested by 76106  
the seller or consumer or for a portion of that period. The 76107  
treasurer of state shall notify the tax commissioner and the 76108  
seller or consumer of the treasurer of state's decision as soon as 76109  
is practicable. 76110

(D)(1) If a seller or consumer that is required to remit 76111  
payments under division (B) of this section fails to make a 76112  
payment, the commissioner may impose an additional charge not to 76113  
exceed five per cent of that unpaid amount. 76114

(2) If a seller or consumer required by this section to remit 76115  
taxes by electronic funds transfer remits those taxes by some 76116  
means other than by electronic funds transfer as prescribed by the 76117  
rules adopted by the treasurer of state, and the treasurer of 76118  
state determines that such failure was not due to reasonable cause 76119  
or was due to willful neglect, the treasurer of state shall notify 76120  
the tax commissioner of the failure to remit by electronic funds 76121

transfer and shall provide the commissioner with any information 76122  
used in making that determination. The tax commissioner may impose 76123  
an additional charge not to exceed the lesser of five per cent of 76124  
the amount of the taxes required to be paid by electronic funds 76125  
transfer or five thousand dollars. 76126

(3) Any additional charge imposed under this section is in 76127  
addition to any other penalty or charge imposed under this 76128  
chapter, and shall be considered as revenue arising from taxes 76129  
imposed under this chapter. An additional charge may be collected 76130  
by assessment in the manner prescribed by section 5741.13 of the 76131  
Revised Code. The tax commissioner may waive all or a portion of 76132  
such a charge and may adopt rules governing such waiver. 76133

No additional charge shall be imposed under division (D)(2) 76134  
of this section against a seller or consumer that has been 76135  
notified of the obligation to remit taxes under this section and 76136  
that remits its first two tax payments after such notification by 76137  
some means other than electronic funds transfer. The additional 76138  
charge may be imposed upon the remittance of any subsequent tax 76139  
payment that the seller or consumer remits by some means other 76140  
than electronic funds transfer. 76141

Sec. 5741.25. If any corporation, limited liability company, 76142  
or business trust registered or required to be registered under 76143  
section 5741.17 of the Revised Code and required to file returns 76144  
and remit tax due to the state under this chapter fails for any 76145  
reason to make the filing or payment, any of its employees having 76146  
control or supervision of or charged with the responsibility of 76147  
filing returns and making payments, or any of its officers, 76148  
members, managers, or trustees who are responsible for the 76149  
execution of the corporation's, limited liability company's, or 76150  
business trust's fiscal responsibilities, shall be personally 76151  
liable for the failure. The dissolution, termination, or 76152



bankruptcy of a corporation, limited liability company, or 76153  
business trust shall not discharge a responsible officer's, 76154  
member's, manager's, employee's, or trustee's liability for a 76155  
failure of the corporation, limited liability company, or business 76156  
trust to file returns or remit tax due. The sum due for the 76157  
liability may be collected by assessment in the manner provided in 76158  
section 5741.11 or 5741.13 of the Revised Code. 76159

**Sec. 5743.05.** All stamps provided for by section 5743.03 of 76160  
the Revised Code, when procured by the tax commissioner, shall be 76161  
immediately delivered to the treasurer of state, who shall execute 76162  
a receipt therefor showing the number and aggregate face value of 76163  
each denomination received by the treasurer of state and any other 76164  
information that the commissioner requires to enforce the 76165  
collection and distribution of all taxes imposed under section 76166  
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76167  
to the commissioner. The treasurer of state shall sell the stamps 76168  
and, on the fifth day of each month, make a report showing all 76169  
sales made during the preceding month, with the names of 76170  
purchasers, the number of each denomination, the aggregate face 76171  
value purchased by each, and any other information as the 76172  
commissioner requires to enforce the collection and distribution 76173  
of all taxes imposed under section 5743.024 of the Revised Code, 76174  
and deliver it to the commissioner. The treasurer of state shall 76175  
be accountable for all stamps received and unsold. The stamps 76176  
shall be sold and accounted for at their face value, except the 76177  
commissioner shall, by rule certified to the treasurer of state, 76178  
authorize the sale of stamps and meter impressions to wholesale or 76179  
retail dealers in this state, or to wholesale dealers outside this 76180  
state, at a discount of not less than one and eight-tenths per 76181  
cent or more than ten per cent of their face value, as a 76182  
commission for affixing and canceling the stamps or meter 76183  
impressions. 76184

The commissioner, by rule certified to the treasurer of 76185  
state, shall authorize the delivery of stamps and meter 76186  
impressions to wholesale and retail dealers in this state and to 76187  
wholesale dealers outside this state on credit ~~when the purchaser~~ 76188  
~~files.~~ If such a dealer has not been in good credit standing with 76189  
this state for five consecutive years preceding the purchase, the 76190  
tax commissioner shall require the dealer to file with the 76191  
commissioner a bond to the state in the amount and in the form 76192  
prescribed by the commissioner, ~~and~~ with surety to the 76193  
satisfaction of the ~~treasurer of state~~ commissioner, conditioned 76194  
on payment to the treasurer of state within thirty days for stamps 76195  
or meter impressions delivered within that time. If such a dealer 76196  
has been in good credit standing with this state for five 76197  
consecutive years preceding the purchase, the tax commissioner 76198  
shall not require that the dealer file such a bond but shall 76199  
require payment for the stamps and meter impressions within thirty 76200  
days after purchase of the stamps and meter impressions. Stamps 76201  
and meter impressions sold to a dealer not required to file a bond 76202  
shall be sold at face value. The maximum amount that may be sold 76203  
on credit to a dealer not required to file a bond shall equal one 76204  
hundred ten per cent of the dealer's average monthly purchases 76205  
over the preceding calendar year. The maximum amount shall be 76206  
adjusted to reflect any changes in the tax rate and may be 76207  
adjusted, upon application to the tax commissioner by the dealer, 76208  
to reflect changes in the business operations of the dealer. The 76209  
maximum amount shall be applicable to the period of July through 76210  
April. Payment by a dealer not required to file a bond shall be 76211  
remitted by electronic funds transfer as prescribed by section 76212  
5743.051 of the Revised Code. If a dealer not required to file a 76213  
bond fails to make the payment in full within the thirty-day 76214  
period, the treasurer of state shall not thereafter sell stamps or 76215  
meter impressions to that dealer until the dealer pays the 76216  
outstanding amount, including penalty and interest on that amount 76217

as prescribed in this chapter, and the commissioner thereafter may 76218  
require the dealer to file a bond until the dealer is restored to 76219  
good standing. The commissioner shall limit delivery of stamps and 76220  
meter impressions on credit to the period running from the first 76221  
day of July of the fiscal year until the first day of the 76222  
following May. Any discount allowed as a commission for affixing 76223  
and canceling stamps or meter impressions shall be allowed with 76224  
respect to sales of stamps and meter impressions on credit. 76225

The treasurer of state shall redeem and pay for any 76226  
destroyed, unused, or spoiled tax stamps and any unused meter 76227  
impressions at their net value, and shall refund to wholesale 76228  
dealers the net amount of state and county taxes paid erroneously 76229  
or paid on cigarettes that have been sold in interstate or foreign 76230  
commerce or that have become unsalable, and the net amount of 76231  
county taxes that were paid on cigarettes that have been sold at 76232  
retail or for retail sale outside a taxing county. 76233

An application for a refund of tax shall be filed with the 76234  
tax commissioner, on the form prescribed by the commissioner for 76235  
that purpose, within three years from the date the tax stamps are 76236  
destroyed or spoiled, from the date of the erroneous payment, or 76237  
from the date that cigarettes on which taxes have been paid have 76238  
been sold in interstate or foreign commerce or have become 76239  
unsalable. 76240

On the filing of the application, the commissioner shall 76241  
determine the amount of refund to which the applicant is entitled, 76242  
payable from receipts of the state tax, and, if applicable, 76243  
payable from receipts of a county tax . If the amount is less than 76244  
that claimed, the ~~commission~~ commissioner shall certify the amount 76245  
to the director of budget and management and treasurer of state 76246  
for payment from the tax refund fund created by section 5703.052 76247  
of the Revised Code. If the amount is less than that claimed, the 76248  
commissioner shall proceed in accordance with section 5703.70 of 76249

the Revised Code. 76250

If a refund is granted for payment of an illegal or erroneous 76251  
assessment issued by the department, the refund shall include 76252  
interest on the amount of the refund from the date of the 76253  
overpayment. The interest shall be computed at the rate per annum 76254  
prescribed by section 5703.47 of the Revised Code. 76255

Sec. 5743.051. This section applies to any wholesale or 76256  
retail cigarette dealer required by section 5743.05 of the Revised 76257  
Code to remit payment for tax stamps and meter impressions by 76258  
electronic funds transfer. The tax commissioner shall notify each 76259  
dealer of the dealer's obligation to do so and shall maintain an 76260  
updated list of those dealers. Failure by the tax commissioner to 76261  
notify a dealer subject to this section to remit taxes by 76262  
electronic funds transfer does not relieve the dealer of its 76263  
obligation to remit taxes by electronic funds transfer. 76264

A dealer required to remit payments by electronic funds 76265  
transfer shall remit such payments to the treasurer of state in 76266  
the manner prescribed by rules adopted by the treasurer of state 76267  
under section 113.061 of the Revised Code and within the time 76268  
prescribed for such a dealer by section 5743.05 of the Revised 76269  
Code. 76270

A dealer required to remit taxes by electronic funds transfer 76271  
may apply to the tax commissioner in the manner prescribed by the 76272  
tax commissioner to be excused from that requirement. The tax 76273  
commissioner may excuse the dealer from remittance by electronic 76274  
funds transfer for good cause shown for the period of time 76275  
requested by the dealer or for a portion of that period. 76276

If a dealer required to remit taxes by electronic funds 76277  
transfer remits those taxes by some other means, the treasurer of 76278  
state shall notify the tax commissioner of the failure to remit by 76279  
electronic funds transfer. If the tax commissioner determines that 76280

such failure was not due to reasonable cause or was due to willful neglect, the tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5743.081 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter and shall be considered as revenue arising from taxes imposed under this chapter. The tax commissioner may abate all or a portion of such a charge and may adopt rules governing such remissions.

No additional charge shall be assessed under this section against a dealer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the dealer remits by some means other than electronic funds transfer.

**Sec. 5743.21.** (A) No person shall affix a stamp required by section 5743.03 of the Revised Code to any package that:

(1) Bears any label or notice prescribed by the United States to identify cigarettes exempt from taxation by the United States pursuant to section 5704(b) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5704(b), including any notice or label described in 27 C.F.R. 290.185;

(2) Is not labeled in conformity with the "Federal Cigarette Labeling and Advertising Act," 79 Stat. 282, 15 U.S.C.A. 1331 (1965), or any other federal requirement for the placement of labels, warnings, or other information applicable to packages of cigarettes intended for domestic consumption;

(3) Has been altered by anyone other than the manufacturer or

a person authorized by the manufacturer, including by the 76312  
placement of a sticker to cover information on or add information 76313  
to the package; 76314

(4) Has been imported or brought into the United States after 76315  
January 1, 2000, in violation of section 5754 of the "Internal 76316  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or 76317  
regulations adopted under that section; 76318

(5) Is produced by a tobacco product manufacturer or is part 76319  
of a brand family that is not included in the directory 76320  
established under section 1346.05 of the Revised Code. 76321

(B) No person shall sell or offer to sell any roll-your-own 76322  
tobacco to any person in this state if the roll-your-own tobacco 76323  
is not included in the directory established under section 1346.05 76324  
of the Revised Code. Any roll-your-own tobacco in the possession 76325  
of a retail dealer in this state shall be prima facie evidence of 76326  
offering to sell to a person in this state. 76327

(C) Whenever the tax commissioner discovers any packages to 76328  
which stamps have been affixed in violation of this section, or 76329  
any roll-your-own tobacco sold or offered for sale in violation of 76330  
this section, the tax commissioner may seize the packages or 76331  
roll-your-own tobacco, which shall ~~thereupon~~ be forfeited to the 76332  
state, and shall order ~~their~~ the destruction of the packages or 76333  
roll-your-own tobacco, provided that the seizure and destruction 76334  
shall not exempt any person from prosecution or from the fine or 76335  
imprisonment provided for the violation of this section. 76336

(D) As used in this section, "roll-your-own" has the same 76337  
meaning as in section 1346.01 of the Revised Code, and "tobacco 76338  
product manufacturer" and "brand family" have the same meanings as 76339  
in section 1346.04 of the Revised Code. 76340

**Sec. 5743.45.** (A) As used in this section, "felony" has the 76341

same meaning as in section 109.511 of the Revised Code. 76342

(B) For purposes of enforcing this chapter and Chapters 76343  
5728., 5735., 5739., 5741., and 5747. of the Revised Code and 76344  
subject to division (C) of this section, the tax commissioner, by 76345  
journal entry, may delegate any investigation powers of the 76346  
commissioner to an employee of the department of taxation who has 76347  
been certified by the Ohio peace officer training commission and 76348  
who is engaged in the enforcement of those chapters. A separate 76349  
journal entry shall be entered for each employee to whom that 76350  
power is delegated. Each journal entry shall be a matter of public 76351  
record and shall be maintained in an administrative portion of the 76352  
journal as provided for in division (L) of section 5703.05 of the 76353  
Revised Code. When that journal entry is completed, the employee 76354  
to whom it pertains, while engaged within the scope of the 76355  
employee's duties in enforcing the provisions of this chapter or 76356  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76357  
has the power of a police officer to carry concealed weapons, make 76358  
arrests, and obtain warrants for violations of any provision in 76359  
those chapters. The commissioner, at any time, may suspend or 76360  
revoke ~~that~~ the commissioner's delegation by journal entry. No 76361  
employee of the department shall divulge any information acquired 76362  
as a result of an investigation pursuant to this chapter or 76363  
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76364  
except as may be required by the commissioner or a court. 76365

(C)(1) The tax commissioner shall not delegate any 76366  
investigation powers to an employee of the department of taxation 76367  
pursuant to division (B) of this section on a permanent basis, on 76368  
a temporary basis, for a probationary term, or on other than a 76369  
permanent basis if the employee previously has been convicted of 76370  
or has pleaded guilty to a felony. 76371

(2)(a) The tax commissioner shall revoke the delegation of 76372  
investigation powers to an employee to whom the delegation was 76373

made pursuant to division (B) of this section if that employee 76374  
does either of the following: 76375

(i) Pleads guilty to a felony; 76376

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 76377  
plea agreement as provided in division (D) of section 2929.29 of 76378  
the Revised Code in which the employee agrees to surrender the 76379  
certificate awarded to that employee under section 109.77 of the 76380  
Revised Code. 76381

(b) The tax commissioner shall suspend the delegation of 76382  
investigation powers to an employee to whom the delegation was 76383  
made pursuant to division (B) of this section if that employee is 76384  
convicted, after trial, of a felony. If the employee files an 76385  
appeal from that conviction and the conviction is upheld by the 76386  
highest court to which the appeal is taken or if the employee does 76387  
not file a timely appeal, the commissioner shall revoke the 76388  
delegation of investigation powers to that employee. If the 76389  
employee files an appeal that results in that employee's acquittal 76390  
of the felony or conviction of a misdemeanor, or in the dismissal 76391  
of the felony charge against that employee, the commissioner shall 76392  
reinstate the delegation of investigation powers to that employee. 76393  
The suspension, revocation, and reinstatement of the delegation of 76394  
investigation powers to an employee under division (C)(2) of this 76395  
section shall be made by journal entry pursuant to division (B) of 76396  
this section. An employee to whom the delegation of investigation 76397  
powers is reinstated under division (C)(2)(b) of this section 76398  
shall not receive any back pay for the exercise of those 76399  
investigation powers unless that employee's conviction of the 76400  
felony was reversed on appeal, or the felony charge was dismissed, 76401  
because the court found insufficient evidence to convict the 76402  
employee of the felony. 76403

(3) Division (C) of this section does not apply regarding an 76404  
offense that was committed prior to January 1, 1997. 76405



(4) The suspension or revocation of the delegation of 76406  
investigation powers to an employee under division (C)(2) of this 76407  
section shall be in accordance with Chapter 119. of the Revised 76408  
Code. 76409

**Sec. 5745.01.** As used in this chapter: 76410

(A) "Electric company," ~~and~~ "combined company," and 76411  
"telephone company," have the same meanings as in section 5727.01 76412  
of the Revised Code, except "telephone company" does not include a 76413  
non profit corporation. 76414

(B) "Electric light company" has the same meaning as in 76415  
section 4928.01 of the Revised Code, and includes the activities 76416  
of a combined company as an electric company, but excludes 76417  
nonprofit companies and municipal corporations. 76418

(C) "Taxpayer" means ~~an~~ either of the following: 76419

(1) An electric light company subject to taxation by a 76420  
municipal corporation in this state for a taxable year, excluding 76421  
an electric light company that is not an electric company or a 76422  
combined company and for which an election made under section 76423  
5745.031 of the Revised Code is not in effect with respect to the 76424  
taxable year. If such a company is a qualified subchapter S 76425  
subsidiary as defined in section 1361 of the Internal Revenue Code 76426  
or a disregarded entity, the company's parent S corporation or 76427  
owner is the taxpayer for the purposes of this chapter and is 76428  
hereby deemed to have nexus with this state under the Constitution 76429  
of the United States for the purposes of this chapter. 76430

(2) A telephone company subject to taxation by a municipal 76431  
corporation in this state for a taxable year. A telephone company 76432  
is subject to taxation under this chapter for any taxable year 76433  
that begins on or after January 1, 2004. A telephone company with 76434  
a taxable year ending in 2004 shall compute the tax imposed under 76435

this chapter, or shall compute its net operating loss carried 76436  
forward for that taxable year, by multiplying the tax owed, or the 76437  
loss for the taxable year, by fifty per cent. 76438

(D) "Disregarded entity" means an entity that, for its 76439  
taxable year, is by default, or has elected to be, disregarded as 76440  
an entity separate from its owner pursuant to 26 C.F.R. 76441  
301.7701-3. 76442

(E) "Taxable year" of a taxpayer is the taxpayer's taxable 76443  
year for federal income tax purposes. 76444

(F) "Federal taxable income" means taxable income, before 76445  
operating loss deduction and special deductions, as required to be 76446  
reported for the taxpayer's taxable year under the Internal 76447  
Revenue Code. 76448

(G) "Adjusted federal taxable income" means federal taxable 76449  
income adjusted as follows: 76450

(1) Deduct intangible income as defined in section 718.01 of 76451  
the Revised Code to the extent included in federal taxable income; 76452

(2) Add expenses incurred in the production of such 76453  
intangible income; 76454

(3) If, with respect to a qualifying taxpayer and a 76455  
qualifying asset there occurs a qualifying taxable event, the 76456  
qualifying taxpayer shall reduce its federal taxable income, as 76457  
defined in division (F) of this section, by the amount of the 76458  
book-tax ~~differential~~ difference for that qualifying asset if the 76459  
book-tax ~~differential~~ difference is greater than zero, and shall 76460  
increase its federal taxable income by the absolute value of the 76461  
amount of the book-tax ~~differential~~ difference for that qualifying 76462  
asset if the book-tax ~~differential~~ difference is less than zero. 76463  
The adjustments provided in division (G)(3) of this section are 76464  
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 76465  
the Revised Code to the extent those divisions apply to the 76466

adjustments in that section for the taxable year. A taxpayer shall 76467  
not deduct or add any amount under division (G)(3) of this section 76468  
with respect to a qualifying asset the sale, exchange, or other 76469  
disposition of which resulted in the recognition of a gain or loss 76470  
that the taxpayer deducted or added, respectively, under division 76471  
(G)(1) or (2) of this section. 76472

For the purposes of division (G)(3) of this section, ~~"net~~ 76473  
~~income"~~ has the same meaning as in section 5733.04 of the Revised 76474  
Code, and "book-tax differential difference," "qualifying 76475  
taxpayer," "qualifying asset," and "qualifying taxable event" have 76476  
the same meanings as in section 5733.0510 of the Revised Code. 76477

(4) If the taxpayer is not a C corporation and is not an 76478  
individual, the taxpayer shall compute "adjusted federal taxable 76479  
income" as if the taxpayer were a C corporation, except: 76480

(a) Guaranteed payments and other similar amounts paid or 76481  
accrued to a partner, former partner, or member or former member 76482  
shall not be allowed as a deductible expense; and 76483

(b) With respect to each owner or owner-employee of the 76484  
taxpayer, amounts paid or accrued to a qualified self-employed 76485  
retirement plan and amounts paid or accrued to or for health 76486  
insurance or life insurance shall not be allowed as a deduction. 76487

Nothing in this division shall be construed as allowing the 76488  
taxpayer to deduct any amount more than once. 76489

(5) Add or deduct the amounts described in section 5733.0511 76490  
of the Revised Code for qualifying telephone company taxpayers. 76491

(H) "Internal Revenue Code" means the "Internal Revenue Code 76492  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 76493  
December 31, 2001. 76494

(I) "Ohio net income" means the amount determined under 76495  
division (B) of section 5745.02 of the Revised Code. 76496

Sec. 5745.02. (A) The annual report filed under section 76497  
5745.03 of the Revised Code determines a taxpayer's Ohio net 76498  
income and the portion of Ohio net income to be apportioned to a 76499  
municipal corporation. 76500

(B) A taxpayer's Ohio net income is determined by multiplying 76501  
the taxpayer's adjusted federal taxable income by the sum of the 76502  
property factor multiplied by one-third, the payroll factor 76503  
multiplied by one-third, and the sales factor multiplied by 76504  
one-third. If the denominator of one of the factors is zero, the 76505  
remaining two factors each shall be multiplied by one-half instead 76506  
of one-third; if the denominator of two of the factors is zero, 76507  
the remaining factor shall be multiplied by one. The property, 76508  
payroll, and sales factors shall be determined in the manner 76509  
prescribed by divisions (B)(1), (2), and (3) of this section. 76510

(1) The property factor is a fraction, the numerator of which 76511  
is the average value of the taxpayer's real and tangible personal 76512  
property owned or rented, and used in business in this state 76513  
during the taxable year, and the denominator of which is the 76514  
average value of all the taxpayer's real and tangible personal 76515  
property owned or rented, and used in business everywhere during 76516  
such year. Property owned by the taxpayer is valued at its 76517  
original cost. Property rented by the taxpayer is valued at eight 76518  
times the net annual rental rate. "Net annual rental rate" means 76519  
the annual rental rate paid by the taxpayer less any annual rental 76520  
rate received by the taxpayer from subrentals. The average value 76521  
of property shall be determined by averaging the values at the 76522  
beginning and the end of the taxable year, but the tax 76523  
commissioner may require the averaging of monthly values during 76524  
the taxable year, if reasonably required to reflect properly the 76525  
average value of the taxpayer's property. 76526

(2) The payroll factor is a fraction, the numerator of which 76527

is the total amount paid in this state during the taxable year by 76528  
the taxpayer for compensation, and the denominator of which is the 76529  
total compensation paid everywhere by the taxpayer during such 76530  
year. Compensation means any form of remuneration paid to an 76531  
employee for personal services. Compensation is paid in this state 76532  
if: (a) the recipient's service is performed entirely within this 76533  
state, (b) the recipient's service is performed both within and 76534  
without this state, but the service performed without this state 76535  
is incidental to the recipient's service within this state, or (c) 76536  
some of the service is performed within this state and either the 76537  
base of operations, or if there is no base of operations, the 76538  
place from which the service is directed or controlled is within 76539  
this state, or the base of operations or the place from which the 76540  
service is directed or controlled is not in any state in which 76541  
some part of the service is performed, but the recipient's 76542  
residence is in this state. 76543

(3) The sales factor is a fraction, the numerator of which is 76544  
the total sales in this state by the taxpayer during the taxable 76545  
year, and the denominator of which is the total sales by the 76546  
taxpayer everywhere during such year. Sales of electricity shall 76547  
be situated to this state in the manner provided under section 76548  
5733.059 of the Revised Code. In determining the numerator and 76549  
denominator of the sales factor, receipts from the sale or other 76550  
disposal of a capital asset or an asset described in section 1231 76551  
of the Internal Revenue Code shall be eliminated. Also, in 76552  
determining the numerator and denominator of the sales factor, in 76553  
the case of a reporting taxpayer owning at least eighty per cent 76554  
of the issued and outstanding common stock of one or more 76555  
insurance companies or public utilities, except an electric 76556  
company, a combined company, or a telephone company, or owning at 76557  
least twenty-five per cent of the issued and outstanding common 76558  
stock of one or more financial institutions, receipts received by 76559  
the reporting taxpayer from such utilities, insurance companies, 76560

and financial institutions shall be eliminated. 76561

For the purpose of division (B)(3) of this section, sales of 76562  
tangible personal property are in this state where such property 76563  
is received in this state by the purchaser. In the case of 76564  
delivery of tangible personal property by common carrier or by 76565  
other means of transportation, the place at which such property is 76566  
ultimately received after all transportation has been completed 76567  
shall be considered as the place at which such property is 76568  
received by the purchaser. Direct delivery in this state, other 76569  
than for purposes of transportation, to a person or firm 76570  
designated by a purchaser constitutes delivery to the purchaser in 76571  
this state, and direct delivery outside this state to a person or 76572  
firm designated by a purchaser does not constitute delivery to the 76573  
purchaser in this state, regardless of where title passes or other 76574  
conditions of sale. 76575

Sales, other than sales of electricity or tangible personal 76576  
property, are in this state if either the income-producing 76577  
activity is performed solely in this state, or the 76578  
income-producing activity is performed both within and without 76579  
this state and a greater proportion of the income-producing 76580  
activity is performed within this state than in any other state, 76581  
based on costs of performance. 76582

For the purposes of division (B)(3) of this section, the tax 76583  
commissioner may adopt rules to apportion sales within this state. 76584

(C) The portion of a taxpayer's Ohio net income taxable by 76585  
each municipal corporation imposing an income tax shall be 76586  
determined by multiplying the taxpayer's Ohio net income by the 76587  
sum of the municipal property factor multiplied by one-third, the 76588  
municipal payroll factor multiplied by one-third, and the 76589  
municipal sales factor multiplied by one-third, and subtracting 76590  
from the product so obtained any "municipal net operating loss 76591  
carryforward from prior taxable years." If the denominator of one 76592

of the factors is zero, the remaining two factors each shall be 76593  
multiplied by one-half instead of one-third; if the denominator of 76594  
two of the factors is zero, the remaining factor shall be 76595  
multiplied by one. In calculating the "municipal net operating 76596  
loss carryforward from prior taxable years" for each municipal 76597  
corporation, net operating losses are apportioned in and out of a 76598  
municipal corporation for the taxable year in which the net 76599  
operating loss occurs in the same manner that positive net income 76600  
would have been so apportioned. Any net operating loss for a 76601  
municipal corporation may be applied to subsequent net income in 76602  
that municipal corporation to reduce that income to zero or until 76603  
the net operating loss has been fully used as a deduction. The 76604  
unused portion of net operating losses for each taxable year 76605  
apportioned to a municipal corporation may only be applied against 76606  
the income apportioned to that municipal corporation for five 76607  
subsequent taxable years. Net operating losses occurring in 76608  
taxable years ending before 2002 may not be subtracted under this 76609  
section. 76610

A taxpayer's municipal property, municipal payroll, and 76611  
municipal sales factors for a municipal corporation shall be 76612  
determined as provided in divisions (C)(1), (2), and (3) of this 76613  
section. 76614

(1) The municipal property factor is the quotient obtained by 76615  
dividing (a) the average value of real and tangible personal 76616  
property owned or rented by the taxpayer and used in business in 76617  
the municipal corporation during the taxable year by (b) the 76618  
average value of all of the taxpayer's real and tangible personal 76619  
property owned or rented and used in business during that taxable 76620  
year in this state. The value and average value of such property 76621  
shall be determined in the same manner provided in division (B)(1) 76622  
of this section. 76623

(2) The municipal payroll factor is the quotient obtained by 76624

dividing (a) the total amount of compensation earned in the 76625  
municipal corporation by the taxpayer's employees during the 76626  
taxable year for services performed for the taxpayer and that is 76627  
subject to income tax withholding by the municipal corporation by 76628  
(b) the total amount of compensation paid by the taxpayer to its 76629  
employees in this state during the taxable year. Compensation has 76630  
the same meaning as in division (B)(2) of this section. 76631

(3) The municipal sales factor is a fraction, the numerator 76632  
of which is the taxpayer's total sales in a municipal corporation 76633  
during the taxable year, and the denominator of which is the 76634  
taxpayer's total sales in this state during such year. 76635

For the purpose of division (C)(3) of this section, sales of 76636  
tangible personal property are in the municipal corporation where 76637  
such property is received in the municipal corporation by the 76638  
purchaser. Sales of electricity directly to the consumer, as 76639  
defined in section 5733.059 of the Revised Code, shall be 76640  
considered sales of tangible personal property. In the case of the 76641  
delivery of tangible personal property by common carrier or by 76642  
other means of transportation, the place at which such property 76643  
ultimately is received after all transportation has been completed 76644  
shall be considered as the place at which the property is received 76645  
by the purchaser. Direct delivery in the municipal corporation, 76646  
other than for purposes of transportation, to a person or firm 76647  
designated by a purchaser constitutes delivery to the purchaser in 76648  
that municipal corporation, and direct delivery outside the 76649  
municipal corporation to a person or firm designated by a 76650  
purchaser does not constitute delivery to the purchaser in that 76651  
municipal corporation, regardless of where title passes or other 76652  
conditions of sale. Sales, other than sales of tangible personal 76653  
property, are in the municipal corporation if either: 76654

(a) The income-producing activity is performed solely in the 76655  
municipal corporation; 76656



(b) The income-producing activity is performed both within 76657  
and without the municipal corporation and a greater proportion of 76658  
the income-producing activity is performed within that municipal 76659  
corporation than any other location in this state, based on costs 76660  
of performance. 76661

For the purposes of division (C)(3) of this section, the tax 76662  
commissioner may adopt rules to apportion sales within each 76663  
municipal corporation. 76664

(D) If a taxpayer is a combined company as defined in section 76665  
5727.01 of the Revised Code, the municipal property, payroll, and 76666  
sales factors under division (C) of this section shall be adjusted 76667  
as follows: 76668

(1) The numerator of the municipal property factor shall 76669  
include only the value, as determined under division (C)(1) of 76670  
this section, of the company's real and tangible property in the 76671  
municipal corporation attributed to the company's activity as an 76672  
electric company using the same methodology prescribed under 76673  
section 5727.03 of the Revised Code for taxable tangible personal 76674  
property. 76675

(2) The numerator of the municipal payroll factor shall 76676  
include only compensation paid in the municipal corporation by the 76677  
company to its employees for personal services rendered in the 76678  
company's activity as an electric company. 76679

(3) The numerator of the municipal sales factor shall include 76680  
only the sales of tangible personal property and services, as 76681  
determined under division (C)(3) of this section, made in the 76682  
municipal corporation in the course of the company's activity as 76683  
an electric company. 76684

(E)(1) If the provisions for apportioning adjusted federal 76685  
taxable income or Ohio net income under ~~division~~ divisions (B), 76686  
(C), and (D) of this section do not fairly represent business 76687

activity in this state or among municipal corporations, the tax 76688  
commissioner may adopt rules for apportioning such income by an 76689  
alternative method that fairly represents business activity in 76690  
this state or among municipal corporations. 76691

(2) If any of the factors determined under division (B), (C), 76692  
or (D) of this section does not fairly represent the extent of a 76693  
taxpayer's business activity in this state or among municipal 76694  
corporations, the taxpayer may request, or the tax commissioner 76695  
may require, that the taxpayer's adjusted federal taxable income 76696  
or Ohio net income be determined by an alternative method, 76697  
including any of the alternative methods enumerated in division 76698  
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 76699  
requesting an alternative method shall make the request in writing 76700  
to the tax commissioner either with the annual report, a timely 76701  
filed amended report, or a timely filed petition for reassessment. 76702  
When the tax commissioner requires or permits an alternative 76703  
method under division (E)(2) of this section, the tax commissioner 76704  
shall cause a written notice to that effect to be delivered to any 76705  
municipal corporation that would be affected by application of the 76706  
alternative method. Nothing in this division shall be construed to 76707  
extend any statute of limitations under this chapter. 76708

(F)(1) The tax commissioner may adopt rules providing for the 76709  
combination of adjusted federal taxable incomes of taxpayers 76710  
satisfying the ownership or control requirements of section 76711  
5733.052 of the Revised Code if the tax commissioner finds that 76712  
such combinations are necessary to properly reflect adjusted 76713  
federal taxable income, Ohio net income, or the portion of Ohio 76714  
net income to be taxable by municipal corporations. 76715

(2) A taxpayer satisfying the ownership or control 76716  
requirements of section 5733.052 of the Revised Code with respect 76717  
to one or more other taxpayers may not combine their adjusted 76718  
federal taxable incomes for the purposes of this section unless 76719

rules are adopted under division (F)(1) of this section allowing 76720  
such a combination or the tax commissioner finds that such a 76721  
combination is necessary to properly reflect the taxpayers' 76722  
adjusted federal taxable incomes, Ohio net incomes, or the portion 76723  
of Ohio net incomes to be subject to taxation within a municipal 76724  
corporation. 76725

(G) The tax commissioner may adopt rules providing for 76726  
alternative apportionment methods for a telephone company. 76727

**Sec. 5745.04.** (A) As used in this section, "combined tax 76728  
liability" means the total of a taxpayer's income tax liabilities 76729  
to all municipal corporations in this state for a taxable year. 76730

(B) Beginning with its taxable year beginning in 2003, each 76731  
taxpayer shall file a declaration of estimated tax report with, 76732  
and remit estimated taxes to, the tax commissioner, payable to the 76733  
treasurer of state, at the times and in the amounts prescribed in 76734  
divisions (B)(1) to (4) of this section. This division also 76735  
applies to a taxpayer having a taxable year consisting of fewer 76736  
than twelve months, at least one of which is in 2002, that ends 76737  
before January 1, 2003. The first taxable year a taxpayer is 76738  
subject to this chapter, the estimated taxes the taxpayer is 76739  
required to remit under this section shall be based solely on the 76740  
current taxable year and not on the liability for the preceding 76741  
taxable year. 76742

(1) Not less than twenty-five per cent of the combined tax 76743  
liability for the preceding taxable year or twenty per cent of the 76744  
combined tax liability for the current taxable year shall have 76745  
been remitted not later than the fifteenth day of the fourth month 76746  
after the end of the preceding taxable year. 76747

(2) Not less than fifty per cent of the combined tax 76748  
liability for the preceding taxable year or forty per cent of the 76749  
combined tax liability for the current taxable year shall have 76750

been remitted not later than the fifteenth day of the sixth month 76751  
after the end of the preceding taxable year. 76752

(3) Not less than seventy-five per cent of the combined tax 76753  
liability for the preceding taxable year or sixty per cent of the 76754  
combined tax liability for the current taxable year shall have 76755  
been remitted not later than the fifteenth day of the ninth month 76756  
after the end of the preceding taxable year. 76757

(4) Not less than one hundred per cent of the combined tax 76758  
liability for the preceding taxable year or eighty per cent of the 76759  
combined tax liability for the current taxable year shall have 76760  
been remitted not later than the fifteenth day of the twelfth 76761  
month after the end of the preceding taxable year. 76762

(C) Each taxpayer shall report on the declaration of 76763  
estimated tax report the portion of the remittance that the 76764  
taxpayer estimates that it owes to each municipal corporation for 76765  
the taxable year. 76766

(D) Upon receiving a declaration of estimated tax report and 76767  
remittance of estimated taxes under this section, the tax 76768  
commissioner shall immediately forward to the treasurer of state 76769  
such remittance. The treasurer of state shall credit ninety-eight 76770  
and one-half per cent of the remittance to the municipal income 76771  
tax fund and credit the remainder to the municipal income tax 76772  
administrative fund. 76773

(E) If any remittance of estimated taxes is for one thousand 76774  
dollars or more, the taxpayer shall make the remittance by 76775  
electronic funds transfer as prescribed by section 5745.04 of the 76776  
Revised Code. 76777

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 76778  
Code, no penalty or interest shall be imposed on a taxpayer if the 76779  
declaration of estimated tax report is properly filed, and the 76780  
estimated tax is paid, within the time prescribed by division (B) 76781

of this section. 76782

**Sec. 5747.02.** (A) For the purpose of providing revenue for 76783  
the support of schools and local government functions, to provide 76784  
relief to property taxpayers, to provide revenue for the general 76785  
revenue fund, and to meet the expenses of administering the tax 76786  
levied by this chapter, there is hereby levied on every 76787  
individual, trust, and estate residing in or earning or receiving 76788  
income in this state, on every individual, trust, and estate 76789  
earning or receiving lottery winnings, prizes, or awards pursuant 76790  
to Chapter 3770. of the Revised Code, and on every individual, 76791  
trust, and estate otherwise having nexus with or in this state 76792  
under the Constitution of the United States, an annual tax 76793  
measured in the case of individuals by Ohio adjusted gross income 76794  
less an exemption for the taxpayer, the taxpayer's spouse, and 76795  
each dependent as provided in section 5747.025 of the Revised 76796  
Code; measured in the case of trusts by modified Ohio taxable 76797  
income under division (D) of this section; and measured in the 76798  
case of estates by Ohio taxable income. The tax imposed by this 76799  
section on the balance thus obtained is hereby levied as follows: 76800

OHIO ADJUSTED GROSS INCOME LESS		76801
EXEMPTIONS (INDIVIDUALS)		
OR		76802
MODIFIED OHIO		76803
TAXABLE INCOME (TRUSTS)		76804
OR		76805
OHIO TAXABLE INCOME (ESTATES)	TAX	76806
\$5,000 or less	.743%	76807
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	76808
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	76809
More than \$15,000 but not more	\$260.05 plus 3.715% of the	76810

than \$20,000	amount in excess of \$15,000	
More than \$20,000 but not more than \$40,000	\$445.80 plus 4.457% of the amount in excess of \$20,000	76811
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	76812
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	76813
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	76814
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	76815

In July of each year, beginning in 2005, the tax commissioner shall adjust the income amounts prescribed in this division by multiplying the percentage increase in the gross domestic product deflator computed that year under section 5747.025 of the Revised Code by each of the income amounts resulting from the adjustment under this division in the preceding year, adding the resulting product to the corresponding income amount resulting from the adjustment in the preceding year, and rounding the resulting sum to the nearest multiple of fifty dollars. The tax commissioner also shall recompute each of the tax dollar amounts to the extent necessary to reflect the adjustment of the income amounts. The rates of taxation shall not be adjusted.

The adjusted amounts apply to taxable years beginning in the calendar year in which the adjustments are made. The tax commissioner shall not make such adjustments in any year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding year.

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by

the percentage prescribed in that certification for taxable years 76837  
beginning in the calendar year in which that certification is 76838  
made. 76839

(C) The levy of this tax on income does not prevent a 76840  
municipal corporation, a joint economic development zone created 76841  
under section 715.691, or a joint economic development district 76842  
created under section 715.70 or 715.71 or sections 715.72 to 76843  
715.81 of the Revised Code from levying a tax on income. 76844

(D) This division applies only to taxable years of a trust 76845  
beginning in 2002, 2003, or 2004. 76846

(1) The tax imposed by this section on a trust shall be 76847  
computed by multiplying the Ohio modified taxable income of the 76848  
trust by the rates prescribed by division (A) of this section. 76849

(2) A credit is allowed against the tax computed under 76850  
division (D) of this section equal to the lesser of (1) the tax 76851  
paid to another state or the District of Columbia on the trust's 76852  
modified nonbusiness income, other than the portion of the trust's 76853  
nonbusiness income that is qualifying investment income as defined 76854  
in section 5747.012 of the Revised Code, or (2) the effective tax 76855  
rate, based on modified Ohio taxable income, multiplied by the 76856  
trust's modified nonbusiness income other than the portion of 76857  
trust's nonbusiness income that is qualifying investment income. 76858  
The credit applies before any other applicable credits. 76859

(3) The credits enumerated in divisions (A)(1) to (13) of 76860  
section 5747.98 of the Revised Code do not apply to a trust 76861  
subject to this division. Any credits enumerated in other 76862  
divisions of section 5747.98 of the Revised Code apply to a trust 76863  
subject to this division. To the extent that the trust distributes 76864  
income for the taxable year for which a credit is available to the 76865  
trust, the credit shall be shared by the trust and its 76866  
beneficiaries. The tax commissioner and the trust shall be guided 76867

by applicable regulations of the United States treasury regarding 76868  
the sharing of credits. 76869

(E) For the purposes of this section, "trust" means any trust 76870  
described in Subchapter J of Chapter 1 of the Internal Revenue 76871  
Code, excluding trusts that are not irrevocable as defined in 76872  
division (I)(3)(b) of section 5747.01 of the Revised Code and that 76873  
have no modified Ohio taxable income for the taxable year, 76874  
charitable remainder trusts, qualified funeral trusts and preneed 76875  
funeral contract trusts established pursuant to section 1111.19 of 76876  
the Revised Code that are not qualified funeral trusts, endowment 76877  
and perpetual care trusts, qualified settlement trusts and funds, 76878  
designated settlement trusts and funds, and trusts exempted from 76879  
taxation under section 501(a) of the Internal Revenue Code. 76880

Sec. 5747.026. (A) For taxable years beginning on or after 76881  
January 1, 2002, a member of the national guard or a member of a 76882  
reserve component of the armed forces of the United States called 76883  
to active or other duty under operation Iraqi freedom may apply to 76884  
the tax commissioner for an extension for filing of the return and 76885  
payment of taxes required under Chapter 5747. of the Revised Code 76886  
during the period of the member's duty service and for sixty days 76887  
thereafter. The application shall be filed on or before the 76888  
sixtieth day after the member's duty terminates. An applicant 76889  
shall provide such evidence as the commissioner considers 76890  
necessary to demonstrate eligibility for the extension. 76891

(B)(1) If the commissioner determines that an applicant is 76892  
qualified for an extension under this section, the commissioner 76893  
shall enter into a contract with the applicant for the payment of 76894  
the tax in installments that begin on the sixty-first day after 76895  
the applicant's duty under operation Iraqi freedom terminates. 76896  
Except as provided in division (B)(3) of this section, the 76897  
commissioner may prescribe such contract terms as the commissioner 76898



considers appropriate. 76899

(2) If the commissioner determines that an applicant is 76900  
qualified for an extension under this section, the applicant shall 76901  
not be required to file any return, report, or other tax document 76902  
before the sixty-first day after the applicant's duty under 76903  
operation Iraqi freedom terminates. 76904

(3) Taxes paid pursuant to a contract entered into under 76905  
division (B)(1) of this section are not delinquent. The tax 76906  
commissioner shall not require any payments of penalties or 76907  
interest in connection with such taxes. 76908

(C) The tax commissioner shall adopt rules necessary to 76909  
administer this section, including rules establishing the 76910  
following: 76911

(1) Forms and procedures by which applicants may apply for 76912  
extensions; 76913

(2) Criteria for eligibility; 76914

(3) A schedule for repayment of deferred taxes. 76915

**Sec. 5747.12.** If a person entitled to a refund under section 76916  
5747.11 or 5747.13 of the Revised Code is indebted to this state 76917  
for any tax, workers' compensation premium due under section 76918  
4123.35 of the Revised Code, unemployment compensation 76919  
contribution due under section 4141.25 of the Revised Code, or fee 76920  
administered by the tax commissioner that is paid to the state or 76921  
to the clerk of courts pursuant to section 4505.06 of the Revised 76922  
Code, or any charge, penalty, or interest arising from such a tax, 76923  
workers' compensation premium, unemployment compensation 76924  
contribution, or fee, the amount refundable may be applied in 76925  
satisfaction of the debt. If the amount refundable is less than 76926  
the amount of the debt, it may be applied in partial satisfaction 76927  
of the debt. If the amount refundable is greater than the amount 76928

of the debt, the amount remaining after satisfaction of the debt 76929  
shall be refunded. If the person has more than one such debt, any 76930  
debt subject to section 5739.33 or division (G) of section 5747.07 76931  
of the Revised Code shall be satisfied first. This section applies 76932  
only to debts that have become final. 76933

The tax commissioner may, with the consent of the taxpayer, 76934  
provide for the crediting, against tax imposed under this chapter 76935  
or Chapter 5748. of the Revised Code and due for any taxable year, 76936  
of the amount of any refund due the taxpayer under this chapter or 76937  
Chapter 5748. of the Revised Code, as appropriate, for a preceding 76938  
taxable year. 76939

**Sec. 5747.31.** (A) This section applies to an individual or 76940  
estate that is a proprietor or a pass-through entity investor. 76941

(B) A taxpayer described in division (A) of this section is 76942  
allowed a credit that shall be computed and claimed in the same 76943  
manner as the credit allowed to corporations in section 5733.33 of 76944  
the Revised Code. The taxpayer shall claim one-seventh of the 76945  
credit amount for the calendar year in which the new manufacturing 76946  
machinery and equipment is purchased for use in the county by the 76947  
taxpayer or partnership. One-seventh of the taxpayer credit amount 76948  
is allowed for each of the six ensuing taxable years. The taxpayer 76949  
shall claim the credit in the order required under section 5747.98 76950  
of the Revised Code. 76951

The taxpayer shall file with the department of development a 76952  
notice of intent to claim the credit in accordance with division 76953  
(E) of section 5733.33 of the Revised Code. 76954

(C)(1) A taxpayer described in division (A) of this section 76955  
is allowed a credit that shall be computed in the same manner as 76956  
the credit allowed to a corporation in section 5733.39 of the 76957  
Revised Code, with the following adjustments: 76958

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code; 76959  
76960

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code; 76961  
76962

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code; 76963  
76964

(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code. 76965  
76966  
76967  
76968

(2) Notwithstanding section ~~5747.131~~ 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section ~~5747.131~~ 5703.56 of the Revised Code do not apply with respect to the credit provided by this division. 76969  
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(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter. 76975  
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**Sec. 5901.021.** (A) This section applies only to counties having a population, according to the most recent decennial census, of more than ~~four~~ five hundred thousand. ~~In~~ 76980  
76981  
76982

(B)(1) In any such county that is described in division (A) of this section and in which the veterans service commission submits a budget request under section 5901.11 of the Revised Code for the ensuing fiscal year that exceeds ~~(1)~~ twenty-five-thousandths of one per cent of the assessed value of property in the county or ~~(2)~~ the amount appropriated to the 76983  
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commission from the county general fund in the current fiscal year 76989  
by more than ten per cent of that appropriation, the board of 76990  
county commissioners, by resolution, may create not more than six 76991  
memberships on the veterans service commission in addition to the 76992  
memberships provided for by section 5901.02 of the Revised Code. 76993  
The board shall prescribe the number of years ~~such~~ the additional 76994  
memberships shall exist, which shall not exceed five years. Once a 76995  
board of county commissioners creates ~~such~~ any additional 76996  
memberships, it may not create further additional memberships 76997  
under this section if the total number of such memberships would 76998  
exceed six. The board shall appoint persons who are residents of 76999  
the county and who are honorably discharged or honorably separated 77000  
veterans to each of the additional memberships, for terms 77001  
prescribed by the board and commencing on a date fixed by the 77002  
board. Each person appointed to an additional membership shall 77003  
file, within sixty days after the date of the appointment, the 77004  
person's form DD214 with the governor's office of veterans affairs 77005  
in accordance with guidelines established by the director of that 77006  
office. 77007

(2) If the board of county commissioners appoints ~~such~~ 77008  
additional members as described in division (B)(1) of this 77009  
section, the board may permit the commission to submit an original 77010  
or revised budget request for the ensuing fiscal year later than 77011  
the last Monday in May, as otherwise required under section 77012  
5901.11 of the Revised Code. 77013

(C) The board of county commissioners may remove, for cause, 77014  
any member appointed under this section~~†~~. The board shall provide 77015  
~~for~~ determine whether ~~such~~ the additional members may be 77016  
reappointed upon the expiration of their terms~~†~~, and shall fill 77017  
any vacancy in ~~a~~ an additional membership ~~appointed under this~~ 77018  
~~section~~ for the unexpired term in the manner provided for the 77019  
original appointment. 77020

**Sec. 6101.09.** Within thirty days after the conservancy 77021  
district has been declared a corporation by the court, the clerk 77022  
of such court shall transmit to the secretary of state, to the 77023  
director of the department of natural resources, and to the county 77024  
recorder in each of the counties having lands in the district, 77025  
copies of the findings and the decree of the court incorporating 77026  
the district. The same shall be filed and recorded in the office 77027  
of the secretary of state in the same manner as articles of 77028  
incorporation are required to be filed and recorded under the 77029  
general law concerning corporations. Copies shall also be filed 77030  
and become permanent records in the office of the recorder of each 77031  
county in which a part of the district lies. Each recorder shall 77032  
receive a base fee of one dollar for filing and preserving such 77033  
copies and a housing trust fund fee of one dollar pursuant to 77034  
section 317.36 of the Revised Code, and the secretary of state 77035  
shall receive for filing and for recording the copies a fee of 77036  
twenty-five dollars. 77037

**Sec. 6103.02.** (A) For the purpose of preserving and promoting 77038  
the public health and welfare, a board of county commissioners may 77039  
acquire, construct, maintain, and operate any public water supply 77040  
facilities within its county for one or more sewer districts and 77041  
may provide for their protection and prevent their pollution and 77042  
unnecessary waste. The board may negotiate and enter into a 77043  
contract with any public agency or any person for the management, 77044  
maintenance, operation, and repair of the facilities on behalf of 77045  
the county, upon the terms and conditions as may be agreed upon 77046  
with the agency or person and as may be determined by the board to 77047  
be in the interests of the county. By contract with any public 77048  
agency or any person operating public water supply facilities 77049  
within or without its county, the board also may provide a supply 77050  
of water to a sewer district from the facilities of the public 77051

agency or person. 77052

(B) The county sanitary engineer or sanitary engineering 77053  
department, in addition to other assigned duties, shall assist the 77054  
board in the performance of its duties under this chapter and 77055  
shall be charged with other duties and services in relation to the 77056  
board's duties as the board prescribes. 77057

(C) The board may adopt, publish, administer, and enforce 77058  
rules for the construction, maintenance, protection, and use of 77059  
county-owned or county-operated public water supply facilities 77060  
outside municipal corporations and of public water supply 77061  
facilities within municipal corporations that are owned or 77062  
operated by the county or that are supplied with water from water 77063  
supply facilities owned or operated by the county, including, but 77064  
not limited to, rules for the establishment and use of any 77065  
connections, the termination in accordance with reasonable 77066  
procedures of water service for nonpayment of county water rates 77067  
and charges, and the establishment and use of security deposits to 77068  
the extent considered necessary to ensure the payment of county 77069  
water rates and charges. The rules shall not be inconsistent with 77070  
the laws of the state or any applicable rules of the director of 77071  
environmental protection. 77072

(D) No public water supply facilities shall be constructed in 77073  
any county outside municipal corporations by any person, except 77074  
for the purpose of supplying water to those municipal 77075  
corporations, until the plans and specifications for the 77076  
facilities have been approved by the board. Construction shall be 77077  
done under the supervision of the county sanitary engineer. Any 77078  
person constructing public water supply facilities shall pay to 77079  
the county all expenses incurred by the board in connection with 77080  
the construction. 77081

(E) The county sanitary engineer or the county sanitary 77082  
engineer's authorized assistants or agents, when properly 77083

identified in writing or otherwise and after written notice is 77084  
delivered to the owner at least five days in advance or mailed at 77085  
least five days in advance by first class or certified mail to the 77086  
owner's tax mailing address, may enter upon any public or private 77087  
property for the purpose of making, and may make, surveys or 77088  
inspections necessary for the design or evaluation of county 77089  
public water supply facilities. This entry is not a trespass and 77090  
is not to be considered an entry in connection with any 77091  
appropriation of property proceedings under sections 163.01 to 77092  
163.22 of the Revised Code that may be pending. No person or 77093  
public agency shall forbid the county sanitary engineer or the 77094  
county sanitary engineer's authorized assistants or agents to 77095  
enter, or interfere with their entry, upon the property for the 77096  
purpose of making the surveys or inspections. If actual damage is 77097  
done to property by the making of the surveys or inspections, the 77098  
board shall pay the reasonable value of the damage to the property 77099  
owner, and the cost shall be included in the cost of the 77100  
facilities and may be included in any special assessments levied 77101  
and collected to pay that cost. 77102

(F) The board shall fix reasonable rates, including penalties 77103  
for late payments, for water supplied to public agencies and 77104  
persons when the source of supply or the facilities for its 77105  
distribution are owned or operated by the county and may change 77106  
the rates from time to time as it considers advisable. When the 77107  
source of the water supply to be used by the county is owned by 77108  
another public agency or person, the schedule of rates to be 77109  
charged by the public agency or person shall be approved by the 77110  
board at the time it enters into a contract for the use of water 77111  
from the public agency or person. When the distribution facilities 77112  
are owned by the county, the board also may fix reasonable charges 77113  
to be collected for the privilege of connecting to the 77114  
distribution facilities and may require that, prior to the 77115  
connection, the charges be paid in full or, if determined by the 77116

board to be equitable in a resolution relating to the payment of 77117  
the charges, may require their payment in installments, as 77118  
considered adequate by the board, at the times, in the amounts, 77119  
and with the security, carrying charges, and penalties as may be 77120  
determined by the board in that resolution to be fair and 77121  
appropriate. No public agency or person shall be permitted to 77122  
connect to those facilities until the charges have been paid in 77123  
full or provision for their payment in installments has been made. 77124  
If the connection charges are to be paid in installments, the 77125  
board shall certify, to the county auditor, information sufficient 77126  
to identify each parcel of property served by a connection and, 77127  
with respect to each parcel, the total of the charges to be paid 77128  
in installments, the amount of each installment, and the total 77129  
number of installments to be paid. The county auditor shall record 77130  
and maintain the information so supplied in the waterworks record 77131  
provided for in section 6103.16 of the Revised Code until the 77132  
connection charges are paid in full. The board may include amounts 77133  
attributable to connection charges being paid in installments in 77134  
its billings of rates and other charges for water supplied. In 77135  
addition, the board may consider payments made to a school 77136  
district under section 6103.25 of the Revised Code when the board 77137  
establishes rates and other charges for water supplied. 77138

(G) When any rates or charges are not paid when due, the 77139  
board may do any or all of the following: 77140

(1) Certify the unpaid rates or charges, together with any 77141  
penalties, to the county auditor. The county auditor shall place 77142  
the certified amount upon the real property tax list and duplicate 77143  
against the property served by the connection. The certified 77144  
amount shall be a lien on the property from the date placed on the 77145  
real property tax list and duplicate and shall be collected in the 77146  
same manner as taxes, except that, notwithstanding section 323.15 77147  
of the Revised Code, a county treasurer shall accept a payment in 77148



that amount when separately tendered as payment for the full 77149  
amount of the unpaid rates or charges and associated penalties. 77150  
The lien shall be released immediately upon payment in full of the 77151  
certified amount. 77152

(2) Collect the unpaid rates or charges, together with any 77153  
penalties, by actions at law in the name of the county from an 77154  
owner, tenant, or other person or public agency that is liable for 77155  
the payment of the rates or charges; 77156

(3) Terminate, in accordance with established rules, the 77157  
water service to the particular property unless and until the 77158  
unpaid rates or charges, together with any penalties, are paid in 77159  
full; 77160

(4) Apply, to the extent required, any security deposit made 77161  
in accordance with established rules to the payment of the unpaid 77162  
rates and charges, together with any penalties, for water service 77163  
to the particular property. 77164

All moneys collected as rates, charges, or penalties fixed or 77165  
established in accordance with division (F) of this section for 77166  
water supply purposes in or for any sewer district shall be paid 77167  
to the county treasurer and kept in a separate and distinct water 77168  
fund established by the board to the credit of the district. 77169

Each board that fixes water rates or charges may render 77170  
estimated bills periodically, provided that at least quarterly it 77171  
shall schedule an actual reading of each customer's meter so as to 77172  
render a bill for the actual amount shown by the meter reading to 77173  
be due, with credit for prior payments of any estimated bills 77174  
submitted for any part of the billing period, except that 77175  
estimated bills may be rendered if a customer's meter is not 77176  
accessible for a timely reading or if the circumstances preclude a 77177  
scheduled reading. Each board also shall establish procedures 77178  
providing a fair and reasonable opportunity for the resolution of 77179

billing disputes. 77180

When property to which water service is provided is about to 77181  
be sold, any party to the sale or an agent of a party may request 77182  
the board to have the meter at that property read and to render, 77183  
within ten days following the date on which the request is made, a 77184  
final bill for all outstanding rates and charges for water 77185  
service. The request shall be made at least fourteen days prior to 77186  
the transfer of the title of the property. 77187

At any time prior to a certification under division (G)(1) of 77188  
this section, the board shall accept any partial payment of unpaid 77189  
water rates or charges in the amount of ten dollars or more. 77190

Except as otherwise provided in any proceedings authorizing 77191  
or providing for the security for and payment of any public 77192  
obligations, or in any indenture or trust or other agreement 77193  
securing public obligations, moneys in the water fund shall be 77194  
applied first to the payment of the cost of the management, 77195  
maintenance, and operation of the water supply facilities of, or 77196  
used or operated for, the sewer district, which cost may include 77197  
the county's share of management, maintenance, and operation costs 77198  
under cooperative contracts for the acquisition, construction, or 77199  
use of water supply facilities and, in accordance with a cost 77200  
allocation plan adopted under division (H) of this section, 77201  
payment of all allowable direct and indirect costs of the 77202  
district, the county sanitary engineer or sanitary engineering 77203  
department, or a federal or state grant program, incurred for the 77204  
purposes of this chapter, and shall be applied second to the 77205  
payment of debt charges payable on any outstanding public 77206  
obligations issued or incurred for the acquisition or construction 77207  
of water supply facilities for or serving the district, or for the 77208  
funding of a bond retirement or other fund established for the 77209  
payment of or security for the obligations. Any surplus remaining 77210  
may be applied to the acquisition or construction of those 77211

facilities or for the payment of contributions to be made, or 77212  
costs incurred, for the acquisition or construction of those 77213  
facilities under cooperative contracts. Moneys in the water fund 77214  
shall not be expended other than for the use and benefit of the 77215  
district. 77216

(H) A board of county commissioners may adopt a cost 77217  
allocation plan that identifies, accumulates, and distributes 77218  
allowable direct and indirect costs that may be paid from the 77219  
water fund of the sewer district created pursuant to division (G) 77220  
of this section, and that prescribes methods for allocating those 77221  
costs. The plan shall authorize payment from the fund of only 77222  
those costs incurred by the district, the county sanitary engineer 77223  
or sanitary engineering department, or a federal or state grant 77224  
program, and those costs incurred by the general and other funds 77225  
of the county for a common or joint purpose, that are necessary 77226  
and reasonable for the proper and efficient administration of the 77227  
district under this chapter. The plan shall not authorize payment 77228  
from the fund of any general government expense required to carry 77229  
out the overall governmental responsibilities of a county. The 77230  
plan shall conform to United States office of management and 77231  
budget Circular A-87, "Cost Principles for State, Local, and 77232  
Indian Tribal Governments," published May 17, 1995. 77233

(I) A board of county commissioners shall not construct a 77234  
public water supply facility that is within the boundaries of a 77235  
regional water and sewer district established under Chapter 6119. 77236  
of the Revised Code and that is within one thousand feet of a 77237  
water resource project that is owned or operated by the district 77238  
if the project is financed in whole or in part by obligations 77239  
issued under Chapter 133., 6119., or 6121. of the Revised Code or 77240  
by obligations issued by the state unless the facility is for the 77241  
sole purpose of increasing water pressure in water transmission 77242  
lines owned or operated by the board and will not be used to sell 77243

or otherwise provide water to customers to which the district 77244  
supplies or may supply water from an existing water resource 77245  
project or unless the district gives consent to the construction 77246  
by adopting a resolution. 77247

**Sec. 6109.21.** (A) Except as provided in divisions (D) and (E) 77248  
of this section, on and after January 1, 1994, no person shall 77249  
operate or maintain a public water system in this state without a 77250  
license issued by the director of environmental protection. A 77251  
person who operates or maintains a public water system on January 77252  
1, 1994, shall obtain an initial license under this section in 77253  
accordance with the following schedule: 77254

(1) If the public water system is a community water system, 77255  
not later than January 31, 1994; 77256

(2) If the public water system is not a community water 77257  
system and serves a nontransient population, not later than 77258  
January 31, 1994; 77259

(3) If the public water system is not a community water 77260  
system and serves a transient population, not later than January 77261  
31, 1995. 77262

A person proposing to operate or maintain a new public water 77263  
system after January 1, 1994, in addition to complying with 77264  
section 6109.07 of the Revised Code and rules adopted under it, 77265  
shall submit an application for an initial license under this 77266  
section to the director prior to commencing operation of the 77267  
system. 77268

A license or license renewal issued under this section shall 77269  
be renewed annually. Such a license or license renewal shall 77270  
expire on the thirtieth day of January in the year following its 77271  
issuance. A license holder that proposes to continue operating the 77272  
public water system for which the license or license renewal was 77273

issued shall apply for a license renewal at least thirty days 77274  
prior to that expiration date. 77275

The director shall adopt, and may amend and rescind, rules in 77276  
accordance with Chapter 119. of the Revised Code establishing 77277  
procedures governing and information to be included on 77278  
applications for licenses and license renewals under this section. 77279  
Through June 30, ~~2004~~ 2006, each application shall be accompanied 77280  
by the appropriate fee established under division (M) of section 77281  
3745.11 of the Revised Code, provided that an applicant for an 77282  
initial license who is proposing to operate or maintain a new 77283  
public water system after January 1, 1994, shall submit a fee that 77284  
equals a prorated amount of the appropriate fee established under 77285  
that division for the remainder of the licensing year. 77286

(B) Not later than thirty days after receiving a completed 77287  
application and the appropriate license fee for an initial license 77288  
under division (A) of this section, the director shall issue the 77289  
license for the public water system. Not later than thirty days 77290  
after receiving a completed application and the appropriate 77291  
license fee for a license renewal under division (A) of this 77292  
section, the director shall do one of the following: 77293

(1) Issue the license renewal for the public water system; 77294

(2) Issue the license renewal subject to terms and conditions 77295  
that the director determines are necessary to ensure compliance 77296  
with this chapter and rules adopted under it; 77297

(3) Deny the license renewal if the director finds that the 77298  
public water system was not operated in substantial compliance 77299  
with this chapter and rules adopted under it. 77300

(C) The director may suspend or revoke a license or license 77301  
renewal issued under this section if the director finds that the 77302  
public water system was not operated in substantial compliance 77303  
with this chapter and rules adopted under it. The director shall 77304

adopt, and may amend and rescind, rules in accordance with Chapter 77305  
119. of the Revised Code governing such suspensions and 77306  
revocations. 77307

(D)(1) As used in division (D) of this section, "church" 77308  
means a fellowship of believers, congregation, society, 77309  
corporation, convention, or association that is formed primarily 77310  
or exclusively for religious purposes and that is not formed or 77311  
operated for the private profit of any person. 77312

(2) This section does not apply to a church that operates or 77313  
maintains a public water system solely to provide water for that 77314  
church or for a campground that is owned by the church and 77315  
operated primarily or exclusively for members of the church and 77316  
their families. A church that, on or before March 5, 1996, has 77317  
obtained a license under this section for such a public water 77318  
system need not obtain a license renewal under this section. 77319

(E) This section does not apply to any public or nonpublic 77320  
school that meets minimum standards of the state board of 77321  
education that operates or maintains a public water system solely 77322  
to provide water for that school. 77323

**Sec. 6111.06.** (A) All proceedings of the director of 77324  
environmental protection, or ~~his~~ of the director's officers or 77325  
agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to~~ 77326  
~~6111.38~~ of the Revised Code, including the adoption, issuance, 77327  
modification, rescission, or revocation of rules and regulations, 77328  
permits, orders, and notices, and the conduct of hearings, except 77329  
standards of water quality adopted pursuant to section 6111.041 of 77330  
the Revised Code, shall be subject to and governed by sections 77331  
119.01 to 119.13, and Chapter 3745. of the Revised Code. 77332

(B) The director shall not refuse to issue a permit, nor 77333  
modify or revoke a permit already issued, unless the applicant or 77334  
permit holder has been afforded an opportunity for a hearing prior 77335

to the refusal to issue the permit or prior to the modification or 77336  
revocation of the permit. 77337

(C) Whenever the director officially determines that an 77338  
emergency exists requiring immediate action to protect the public 77339  
health or welfare, ~~he~~ the director may, without notice or hearing, 77340  
issue an order reciting the existence of the emergency and 77341  
requiring that such action be taken as is necessary to meet the 77342  
emergency. Notwithstanding division (A) of this section, such 77343  
order shall be effective immediately. Any person to whom such 77344  
order is directed shall comply therewith immediately, but on 77345  
application to the director shall be afforded a hearing as soon as 77346  
possible, and not later than twenty days after such application. 77347  
On the basis of such hearing, the director shall continue such 77348  
order in effect, revoke it, or modify it. No such emergency order 77349  
shall remain in effect for more than sixty days after its 77350  
issuance. 77351

**Sec. 6115.09.** Within thirty days after the sanitary district 77352  
has been declared a corporation by the court, the clerk of such 77353  
court shall transmit to the secretary of state, and to the county 77354  
recorder in each of the counties having lands in said district, 77355  
copies of the findings and the decree of the court incorporating 77356  
said district. The same shall be filed and recorded in the office 77357  
of the secretary of state in the same manner as articles of 77358  
incorporation are required to be filed and recorded under the 77359  
general law concerning corporations. Copies shall also be filed 77360  
and become permanent records in the office of the recorder of each 77361  
county in which a part of the district lies. Each recorder shall 77362  
receive a base fee of one dollar for filing and preserving such 77363  
copies and a housing trust fund fee of one dollar pursuant to 77364  
section 317.36 of the Revised Code, and the secretary of state 77365  
shall receive for filing and for recording said copies such fees 77366  
as are provided by law for like services in similar cases. 77367

**Sec. 6117.02.** (A) The board of county commissioners shall fix 77368  
reasonable rates, including penalties for late payments, for the 77369  
use, or the availability for use, of the sanitary facilities of a 77370  
sewer district to be paid by every person and public agency whose 77371  
premises are served, or capable of being served, by a connection 77372  
directly or indirectly to those facilities when those facilities 77373  
are owned or operated by the county and may change the rates from 77374  
time to time as it considers advisable. When the sanitary 77375  
facilities to be used by the county are owned by another public 77376  
agency or person, the schedule of rates to be charged by the 77377  
public agency or person for the use of the facilities by the 77378  
county, or the formula or other procedure for their determination, 77379  
shall be approved by the board at the time it enters into a 77380  
contract for that use. 77381

(B) The board also shall establish reasonable charges to be 77382  
collected for the privilege of connecting to the sanitary 77383  
facilities of the district, with the requirement that, prior to 77384  
the connection, the charges shall be paid in full, or, if 77385  
determined by the board to be equitable in a resolution relating 77386  
to the payment of the charges, provision considered adequate by 77387  
the board shall be made for their payment in installments at the 77388  
times, in the amounts, and with the security, carrying charges, 77389  
and penalties as may be found by the board in that resolution to 77390  
be fair and appropriate. No public agency or person shall be 77391  
permitted to connect to those facilities until the charges have 77392  
been paid in full or provision for their payment in installments 77393  
has been made. If the connection charges are to be paid in 77394  
installments, the board shall certify to the county auditor 77395  
information sufficient to identify each parcel of property served 77396  
by a connection and, with respect to each parcel, the total of the 77397  
charges to be paid in installments, the amount of each 77398  
installment, and the total number of installments to be paid. The 77399



auditor shall record and maintain the information supplied in the 77400  
sewer improvement record provided for in section 6117.33 of the 77401  
Revised Code until the connection charges are paid in full. The 77402  
board may include amounts attributable to connection charges being 77403  
paid in installments in its billings of rates and charges for the 77404  
use of sanitary facilities. 77405

(C) When any of the sanitary rates or charges are not paid 77406  
when due, the board may do any or all of the following as it 77407  
considers appropriate: 77408

(1) Certify the unpaid rates or charges, together with any 77409  
penalties, to the county auditor, who shall place them upon the 77410  
real property tax list and duplicate against the property served 77411  
by the connection. The certified amount shall be a lien on the 77412  
property from the date placed on the real property tax list and 77413  
duplicate and shall be collected in the same manner as taxes, 77414  
except that, notwithstanding section 323.15 of the Revised Code, a 77415  
county treasurer shall accept a payment in that amount when 77416  
separately tendered as payment for the full amount of the unpaid 77417  
sanitary rates or charges and associated penalties. The lien shall 77418  
be released immediately upon payment in full of the certified 77419  
amount. 77420

(2) Collect the unpaid rates or charges, together with any 77421  
penalties, by actions at law in the name of the county from an 77422  
owner, tenant, or other person or public agency that is liable for 77423  
the payment of the rates or charges; 77424

(3) Terminate, in accordance with established rules, the 77425  
sanitary service to the particular property and, if so determined, 77426  
any county water service to that property, unless and until the 77427  
unpaid sanitary rates or charges, together with any penalties, are 77428  
paid in full; 77429

(4) Apply, to the extent required, any security deposit made 77430

in accordance with established rules to the payment of sanitary 77431  
rates and charges for service to the particular property. 77432

All moneys collected as sanitary rates, charges, or penalties 77433  
fixed or established in accordance with divisions (A) and (B) of 77434  
this section for any sewer district shall be paid to the county 77435  
treasurer and kept in a separate and distinct sanitary fund 77436  
established by the board to the credit of the district. Except as 77437  
otherwise provided in any proceedings authorizing or providing for 77438  
the security for and payment of any public obligations, or in any 77439  
indenture or trust or other agreement securing public obligations, 77440  
moneys in the sanitary fund shall be applied first to the payment 77441  
of the cost of the management, maintenance, and operation of the 77442  
sanitary facilities of, or used or operated for, the district, 77443  
which cost may include the county's share of management, 77444  
maintenance, and operation costs under cooperative contracts for 77445  
the acquisition, construction, or use of sanitary facilities and, 77446  
in accordance with a cost allocation plan adopted under division 77447  
(E) of this section, payment of all allowable direct and indirect 77448  
costs of the district, the county sanitary engineer or sanitary 77449  
engineering department, or a federal or state grant program, 77450  
incurred for sanitary purposes under this chapter, and shall be 77451  
applied second to the payment of debt charges payable on any 77452  
outstanding public obligations issued or incurred for the 77453  
acquisition or construction of sanitary facilities for or serving 77454  
the district, or for the funding of a bond retirement or other 77455  
fund established for the payment of or security for the 77456  
obligations. Any surplus remaining may be applied to the 77457  
acquisition or construction of those facilities or for the payment 77458  
of contributions to be made, or costs incurred, for the 77459  
acquisition or construction of those facilities under cooperative 77460  
contracts. Moneys in the sanitary fund shall not be expended other 77461  
than for the use and benefit of the district. 77462

(D) The board may fix reasonable rates and charges, including 77463  
connection charges and penalties for late payments, to be paid by 77464  
any person or public agency owning or having possession or control 77465  
of any properties that are connected with, capable of being served 77466  
by, or otherwise served directly or indirectly by, drainage 77467  
facilities owned or operated by or under the jurisdiction of the 77468  
county, including, but not limited to, properties requiring, or 77469  
lying within an area of the district requiring, in the judgment of 77470  
the board, the collection, control, or abatement of waters 77471  
originating or accumulating in, or flowing in, into, or through, 77472  
the district, and may change those rates and charges from time to 77473  
time as it considers advisable. The In addition, the board may fix 77474  
the rates and charges in order to pay the costs of complying with 77475  
the requirements of phase II of the storm water program of the 77476  
national pollutant discharge elimination system established in 40 77477  
C.F.R. part 122. 77478

The rates and charges shall be payable periodically as 77479  
determined by the board, except that any connection charges shall 77480  
be paid in full in one payment, or, if determined by the board to 77481  
be equitable in a resolution relating to the payment of those 77482  
charges, provision considered adequate by the board shall be made 77483  
for their payment in installments at the times, in the amounts, 77484  
and with the security, carrying charges, and penalties as may be 77485  
found by the board in that resolution to be fair and appropriate. 77486  
The board may include amounts attributable to connection charges 77487  
being paid in installments in its billings of rates and charges 77488  
for the services provided by the drainage facilities. In the case 77489  
of rates and charges that are fixed in order to pay the costs of 77490  
complying with the requirements of phase II of the storm water 77491  
program of the national pollutant discharge elimination system 77492  
established in 40 C.F.R. part 122, the rates and charges may be 77493  
paid annually or semiannually with real property taxes, provided 77494

that the board certifies to the county auditor information that is 77495  
sufficient for the auditor to identify each parcel of property for 77496  
which a rate or charge is levied and the amount of the rate or 77497  
charge. 77498

When any of the drainage rates or charges are not paid when 77499  
due, the board may do any or all of the following as it considers 77500  
appropriate: 77501

(1) Certify the unpaid rates or charges, together with any 77502  
penalties, to the county auditor, who shall place them upon the 77503  
real property tax list and duplicate against the property to which 77504  
the rates or charges apply. The certified amount shall be a lien 77505  
on the property from the date placed on the real property tax list 77506  
and duplicate and shall be collected in the same manner as taxes, 77507  
except that notwithstanding section 323.15 of the Revised Code, a 77508  
county treasurer shall accept a payment in that amount when 77509  
separately tendered as payment for the full amount of the unpaid 77510  
drainage rates or charges and associated penalties. The lien shall 77511  
be released immediately upon payment in full of the certified 77512  
amount. 77513

(2) Collect the unpaid rates or charges, together with any 77514  
penalties, by actions at law in the name of the county from an 77515  
owner, tenant, or other person or public agency that is liable for 77516  
the payment of the rates or charges; 77517

(3) Terminate, in accordance with established rules, the 77518  
drainage service for the particular property until the unpaid 77519  
rates or charges, together with any penalties, are paid in full; 77520

(4) Apply, to the extent required, any security deposit made 77521  
in accordance with established rules to the payment of drainage 77522  
rates and charges applicable to the particular property. 77523

All moneys collected as drainage rates, charges, or penalties 77524  
in or for any sewer district shall be paid to the county treasurer 77525