

this section for all county boards. 61890

(D) From money appropriated for the purpose, the department, 61891
~~on or before the thirtieth day of September of each year,~~ shall 61892
provide for payment to each county board of the amount computed 61893
for that county board under division (C)(2) of this section, 61894
subject to any reduction or adjustment under division (E), (F), or 61895
(G) of this section. The department shall make the payments in 61896
quarterly installments of equal amounts. The installments shall be 61897
made not later than the thirtieth day of September, thirty-first 61898
day of December, thirty-first day of March, and thirtieth day of 61899
June. 61900

(E) If a county board's local tax effort for adult services 61901
is less than the funding-adjusted required millage, the director 61902
shall reduce the amount of payment otherwise computed under 61903
division (C)(2) of this section so that the amount paid, after the 61904
reduction, is the same percentage of the amount computed under 61905
division (C)(2) of this section as the county board's local tax 61906
effort for adult services is of the funding-adjusted required 61907
millage. 61908

If the director reduces the amount of a county board's 61909
payment under this division, the department, not later than the 61910
fifteenth day of July, shall notify the county board of the 61911
reduction and the amount of the reduction. The notice shall 61912
include a statement that the county board may request to be 61913
exempted from the reduction by filing a request with the director, 61914
in the manner and form prescribed by the director, within 61915
twenty-one days after such notification is issued. The board may 61916
present evidence of its attempt to obtain passage of levies or any 61917
other extenuating circumstances the board considers relevant. If 61918
the county board requests a hearing before the director to present 61919
such evidence, the director shall conduct a hearing on the request 61920
unless the director exempts the board from the reduction on the 61921

basis of the evidence presented in the request filed by the board. 61922
Upon receiving a properly and timely filed request for exemption, 61923
but not later than the thirty-first day of August, the director 61924
shall determine whether the county board shall be exempted from 61925
all or a part of the reduction. The director may exempt the board 61926
from all or part of the reduction if the director finds that the 61927
board has made good faith efforts to obtain passage of tax levies 61928
or that there are extenuating circumstances. 61929

(F) If a payment is reduced under division (E) of this 61930
section and the director does not exempt the county board from the 61931
reduction, the amount of the reduction shall be apportioned among 61932
all county boards entitled to payments under this section for 61933
which payments were not so reduced. The amount apportioned to each 61934
county board shall be proportionate to the amount of the board's 61935
payment as computed under division (C)(2) of this section. 61936

(G) If, for any fiscal year, the amount appropriated to the 61937
department for the purpose of this section is less than the amount 61938
computed under division (C)(3) of this section for the fiscal 61939
year, the department shall adjust the amount of each payment as 61940
computed under divisions (C)(2), (E), and (F) of this section by 61941
multiplying that amount by the funding percentage. 61942

(H) The payments authorized by this section are supplemental 61943
to all other funds that may be received by a county board. A 61944
county board shall use the payments solely to pay the nonfederal 61945
share of medicaid expenditures that division (A) of section 61946
5126.057 of the Revised Code requires the county board to pay. 61947

Sec. 5126.44. (A) The department of mental retardation and 61948
developmental disabilities, in accordance with Chapter 119. of the 61949
Revised Code, shall adopt rules for making allocations for 61950
counties and distributing to county boards of mental retardation 61951
and developmental disabilities money to be used for planning, 61952

development, contracting for, and providing supported living. The 61953
rules shall provide for an allocation to be made for each county 61954
on an equitable basis, taking into account any factors that 61955
indicate need for supported living for residents of the county. 61956

(B) The department shall annually allocate for each county an 61957
amount determined in accordance with the rules adopted under this 61958
section. Except as provided in division (C) of this section, the 61959
department shall distribute the amount allocated for the county to 61960
each county board. Money shall be distributed to county boards in 61961
~~two quarterly~~ installments ~~annually~~, which shall be paid no later 61962
than the ~~last day of July and the last day of December~~ thirtieth 61963
day of September, the thirty-first day of December, the 61964
thirty-first day of March, and the thirtieth day of June. In the 61965
case of a county that has not adopted a resolution under division 61966
(B) of section 5126.40 of the Revised Code, the department shall 61967
use the money allocated for the county to provide supported living 61968
under section 5123.182 of the Revised Code. 61969

(C) The department shall not distribute money to a county 61970
board for residential services that are being provided by a 61971
provider under contract with the department on the effective date 61972
of this amendment unless the provider and the county board agree 61973
to enter into a contract between the provider and the county board 61974
under which the provider will provide the services as supported 61975
living. If the conversion of a contract occurs under this 61976
division, the provisions of section 5126.451 shall apply as though 61977
the contract was transferred under that section. 61978

(D) Pursuant to section 5126.05 of the Revised Code, the 61979
county board shall annually adopt a separate budget for money 61980
distributed to it under this section. The board shall cause the 61981
money to be deposited in a fund created pursuant to division (F) 61982
of section 5705.09 of the Revised Code which shall be known as the 61983
"community mental retardation and developmental disabilities 61984

residential services and supported living fund." The fund shall 61985
consist of this money and any other money for residential services 61986
or supported living that the board causes to be deposited in the 61987
fund. A county board is not required to use any other money for 61988
residential services or supported living. A county board may 61989
establish a reserve balance account within this fund pursuant to 61990
division (C)(2) of section 5705.28 of the Revised Code. 61991

(E) The department of mental retardation and developmental 61992
disabilities may adopt rules under Chapter 119. of the Revised 61993
Code establishing procedures for an annual reconciliation of state 61994
funds that have been deposited in the reserve balance account. The 61995
rules may provide for the return of state funds to the appropriate 61996
department account when the funds have been unexpended for a 61997
period of two years. 61998

(F) A county board may use up to ten per cent of the amount 61999
distributed to it under this section for the administrative costs 62000
of developing, arranging, and contracting for supported living and 62001
for costs of staff training and support. Annually, each county 62002
board shall report to the department all revenue and expenditures 62003
pertaining to supported living. The report shall be made in 62004
conjunction with the annual report of expenditures submitted 62005
pursuant to section 5126.12 of the Revised Code. The report shall 62006
list the names of the individuals served, the total number of 62007
individuals served on a monthly basis in the preceding calendar 62008
year, the types of services provided, the total cost of the 62009
services, and the sources of revenue used to cover the cost. 62010

Sec. 5139.01. (A) As used in this chapter: 62011

(1) "Commitment" means the transfer of the physical custody 62012
of a child or youth from the court to the department of youth 62013
services. 62014

(2) "Permanent commitment" means a commitment that vests 62015

legal custody of a child in the department of youth services. 62016

(3) "Legal custody," insofar as it pertains to the status 62017
that is created when a child is permanently committed to the 62018
department of youth services, means a legal status in which the 62019
department has the following rights and responsibilities: the 62020
right to have physical possession of the child; the right and duty 62021
to train, protect, and control the child; the responsibility to 62022
provide the child with food, clothing, shelter, education, and 62023
medical care; and the right to determine where and with whom the 62024
child shall live, subject to the minimum periods of, or periods 62025
of, institutional care prescribed in sections 2152.13 to 2152.18 62026
of the Revised Code; provided, that these rights and 62027
responsibilities are exercised subject to the powers, rights, 62028
duties, and responsibilities of the guardian of the person of the 62029
child, and subject to any residual parental rights and 62030
responsibilities. 62031

(4) Unless the context requires a different meaning, 62032
"institution" means a state facility that is created by the 62033
general assembly and that is under the management and control of 62034
the department of youth services or a private entity with which 62035
the department has contracted for the institutional care and 62036
custody of felony delinquents. 62037

(5) "Full-time care" means care for twenty-four hours a day 62038
for over a period of at least two consecutive weeks. 62039

(6) "Placement" means the conditional release of a child 62040
under the terms and conditions that are specified by the 62041
department of youth services. The department shall retain legal 62042
custody of a child released pursuant to division (C) of section 62043
2152.22 of the Revised Code or division (C) of section 5139.06 of 62044
the Revised Code until the time that it discharges the child or 62045
until the legal custody is terminated as otherwise provided by 62046
law. 62047

(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 62078
a community corrections facility, are adjudicated delinquent 62079
children for having committed in that institution or community 62080
corrections facility an act that if committed by an adult would be 62081
a misdemeanor or a felony; 62082

(c) Children who satisfy all of the following: 62083

(i) They are at least ~~twelve~~ ten years of age but less than 62084
eighteen years of age. 62085

(ii) They are adjudicated delinquent children for having 62086
committed acts that if committed by an adult would be a felony. 62087

(iii) They are committed to the department of youth services 62088
by the juvenile court of a county that has had one-tenth of one 62089
per cent or less of the statewide adjudications for felony 62090
delinquents as averaged for the past four fiscal years. 62091

(iv) They are in the care and custody of an institution or a 62092
community corrections facility. 62093

(d) Felony delinquents who, while committed to the department 62094
of youth services and in the care and custody of an institution, ~~7~~ 62095
~~commit in that institution an act that if committed by an adult~~ 62096
~~would be a felony, who~~ are serving disciplinary time for having 62097
committed ~~that~~ an act described in division (A)(19)(a), (b), or 62098
(c) of this section, and who have been institutionalized or 62099
institutionalized in a secure facility for the minimum period of 62100
time specified in divisions (A)(1)(b) to (e) of section 2152.16 of 62101
the Revised Code. 62102

(e) Felony delinquents who are subject to and serving a 62103
three-year period of commitment order imposed by a juvenile court 62104
pursuant to divisions (A) and (B) of section 2152.17 of the 62105
Revised Code for an act, other than a violation of section 2911.11 62106
of the Revised Code, that would be a category one offense or 62107
category two offense if committed by an adult. 62108

(f) Felony delinquents who are described in divisions 62109
(A)(13)(a) to (e) of this section, who have been granted a 62110
judicial release to court supervision under division (B) of 62111
section 2152.22 of the Revised Code or a judicial release to the 62112
department of youth services supervision under division (C) of 62113
that section from the commitment to the department of youth 62114
services for the act described in divisions (A)(13)(a) to (e) of 62115
this section, who have violated the terms and conditions of that 62116
release, and who, pursuant to an order of the court of the county 62117
in which the particular felony delinquent was placed on release 62118
that is issued pursuant to division (D) of section 2152.22 of the 62119
Revised Code, have been returned to the department for 62120
institutionalization or institutionalization in a secure facility. 62121

(g) Felony delinquents who have been committed to the custody 62122
of the department of youth services, who have been granted 62123
supervised release from the commitment pursuant to section 5139.51 62124
of the Revised Code, who have violated the terms and conditions of 62125
that supervised release, and who, pursuant to an order of the 62126
court of the county in which the particular child was placed on 62127
supervised release issued pursuant to division (F) of section 62128
5139.52 of the Revised Code, have had the supervised release 62129
revoked and have been returned to the department for 62130
institutionalization. A felony delinquent described in this 62131
division shall be a public safety bed only for the time during 62132
which the felony delinquent is institutionalized as a result of 62133
the revocation subsequent to the initial thirty-day period of 62134
institutionalization required by division (F) of section 5139.52 62135
of the Revised Code. 62136

~~(14) "State target youth" means twenty five per cent of the 62137
projected total number of felony delinquents for each year of a 62138
biennium, factoring in revocations and recommitments. 62139~~

~~(15)~~ Unless the context requires a different meaning, 62140

"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 62171
misdemeanor; 62172

(c) An act that is not described in division (A)~~(19)~~(18)(a) 62173
or (b) of this section and that violates an institutional rule of 62174
conduct of the department. 62175

~~(20)~~(19) "Unruly child" has the same meaning as in section 62176
2151.022 of the Revised Code. 62177

~~(21)~~(20) "Revocation" means the act of revoking a child's 62178
supervised release for a violation of a term or condition of the 62179
child's supervised release in accordance with section 5139.52 of 62180
the Revised Code. 62181

~~(22)~~(21) "Release authority" means the release authority of 62182
the department of youth services that is established by section 62183
5139.50 of the Revised Code. 62184

~~(23)~~(22) "Supervised release" means the event of the release 62185
of a child under this chapter from an institution and the period 62186
after that release during which the child is supervised and 62187
assisted by an employee of the department of youth services under 62188
specific terms and conditions for reintegration of the child into 62189
the community. 62190

~~(24)~~(23) "Victim" means the person identified in a police 62191
report, complaint, or information as the victim of an act that 62192
would have been a criminal offense if committed by an adult and 62193
that provided the basis for adjudication proceedings resulting in 62194
a child's commitment to the legal custody of the department of 62195
youth services. 62196

~~(25)~~(24) "Victim's representative" means a member of the 62197
victim's family or another person whom the victim or another 62198
authorized person designates in writing, pursuant to section 62199
5139.56 of the Revised Code, to represent the victim with respect 62200

to proceedings of the release authority of the department of youth 62201
services and with respect to other matters specified in that 62202
section. 62203

~~(26)~~(25) "Member of the victim's family" means a spouse, 62204
child, stepchild, sibling, parent, stepparent, grandparent, other 62205
relative, or legal guardian of a child but does not include a 62206
person charged with, convicted of, or adjudicated a delinquent 62207
child for committing a criminal or delinquent act against the 62208
victim or another criminal or delinquent act arising out of the 62209
same conduct, criminal or delinquent episode, or plan as the 62210
criminal or delinquent act committed against the victim. 62211

~~(27)~~(26) "Judicial release to court supervision" means a 62212
release of a child from institutional care or institutional care 62213
in a secure facility that is granted by a court pursuant to 62214
division (B) of section 2152.22 of the Revised Code during the 62215
period specified in that division. 62216

~~(28)~~(27) "Judicial release to department of youth services 62217
supervision" means a release of a child from institutional care or 62218
institutional care in a secure facility that is granted by a court 62219
pursuant to division (C) of section 2152.22 of the Revised Code 62220
during the period specified in that division. 62221

~~(29)~~(28) "Juvenile justice system" includes all of the 62222
functions of the juvenile courts, the department of youth 62223
services, any public or private agency whose purposes include the 62224
prevention of delinquency or the diversion, adjudication, 62225
detention, or rehabilitation of delinquent children, and any of 62226
the functions of the criminal justice system that are applicable 62227
to children. 62228

~~(30)~~(29) "Metropolitan county criminal justice services 62229
agency" means an agency that is established pursuant to division 62230
(A) of section 181.54 of the Revised Code. 62231

~~(31)~~(30) "Administrative planning district" means a district 62232
that is established pursuant to division (A) or (B) of section 62233
181.56 of the Revised Code. 62234

~~(32)~~(31) "Criminal justice coordinating council" means a 62235
criminal justice services agency that is established pursuant to 62236
division (D) of section 181.56 of the Revised Code. 62237

~~(33)~~(32) "Comprehensive plan" means a document that 62238
coordinates, evaluates, and otherwise assists, on an annual or 62239
multi-year basis, all of the functions of the juvenile justice 62240
systems of the state or a specified area of the state, that 62241
conforms to the priorities of the state with respect to juvenile 62242
justice systems, and that conforms with the requirements of all 62243
federal criminal justice acts. These functions include, but are 62244
not limited to, all of the following: 62245

(a) Delinquency; 62246

(b) Identification, detection, apprehension, and detention of 62247
persons charged with delinquent acts; 62248

(c) Assistance to crime victims or witnesses, except that the 62249
comprehensive plan does not include the functions of the attorney 62250
general pursuant to sections 109.91 and 109.92 of the Revised 62251
Code; 62252

(d) Adjudication or diversion of persons charged with 62253
delinquent acts; 62254

(e) Custodial treatment of delinquent children; 62255

(f) Institutional and noninstitutional rehabilitation of 62256
delinquent children. 62257

(B) There is hereby created the department of youth services. 62258
The governor shall appoint the director of the department with the 62259
advice and consent of the senate. The director shall hold office 62260
during the term of the appointing governor but subject to removal 62261

at the pleasure of the governor. Except as otherwise authorized in 62262
section 108.05 of the Revised Code, the director shall devote the 62263
director's entire time to the duties of the director's office and 62264
shall hold no other office or position of trust or profit during 62265
the director's term of office. 62266

The director is the chief executive and administrative 62267
officer of the department and has all the powers of a department 62268
head set forth in Chapter 121. of the Revised Code. The director 62269
may adopt rules for the government of the department, the conduct 62270
of its officers and employees, the performance of its business, 62271
and the custody, use, and preservation of the department's 62272
records, papers, books, documents, and property. The director 62273
shall be an appointing authority within the meaning of Chapter 62274
124. of the Revised Code. Whenever this or any other chapter or 62275
section of the Revised Code imposes a duty on or requires an 62276
action of the department, the duty or action shall be performed by 62277
the director or, upon the director's order, in the name of the 62278
department. 62279

Sec. 5139.04. The department of youth services shall do all 62280
of the following: 62281

(A) Support service districts through a central 62282
administrative office that shall have as its administrative head a 62283
deputy director who shall be appointed by the director of the 62284
department. When a vacancy occurs in the office of that deputy 62285
director, an assistant deputy director shall act as that deputy 62286
director until the vacancy is filled. The position of deputy 62287
director and assistant deputy director described in this division 62288
shall be in the unclassified civil service of the state. 62289

(B) Receive custody of all children committed to it under 62290
Chapter 2152. of the Revised Code, cause a study to be made of 62291
those children, and issue any orders, as it considers best suited 62292

to the needs of any of those children and the interest of the public, for the treatment of each of those children;	62293 62294
(C) Obtain personnel necessary for the performance of its duties;	62295 62296
(D) Train or provide for training of probation and youth correction workers;	62297 62298
(E) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.45 <u>5139.43</u> of the Revised Code, and that pertain to the administration of other sections of this chapter;	62299 62300 62301 62302
(F) <u>(E)</u> Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;	62303 62304 62305
(G) <u>(F)</u> 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;	62306 62307 62308
(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.	62309 62310 62311 62312 62313 62314
(I) <u>(G)</u> 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;	62315 62316 62317 62318 62319
(J) <u>(H)</u> Do all other acts necessary or desirable to carry out this chapter.	62320 62321
Sec. 5139.33. (A) The department of youth services shall make	62322

grants in accordance with this section to encourage counties to 62323
use community-based programs and services for juveniles who are 62324
adjudicated delinquent children for the commission of acts that 62325
would be felonies if committed by an adult. 62326

(B) Each county seeking a grant under this section shall file 62327
an application with the department of youth services. The 62328
application shall be filed at the time and in accordance with 62329
procedures established by the department in rules adopted under 62330
this section. Each application shall be accompanied by a plan 62331
designed to reduce the county's commitment percentage, or to 62332
enable it to maintain or attain a commitment percentage that is 62333
equal to or below the statewide average commitment percentage. A 62334
county's commitment percentage is the percentage determined by 62335
dividing the number of juveniles the county committed to the 62336
department during the year by the number of juveniles who were 62337
eligible to be committed. The statewide average commitment 62338
percentage is the percentage determined by dividing the number of 62339
juveniles in the state committed to the department during the year 62340
by the number of juveniles who were eligible to be committed. 62341
These percentages shall be determined by the department using the 62342
most reliable data available to it. 62343

Each plan shall include a method of ensuring equal access for 62344
minority youth to the programs and services for which the grant 62345
will be used. 62346

The department shall review each application and plan to 62347
ensure that the requirements of this division are satisfied. Any 62348
county applying for a grant under this section that received a 62349
grant under this section during the preceding year and that failed 62350
to meet its commitment goals for that year shall make the changes 62351
in its plan that the department requires in order to continue to 62352
be eligible for grants under this section. 62353

(C) Subject to division (E) of this section, the amounts 62354

appropriated for the purpose of making grants under this section 62355
shall be distributed annually on a per capita basis among the 62356
counties that have complied with division (B) of this section. 62357

(D) The department shall adopt rules to implement this 62358
section. The rules shall include, but are not limited to, 62359
procedures and schedules for submitting applications and plans 62360
under this section, including procedures allowing joint-county 62361
applications and plans; and procedures for monitoring and 62362
evaluating the effectiveness of the programs and services financed 62363
with grant money, the enhancement of the use of local facilities 62364
and services, and the adequacy of the supervision and treatment 62365
provided to juveniles by those programs and services. 62366

(E)(1) Three months prior to the implementation of the felony 62367
delinquent care and custody program described in section 5139.43 62368
of the Revised Code, each county that is entitled to a grant under 62369
this section shall receive its grant money for the fiscal year or 62370
the remainder of its grant money for the fiscal year, other than 62371
any grant money to which it is entitled and that is set aside by 62372
the department of youth services for purposes of division (E)(2) 62373
of this section. The grant money so distributed shall be paid in a 62374
lump sum. 62375

(2) During the first twelve months that the felony delinquent 62376
care and custody program described in section 5139.43 of the 62377
Revised Code is implemented in a county, any grant or the 62378
remainder of any grant to which a county is entitled and that is 62379
payable from the appropriation made to the department of youth 62380
services for community sanctions shall be distributed as follows: 62381

(a) In the first quarter of the twelve-month period, the 62382
county shall receive one hundred per cent of the quarterly 62383
distribution. 62384

(b) In the second quarter of the twelve-month period, the 62385

county shall receive seventy-five per cent of the quarterly
distribution. 62386
62387

(c) In the third quarter of the twelve-month period, the
county shall receive fifty per cent of the quarterly distribution. 62388
62389

(d) In the fourth quarter of the twelve-month period, the
county shall receive twenty-five per cent of the quarterly
distribution. 62390
62391
62392

(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. 62393
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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. 62406
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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 62417
department shall not grant financial assistance pursuant to this 62418
section for the provision of care and services for children in a 62419
~~foster care~~ placement facility unless the facility has been 62420
certified, licensed, or approved by a state or national agency 62421
with certification, licensure, or approval authority, including, 62422
but not limited to, the department of job and family services, 62423
department of education, department of mental health, ~~or~~ 62424
department of mental retardation and developmental disabilities, 62425
or American Correctional Association. For the purposes of this 62426
section, ~~foster care~~ placement facilities do not include a state 62427
institution or a county or district children's home. 62428

The department also shall not grant financial assistance 62429
pursuant to this section for the provision of care and services 62430
for children, including, but not limited to, care and services in 62431
a detention facility, in another facility, or in out-of-home 62432
placement, unless the minimum standards applicable to the care and 62433
services that the department prescribes in rules adopted pursuant 62434
to division ~~(E)~~(D) of section 5139.04 of the Revised Code have 62435
been satisfied. 62436

(B) The department of youth services shall apply the 62437
following formula to determine the amount of the annual grant that 62438
each county is to receive pursuant to division (A) of this 62439
section, subject to the appropriation for this purpose to the 62440
department made by the general assembly: 62441

(1) Each county shall receive a basic annual grant of fifty 62442
thousand dollars. 62443

(2) The sum of the basic annual grants provided under 62444
division (B)(1) of this section shall be subtracted from the total 62445
amount of funds appropriated to the department of youth services 62446
for the purpose of making grants pursuant to division (A) of this 62447
section to determine the remaining portion of the funds 62448

appropriated. The remaining portion of the funds appropriated 62449
shall be distributed on a per capita basis to each county that has 62450
a population of more than twenty-five thousand for that portion of 62451
the population of the county that exceeds twenty-five thousand. 62452

(C)(1) Prior to a county's receipt of an annual grant 62453
pursuant to this section, the juvenile court that serves the 62454
county shall prepare, submit, and file in accordance with division 62455
~~(C)~~(B)(3)(a) of section 5139.43 of the Revised Code an annual 62456
grant agreement and application for funding that is for the 62457
combined purposes of, and that satisfies the requirements of, this 62458
section and section 5139.43 of the Revised Code. In addition to 62459
the subject matters described in division ~~(C)~~(B)(3)(a) of section 62460
5139.43 of the Revised Code or in the rules that the department 62461
adopts to implement that division, the annual grant agreement and 62462
application for funding shall address fiscal accountability and 62463
performance matters pertaining to the programs, care, and services 62464
that are specified in the agreement and application and for which 62465
state subsidy funds granted pursuant to this section will be used. 62466

(2) The county treasurer of each county that receives an 62467
annual grant pursuant to this section shall deposit the state 62468
subsidy funds so received into the county's felony delinquent care 62469
and custody fund created pursuant to division ~~(C)~~(B)(1) of section 62470
5139.43 of the Revised Code. Subject to exceptions prescribed in 62471
section 5139.43 of the Revised Code that may apply to the 62472
disbursement, the department shall disburse the state subsidy 62473
funds to which ~~each county is entitled as follows:~~ 62474

~~(a) Except as provided in division (C)(2)(b) of this section,~~ 62475
~~the department shall disburse the state subsidy funds to which a~~ 62476
county is entitled in a lump sum payment that shall be made in 62477
July of each calendar year. 62478

~~(b) In the case of state subsidy funds to which a county is~~ 62479
~~entitled for fiscal year 1998, the department shall disburse the~~ 62480

~~state subsidy funds to the county in two distinct payments in 62481
accordance with this division. The department shall disburse 62482
seventy five per cent of those state subsidy funds to the county 62483
in July 1997. After the department reviews and reconciles the 62484
applicable reports that the juvenile court of the county is 62485
required to prepare and submit to the department pursuant to 62486
section 5139.43 of the Revised Code, the department shall disburse 62487
to the county in October 1997, the remainder of the state subsidy 62488
funds to which the county is entitled. 62489~~

(3) Upon an order of the juvenile court that serves a county 62490
and subject to appropriation by the board of county commissioners 62491
of that county, a county treasurer shall disburse from the 62492
county's felony delinquent care and custody fund the state subsidy 62493
funds granted to the county pursuant to this section for use only 62494
in accordance with this section, the applicable provisions of 62495
section 5139.43 of the Revised Code, and the county's approved 62496
annual grant agreement and application for funding. 62497

(4) The moneys in a county's felony delinquent care and 62498
custody fund that represent state subsidy funds granted pursuant 62499
to this section are subject to appropriation by the board of 62500
county commissioners of the county; shall be disbursed by the 62501
county treasurer as required by division (C)(3) of this section; 62502
shall be used in the manners referred to in division (C)(3) of 62503
this section; shall not revert to the county general fund at the 62504
end of any fiscal year; shall carry over in the felony delinquent 62505
care and custody fund from the end of any fiscal year to the next 62506
fiscal year; shall be in addition to, and shall not be used to 62507
reduce, any usual annual increase in county funding that the 62508
juvenile court is eligible to receive or the current level of 62509
county funding of the juvenile court and of any programs, care, or 62510
services for alleged or adjudicated delinquent children, unruly 62511
children, or juvenile traffic offenders or for children who are at 62512

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. 62544
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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. 62546
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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: 62551
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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; 62555
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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; 62560
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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: 62563
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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; 62566
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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. 62569
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(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the 62572
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Revised Code and demonstrate that felony delinquents served by the 62574
facility have been or will be diverted from a commitment to the 62575
department. 62576

(D) The department of youth services shall determine the 62577
method of distribution of the funds appropriated for grants under 62578
this section to community corrections facilities. 62579

~~(E) With the consent of a committing court and of a community 62580
corrections facility that has received a grant under this section, 62581
the department of youth services may place in that facility a 62582
felony delinquent who has been committed to the department. During 62583
the period in which the felony delinquent is in that facility, the 62584
felony delinquent~~ (1) The department of youth services shall adopt 62585
rules in accordance with Chapter 119. of the Revised Code to 62586
establish the minimum occupancy threshold of community corrections 62587
facilities. 62588

(2) The department may make referrals for the placement of 62589
children in its custody to a community corrections facility if the 62590
community corrections facility is not meeting the minimum 62591
occupancy threshold established by the department. At least 62592
forty-five days prior to the referral of a child, the department 62593
shall notify the committing court of its intent to place the child 62594
in a community corrections facility. The court shall have thirty 62595
days after the receipt of the notice to approve or disapprove the 62596
placement. If the court does not respond to the notice of the 62597
placement within that thirty-day period, the department shall 62598
proceed with the placement and debit the county in accordance with 62599
sections 5139.41 to 5139.45 of the Revised Code. A child placed in 62600
a community corrections facility pursuant to this division shall 62601
remain in the legal custody of the department of youth services 62602
during the period in which the child is in the community 62603
corrections facility. 62604

(3) Counties that are not associated with a community 62605

corrections facility may refer children to a community corrections 62606
facility with the consent of the facility. The department of youth 62607
services shall debit the county that makes the referral in 62608
accordance with sections 5139.41 to 5139.45 of the Revised Code. 62609

(F) If the board or other governing body of a community 62610
corrections facility establishes an advisory board, the board or 62611
other governing authority of the community corrections facility 62612
shall reimburse the members of the advisory board for their actual 62613
and necessary expenses incurred in the performance of their 62614
official duties on the advisory board. The members of advisory 62615
boards shall serve without compensation. 62616

Sec. 5139.41. ~~On and after January 1, 1995, the~~ The 62617
appropriation made to the department of youth services for care 62618
and custody of felony delinquents shall be expended in accordance 62619
with ~~a formula~~ the following procedure that the department shall 62620
~~develop~~ use for each year of a biennium. The ~~formula~~ procedure 62621
shall be consistent with sections 5139.41 to ~~5139.45~~ 5139.43 of 62622
the Revised Code and shall be developed in accordance with the 62623
following guidelines: 62624

(A) ~~The department shall set aside at least three per cent~~ 62625
~~but not more than five per cent of the appropriation for purposes~~ 62626
~~of funding the contingency program described in section 5139.45 of~~ 62627
~~the Revised Code and of use in accordance with that section.~~ 62628

~~(B)(1) After setting aside the amount described in division~~ 62629
~~(A) of this section, the department shall set aside twenty five~~ 62630
~~per cent of the remainder of the appropriation and use that amount~~ 62631
~~for the purpose described in division (B)(2) of this section and~~ 62632
~~to pay certain of the operational costs associated with, and to~~ 62633
~~provide cash flow for, the following:~~ 62634

~~(a) Institutions;~~ 62635

~~(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:~~ 62636
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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.~~ 62639
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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.~~ 62644
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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.~~ 62651
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~~(D) After setting aside the amounts described in divisions~~ 62666

~~(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, 62698
and rehabilitation services and programs that are provided for 62699
alleged or adjudicated unruly or delinquent children or for 62700
children who are at risk of becoming unruly or delinquent 62701
children; 62702

(4) Administrative expenses the department incurs in 62703
connection with the felony delinquent care and custody programs 62704
described in section 5139.43 of the Revised Code. 62705

(B) From the appropriated line item for the care and custody 62706
of felony delinquents, the department, with the advice of the 62707
RECLAIM advisory committee established under section 5139.44 of 62708
the Revised Code, shall allocate annual operational funds for 62709
county juvenile programs, institutional care and custody, 62710
community corrections facilities care and custody, and 62711
administrative expenses incurred by the department associated with 62712
felony delinquent care and custody programs. The department, with 62713
the advice of the RECLAIM advisory committee, shall adjust these 62714
allocations, when modifications to this line item are made by 62715
legislative or executive action. 62716

(C) The department shall divide county juvenile program 62717
allocations among county juvenile courts that administer programs 62718
and services for prevention, early intervention, diversion, 62719
treatment, and rehabilitation that are provided for alleged or 62720
adjudicated unruly or delinquent children or for children who are 62721
at risk of becoming unruly or delinquent children. The department 62722
shall base funding on the county's previous year's ratio of the 62723
department's institutional and community correctional facilities 62724
commitments to that county's four year average of felony 62725
adjudications, divided by statewide ratios of commitments to 62726
felony adjudications, as specified in the following formula: 62727

(1) The department shall give to each county a proportional 62728
allocation of commitment credits. The proportional allocation of 62729

commitment credits shall be calculated by the following 62730
procedures: 62731

(a) The department shall determine for each county and for 62732
the state a four year average of felony adjudications. 62733

(b) The department shall determine for each county and for 62734
the state the number of charged bed days, for both the department 62735
and community correctional facilities, from the previous year. 62736

(c) The department shall divide the statewide total number of 62737
charged bed days by the statewide total number of felony 62738
adjudications, which quotient shall then be multiplied by a factor 62739
determined by the department. 62740

(d) The department shall calculate the county's allocation of 62741
credits by multiplying the number of adjudications for each court 62742
by the result determined pursuant to division (C)(1)(c) of this 62743
section. 62744

(2) The department shall subtract from the allocation 62745
determined pursuant to division (C)(1) of this section a credit 62746
for every chargeable bed day a youth stays in a department 62747
institution and two-thirds of credit for every chargeable bed day 62748
a youth stays in a community correctional facility. At the end of 62749
the year, the department shall divide the amount of remaining 62750
credits of that county's allocation by the total number of 62751
remaining credits to all counties, to determine the county's 62752
percentage, which shall then be applied to the total county 62753
allocation to determine the county's payment for the fiscal year. 62754

(3) The department shall pay counties three times during the 62755
fiscal year to allow for credit reporting and audit adjustments, 62756
and modifications to the appropriated line item for the care and 62757
custody of felony delinquents, as described in this section. The 62758
department shall pay fifty per cent of the payment by the 62759
fifteenth of July of each fiscal year, twenty-five per cent by the 62760

fifteenth of January of that fiscal year, and twenty-five per cent 62761
of the payment by the fifteenth of June of that fiscal year. 62762

(D) In fiscal year 2004, the payment of county juvenile 62763
programs shall be based on the following procedure: 62764

(1) The department shall divide the funding earned by each 62765
court in fiscal year 2003 by the aggregate funding of all courts, 62766
resulting in a percentage. 62767

(2) The department shall apply the percentage determined 62768
under division (D)(1) of this section to the total county juvenile 62769
program allocation for fiscal year 2004 to determine each court's 62770
total payment. 62771

(3) The department shall make payments in accordance with the 62772
schedule established in division (C)(3) of this section. 62773

Sec. 5139.43. (A) The department of youth services shall 62774
operate a felony delinquent care and custody program ~~with the~~ 62775
~~remainder of the appropriation described in division (E) of~~ 62776
~~section 5139.41 of the Revised Code. The program that shall be~~ 62777
operated in accordance with the formula developed pursuant to 62778
~~sections~~ section 5139.41 and ~~5139.42~~ of the Revised Code, subject 62779
to the conditions specified in this section, ~~and in conjunction~~ 62780
~~with the contingency program described in section 5139.45 of the~~ 62781
~~Revised Code.~~ 62782

(B)(1) ~~The department of youth services annually shall~~ 62783
~~allocate to each county a portion of the remainder of the~~ 62784
~~appropriation described in division (E) of section 5139.41 of the~~ 62785
~~Revised Code. The portion to be allocated to each county shall be~~ 62786
~~determined by multiplying the county's percentage determined under~~ 62787
~~division (E) of section 5139.42 of the Revised Code by the amount~~ 62788
~~of that remainder. The department shall divide the portion to be~~ 62789
~~allocated to each county by twelve or, if in a particular fiscal~~ 62790

~~year the felony delinquent care and custody program is in effect 62791
in a county less than twelve months, by the number of months the 62792
program is in effect in that county to determine the monthly 62793
allocation to that county. 62794~~

~~(2)(a) Except as provided in divisions (B)(2)(b) and (E) of 62795
this section, the department shall reduce the monthly allocation 62796
for each fiscal year to each county as determined under division 62797
(B)(1) of this section by both of the following: 62798~~

~~(i) Seventy five per cent of the amount determined by 62799
multiplying the per diem cost for the care and custody of felony 62800
delinquents, as determined pursuant to division (D) of section 62801
5139.42 of the Revised Code, by the number of felony delinquents 62802
who have been adjudicated delinquent children and, except as 62803
otherwise provided in divisions (B)(2)(a) and (3) of this section, 62804
who are in the care and custody of an institution pursuant to a 62805
commitment, recommitment, or revocation of a release by the 62806
juvenile court of that county; 62807~~

~~(ii) Fifty per cent of the amount determined by multiplying 62808
the per diem cost for the care and custody of felony delinquents, 62809
as determined pursuant to division (D) of section 5139.42 of the 62810
Revised Code, by the number of felony delinquents who have been 62811
adjudicated delinquent children and, except as otherwise provided 62812
in division (B)(3) of this section, who are in the care and 62813
custody of a community corrections facility pursuant to a 62814
placement by the department with the consent of the juvenile court 62815
of that county as described in division (E) of section 5139.36 of 62816
the Revised Code. 62817~~

~~Public safety beds shall not be included in the number of 62818
felony delinquents who have been adjudicated delinquent children 62819
by a juvenile court in making the seventy five per cent reduction 62820
described in division (B)(2)(a)(i) of this section. The department 62821
shall bear the care and custody costs associated with public 62822~~

~~safety beds.~~ 62823

~~(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.~~ 62824
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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.~~ 62837
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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~~ 62847
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~~of each county for the month of June, as determined pursuant to 62855
divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for 62856
disbursement in the month of July of the next fiscal year in 62857
accordance with division (B)(3)(b)(ii) of this section. If the 62858
total of the seventy five per cent and fifty per cent reductions 62859
described in division (B)(2)(a) of this section exceeds the 62860
estimated monthly allocation of a county for the month of June as 62861
so determined, the department may cover the amount of the excess 62862
by debiting, in accordance with division (C)(2) of section 5139.45 62863
of the Revised Code, the amount of the appropriation for care and 62864
custody of felony delinquents that was set aside for the 62865
contingency program pursuant to division (A) of section 5139.41 of 62866
the Revised Code. 62867~~

~~(ii) In the month of July of each new fiscal year, the 62868
department shall reconcile for each county the estimated 62869
reductions that occurred pursuant to divisions (B)(2)(a) and 62870
(3)(b)(i) of this section and the reductions that should have 62871
occurred pursuant to division (B)(2)(a) of this section by using 62872
the actual number of felony delinquents described in divisions 62873
(B)(2)(a)(i) and (ii) of this section for the month of June of the 62874
prior fiscal year. After that reconciliation occurs, subject to 62875
divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, 62876
the department shall disburse to each county the remainder of its 62877
monthly allocation for the month of June of the prior fiscal year 62878
as adjusted pursuant to the reconciliation and division 62879
(B)(3)(b)(ii) of this section. 62880~~

~~In connection with the adjustments in the monthly allocations 62881
for the month of June of the prior fiscal year, if the encumbered 62882
monthly allocations of one or more counties for that month exceed 62883
or are less than the monthly allocations for that month to which 62884
those counties are entitled under divisions (B)(1) and (2)(a) of 62885
this section by using the actual number of felony delinquents 62886~~

~~described in divisions (B)(2)(a)(i) and (ii) of this section 62887
rather than the estimated number of those felony delinquents, the 62888
department may make the necessary adjustments in the monthly 62889
allocations of those counties for the month of June of the prior 62890
fiscal year within the total of the moneys for monthly allocations 62891
for that month that were encumbered for all of the counties. If 62892
that total amount is insufficient to make the requisite monthly 62893
allocations for that month to all counties in accordance with 62894
divisions (B)(1) and (2)(a) of this section, the department shall 62895
cover the insufficiency by debiting, in accordance with division 62896
(C)(2) of section 5139.45 of the Revised Code, the amount of the 62897
appropriation for care and custody of felony delinquents that was 62898
set aside for the contingency program pursuant to division (A) of 62899
section 5139.41 of the Revised Code. 62900~~

~~(4) Notwithstanding the general disbursement requirements of 62901
division (B)(3)(a) and (b)(ii) of this section, if a juvenile 62902
court fails to comply with division (C)(3)(d) of this section and 62903
the department is not able to reconcile fiscal accounting as a 62904
consequence of that failure, the department is not required to 62905
make any disbursement in accordance with division (B)(3)(a) or 62906
(b)(ii) of this section to the juvenile court until it complies 62907
with division (C)(3)(d) of this section. 62908~~

~~(C)(1) Each juvenile court shall use the moneys disbursed to 62909
it by the department of youth services pursuant to division (B) of 62910
this section 5139.41 of the Revised Code in accordance with the 62911
applicable provisions of division (C)(B)(2) of this section and 62912
shall transmit the moneys to the county treasurer for deposit in 62913
accordance with this division. The county treasurer shall create 62914
in the county treasury a fund that shall be known as the felony 62915
delinquent care and custody fund and shall deposit in that fund 62916
the moneys disbursed to the juvenile court pursuant to division 62917
(B) of ~~this~~ section 5139.41 of the Revised Code. The county 62918~~

treasurer also shall deposit into that fund the state subsidy 62919
funds granted to the county pursuant to section 5139.34 of the 62920
Revised Code. The moneys disbursed to the juvenile court pursuant 62921
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62922
deposited pursuant to this division in the felony delinquent care 62923
and custody fund shall not be commingled with any other county 62924
funds except state subsidy funds granted to the county pursuant to 62925
section 5139.34 of the Revised Code; shall not be used for any 62926
capital construction projects; upon an order of the juvenile court 62927
and subject to appropriation by the board of county commissioners, 62928
shall be disbursed to the juvenile court for use in accordance 62929
with the applicable provisions of division ~~(C)~~(B)(2) of this 62930
section; shall not revert to the county general fund at the end of 62931
any fiscal year; and shall carry over in the felony delinquent 62932
care and custody fund from the end of any fiscal year to the next 62933
fiscal year. The moneys disbursed to the juvenile court pursuant 62934
to division (B) of ~~this~~ section 5139.41 of the Revised Code and 62935
deposited pursuant to this division in the felony delinquent care 62936
and custody fund shall be in addition to, and shall not be used to 62937
reduce, any usual annual increase in county funding that the 62938
juvenile court is eligible to receive or the current level of 62939
county funding of the juvenile court and of any programs or 62940
services for delinquent children, unruly children, or juvenile 62941
traffic offenders. 62942

(2)(a) A county and the juvenile court that serves the county 62943
shall use the moneys in its felony delinquent care and custody 62944
fund in accordance with rules that the department of youth 62945
services adopts pursuant to division ~~(E)~~(D) of section 5139.04 of 62946
the Revised Code and as follows: 62947

(i) The moneys in the fund that represent state subsidy funds 62948
granted to the county pursuant to section 5139.34 of the Revised 62949
Code shall be used to aid in the support of prevention, early 62950

intervention, diversion, treatment, and rehabilitation programs 62951
that are provided for alleged or adjudicated unruly children or 62952
delinquent children or for children who are at risk of becoming 62953
unruly children or delinquent children. The county shall not use 62954
for capital improvements more than fifteen per cent of the moneys 62955
in the fund that represent the applicable annual grant of those 62956
state subsidy funds. 62957

(ii) The moneys in the fund that were disbursed to the 62958
juvenile court pursuant to division (B) of ~~this~~ section 5139.41 of 62959
the Revised Code and deposited pursuant to division ~~(C)~~(B)(1) of 62960
this section in the fund shall be used to provide programs and 62961
services for the training, treatment, or rehabilitation of felony 62962
delinquents that are alternatives to their commitment to the 62963
department, including, but not limited to, community residential 62964
programs, day treatment centers, services within the home, and 62965
electronic monitoring, and shall be used in connection with 62966
training, treatment, rehabilitation, early intervention, or other 62967
programs or services for any delinquent child, unruly child, or 62968
juvenile traffic offender who is under the jurisdiction of the 62969
juvenile court. ~~For purposes of division (C)(2)(a)(ii) of this~~ 62970
~~section, a delinquent child includes a child who is so adjudicated~~ 62971
~~for the commission of an act that if committed by an adult would~~ 62972
~~be a misdemeanor or felony.~~ 62973

~~If, during the previous state fiscal year, the county did not~~ 62974
~~exceed in any month its monthly allocation as determined pursuant~~ 62975
~~to division (B)(1) of this section in connection with felony~~ 62976
~~delinquents described in divisions (B)(2)(a)(i) and (ii) of this~~ 62977
~~section, the moneys in the fund that were disbursed to the~~ 62978
~~juvenile court pursuant to division (B) of this section and~~ 62979
~~deposited pursuant to division (C)(1) of this section in the~~ The 62980
fund also may be used for prevention, early intervention, 62981
diversion, treatment, and rehabilitation programs that are 62982

provided for alleged or adjudicated unruly children, delinquent 62983
children, or juvenile traffic offenders or for children who are at 62984
risk of becoming unruly children, delinquent children, or juvenile 62985
traffic offenders. Consistent with division ~~(C)~~(B)(1) of this 62986
section, a county and the juvenile court of a county shall not use 62987
any of those moneys for capital construction projects. 62988

(iii) The county and the juvenile court that serves the 62989
county may not use moneys in the fund for the provision of care 62990
and services for children, including, but not limited to, care and 62991
services in a detention facility, in another facility, or in 62992
out-of-home placement, unless the minimum standards that apply to 62993
the care and services and that the department prescribes in rules 62994
adopted pursuant to division ~~(E)~~(D) of section 5139.04 of the 62995
Revised Code have been satisfied. 62996

(b) Each juvenile court shall comply with division 62997
~~(C)~~(B)(3)(d) of this section as implemented by the department. ~~If~~ 62998
~~a juvenile court fails to comply with that division and the~~ 62999
~~department is not able to reconcile fiscal accounting as a~~ 63000
~~consequence of the failure, the provisions of division (B)(4) of~~ 63001
~~this section shall apply.~~ 63002

(3) In accordance with rules adopted by the department 63003
pursuant to division ~~(E)~~(D) of section 5139.04 of the Revised 63004
Code, each juvenile court and the county served by that juvenile 63005
court shall do all of the following that apply: 63006

(a) The juvenile court shall prepare an annual grant 63007
agreement and application for funding that satisfies the 63008
requirements of this section and section 5139.34 of the Revised 63009
Code and that pertains to the use, upon an order of the juvenile 63010
court and subject to appropriation by the board of county 63011
commissioners, of the moneys in its felony delinquent care and 63012
custody fund for specified programs, care, and services as 63013
described in division ~~(C)~~(B)(2)(a) of this section, shall submit 63014

that agreement and application to the county family and children 63015
first council, the regional family and children first council, or 63016
the local intersystem services to children cluster as described in 63017
sections 121.37 and 121.38 of the Revised Code, whichever is 63018
applicable, and shall file that agreement and application with the 63019
department for its approval. The annual grant agreement and 63020
application for funding shall include a method of ensuring equal 63021
access for minority youth to the programs, care, and services 63022
specified in it. 63023

The department may approve an annual grant agreement and 63024
application for funding only if the juvenile court involved has 63025
complied with the preparation, submission, and filing requirements 63026
described in division ~~(C)~~(B)(3)(a) of this section. If the 63027
juvenile court complies with those requirements and the department 63028
approves that agreement and application, the juvenile court and 63029
the county served by the juvenile court may expend the state 63030
subsidy funds granted to the county pursuant to section 5139.34 of 63031
the Revised Code only in accordance with division ~~(C)~~(B)(2)(a) of 63032
this section, the rules pertaining to state subsidy funds that the 63033
department adopts pursuant to division ~~(E)~~(D) of section 5139.04 63034
of the Revised Code, and the approved agreement and application. 63035

(b) By the thirty-first day of August of each year, the 63036
juvenile court shall file with the department a report that 63037
contains all of the statistical and other information for each 63038
month of the prior state fiscal year ~~that will permit the~~ 63039
~~department to prepare the report described in division (D) of this~~ 63040
~~section and the annual report described in division (H) of section~~ 63041
~~5139.04 of the Revised Code.~~ If the juvenile court fails to file 63042
the report required by division ~~(C)~~(B)(3)(b) of this section by 63043
the thirty-first day of August of any year, the department shall 63044
not disburse any payment of state subsidy funds to which the 63045
county otherwise is entitled pursuant to section 5139.34 of the 63046

Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63047
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63048
Code the applicable ~~monthly~~ allocation of ~~the county~~ until the 63049
juvenile court fully complies with division ~~(C)~~(B)(3)(b) of this 63050
section. 63051

(c) If the department requires the juvenile court to prepare 63052
monthly statistical reports ~~for use under section 5139.42 of the~~ 63053
~~Revised Code~~ and to submit the reports on forms provided by the 63054
department, the juvenile court shall file those reports with the 63055
department on the forms so provided. If the juvenile court fails 63056
to prepare and submit those monthly statistical reports within the 63057
department's timelines, the department shall not disburse any 63058
payment of state subsidy funds to which the county otherwise is 63059
entitled pursuant to section 5139.34 of the Revised Code and shall 63060
not disburse pursuant to division (B)~~(3)(a)~~ ~~or (b)(ii)~~ of ~~this~~ 63061
~~section the remainder of 5139.41 of the Revised Code~~ the 63062
applicable ~~monthly~~ allocation of ~~the county~~ until the juvenile 63063
court fully complies with division ~~(C)~~(B)(3)(c) of this section. 63064
If the juvenile court fails to prepare and submit those monthly 63065
statistical reports within one hundred eighty days of the date the 63066
department establishes for their submission, the department shall 63067
not disburse any payment of state subsidy funds to which the 63068
county otherwise is entitled pursuant to section 5139.34 of the 63069
Revised Code and shall not disburse pursuant to division (B)~~(3)(a)~~ 63070
~~or (b)(ii)~~ of ~~this section the remainder of 5139.41 of the Revised~~ 63071
Code the applicable ~~monthly~~ allocation of ~~the county~~, and the 63072
state subsidy funds and the remainder of the applicable ~~monthly~~ 63073
allocation shall revert to the department. If a juvenile court 63074
states in a monthly statistical report that the juvenile court 63075
adjudicated within a state fiscal year five hundred or more 63076
children to be delinquent children for committing acts that would 63077
be felonies if committed by adults and if the department 63078
determines that the data in the report may be inaccurate, the 63079

juvenile court shall have an independent auditor or other 63080
qualified entity certify the accuracy of the data on a date 63081
determined by the department. 63082

(d) If the department requires the juvenile court and the 63083
county to participate in a fiscal monitoring program or another 63084
monitoring program that is conducted by the department to ensure 63085
compliance by the juvenile court and the county with division 63086
~~(C)~~(B) of this section, the juvenile court and the county shall 63087
participate in the program and fully comply with any guidelines 63088
for the performance of audits adopted by the department pursuant 63089
to that program and all requests made by the department pursuant 63090
to that program for information necessary to reconcile fiscal 63091
accounting. If an audit that is performed pursuant to a fiscal 63092
monitoring program or another monitoring program described in this 63093
division determines that the juvenile court or the county used 63094
moneys in the county's felony delinquent care and custody fund for 63095
expenses that are not authorized under division ~~(C)~~(B) of this 63096
section, within forty-five days after the department notifies the 63097
county of the unauthorized expenditures, the county either shall 63098
repay the amount of the unauthorized expenditures from the county 63099
general revenue fund to the state's general revenue fund or shall 63100
file a written appeal with the department. If an appeal is timely 63101
filed, the director of the department shall render a decision on 63102
the appeal and shall notify the appellant county or its juvenile 63103
court of that decision within forty-five days after the date that 63104
the appeal is filed. If the director denies an appeal, the 63105
county's fiscal agent shall repay the amount of the unauthorized 63106
expenditures from the county general revenue fund to the state's 63107
general revenue fund within thirty days after receiving the 63108
director's notification of the appeal decision. If the county 63109
fails to make the repayment within that thirty-day period and if 63110
the unauthorized expenditures pertain to moneys allocated under 63111
sections 5139.41 to ~~5139.45~~ 5139.43 of the Revised Code, the 63112

department shall deduct the amount of the unauthorized 63113
expenditures from the next ~~monthly~~ allocation of those moneys to 63114
the county in accordance with this section or from the allocations 63115
that otherwise would be made under those sections to the county 63116
during the next state fiscal year in accordance with this section 63117
and shall return that deducted amount to the state's general 63118
revenue fund. If the county fails to make the repayment within 63119
that thirty-day period and if the unauthorized expenditures 63120
pertain to moneys granted pursuant to section 5139.34 of the 63121
Revised Code, the department shall deduct the amount of the 63122
unauthorized expenditures from the next annual grant to the county 63123
pursuant to that section and shall return ~~than~~ that deducted 63124
amount to the state's general revenue fund. 63125

~~(D) On or prior to the first day of December of each year,~~ 63126
~~the department of youth services shall submit to the joint~~ 63127
~~legislative committee on juvenile corrections overcrowding a~~ 63128
~~report that pertains to the operation of sections 5139.34 and~~ 63129
~~5139.41 to 5139.45 of the Revised Code during the immediately~~ 63130
~~preceding state fiscal year and that includes, but is not limited~~ 63131
~~to, the following:~~ 63132

~~(1) A description of the programs, care, and services that~~ 63133
~~were financed under those sections in each county;~~ 63134

~~(2) The number of felony delinquents, other delinquent~~ 63135
~~children, unruly children, and juvenile traffic offenders served~~ 63136
~~by the programs, care, and services in each county;~~ 63137

~~(3) The total number of children adjudicated in each juvenile~~ 63138
~~court as felony delinquents;~~ 63139

~~(4) The total number of felony delinquents who were committed~~ 63140
~~by the juvenile court of each county to the department and who~~ 63141
~~were in the care and custody of an institution or a community~~ 63142
~~corrections facility;~~ 63143

~~(5) A breakdown of the felony delinquents described in~~ 63144
~~division (D)(4) of this section on the basis of the types and~~ 63145
~~degrees of felonies committed, the ages of the felony delinquents~~ 63146
~~at the time they committed the felonies, and the sex and race of~~ 63147
~~the felony delinquents.~~ 63148

~~(E)(C)~~ (C) The determination of which county a reduction of the 63149
~~monthly~~ care and custody allocation will be charged against for a 63150
particular youth shall be made as outlined below for all youths 63151
who do not qualify as public safety beds. The determination of 63152
which county a reduction of the ~~monthly~~ care and custody 63153
allocation will be charged against shall be made as follows until 63154
each youth is released: 63155

(1) In the event of a commitment, the reduction shall be 63156
charged against the committing county. 63157

(2) In the event of a recommitment, the reduction shall be 63158
charged against the original committing county until the 63159
expiration of the minimum period of institutionalization under the 63160
original order of commitment or until the date on which the youth 63161
is admitted to the department of youth services pursuant to the 63162
order of recommitment, whichever is later. Reductions of the 63163
~~monthly~~ allocation shall be charged against the county that 63164
recommitted the youth after the minimum expiration date of the 63165
original commitment. 63166

(3) In the event of a revocation of a release on parole, the 63167
reduction shall be charged against the county that revokes the 63168
youth's parole. 63169

(D) A juvenile court is not precluded by its allocation 63170
amount for the care and custody of felony delinquents from 63171
committing a felony delinquent to the department of youth services 63172
for care and custody in an institution or a community corrections 63173
facility when the juvenile court determines that the commitment is 63174

<u>appropriate.</u>	63175
<u>Sec. 5139.44. (A)(1) There is hereby created the RECLAIM</u>	63176
<u>advisory committee that shall be composed of the following ten</u>	63177
<u>members:</u>	63178
<u>(a) Two members shall be juvenile court judges appointed by</u>	63179
<u>the Ohio association of juvenile and family court judges.</u>	63180
<u>(b) One member shall be the director of youth services or the</u>	63181
<u>director's designee.</u>	63182
<u>(c) One member shall be the director of budget and management</u>	63183
<u>or the director's designee.</u>	63184
<u>(d) One member shall be the director of the legislative</u>	63185
<u>service commission or the director's designee.</u>	63186
<u>(e) One member shall be a member of a senate committee</u>	63187
<u>dealing with finance or criminal justice issues appointed by the</u>	63188
<u>president of the senate.</u>	63189
<u>(f) One member shall be a member of a committee of the house</u>	63190
<u>of representatives dealing with finance or criminal justice issues</u>	63191
<u>appointed by the speaker of the house of representatives.</u>	63192
<u>(g) One member shall be a member of a board of county</u>	63193
<u>commissioners appointed by the county commissioners association of</u>	63194
<u>Ohio.</u>	63195
<u>(h) Two members shall be juvenile court administrators</u>	63196
<u>appointed by the Ohio association of juvenile and family court</u>	63197
<u>judges.</u>	63198
<u>(2) The members of the committee shall be appointed or</u>	63199
<u>designated within thirty days after the effective date of this</u>	63200
<u>section, and the director of youth services shall be notified of</u>	63201
<u>the names of the members.</u>	63202
<u>(3) Members described in divisions (A)(1)(a), (g), and (h) of</u>	63203

this section shall serve for terms of two years and shall hold 63204
office from the date of the member's appointment until the end of 63205
the term for which the member was appointed. Members described in 63206
divisions (A)(1)(b), (c), and (d) of this section shall serve as 63207
long as they hold the office described in that division. Members 63208
described in divisions (A)(1)(e) and (f) of this section shall 63209
serve for the duration of the session of the general assembly 63210
during which they were appointed, provided they continue to hold 63211
the office described in that division. The members described in 63212
divisions (A)(1)(a), (e), (f), (g), and (h) may be reappointed. 63213
Vacancies shall be filled in the manner provided for original 63214
appointments. Any member appointed to fill a vacancy occurring 63215
prior to the expiration date of the term for which the member's 63216
predecessor was appointed shall hold office as a member for the 63217
remainder of that term. A member shall continue in office 63218
subsequent to the expiration date of the member's term until the 63219
member's successor takes office or until a period of sixty days 63220
has elapsed, whichever occurs first. 63221

(4) Membership on the committee does not constitute the 63222
holding of an incompatible public office or employment in 63223
violation of any statutory or common law prohibition pertaining to 63224
the simultaneous holding of more than one public office or 63225
employment. Members of the committee are not disqualified from 63226
holding by reason of that membership and do not forfeit because of 63227
that membership their public office or employment that qualifies 63228
them for membership on the committee notwithstanding any contrary 63229
disqualification or forfeiture requirement under existing Revised 63230
Code sections. 63231

(B) The director of youth services shall serve as an interim 63232
chair of the RECLAIM advisory committee until the first meeting of 63233
the committee. Upon receipt of the names of the members of the 63234
committee, the director shall schedule the initial meeting of the 63235

committee that shall take place at an appropriate location in 63236
Columbus and occur not later than sixty days after the effective 63237
date of this section. The director shall notify the members of the 63238
committee of the time, date, and place of the meeting. At the 63239
initial meeting, the committee shall organize itself by selecting 63240
from among its members a chair, vice-chair, and secretary. The 63241
committee shall meet at least once each quarter of the calendar 63242
year but may meet more frequently at the call of the chair. 63243

(C) In addition to its functions with respect to the RECLAIM 63244
program described in section 5139.41 of the Revised Code, the 63245
RECLAIM advisory committee periodically shall do all of the 63246
following: 63247

(1) Evaluate the operation of the RECLAIM program by the 63248
department of youth services, evaluate the implementation of the 63249
RECLAIM program by the counties, and evaluate the efficiency of 63250
the formula described in section 5139.41 of the Revised Code. In 63251
conducting these evaluations, the committee shall consider the 63252
public policy that RECLAIM funds are to be expended to provide the 63253
most appropriate programs and services for felony delinquents and 63254
other youthful offenders. 63255

(2) Advise the department of youth services, the office of 63256
budget and management, and the general assembly on the following 63257
changes that the committee believes should be made: 63258

(a) Changes to sections of the Revised Code that pertain to 63259
the RECLAIM program, specifically the formula specified in section 63260
5139.41 of the Revised Code; 63261

(b) Changes in the funding level for the RECLAIM program, 63262
specifically the amounts distributed under the formula for county 63263
allocations, community correctional facilities, and juvenile 63264
correctional facility budgets. 63265

Sec. 5139.87. (A) The department of youth services shall 63266
serve as the state agent for the administration of all federal 63267
juvenile justice grants awarded to the state. 63268

(B) There are hereby created in the state treasury the 63269
federal juvenile justice programs funds. A separate fund shall be 63270
established each federal fiscal year. All federal grants and other 63271
moneys received for federal juvenile programs shall be deposited 63272
into the funds. All receipts deposited into the funds shall be 63273
used for federal juvenile programs. All investment earnings on the 63274
cash balance in a federal juvenile program fund shall be credited 63275
to that fund for the appropriate federal fiscal year. 63276

(C) All rules, orders, and determinations of the office of 63277
criminal justice services regarding the administration of federal 63278
juvenile justice grants that are in effect on the effective date 63279
of this amendment shall continue in effect as rules, orders, and 63280
determinations of the department of youth services. 63281

Sec. 5153.122. (A) Each caseworker hired by a public children 63282
services agency shall complete at least ninety hours of in-service 63283
training during the first year of the caseworker's continuous 63284
employment, except that the director of the public children 63285
services agency may waive the training requirement for a school of 63286
social work graduate who participated in the university 63287
partnership program described in division (D) of section 5101.141 63288
of the Revised Code. The training shall consist of courses in 63289
recognizing and preventing child abuse and neglect, assessing 63290
risks, interviewing persons, investigating cases, intervening, 63291
providing services to children and their families, and other 63292
topics relevant to child abuse and neglect. After the first year 63293
of continuous employment, each caseworker annually shall complete 63294
thirty-six hours of training in areas relevant to the caseworker's 63295

assigned duties. 63296

(B) Each supervisor hired by a public children services 63297
agency shall complete at least sixty hours of in-service training 63298
during the first year of the supervisor's continuous employment in 63299
that position. After the first year of continuous employment as a 63300
supervisor, the supervisor annually shall complete thirty hours of 63301
training in areas relevant to the supervisor's assigned duties. 63302

Sec. 5153.16. (A) Except as provided in section 2151.422 of 63303
the Revised Code, in accordance with rules of the department of 63304
job and family services, and on behalf of children in the county 63305
whom the public children services agency considers to be in need 63306
of public care or protective services, the public children 63307
services agency shall do all of the following: 63308

(1) Make an investigation concerning any child alleged to be 63309
an abused, neglected, or dependent child; 63310

(2) Enter into agreements with the parent, guardian, or other 63311
person having legal custody of any child, or with the department 63312
of job and family services, department of mental health, 63313
department of mental retardation and developmental disabilities, 63314
other department, any certified organization within or outside the 63315
county, or any agency or institution outside the state, having 63316
legal custody of any child, with respect to the custody, care, or 63317
placement of any child, or with respect to any matter, in the 63318
interests of the child, provided the permanent custody of a child 63319
shall not be transferred by a parent to the public children 63320
services agency without the consent of the juvenile court; 63321

(3) Accept custody of children committed to the public 63322
children services agency by a court exercising juvenile 63323
jurisdiction; 63324

(4) Provide such care as the public children services agency 63325

considers to be in the best interests of any child adjudicated to 63326
be an abused, neglected, or dependent child the agency finds to be 63327
in need of public care or service; 63328

(5) Provide social services to any unmarried girl adjudicated 63329
to be an abused, neglected, or dependent child who is pregnant 63330
with or has been delivered of a child; 63331

(6) Make available to the bureau for children with medical 63332
handicaps of the department of health at its request any 63333
information concerning a crippled child found to be in need of 63334
treatment under sections 3701.021 to 3701.028 of the Revised Code 63335
who is receiving services from the public children services 63336
agency; 63337

(7) Provide temporary emergency care for any child considered 63338
by the public children services agency to be in need of such care, 63339
without agreement or commitment; 63340

(8) Find certified foster homes, within or outside the 63341
county, for the care of children, including handicapped children 63342
from other counties attending special schools in the county; 63343

(9) Subject to the approval of the board of county 63344
commissioners and the state department of job and family services, 63345
establish and operate a training school or enter into an agreement 63346
with any municipal corporation or other political subdivision of 63347
the county respecting the operation, acquisition, or maintenance 63348
of any children's home, training school, or other institution for 63349
the care of children maintained by such municipal corporation or 63350
political subdivision; 63351

(10) Acquire and operate a county children's home, establish, 63352
maintain, and operate a receiving home for the temporary care of 63353
children, or procure certified foster homes for this purpose; 63354

(11) Enter into an agreement with the trustees of any 63355
district children's home, respecting the operation of the district 63356

children's home in cooperation with the other county boards in the 63357
district; 63358

(12) Cooperate with, make its services available to, and act 63359
as the agent of persons, courts, the department of job and family 63360
services, the department of health, and other organizations within 63361
and outside the state, in matters relating to the welfare of 63362
children, except that the public children services agency shall 63363
not be required to provide supervision of or other services 63364
related to the exercise of parenting time rights granted pursuant 63365
to section 3109.051 or 3109.12 of the Revised Code or 63366
companionship or visitation rights granted pursuant to section 63367
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 63368
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 63369
a common pleas court, pursuant to division (E)(6) of section 63370
3113.31 of the Revised Code, requires the provision of supervision 63371
or other services related to the exercise of the parenting time 63372
rights or companionship or visitation rights; 63373

(13) Make investigations at the request of any superintendent 63374
of schools in the county or the principal of any school concerning 63375
the application of any child adjudicated to be an abused, 63376
neglected, or dependent child for release from school, where such 63377
service is not provided through a school attendance department; 63378

(14) Administer funds provided under Title IV-E of the 63379
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 63380
amended, in accordance with rules adopted under section 5101.141 63381
of the Revised Code; 63382

(15) In addition to administering Title IV-E adoption 63383
assistance funds, enter into agreements to make adoption 63384
assistance payments under section 5153.163 of the Revised Code; 63385

(16) Implement a system of risk assessment, in accordance 63386
with rules adopted by the director of job and family services, to 63387

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 63419
(F)(1) of section 2151.421 of the Revised Code and may use the 63420
system at any other time the agency is involved with any child 63421
when the agency determines that risk assessment is necessary. 63422

(C) Except as provided in section 2151.422 of the Revised 63423
Code, in accordance with rules of the director of job and family 63424
services, and on behalf of children in the county whom the public 63425
children services agency considers to be in need of public care or 63426
protective services, the public children services agency may do 63427
the following: 63428

(1) Provide or find, with other child serving systems, 63429
specialized foster care for the care of children in a specialized 63430
foster home, as defined in section 5103.02 of the Revised Code, 63431
certified under section 5103.03 of the Revised Code; 63432

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 63433
this section, contract with the following for the purpose of 63434
assisting the agency with its duties: 63435

(i) County departments of job and family services; 63436

(ii) Boards of alcohol, drug addiction, and mental health 63437
services; 63438

(iii) County boards of mental retardation and developmental 63439
disabilities; 63440

(iv) Regional councils of political subdivisions established 63441
under Chapter 167. of the Revised Code; 63442

(v) Private and government providers of services; 63443

(vi) Managed care organizations and prepaid health plans. 63444

(b) A public children services agency contract under division 63445
(C)(2)(a) of this section regarding the agency's duties under 63446
section 2151.421 of the Revised Code may not provide for the 63447
entity under contract with the agency to perform any service not 63448

authorized by the department's rules. 63449

(c) Only a county children services board appointed under 63450
section 5153.03 of the Revised Code that is a public children 63451
services agency may contract under division (C)(2)(a) of this 63452
section. If an entity specified in division (B) or (C) of section 63453
5153.02 of the Revised Code is the public children services agency 63454
for a county, the board of county commissioners may enter into 63455
contracts pursuant to section 307.982 of the Revised Code 63456
regarding the agency's duties. 63457

Sec. 5153.163. (A) As used in this section, "adoptive parent" 63458
means, as the context requires, a prospective adoptive parent or 63459
an adoptive parent. 63460

(B)(1) ~~If Before a child's adoption is finalized, a public 63461
children services agency considers a child with special needs 63462
residing in the county served by the agency to be in need of 63463
public care or protective services and all of the following apply, 63464
the agency shall enter into an agreement with the child's adoptive 63465
parent before the child is adopted under which the agency shall 63466
make state adoption maintenance subsidy payments as needed on 63467
behalf of the child when all of the following apply: 63468~~

(a) The child is a child with special needs. 63469

(b) The child was placed in the adoptive home by a public 63470
children services agency or a private child placing agency and may 63471
legally be adopted. 63472

(c) The adoptive parent has the capability of providing the 63473
permanent family relationships needed by the child in all areas 63474
except financial need as determined by the agency;. 63475

~~(b)(d) The needs of the child are beyond the economic 63476
resources of the adoptive parent as determined by the agency;.~~ 63477

~~(c) The agency determines the acceptance~~ (e) Acceptance of 63478

the child as a member of the adoptive parent's family would not be 63479
in the child's best interest without payments on the child's 63480
behalf under this section. 63481

~~(2) Payments to an adoptive parent under division (B) of this 63482
section shall include medical, surgical, psychiatric, 63483
psychological, and counseling expenses, and may include 63484
maintenance costs if necessary and other costs incidental to the 63485
care of the child. No payment of maintenance costs shall be made 63486
under division (B) of this section on behalf of a child if either 63487
of the following apply:~~ 63488

~~(a)(f) The gross income of the adoptive parent's family 63489
exceeds does not exceed one hundred twenty per cent of the median 63490
income of a family of the same size, including the child, as most 63491
recently determined for this state by the secretary of health and 63492
human services under Title XX of the "Social Security Act," 88 63493
Stat. 2337, 42 U.S.C.A. 1397, as amended.~~ 63494

~~(b)(g) The child is not eligible for adoption assistance 63495
payments ~~for maintenance costs~~ under Title IV-E of the "Social 63496
Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended. 63497~~

(2) State adoption maintenance subsidy payment agreements 63498
must be made by either the public children services agency that 63499
has permanent custody of the child or the public children services 63500
agency of the county in which the private child placing agency 63501
that has permanent custody of the child is located. 63502

(3) State adoption maintenance subsidy payments shall be made 63503
in accordance with the agreement between the public children 63504
services agency and the adoptive parent and are subject to an 63505
annual redetermination of need. 63506

(4) Payments under this division ~~(B) of this section~~ may 63507
begin either before or after issuance of the final adoption 63508
decree, except that payments made before issuance of the final 63509

adoption decree may be made only while the child is living in the 63510
adoptive parent's home. Preadoption payments may be made for not 63511
more than twelve months, unless the final adoption decree is not 63512
issued within that time because of a delay in court proceedings. 63513
Payments that begin before issuance of the final adoption decree 63514
may continue after its issuance. 63515

(C)(1) If, after the child's adoption is finalized, a public 63516
children services agency considers a child residing in the county 63517
served by the agency to be in need of public care or protective 63518
services ~~and both of the following apply,~~ the agency may, ~~and~~ to 63519
the extent state funds are appropriated for this purpose ~~shall,~~ 63520
enter into an agreement with the child's adoptive parent ~~after the~~ 63521
~~child is adopted~~ under which the agency shall make post adoption 63522
special services subsidy payments on behalf of the child as needed 63523
when both of the following apply: 63524

~~(1)~~(a) The child has a physical or developmental handicap or 63525
mental or emotional condition that either: 63526

~~(a)~~(i) Existed before the adoption petition was filed; or 63527

~~(b)~~(ii) Developed after the adoption petition was filed and 63528
can be directly attributed to factors in the child's preadoption 63529
background, medical history, or biological family's background or 63530
medical history. 63531

~~(2)~~(b) The agency determines the expenses necessitated by the 63532
child's handicap or condition are beyond the adoptive parent's 63533
economic resources. 63534

~~Payments to an adoptive parent~~ (2) Services for which a 63535
public children services agency may make post adoption special 63536
services subsidy payments on behalf of a child under this division 63537
shall include medical, surgical, psychiatric, psychological, and 63538
counseling ~~expenses~~ services, including residential treatment. 63539

(3) The department of job and family services shall establish 63540

clinical standards to evaluate a child's physical or developmental
handicap or mental or emotional condition and assess the child's
need for services. 63541
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(4) The total dollar value of post adoption special services
subsidy payments made on a child's behalf shall not exceed ten
thousand dollars in any fiscal year, unless the department
determines that extraordinary circumstances exist that necessitate
further funding of services for the child. Under such
extraordinary circumstances, the value of the payments made on the
child's behalf shall not exceed fifteen thousand dollars in any
fiscal year. 63544
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(5) The adoptive parent or parents of a child who receives
post adoption special services subsidy payments shall pay at least
five per cent of the total cost of all services provided to the
child; except that a public children services agency may waive
this requirement if the gross annual income of the child's
adoptive family is not more than two hundred per cent of the
federal poverty guideline. 63552
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(6) A public children services agency may use other sources
of revenue to make post adoption special services subsidy
payments, in addition to any state funds appropriated for that
purpose. 63559
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(D) No payment shall be made under division (B) or (C) of
this section on behalf of any person eighteen years of age or
older beyond the end of the school year during which the person
attains the age of eighteen or on behalf of a mentally or
physically handicapped person twenty-one years of age or older.
~~Payments under those divisions shall be made in accordance with
the terms of the agreement between the public children services
agency and the adoptive parent, subject to an annual
redetermination of need. The agency may use sources of funding in
addition to any state funds appropriated for the purposes of those~~ 63563
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~~divisions.~~ 63573

(E) The director of job and family services shall adopt rules 63574
in accordance with Chapter 119. of the Revised Code that are 63575
needed to implement this section. The rules shall establish all of 63576
the following: 63577

(1) The application process for ~~payments~~ all forms of 63578
assistance provided under this section; 63579

(2) The method to determine the ~~amounts and kinds~~ amount of 63580
assistance payable under division (B) of this section; 63581

(3) The definition of "child with special needs" for this 63582
section; 63583

(4) The process whereby a child's continuing need for 63584
services provided under division (B) of this section is annually 63585
redetermined; 63586

(5) The method of determining the amount, duration, and scope 63587
of services provided to a child under division (C) of this 63588
section; 63589

(6) Any other rule, requirement, or procedure the department 63590
considers appropriate for the implementation of this section. 63591

~~The rules shall allow for payments for children placed by~~ 63592
~~nonpublic agencies.~~ 63593

~~(E)~~(F) The state adoption special services subsidy program 63594
ceases to exist on July 1, 2004, except that, subject to the 63595
findings of the annual redetermination process established under 63596
division (E) of this section and the child's individual need for 63597
services, a public children services agency may continue to 63598
provide state adoption special services subsidy payments on behalf 63599
of a child for whom payments were being made prior to July 1, 63600
2004. 63601

(G) No public children services agency shall, pursuant to 63602

either section 2151.353 or 5103.15 of the Revised Code, place or 63603
maintain a child with special needs who is in the permanent 63604
custody of an institution or association certified by the 63605
department of job and family services under section 5103.03 of the 63606
Revised Code in a setting other than with a person seeking to 63607
adopt the child, unless the agency has determined and redetermined 63608
at intervals of not more than six months the impossibility of 63609
adoption by a person listed pursuant to division (B), (C), or (D) 63610
of section 5103.154 of the Revised Code, including the 63611
impossibility of entering into a payment agreement with such a 63612
person. The agency so maintaining such a child shall report its 63613
reasons for doing so to the department of job and family services. 63614
~~No agency that fails to so determine, redetermine, and report 63615~~
~~shall receive more than fifty per cent of the state funds to which 63616~~
~~it would otherwise be eligible for that part of the fiscal year 63617~~
~~following placement under section 5101.14 of the Revised Code. 63618~~

The department may take any action permitted under section 63619
5101.24 of the Revised Code for an agency's failure to determine, 63620
redetermine, and report on a child's status. 63621

Sec. 5153.60. (A) The department of job and family services 63622
shall establish a statewide program that provides the all of the 63623
following: 63624

(1) The training section 5153.122 of the Revised Code 63625
requires public children services agency caseworkers and 63626
supervisors to complete. ~~The program may also provide the; 63627~~

(2) The preplacement and continuing training described in 63628
sections 5103.034, 5103.039, 5103.0310, and 5103.0311 of the 63629
Revised Code that foster caregivers are required by sections 63630
5103.031, 5103.032, and 5103.033 of the Revised Code to obtain- 63631
The; 63632

(3) The education programs for adoption assessors required by 63633

section 3107.014 of the Revised Code. 63634

(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. 63635
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(C) The program established pursuant to division (A) of this section shall be called the "Ohio child welfare training program." 63641
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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: 63643
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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; 63646
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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. 63650
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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 63658
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job and family services, on the recommendation of the training 63664
program steering committee, may direct a public children services 63665
agency to establish and maintain a training center to replace the 63666
center established by an agency under this section. There may be 63667
no more and no less than eight centers in existence at any time. 63668
The department may make a grant to a public children services 63669
agency that establishes and maintains a regional training center 63670
under this section for the purpose of wholly or partially 63671
subsidizing the operation of the center. 63672

Sec. 5153.78. (A) As used in this section: 63673

(1) "Title IV-B" means Title IV-B of the "Social Security Act 63674
of 1967," 81 Stat. 821, 42 U.S.C. 620, as amended. 63675

(2) "Title IV-E" means Title IV-E of the "Social Security 63676
Act," 94 Stat. 501, 42 U.S.C. 670(1980). 63677

(3) "Title XX" has the same meaning as in section 5101.46 of 63678
the Revised Code. 63679

(B) For purposes of adequately funding the Ohio child welfare 63680
training program, the department of job and family services may 63681
use any of the following: 63682

(1) The federal financial participation funds withheld 63683
pursuant to division ~~(D)~~ (E) of section 5101.141 of the Revised 63684
Code in an amount determined by the department; 63685

(2) Funds available under Title XX, Title IV-B, and Title 63686
IV-E to pay for training costs; 63687

(3) Other available state or federal funds. 63688

Sec. 5301.68. An owner of land may grant a conservation 63689
easement to the department of natural resources, a park district 63690
created under Chapter 1545. of the Revised Code, a township park 63691
district created under section 511.18 of the Revised Code, a 63692

conservancy district created under Chapter 6101. of the Revised 63693
Code, a soil and water conservation district created under Chapter 63694
1515. of the Revised Code, a county, a township, a municipal 63695
corporation, or a charitable organization that is authorized to 63696
hold conservation easements by division (B) of section 5301.69 of 63697
the Revised Code, in the form of articles of dedication, easement, 63698
covenant, restriction, or condition. An owner of land also may 63699
grant an agricultural easement to the director of agriculture; to 63700
a municipal corporation, county, ~~or township,~~ or soil and water 63701
conservation district; or to a charitable organization described 63702
in division (B) of section 5301.69 of the Revised Code. An owner 63703
of land may grant an agricultural easement only on land that is 63704
valued for purposes of real property taxation at its current value 63705
for agricultural use under section 5713.31 of the Revised Code or 63706
that constitutes a homestead when the easement is granted. 63707

All conservation easements and agricultural easements shall 63708
be executed and recorded in the same manner as other instruments 63709
conveying interests in land. 63710

Sec. 5301.691. (A)(1) Subject to divisions (A)(2) and ~~(E)~~(F) 63711
of this section, the director of agriculture, with moneys credited 63712
to the agricultural easement purchase fund created in section 63713
901.21 of the Revised Code, may purchase agricultural easements in 63714
the name of the state. 63715

(2) Not less than thirty days prior to the acquisition of an 63716
agricultural easement under division (A)(1) of this section or the 63717
extinguishment of such an easement purchased under that division, 63718
the director shall provide written notice of the intention to do 63719
so to the board of county commissioners of the county in which the 63720
land that is or is proposed to be subject to the easement or 63721
extinguishment is located, and either to the legislative authority 63722
of the municipal corporation in which the land is located, if it 63723

is located in an incorporated area, or to the board of township 63724
trustees of the township in which the land is located, if it is 63725
located in an unincorporated area. If, within thirty days after 63726
the director provides the notice, the board of county 63727
commissioners, legislative authority, or board of township 63728
trustees requests an informational meeting with the director 63729
regarding the proposed acquisition or extinguishment, the director 63730
shall meet with the legislative authority or board to respond to 63731
the board's or authority's questions and concerns. If a meeting is 63732
timely requested under division (A)(2) of this section, the 63733
director shall not undertake the proposed acquisition or 63734
extinguishment until after the meeting has been concluded. 63735

The director, upon the director's own initiative and prior to 63736
the purchase of an agricultural easement under division (A)(1) of 63737
this section or the extinguishment of such an easement, may hold 63738
an informational meeting with the board of county commissioners 63739
and the legislative authority of the municipal corporation or 63740
board of township trustees in which land that would be affected by 63741
the proposed acquisition or extinguishment is located, to respond 63742
to any questions and concerns of the board or authority regarding 63743
the proposed acquisition or extinguishment. 63744

(B)(1) Subject to division ~~(E)~~(F) of this section, the 63745
legislative authority of a municipal corporation, board of county 63746
commissioners of a county, or board of trustees of a township, 63747
with moneys in the political subdivision's general fund not 63748
required by law or charter to be used for other specified purposes 63749
or with moneys in a special fund of the political subdivision to 63750
be used for the purchase of agricultural easements, may purchase 63751
agricultural easements in the name of the municipal corporation, 63752
county, or township. 63753

(2) Subject to division ~~(E)~~(F) of this section, the 63754
legislative authority of a municipal corporation, board of county 63755

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 63788
include provisions specifying, at a minimum, all of the following: 63789

(a) The consideration to be paid for the easement and manner 63790
of payment; 63791

(b) Whether the easement is renewable and, if so, procedures 63792
for its renewal; 63793

(c) The circumstances under which the easement may be 63794
extinguished; 63795

(d) The method for determining the amount of money, if any, 63796
due the holder of the easement upon extinguishment and for payment 63797
of that amount to the holder. 63798

~~(D)~~(E)(1) The director and each legislative authority of a 63799
municipal corporation, board of county commissioners, ~~or~~ board of 63800
township trustees, or board of supervisors of a soil and water 63801
conservation district, upon acquiring an agricultural easement by 63802
purchase, gift, devise, or bequest under this section or section 63803
901.21 of the Revised Code, shall name an appropriate 63804
administrative officer, department, or division to supervise and 63805
enforce the easement. A legislative authority ~~or~~ of a municipal 63806
corporation, board of county commissioners, or board of township 63807
trustees may enter into a contract with the board of park 63808
commissioners of a park district established under Chapter 1545. 63809
of the Revised Code, the board of park commissioners of a township 63810
park district established under section 511.18 of the Revised 63811
Code, or the board of supervisors of a soil and water conservation 63812
district ~~established under Chapter 1515. of the Revised Code~~ 63813
having territorial jurisdiction within the municipal corporation, 63814
county, or township, or with a charitable organization described 63815
in division (B) of section 5301.69 of the Revised Code, to 63816
supervise on behalf of the legislative authority or board an 63817
agricultural easement so acquired. A board of supervisors of a 63818

soil and water conservation district may enter into a contract 63819
with the board of park commissioners of a park district 63820
established under Chapter 1545. of the Revised Code or the board 63821
of park commissioners of a township park district established 63822
under section 511.18 of the Revised Code having territorial 63823
jurisdiction within the soil and water conservation district, or 63824
with a charitable organization described in division (B) of 63825
section 5301.69 of the Revised Code, to supervise on behalf of the 63826
board an agricultural easement so acquired. The contract may be 63827
entered into on such terms as are agreeable to the parties and 63828
shall specify or prescribe a method for determining the amounts of 63829
any payments to be made by the legislative authority ~~or~~, board of 63830
county commissioners ~~or~~, board of township trustees, or board of 63831
supervisors for the performance of the contract. 63832

(2) With respect to an agricultural easement purchased with a 63833
matching grant that is made under division (D) of section 901.22 63834
of the Revised Code and that consists in whole or in part of 63835
moneys from the clean Ohio agricultural easement fund created in 63836
section 901.21 of the Revised Code, the recipient of the matching 63837
grant shall make an annual monitoring visit to the land that is 63838
the subject of the easement. The purpose of the visit is to ensure 63839
that no development that is prohibited by the terms of the 63840
easement has occurred or is occurring. In accordance with rules 63841
adopted under division (A)(1)(d) of section 901.22 of the Revised 63842
Code, the grant recipient shall prepare a written annual 63843
monitoring report and submit it to the office of farmland 63844
preservation in the department of agriculture. If necessary to 63845
enforce the terms of the easement, the grant recipient shall take 63846
corrective action in accordance with those rules. The director may 63847
agree to share these monitoring and enforcement responsibilities 63848
with the grant recipient. 63849

~~(E)~~(F) The director; a municipal corporation, county, ~~or~~ 63850

~~township, or soil and water conservation district; or a charitable~~ 63851
~~organization described in division (B) of section 5301.69 of the~~ 63852
~~Revised Code,~~ may acquire agricultural easements by purchase, 63853
gift, devise, or bequest only on land that is valued for purposes 63854
of real property taxation at its current value for agricultural 63855
use under section 5713.31 of the Revised Code or that constitutes 63856
a homestead when the easement is granted. 63857

~~(F)~~(G) An agricultural easement acquired by the director 63858
under division (A) of this section may be extinguished if an 63859
unexpected change in the conditions of or surrounding the land 63860
that is subject to the easement makes impossible or impractical 63861
the continued use of the land for the purposes described in the 63862
agricultural easement, or if the requirements of the easement are 63863
extinguished by judicial proceedings. Upon the sale, exchange, or 63864
involuntary conversion of the land subject to the easement, the 63865
director shall be paid an amount of money that is at least equal 63866
to the proportionate value of the easement compared to the total 63867
value of the land at the time the easement was acquired. Moneys so 63868
received shall be credited to the agricultural easement purchase 63869
fund. 63870

An agricultural easement acquired by a municipal corporation, 63871
county, or township under division (B) of this section or by a 63872
soil and water conservation district under division (C) of this 63873
section may be extinguished under the circumstances prescribed, 63874
and in accordance with the terms and conditions set forth, in the 63875
instrument conveying the agricultural easement. An agricultural 63876
easement acquired by a charitable organization described in 63877
division (B) of section 5301.69 of the Revised Code may be 63878
extinguished under the circumstances prescribed, and in accordance 63879
with the terms and conditions set forth, in the instrument 63880
conveying the agricultural easement. 63881

Any instrument extinguishing an agricultural easement shall 63882

be executed and recorded in the same manner as other instruments 63883
conveying or terminating interests in real property. 63884

~~(G)~~(H) Promptly after the recording and indexing of an 63885
instrument conveying an agricultural easement to any person or to 63886
a municipal corporation, county, ~~or~~ township, or soil and water 63887
conservation district or of an instrument extinguishing an 63888
agricultural easement held by any person or such a political 63889
subdivision, the county recorder shall mail, by regular mail, a 63890
photocopy of the instrument to the office of farmland preservation 63891
in the department of agriculture. The photocopy shall be 63892
accompanied by an invoice for the applicable fee established in 63893
section 317.32 of the Revised Code. Promptly after receiving the 63894
photocopy and invoice, the office of farmland preservation shall 63895
remit the fee to the county recorder. 63896

~~(H)~~(I) The director, the legislative authority of a municipal 63897
corporation, a board of county commissioners, ~~or~~ a board of 63898
township trustees, or a board of supervisors of a soil and water 63899
conservation district may receive and expend grants from any 63900
public or private source for the purpose of purchasing 63901
agricultural easements and supervising and enforcing them. 63902

Sec. 5310.15. On filing an application for registration, the 63903
applicant shall pay to the clerk of the probate court or the clerk 63904
of the court of common pleas ten dollars, which is full payment 63905
for all clerk's fees and charges in such proceeding on behalf of 63906
the applicant. Any defendant, except a guardian ad litem, on 63907
entering ~~his~~ an appearance by filing a pleading of any kind, shall 63908
pay to the clerk five dollars, which is full payment for all 63909
clerk's fees on behalf of such defendant. When any number of 63910
defendants enter their appearance at the same time in one pleading 63911
by filing a pleading of any kind, one fee shall be paid. 63912

Every required publication in a newspaper shall be paid for 63913

by the party on whose application the order of publication is 63914
made, in addition to the fees prescribed in the first paragraph of 63915
this section. The party at whose request, or on whose behalf, any 63916
notice is issued, shall pay for the service of such notice except 63917
when such notice is sent by mail by the clerk or the county 63918
recorder. 63919

Examiners of titles shall receive for examining title or 63920
original reference, and making report on all matters arising under 63921
the application, including final certificate as to all necessary 63922
parties being made and properly brought before the probate court 63923
or the court of common pleas, and as to the proceedings being 63924
regular and legal, one half of one per cent of the appraised tax 63925
value, the fee in no case to be less than seventy-five or more 63926
than two hundred fifty dollars, for each separate and distinct 63927
parcel of land included in the application although made up of 63928
more than one tract. 63929

Upon a reference to an examiner of titles or to any other 63930
person upon a hearing to take evidence and make report to the 63931
court, the fee of the referee shall be fixed by the court at not 63932
more than fifteen dollars per day for the time actually employed. 63933

For a certificate of an examiner of titles that all necessary 63934
parties are before the court, and the proceedings are regular and 63935
legal in a suit for partition, foreclosure of mortgage, 63936
marshalling of liens, or other suit or proceeding affecting the 63937
title of any interest in, or lien or charge upon registered lands, 63938
the fees shall be fixed by the court, and shall not be more than 63939
twenty-five dollars for each separate and distinct parcel of land 63940
included in the petition or application although such parcel is 63941
made up of more than one tract. 63942

Guardians for the suit in original registration shall receive 63943
three dollars when there is no contest in which the guardian 63944
participates. In other cases such guardians shall receive such 63945

fees as the court fixes, but not more than twenty-five dollars. 63946

For certifying pending suits, judgments, liens, attachments, 63947
executions, or levies, the officers certifying them to the 63948
recorder shall receive a fee of twenty-five cents to be paid by 63949
the party interested and taxed in the costs of the case. 63950

For serving summons, notice, or other paper provided for in 63951
sections 5309.02 to 5310.21 of the Revised Code, the sheriff or 63952
other officer shall receive the same fees as in other similar 63953
cases. 63954

The recorder shall receive the following fees, to include 63955
base fees for services and housing trust fund fees pursuant to 63956
section 317.36 of the Revised Code: 63957

(A) For original registration of title, issuing duplicate 63958
certificate, entering memorials and memorandums, as directed by 63959
the decree, and indexing it, a base fee of thirty dollars and a 63960
housing trust fund fee of thirty dollars; 63961

(B) For examining and registering each transfer of registered 63962
land, including the filing of all papers therewith, entering 63963
memorials, issuing new duplicate certificate of title and indexing 63964
it, a base fee of thirty dollars and a housing trust fund fee of 63965
thirty dollars for the first distinct body or parcel of land 63966
contained in such certificate, and a base fee of two dollars and a 63967
housing trust fund fee of two dollars for each additional distinct 63968
body or parcel of land contained in such certificate; 63969

(C) For filing, examining, and entering a memorial of each 63970
mortgage or lease, upon registered land, and indexing it, for each 63971
separately registered parcel, a base fee of ten dollars and a 63972
housing trust fund fee of ten dollars; 63973

(D) For filing, examining, and entering a memorial of each 63974
lien, charge, or demand upon registered land, and indexing it, for 63975
each separately registered parcel of land, a base fee of five 63976

dollars and a housing trust fund fee of five dollars; 63977

(E) For cancellation of any memorial or memorandum, a base fee of five dollars and a housing trust fund fee of five dollars; 63978
for entry of change of address, or notice of dower, for each 63979
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63980
63981
63982

(F) For each certified copy of a registered certificate, or 63983
issuing a mortgagee's duplicate certificate, or issuing a new 63984
owner's duplicate certificate to replace one which has been lost 63985
or destroyed, a base fee of fifteen dollars and a housing trust fund fee of fifteen dollars; 63986
63987

(G) For filing, examining, and entering a memorial of each 63988
release, assignment, or waiver of priority of a mortgage, lease, 63989
lien, charge, or demand upon registered land and indexing it, for 63990
each separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63991
63992

(H) For filing, examining, and entering a memorial of each 63993
official certificate of pending suit, judgment, lien, attachment, 63994
execution, or levy, upon registered land and indexing it, for each 63995
separately registered parcel, a base fee of five dollars and a housing trust fund fee of five dollars; 63996
63997

(I) For continuing an owner's duplicate certificate, or 63998
mortgagee's duplicate certificate and entering and certifying 63999
memorials and notations thereon, a base fee of five dollars and a housing trust fund fee of five dollars; 64000
64001

(J) For certificate as to taxes and special assessments, for 64002
each separately registered parcel, a base fee of ten dollars and a housing trust fund fee of ten dollars; 64003
64004

(K) For filing, recording, and indexing any papers or 64005
instruments other than those provided in this section, any 64006
certified copy of record, or of any instrument on file in ~~his~~ the 64007

recorder's office, the same fees allowed by law for like services; 64008

(L) For issuing subpoenas and notices and swearing witnesses, 64009
the same fees allowed the clerk for like services. 64010

Costs as provided in this section may be taxed and by the 64011
court ordered to be paid by the parties in such manner as is just. 64012

Sec. 5502.01. (A) The department of public safety shall 64013
administer and enforce the laws relating to the registration, 64014
licensing, sale, and operation of motor vehicles and the laws 64015
pertaining to the licensing of drivers of motor vehicles. 64016

The department shall compile, analyze, and publish statistics 64017
relative to motor vehicle accidents and the causes of them, 64018
prepare and conduct educational programs for the purpose of 64019
promoting safety in the operation of motor vehicles on the 64020
highways, and conduct research and studies for the purpose of 64021
promoting safety on the highways of this state. 64022

(B) The department shall administer the laws and rules 64023
relative to trauma and emergency medical services specified in 64024
Chapter 4765. of the Revised Code. 64025

(C) The department shall administer and enforce the laws 64026
contained in Chapters 4301. and 4303. of the Revised Code and 64027
enforce the rules and orders of the liquor control commission 64028
pertaining to retail liquor permit holders. 64029

(D) The department shall administer the laws governing the 64030
state emergency management agency and shall enforce all additional 64031
duties and responsibilities as prescribed in the Revised Code 64032
related to emergency management services. 64033

(E) The department shall conduct investigations pursuant to 64034
Chapter 5101. of the Revised Code in support of the duty of the 64035
department of job and family services to administer food stamp 64036
programs throughout this state. The department of public safety 64037

shall conduct investigations necessary to protect the state's 64038
property rights and interests in the food stamp program. 64039

(F) The department of public safety shall enforce compliance 64040
with orders and rules of the public utilities commission and 64041
applicable laws in accordance with Chapters 4919., 4921., and 64042
4923. of the Revised Code regarding commercial motor vehicle 64043
transportation safety, economic, and hazardous materials 64044
requirements. 64045

(G) Notwithstanding Chapter 4117. of the Revised Code, the 64046
department of public safety may establish requirements for its 64047
enforcement personnel, including its enforcement agents described 64048
in section 5502.14 of the Revised Code, that include standards of 64049
conduct, work rules and procedures, and criteria for eligibility 64050
as law enforcement personnel. 64051

(H) The department shall administer, maintain, and operate 64052
the Ohio criminal justice network. The Ohio criminal justice 64053
network shall be a computer network that supports state and local 64054
criminal justice activities. The network shall be an electronic 64055
repository for various data, which may include arrest warrants, 64056
notices of persons wanted by law enforcement agencies, criminal 64057
records, prison inmate records, stolen vehicle records, vehicle 64058
operator's licenses, and vehicle registrations and titles. 64059

(I) The department shall coordinate all homeland security 64060
activities of all state agencies and shall be a liaison between 64061
state agencies and local entities for those activities and related 64062
purposes. 64063

(J) Beginning January 1, 2004, the department shall 64064
administer the laws and rules relative to private investigators 64065
and security guard providers specified in Chapter 4749. of the 64066
Revised Code. 64067

(K) There is hereby created in the department of public 64068

safety the division of the state fire marshal, which shall 64069
administer and enforce Chapters 3731. and 3743. of the Revised 64070
Code and any other law conferring powers or imposing duties upon 64071
the state fire marshal. 64072

Sec. 5502.03. (A) There is hereby created in the department 64073
of public safety a division of homeland security. It is the intent 64074
of the general assembly that the creation of the division of 64075
homeland security of the department of public safety by this 64076
amendment does not result in an increase of funding appropriated 64077
to the department. 64078

(B)(1) The division shall coordinate all homeland security 64079
activities of all state agencies and shall be the liaison between 64080
state agencies and local entities for the purposes of 64081
communicating homeland security funding and policy initiatives. 64082

(2) The division shall be in charge of the systems operations 64083
of the multi-agency radio communications system (MARCS) in 64084
accordance with any rules that the director of public safety may 64085
adopt. The director shall appoint a steering committee to advise 64086
the director in the operation of the MARCS, comprised of persons 64087
who represent the users of that system. The director or the 64088
director's designee shall chair the committee. 64089

(C) The director of public safety shall appoint an executive 64090
director, who shall be head of the division of homeland security 64091
and who regularly shall advise the governor and the director on 64092
matters pertaining to homeland security. The executive director 64093
shall serve at the pleasure of the director of public safety. To 64094
carry out the duties assigned under this section, the executive 64095
director, subject to the direction and control of the director of 64096
public safety, may appoint and maintain necessary staff and may 64097
enter into any necessary agreements. 64098

(D) Except as otherwise provided by law, nothing in this 64099

section shall be construed to give the director of public safety 64100
or the executive director of the division of homeland security 64101
authority over the incident management structure or 64102
responsibilities of local emergency response personnel. 64103

Sec. 5502.13. The department of public safety shall maintain 64104
an investigative unit in order to conduct investigations and other 64105
enforcement activity authorized by Chapters 4301., 4303., 5101., 64106
5107., ~~and 5108.,~~ and 5115. and sections 2903.12, 2903.13, 64107
2903.14, 2907.09, 2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 64108
2921.33, 2923.12, 2923.121, 2925.11, 2925.13, 2927.02, and 64109
4507.30, ~~and 5115.03~~ of the Revised Code. The director of public 64110
safety shall appoint the employees of the unit who are necessary, 64111
designate the activities to be performed by those employees, and 64112
prescribe their titles and duties. 64113

Sec. 5549.21. The board of township trustees may purchase or 64114
lease such machinery and tools as are necessary for use in 64115
constructing, reconstructing, maintaining, and repairing roads and 64116
culverts within the township, and shall provide suitable places 64117
for housing and storing machinery and tools owned by the township. 64118
It may purchase such material and employ such labor as is 64119
necessary for carrying into effect this section, or it may 64120
authorize the purchase or employment of such material and labor by 64121
one of its number, or by the township highway superintendent, at a 64122
price to be fixed by the board. All payments on account of 64123
machinery, tools, material, and labor shall be made from the 64124
township road fund. Except as otherwise provided in sections 64125
505.08, 505.101, and 5513.01 of the Revised Code, all purchases of 64126
materials, machinery, and tools shall, ~~where~~ if the amount 64127
involved exceeds ~~fifteen~~ twenty-five thousand dollars, be made 64128
from the lowest responsible bidder after advertisement, as 64129
provided in section 5575.01 of the Revised Code. ~~where~~ 64130

If, in compliance with section 505.10 of the Revised Code, 64131
the board wishes to sell machinery, equipment, or tools owned by 64132
the township to the person from whom it is to purchase other 64133
machinery, equipment, or tools, the board may offer, ~~where if~~ the 64134
amount of the purchase alone involved does not exceed ~~fifteen~~ 64135
twenty-five thousand dollars, to sell such machinery, equipment, 64136
or tools and have the amount credited by the vendor against the 64137
purchase of the other machinery, equipment, or tools. ~~Where~~ If the 64138
purchase price of the other machinery, equipment, or tools alone 64139
exceeds ~~fifteen~~ twenty-five thousand dollars, the board may give 64140
notice to the competitive bidders of its willingness to accept 64141
offers for the purchase of the old machinery, equipment, or tools, 64142
and ~~such~~ those offers shall be subtracted from the selling price 64143
of the other machinery, equipment, or tools as bid, in determining 64144
the lowest responsible bidder. Notice of the willingness of the 64145
board to accept offers for the purchase of the old machinery, 64146
equipment, or tools shall be made as a part of the advertisement 64147
for bids. 64148

Sec. 5703.052. (A) There is hereby created in the state 64149
treasury the tax refund fund, from which refunds shall be paid for 64150
taxes illegally or erroneously assessed or collected, or for any 64151
other reason overpaid, that are levied by Chapter 4301., 4305., 64152
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 64153
5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 64154
5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the 64155
Revised Code. Refunds for fees illegally or erroneously assessed 64156
or collected, or for any other reason overpaid, that are levied by 64157
sections 3734.90 to 3734.9014 of the Revised Code also shall be 64158
paid from the fund. However, refunds for taxes levied under 64159
section 5739.101 of the Revised Code shall not be paid from the 64160
tax refund fund, but shall be paid as provided in section 5739.104 64161
of the Revised Code. 64162

(B)(1) Upon certification by the tax commissioner to the 64163
treasurer of state of a tax refund, ~~or~~ fee refund, ~~or tax credit~~ 64164
~~due~~, or by the superintendent of insurance of a domestic or 64165
foreign insurance tax refund, the treasurer of state ~~may~~ shall 64166
place the amount certified to the credit of the fund. The 64167
certified amount transferred shall be derived from current 64168
receipts of the same tax or the fee ~~for~~ from which the refund 64169
arose ~~or, in the case of a tax credit refund, from the current~~ 64170
~~receipts of the taxes levied by sections 5739.02 and 5741.02 of~~ 64171
~~the Revised Code. If~~ 64172

~~If the tax refund arises from a tax payable to the general~~ 64173
~~revenue fund, and current receipts from that source~~ the tax or fee 64174
from which the refund arose are inadequate to make the transfer of 64175
the amount so certified, the treasurer of state ~~may~~ shall transfer 64176
such certified amount from current receipts of the sales tax 64177
levied by section 5739.02 of the Revised Code. 64178

(2) When the treasurer of state provides for the payment of a 64179
refund of a tax or fee from the current receipts of the sales tax, 64180
and the refund is for a tax or fee that is not levied by the 64181
state, the tax commissioner shall recover the amount of that 64182
refund from the next distribution of that tax or fee that 64183
otherwise would be made to the taxing jurisdiction. If the amount 64184
to be recovered would exceed twenty-five per cent of the next 64185
distribution of that tax or fee, the commissioner may spread the 64186
recovery over more than one future distribution, taking into 64187
account the amount to be recovered and the amount of the 64188
anticipated future distributions. In no event may the commissioner 64189
spread the recovery over a period to exceed twenty-four months. 64190

Sec. 5703.56. (A) As used in this section: 64191

(1) "Sham transaction" means a transaction or series of 64192
transactions without economic substance because there is no 64193

business purpose or expectation of profit other than obtaining tax 64194
benefits. 64195

(2) "Tax" includes any tax or fee administered by the tax 64196
commissioner. 64197

(3) "Taxpayer" includes any entity subject to a tax. 64198

(4) "Controlled group" means two or more persons related in 64199
such a way that one person directly or indirectly owns or controls 64200
the business operation of another member of the group. In the case 64201
of persons with stock or other equity, one person owns or controls 64202
another if it directly or indirectly owns more than fifty per cent 64203
of the other person's common stock with voting rights or other 64204
equity with voting rights. 64205

(B) The tax commissioner may disregard any sham transaction 64206
in ascertaining any taxpayer's tax liability. Except as otherwise 64207
provided in the Revised Code, with respect to transactions between 64208
members of a controlled group, the taxpayer shall bear the burden 64209
of establishing by a preponderance of the evidence that a 64210
transaction or series of transactions between the taxpayer and one 64211
or more members of the controlled group was not a sham 64212
transaction. Except as otherwise provided in the Revised Code, for 64213
all other taxpayers, the tax commissioner shall bear the burden of 64214
establishing by a preponderance of the evidence that a transaction 64215
or series of transactions was a sham transaction. 64216

(C) In administering any tax, the tax commissioner may apply 64217
the doctrines of "economic reality," "substance over form," and 64218
"step transaction." 64219

(D) If the commissioner disregards a sham transaction under 64220
division (B) of this section, the applicable limitation period for 64221
assessing the tax, together with applicable penalties, charges, 64222
and interest, shall be extended for a period equal to the 64223
applicable limitation period. Nothing in this division shall be 64224

construed as extending an applicable limitation period for 64225
claiming any refund of a tax. 64226

(E) The tax commissioner may, in accordance with Chapter 119. 64227
of the Revised Code, adopt rules that are necessary to administer 64228
this section, including rules establishing criteria for 64229
identifying sham transactions. 64230

Sec. 5703.57. (A) As used in this section, "Ohio business 64231
gateway" has the same meaning as in section 718.051 of the Revised 64232
Code. 64233

(B) There is hereby created the Ohio business gateway 64234
steering committee to direct the continuing development of the 64235
Ohio business gateway and to oversee its operations. The committee 64236
shall provide general oversight regarding operation of the Ohio 64237
business gateway and shall recommend to the department of 64238
administrative services enhancements that will improve the Ohio 64239
business gateway. The committee shall consider all banking, 64240
technological, administrative, and other issues associated with 64241
the Ohio business gateway and shall make recommendations regarding 64242
the type of reporting forms or other tax documents to be filed 64243
through the Ohio business gateway. 64244

(C) The committee shall consist of: 64245

(1) The following members, appointed by the governor with the 64246
advice and consent of the senate: 64247

(a) Not more than two representatives of the business 64248
community; 64249

(b) Not more than three representatives of municipal tax 64250
administrators; and 64251

(c) Not more than two tax practitioners. 64252

(2) The following ex officio members: 64253

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee; 64254
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(b) The secretary of state or the secretary of state's designee; 64258
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(c) The treasurer of state or the treasurer of state's designee; 64260
64261

(d) The director of budget and management or the director's designee; 64262
64263

(e) The director of administrative services or the director's designee; and 64264
64265

(f) The tax commissioner or the tax commissioner's designee. 64266

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments. 64267
64268
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(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties. 64270
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(E) The board is a part of the department of taxation for administrative purposes. 64279
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(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as 64281
64282
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the committee's secretary. The secretary shall keep minutes of the 64284
committee's meetings and a journal of all meetings, proceedings, 64285
findings, and determinations of the committee. 64286

(G) The board shall hire professional, technical, and 64287
clerical staff needed to support its activities. 64288

(H) The committee shall meet as often as necessary to perform 64289
its duties. 64290

Sec. 5703.58. (A) As used in this section, "felony" has the 64291
same meaning as in section 109.511 of the Revised Code. 64292

(B) For the purposes of enforcing all laws relating to taxes 64293
and fees that the tax commissioner is responsible for 64294
administering, the tax commissioner, by journal entry, may 64295
delegate any investigation powers of the commissioner to an 64296
employee of the department of taxation who has been certified by 64297
the executive director of the Ohio peace officer training 64298
commission. Each journal entry shall be a matter of public record 64299
and shall be kept in an administrative portion of the journal 64300
maintained under division (L) of section 5703.05 of the Revised 64301
Code. When that journal entry is completed, the employee to whom 64302
it pertains, while engaged within the scope of the employee's 64303
duties in enforcing the laws that the commissioner is responsible 64304
for administering, has the power of a police officer to carry 64305
concealed weapons, make arrests, and obtain warrants for 64306
violations of those laws. The commissioner, at any time, may 64307
suspend or revoke the commissioner's delegation by journal entry. 64308

(C) The tax commissioner shall not delegate any investigation 64309
powers to an employee of the department of taxation under division 64310
(B) of this section if the employee has been convicted of or has 64311
pleaded guilty to a felony. 64312

(D)(1) The tax commissioner shall revoke the delegation of 64313

investigation powers to an employee to whom the delegation was 64314
made under division (B) of this section if that employee does 64315
either of the following: 64316

(a) Pleads guilty to a felony; 64317

(b) Pleads guilty to a misdemeanor pursuant to a negotiated 64318
plea agreement, as provided in division (D) of section 2929.29 of 64319
the Revised Code, in which the employee agrees under section 64320
109.77 of the Revised Code to surrender the certificate awarded to 64321
that employee. 64322

(2) The tax commissioner shall suspend the delegation of 64323
investigation powers to an employee to whom the delegation was 64324
made under division (B) of this section if that employee is 64325
convicted, after trial, of a felony. If the employee files an 64326
appeal from that conviction and the conviction is upheld by the 64327
highest court to which the appeal is taken, or if the employee 64328
does not file a timely appeal, the commissioner shall revoke the 64329
delegation of investigation powers to that employee. If the 64330
employee files an appeal that results in that employee's acquittal 64331
of the felony or conviction of a misdemeanor, or in the dismissal 64332
of the felony charge against that employee, the commissioner shall 64333
reinstate the delegation of investigation powers to that employee. 64334
The revocation, suspension, or reinstatement of the delegation of 64335
investigation powers to an employee under division (D) of this 64336
section shall be made by journal entry pursuant to division (B) of 64337
this section. An employee to whom the delegation of investigation 64338
powers is reinstated under division (D)(2) of this section shall 64339
not receive any back pay for the exercise of those investigation 64340
powers, unless that employee's conviction of the felony was 64341
reversed on appeal, or the felony charge was dismissed, because 64342
the court found insufficient evidence to convict the employee of 64343
the felony. 64344

(3) The revocation or suspension of the delegation of 64345

investigation powers to an employee under division (D) of this 64346
section shall be in accordance with Chapter 119. of the Revised 64347
Code. 64348

(E) Divisions (C) and (D) of this section do not apply to an 64349
offense that was committed prior to January 1, 1997. 64350

(F) Nothing in this section limits the tax commissioner's 64351
ability to have other employees of the department of taxation 64352
conduct investigations as authorized by sections 5703.17 and 64353
5703.19 of the Revised Code. 64354

(G) The department of taxation shall cooperate with the 64355
attorney general, local law enforcement officials, and appropriate 64356
agencies of the federal government and other states in the 64357
investigation and prosecution of violations of all laws relating 64358
to taxes and fees administered by the tax commissioner. 64359

Sec. 5703.80. There is hereby created in the state treasury 64360
the property tax administration fund. All money to the credit of 64361
the fund shall be used to defray the costs incurred by the 64362
department of taxation in administering the taxation of property 64363
and the equalization of real property valuation. 64364

Each fiscal year between the first and fifteenth days of 64365
July, the tax commissioner shall compute the following amounts for 64366
the property in each taxing district in each county, and certify 64367
to the director of budget and management the sum of those amounts 64368
for all taxing districts in all counties: 64369

(A) Three-tenths of one per cent of the total amount by which 64370
taxes charged against real property on the general tax list of 64371
real and public utility property were reduced under section 64372
319.302 of the Revised Code for the preceding tax year; 64373

(B) Fifteen-hundredths of one per cent of the total amount of 64374
taxes charged and payable against public utility personal property 64375

on the general tax list of real and public utility property for 64376
the preceding tax year; 64377

(C) Seventy-five hundredths of one per cent of the total 64378
amount of taxes charged and payable against tangible personal 64379
property on the general tax list of personal property of the 64380
preceding tax year and for which returns were filed with the tax 64381
commissioner under section 5711.13 of the Revised Code. 64382

After receiving the tax commissioner's certification, the 64383
director of budget and management shall transfer from the general 64384
revenue fund to the property tax administration fund one-fourth of 64385
the amount certified on or before each of the following days: the 64386
first days of August, November, February, and May. 64387

On or before the thirtieth day of June of the fiscal year, 64388
the tax commissioner shall certify to the director of budget and 64389
management the sum of the amounts by which the amounts computed 64390
for a taxing district under divisions (A), (B), and (C) of this 64391
section exceeded the distributions to the taxing district under 64392
division (F) of section 321.24 of the Revised Code, and the 64393
director shall transfer that sum from the property tax 64394
administration fund to the general revenue fund. 64395

Sec. 5705.39. The total appropriations from each fund shall 64396
not exceed the total of the estimated revenue available for 64397
expenditure therefrom, as certified by the budget commission, or 64398
in case of appeal, by the board of tax appeals. No appropriation 64399
measure shall become effective until the county auditor files with 64400
the appropriating authority ~~and in the case of a school district,~~ 64401
~~also files with the superintendent of public instruction,~~ a 64402
certificate that the total appropriations from each fund, taken 64403
together with all other outstanding appropriations, do not exceed 64404
such official estimate or amended official estimate. When the 64405
appropriation does not exceed such official estimate, the county 64406

auditor shall give such certificate forthwith upon receiving from 64407
the appropriating authority a certified copy of the appropriation 64408
measure, ~~a copy of which he shall deliver to the superintendent of~~ 64409
~~public instruction in the case of a school district.~~ 64410
Appropriations shall be made from each fund only for the purposes 64411
for which such fund is established. 64412

Sec. 5705.41. No subdivision or taxing unit shall: 64413

(A) Make any appropriation of money except as provided in 64414
Chapter 5705. of the Revised Code; provided, that the 64415
authorization of a bond issue shall be deemed to be an 64416
appropriation of the proceeds of the bond issue for the purpose 64417
for which such bonds were issued, but no expenditure shall be made 64418
from any bond fund until first authorized by the taxing authority; 64419

(B) Make any expenditure of money unless it has been 64420
appropriated as provided in such chapter; 64421

(C) Make any expenditure of money except by a proper warrant 64422
drawn against an appropriate fund; 64423

(D)(1) Except as otherwise provided in division (D)(2) of 64424
this section and section 5705.44 of the Revised Code, make any 64425
contract or give any order involving the expenditure of money 64426
unless there is attached thereto a certificate of the fiscal 64427
officer of the subdivision that the amount required to meet the 64428
obligation or, in the case of a continuing contract to be 64429
performed in whole or in part in an ensuing fiscal year, the 64430
amount required to meet the obligation in the fiscal year in which 64431
the contract is made, has been lawfully appropriated for such 64432
purpose and is in the treasury or in process of collection to the 64433
credit of an appropriate fund free from any previous encumbrances. 64434
This certificate need be signed only by the subdivision's fiscal 64435
officer. Every such contract made without such a certificate shall 64436
be void, and no warrant shall be issued in payment of any amount 64437

due thereon. If no certificate is furnished as required, upon 64438
receipt by the taxing authority of the subdivision or taxing unit 64439
of a certificate of the fiscal officer stating that there was at 64440
the time of the making of such contract or order and at the time 64441
of the execution of such certificate a sufficient sum appropriated 64442
for the purpose of such contract and in the treasury or in process 64443
of collection to the credit of an appropriate fund free from any 64444
previous encumbrances, such taxing authority may authorize the 64445
drawing of a warrant in payment of amounts due upon such contract, 64446
but such resolution or ordinance shall be passed within thirty 64447
days after the taxing authority receives such certificate; 64448
provided that, if the amount involved is less than one hundred 64449
dollars in the case of counties or three thousand dollars in the 64450
case of all other subdivisions or taxing units, the fiscal officer 64451
may authorize it to be paid without such affirmation of the taxing 64452
authority of the subdivision or taxing unit, if such expenditure 64453
is otherwise valid. 64454

(2) Annually, the board of county commissioners may adopt a 64455
resolution exempting for the current fiscal year county purchases 64456
of seven hundred fifty dollars or less from the requirement of 64457
division (D)(1) of this section that a certificate be attached to 64458
any contract or order involving the expenditure of money. The 64459
resolution shall state the dollar amount that is exempted from the 64460
certificate requirement and whether the exemption applies to all 64461
purchases, to one or more specific classes of purchases, or to the 64462
purchase of one or more specific items. Prior to the adoption of 64463
the resolution, the board shall give written notice to the county 64464
auditor that it intends to adopt the resolution. The notice shall 64465
state the dollar amount that is proposed to be exempted and 64466
whether the exemption would apply to all purchases, to one or more 64467
specific classes of purchases, or to the purchase of one or more 64468
specific items. The county auditor may review and comment on the 64469
proposal, and shall send any comments to the board within fifteen 64470

days after receiving the notice. The board shall wait at least 64471
fifteen days after giving the notice to the auditor before 64472
adopting the resolution. A person authorized to make a county 64473
purchase in a county that has adopted such a resolution shall 64474
prepare and file with the county auditor, within three business 64475
days after incurring an obligation not requiring a certificate, a 64476
written document specifying the purpose and amount of the 64477
expenditure, the date of the purchase, the name of the vendor, and 64478
such additional information as the auditor of state may prescribe. 64479

(3) Upon certification by the auditor or other chief fiscal 64480
officer that a certain sum of money, not in excess of ~~five~~ 64481
~~thousand dollars~~ an amount established by resolution or ordinance 64482
adopted by a majority of the members of the legislative authority 64483
of the subdivision or taxing unit, has been lawfully appropriated, 64484
authorized, or directed for a certain purpose and is in the 64485
treasury or in the process of collection to the credit of a 64486
specific line-item appropriation account in a certain fund free 64487
from previous and then outstanding obligations or certifications, 64488
then for such purpose and from such line-item appropriation 64489
account in such fund, over a period ~~not exceeding three months and~~ 64490
not extending beyond the end of the fiscal year, expenditures may 64491
be made, orders for payment issued, and contracts or obligations 64492
calling for or requiring the payment of money made and assumed; 64493
provided, that the aggregate sum of money included in and called 64494
for by such expenditures, orders, contracts, and obligations shall 64495
not exceed the sum so certified. Such a certification need be 64496
signed only by the fiscal officer of the subdivision or the taxing 64497
district and may, but need not, be limited to a specific vendor. 64498
An itemized statement of obligations incurred and expenditures 64499
made under such certificate shall be rendered to the auditor or 64500
other chief fiscal officer before another such certificate may be 64501
issued, and not more than one such certificate shall be 64502
outstanding at a time. 64503

In addition to providing the certification for expenditures 64504
~~of five thousand dollars or less~~ as ~~provided~~ specified in this 64505
division, a subdivision also may make expenditures, issue orders 64506
for payment, and make contracts or obligations calling for or 64507
requiring the payment of money made and assumed for specified 64508
permitted purposes from a specific line-item appropriation account 64509
in a specified fund for a sum of money upon the certification by 64510
the fiscal officer of the subdivision that this sum of money has 64511
been lawfully appropriated, authorized, or directed for a 64512
permitted purpose and is in the treasury or in the process of 64513
collection to the credit of the specific line-item appropriation 64514
account in the specified fund free from previous and 64515
then-outstanding obligations or certifications; provided that the 64516
aggregate sum of money included in and called for by the 64517
expenditures, orders, and obligations shall not exceed the 64518
certified sum. The purposes for which a subdivision may lawfully 64519
appropriate, authorize, or issue such a certificate are the 64520
services of an accountant, architect, attorney at law, physician, 64521
professional engineer, construction project manager, consultant, 64522
surveyor, or appraiser by or on behalf of the subdivision or 64523
contracting authority; fuel oil, gasoline, food items, roadway 64524
materials, and utilities; and any purchases exempt from 64525
competitive bidding under section 125.04 of the Revised Code and 64526
any other specific expenditure that is a recurring and reasonably 64527
predictable operating expense. Such a certification shall not 64528
extend beyond the end of the fiscal year or, in the case of a 64529
board of county commissioners that has established a quarterly 64530
spending plan under section 5705.392 of the Revised Code, beyond 64531
the quarter to which the plan applies. Such a certificate shall be 64532
signed by the fiscal officer and may, but need not, be limited to 64533
a specific vendor. An itemized statement of obligations incurred 64534
and expenditures made under such a certificate shall be rendered 64535
to the fiscal officer for each certificate issued. More than one 64536

such certificate may be outstanding at any time. 64537

In any case in which a contract is entered into upon a per 64538
unit basis, the head of the department, board, or commission for 64539
the benefit of which the contract is made shall make an estimate 64540
of the total amount to become due upon such contract, which 64541
estimate shall be certified in writing to the fiscal officer of 64542
the subdivision. Such a contract may be entered into if the 64543
appropriation covers such estimate, or so much thereof as may be 64544
due during the current year. In such a case the certificate of the 64545
fiscal officer based upon the estimate shall be a sufficient 64546
compliance with the law requiring a certificate. 64547

Any certificate of the fiscal officer attached to a contract 64548
shall be binding upon the political subdivision as to the facts 64549
set forth therein. Upon request of any person receiving an order 64550
or entering into a contract with any political subdivision, the 64551
certificate of the fiscal officer shall be attached to such order 64552
or contract. "Contract" as used in this section excludes current 64553
payrolls of regular employees and officers. 64554

Taxes and other revenue in process of collection, or the 64555
proceeds to be derived from authorized bonds, notes, or 64556
certificates of indebtedness sold and in process of delivery, 64557
shall for the purpose of this section be deemed in the treasury or 64558
in process of collection and in the appropriate fund. This section 64559
applies neither to the investment of sinking funds by the trustees 64560
of such funds, nor to investments made under sections 731.56 to 64561
731.59 of the Revised Code. 64562

No district authority shall, in transacting its own affairs, 64563
do any of the things prohibited to a subdivision by this section, 64564
but the appropriation referred to shall become the appropriation 64565
by the district authority, and the fiscal officer referred to 64566
shall mean the fiscal officer of the district authority. 64567

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. 64599
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(2) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract. 64601
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(3) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule. 64603
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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. 64605
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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. 64613
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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. 64620
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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. 64623
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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 64662
section which contains any false statements is liable to the 64663
school district for the full amount paid from the district's funds 64664
on the contract or schedule. The officer, employee, or other 64665
person is jointly and severally liable in person and upon any 64666
official bond that the officer, employee, or other person has 64667
given to the school district to the extent of any payments on the 64668
void claim, not to exceed ten thousand dollars. However, no 64669
officer, employee, or other person shall be liable for a mistaken 64670
estimate of available resources made in good faith and based upon 64671
reasonable grounds. If an officer, employee, or other person is 64672
found to have complied with rules jointly adopted by the 64673
department of education and the auditor of state under this 64674
section governing methods by which revenue shall be estimated and 64675
determined sufficient to provide necessary operating revenue for 64676
the purpose of making certifications required by this section, the 64677
officer, employee, or other person shall not be liable under this 64678
section if the estimates and determinations made according to 64679
those rules do not, in fact, conform with actual revenue. The 64680
prosecuting attorney of the county, the city director of law, or 64681
other chief law officer of the district shall enforce this 64682
liability by civil action brought in any court of appropriate 64683
jurisdiction in the name of and on behalf of the school district. 64684
If the prosecuting attorney, city director of law, or other chief 64685
law officer of the district fails, upon the written request of any 64686
taxpayer, to institute action for the enforcement of the 64687
liability, the attorney general, or the taxpayer in the taxpayer's 64688
own name, may institute the action on behalf of the subdivision. 64689

(H) This section does not require the attachment of an 64690
additional certificate beyond that required by section 5705.41 of 64691
the Revised Code for current payrolls of, or contracts of 64692
employment with, ~~regular~~ any employees or officers of the school 64693
district. 64694

This section does not require the attachment of a certificate 64695
to a temporary appropriation measure if all of the following 64696
apply: 64697

(1) The amount appropriated does not exceed twenty-five per 64698
cent of the total amount from all sources available for 64699
expenditure from any fund during the preceding fiscal year; 64700

(2) The measure will not be in effect on or after the 64701
thirtieth day following the earliest date on which the district 64702
may pass an annual appropriation measure; 64703

(3) An amended official certificate of estimated resources 64704
for the current year, if required, has not been certified to the 64705
board of education under division (B) of section 5705.36 of the 64706
Revised Code. 64707

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the 64708
Revised Code: 64709

(A) "Air contaminant" means particulate matter, dust, fumes, 64710
gas, mist, smoke, vapor, or odorous substances, or any combination 64711
thereof. 64712

(B) "Air pollution control facility" means any property 64713
designed, constructed, or installed for the primary purpose of 64714
eliminating or reducing the emission of, or ground level 64715
concentration of, air contaminants ~~which~~ generated at an 64716
industrial or commercial plant or site that renders air harmful or 64717
inimical to the public health or to property within this state. 64718

(C) "Energy conversion" means the conversion of fuel or power 64719
usage and consumption from natural gas to an alternate fuel or 64720
power source other than propane, butane, naphtha, or fuel oil; or 64721
the conversion of fuel or power usage and consumption from fuel 64722
oil to an alternate fuel or power source other than natural gas, 64723
propane, butane, or naphtha. 64724

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

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

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

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~~Facilities~~ (G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris.

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(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for

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some useful purpose. 64756

(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. 64757
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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. 64761
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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. 64765
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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 a 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 this division. 64769
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(M) Property designed, constructed, installed, used, or placed in operation solely primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel, 64784
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~~er by of a business solely for its, or primarily for a business's~~ 64787
~~own benefit, are not pollution control facilities is not an~~ 64788
~~"exempt facility."~~ 64789

Sec. 5709.201. (A) Except as provided in divisions (C)(4)(a) 64790
and (c) of section 5709.22 and division (F) of section 5709.25 of 64791
the Revised Code, a certificate issued under section 5709.21, 64792
5709.31, 5709.46, or 6111.31 of the Revised Code that was valid 64793
and in effect on the effective date of this section shall continue 64794
in effect subject to the law as it existed before that effective 64795
date. Division (C)(4)(b) of section 5709.22 of the Revised Code 64796
does not apply to any certificate issued by the tax commissioner 64797
before July 1, 2003. 64798

(B) Any applications pending on the effective date of this 64799
section for which a certificate had not been issued on or before 64800
that effective date under section 6111.31 of the Revised Code 64801
shall be transferred to the tax commissioner for further 64802
administering. Sections 5709.20 to 5709.27 of the Revised Code 64803
apply to such pending applications, excluding the requirement of 64804
section 5709.212 of the Revised Code that applicants must pay the 64805
fee. 64806

(C) For applications pending on the effective date of this 64807
section, division (D) of section 5709.25 of the Revised Code 64808
applies only to tax periods that would otherwise be open to 64809
assessment on that effective date. 64810

Sec. 5709.21. (A) As used in this section: 64811

(1) "Exclusive property" means property that is installed, 64812
used, and necessary for the operation of an exempt facility, and 64813
that is not auxiliary property unless the auxiliary property 64814
exempt cost equals or exceeds eighty-five per cent of the total 64815
cost of the property. 64816

(2) "Auxiliary property" means 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 if the auxiliary property exempt cost of such property is less than or equal to fifteen per cent of the total cost of such property.

(3) "Auxiliary property exempt cost" means the cost of auxiliary property calculated as follows:

(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.

(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.

(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.

(B) Application for an ~~air or noise pollution control~~ exempt facility certificate shall be filed with the tax commissioner in such manner and in such form as ~~may be~~ prescribed by ~~regulations issued by the tax commissioner and~~. The application shall contain plans and specifications of the ~~structure or structures~~ property, including all materials incorporated ~~and~~ or to be incorporated therein and their associated costs, and a descriptive list of all equipment acquired or to be acquired by the applicant for the

~~purpose of air or noise pollution control exempt facility and its associated cost. If the commissioner, after obtaining the opinion of the director of environmental protection, finds that the proposed facility property was designed primarily for the control of air or noise pollution as defined in section 5709.20 of the Revised Code, as an exempt facility and is suitable and reasonably adequate for such purpose and is intended for such purpose, he the commissioner shall enter a finding and issue a certificate to that effect. Said certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such pollution control facility or that part used exclusively for air or noise pollution control. The effective date of said the certificate shall be the date of the making of the application was made for such certificate or the date of the construction of the facility, whichever is earlier; provided, that if such application relates to facilities placed in operation or capable of operation prior to October 2, 1969, the effective date of the certificate shall be the date of the application.~~

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

(C)(1) Except as provided in division (C)(2) of this section, the certificate shall permit tax exemption pursuant to section 5709.25 of the Revised Code only for that portion of such exempt facility that is exclusive property used for a purpose enumerated in section 5709.20 of the Revised Code.

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

(D) The tax commissioner may allow an applicant to file one application that applies to more than one exempt facility that are

the same or substantially similar, so long as such facilities are 64880
located within the same county. 64881

Sec. 5709.211. (A) Before issuing an exempt facility 64882
certificate pursuant to section 5709.21 of the Revised Code, the 64883
tax commissioner shall provide a copy of a properly completed 64884
application to, and obtain the opinion of, the director of 64885
environmental protection in the case of an exempt facility 64886
described in division (B), (F), or (L) of section 5709.20 of the 64887
Revised Code, or provide a copy of the application to, and obtain 64888
the opinion of, the director of development in the case of an 64889
application for an exempt facility described in division (D), (I), 64890
or (K) of section 5709.20 of the Revised Code. The opinion shall 64891
provide the commissioner with a recommendation of whether the 64892
property is primarily designed, constructed, installed, and used 64893
as an exempt facility. The applicant shall provide additional 64894
information upon request by the tax commissioner, the director of 64895
environmental protection, or the director of development, and 64896
allow them to inspect the property listed in the application for 64897
the purposes of sections 5709.20 to 5709.27 of the Revised Code. 64898
The tax commissioner shall provide to the applicant a copy of the 64899
opinion issued by either the director of environmental protection 64900
or the director of the department of development. 64901

(B) The opinions of the director of the environmental 64902
protection agency and the director of development under division 64903
(A) of this section or division (C)(4) of section 5709.22 of the 64904
Revised Code are not final actions or orders subject to appeal. 64905

Sec. 5709.212. (A) With every application for an exempt 64906
facility certificate filed pursuant to section 5709.21 of the 64907
Revised Code, the applicant shall pay a fee equal to one-half of 64908
one per cent of the total exempt facility project cost, not to 64909
exceed two thousand dollars. One-half of the fee received with 64910

applications for exempt facility certificates shall be credited to 64911
the exempt facility administrative fund, which is hereby created 64912
in the state treasury, for appropriation to the department of 64913
taxation for use in administering sections 5709.20 to 5709.27 of 64914
the Revised Code. If the director of environmental protection is 64915
required to provide the opinion for an application, one-half of 64916
the fee shall be credited to the clean air fund created in section 64917
3704.035 of the Revised Code for use in administering section 64918
5709.211 of the Revised Code, unless the application is for an 64919
industrial water pollution control facility. If the application is 64920
for an industrial water pollution control facility, one-half of 64921
the fee shall be credited to the surface water protection fund 64922
created in section 6111.038 of the Revised Code for use in 64923
administering section 5709.211 of the Revised Code. If the 64924
director of development is required to provide the opinion for an 64925
application, one-half of the fee for each exempt facility 64926
application shall be credited to the exempt facility inspection 64927
fund, which is hereby created in the state treasury, for 64928
appropriation to the department of development for use in 64929
administering section 5709.211 of the Revised Code. 64930

An applicant is not entitled to any tax exemption under 64931
section 5709.25 of the Revised Code until the fee required by this 64932
section is paid. The fee required by this section is not 64933
refundable, and is due with the application for an exempt facility 64934
certificate even if an exempt facility certificate ultimately is 64935
not issued or is withdrawn. Any application submitted without 64936
payment of the fee shall be deemed incomplete until the fee is 64937
paid. 64938

(B) The application fee imposed under division (A) of this 64939
section for a jointly owned facility shall be equal to one-half of 64940
one per cent of the total exempt facility project cost, not to 64941
exceed two thousand dollars for each facility that is the subject 64942

of the application. 64943

~~Sec. 5709.22. Before issuing any certificate the tax~~ 64944
~~commissioner shall give notice in writing by mail to the auditor~~ 64945
~~of the county in which such facilities are located, and shall~~ 64946
~~afford to the applicant and to the auditor an opportunity for a~~ 64947
~~hearing. On like notice to the applicant and opportunity for a~~ 64948
~~hearing, the commissioner shall on his (A) After receiving an~~ 64949
~~opinion from the director of environmental protection or the~~ 64950
~~director of development, the tax commissioner shall promptly~~ 64951
~~ascertain if an application filed under section 5709.21 of the~~ 64952
~~Revised Code shall be allowed or disallowed in whole or in part.~~ 64953
~~The commissioner shall give written notice of the proposed finding~~ 64954
~~to the applicant and the county auditor of the county in which the~~ 64955
~~facility described in the application is located. Within sixty~~ 64956
~~days after sending written notice of the proposed finding, the~~ 64957
~~applicant or the county auditor may file a request for~~ 64958
~~reconsideration, in writing, to the commissioner and may request~~ 64959
~~that the commissioner conduct a hearing on the application. If no~~ 64960
~~request for reconsideration is filed, the commissioner's proposed~~ 64961
~~findings shall be final and, if applicable, the commissioner shall~~ 64962
~~issue an exempt facility certificate, which shall not be subject~~ 64963
~~to appeal pursuant to section 5717.02 of the Revised Code.~~ 64964

~~(B) If a reconsideration of the tax commissioner's proposed~~ 64965
~~finding is requested by the applicant or the county auditor, the~~ 64966
~~commissioner shall notify the applicant and the auditor of the~~ 64967
~~time and place of the hearing, which the commissioner may continue~~ 64968
~~from time to time as the commissioner finds necessary. The~~ 64969
~~commissioner also shall notify the environmental protection agency~~ 64970
~~or department of development, as applicable, of the hearing. The~~ 64971
~~environmental protection agency or the department of development~~ 64972
~~shall participate in the hearing if requested in writing by the~~ 64973
~~commissioner, the applicant, or the county auditor. After~~ 64974

conducting the hearing, the commissioner shall issue a final 64975
determination, with a copy of it served on the applicant and 64976
applicable county auditors in the manner prescribed by section 64977
5703.37 of the Revised Code. The final determination is subject to 64978
appeal pursuant to section 5717.02 of the Revised Code. Once all 64979
appeals are exhausted, the commissioner shall issue, if 64980
applicable, the exempt facility certificate based on the outcome 64981
of the appeal. 64982

(C) The tax commissioner, on the commissioner's own 64983
initiative or on complaint by the county auditor of the any county 64984
in which any property to which such air or noise pollution control 64985
the exempt facility certificate relates is located, shall revoke 64986
such air or noise pollution control certificate whenever any of 64987
the following appears the certificate, or modify it by restricting 64988
its operation, if it appears to the commissioner that any of the 64989
following has occurred: 64990

(A)(1) The certificate was obtained by fraud or 64991
misrepresentation; 64992

(B)(2) The holder of the certificate has failed substantially 64993
to proceed with the construction, reconstruction, installation, or 64994
acquisition of air or noise pollution control facilities an exempt 64995
facility; 64996

(C)(3) The structure or equipment or both property to which 64997
the certificate relates has ceased to be used for the primary 64998
purpose of pollution control and is being used for a different 64999
purpose. 65000

Provided, that where the circumstances so require, the 65001
commissioner in lieu of revoking such certificate may modify the 65002
same by restricting its operations as an exempt facility; 65003

(4) The tax commissioner issued the certificate in error. As 65004
used in this section, "error" means any of the following: 65005

(a) A clerical or mathematical mistake; 65006

(b) When the commissioner agrees with an opinion from the 65007
director of environmental protection or the director of 65008
development that a certificate should not have been issued; 65009

(c) When the tax commissioner determines that the issuance of 65010
the certificate may have been improper as the result of a final 65011
adjudication by the board of tax appeals, or by a court with 65012
jurisdiction on appeal from that board, that is adverse to the 65013
original exempt status of the facility, regardless of whether the 65014
holder of the certificate was a party to such adjudication. 65015

(D) If the revocation or modification of a certificate under 65016
division (C)(4) of this section is an action found to be frivolous 65017
for the purposes of section 5703.54 of the Revised Code the 65018
certificate holder may claim damages as provided under division 65019
(B) of that section. 65020

~~On the mailing of notice of the action of the commissioner~~ 65021
~~revoking or modifying an air or noise pollution control~~ 65022
~~certificate as provided in section 5709.23 of the Revised Code,~~ 65023
~~such~~ (E) Upon service of notice certificate to the holder of an 65024
exempt facility certificate, in the manner provided in section 65025
5703.37 of the Revised Code, of the tax commissioner's revocation 65026
or modification of the certificate under division (C) of this 65027
section, the certificate shall cease to be in force or shall 65028
remain in force only as modified, as the case may require. The 65029
notice is subject to appeal under section 5717.02 of the Revised 65030
Code. Once all appeals are exhausted, the commissioner shall issue 65031
a modified certificate, if applicable, and the holder of the 65032
certificate shall be allowed to claim a refund within one hundred 65033
eighty days, notwithstanding any other time limitation provided by 65034
law of the taxes paid as a result of the certificate being revoked 65035
or modified. 65036

Sec. 5709.23. (A) As soon as is practicable after receiving 65037
an application for an exempt facility certificate, the tax 65038
commissioner shall provide a copy of the application and any 65039
accompanying documentation to the county auditor of the county in 65040
which the facility is located. The copy shall be accompanied by a 65041
statement showing an estimate of what the assessed value of the 65042
facility would be, based on the appropriate assessment percentage, 65043
if the facility were to be taxable, and an estimate of the taxes 65044
that would be chargeable against the facility computed on the 65045
basis of the rate of taxation in the taxing district in the year 65046
in which the application is received. Within sixty days after 65047
receiving such a statement, the county auditor shall issue a 65048
notice to the taxing authority of each taxing unit in which the 65049
facility is or is to be located. The notice shall state that an 65050
application for an exempt facility certificate has been filed for 65051
the facility; the estimated assessed value of the facility shown 65052
on the statement; the annual amount of taxes that would be charged 65053
and payable on that value at the current rate of taxation in 65054
effect in the taxing unit; and that, if approved, the application 65055
entitles the facility to exemption from taxation and the taxing 65056
unit may be required to refund any taxes on the facility accruing 65057
after the certificate becomes effective. The tax commissioner 65058
shall issue an amended statement if, after the original statement 65059
is issued, the estimate of such assessed value increases or 65060
decreases by more than ten per cent of the estimated value shown 65061
on the most recently issued statement or amended statement, and 65062
the county auditor shall issue an amended notice reflecting such 65063
change. 65064

(B) Upon request by the county auditor of the county in which 65065
the exempt facility described in the application is located, the 65066
tax commissioner shall provide the county auditor with any 65067
documents submitted with the opinion of the director of 65068

environmental protection or director of development, including a 65069
copy of opinion. 65070

(C) Any documents, statements, and notices provided for under 65071
this section are solely for the purpose of notifying taxing 65072
authorities of the existence of an exempt facility application and 65073
the potential for a refund of taxes paid on an exempt facility 65074
before a tax exemption certificate is issued. Such documents, 65075
statements, and notices do not constitute an assessment that is 65076
subject to a petition for reassessment nor are such documents, 65077
statements, and notices appealable under section 5717.02 of the 65078
Revised Code by any person. 65079

(D) The documents, statements, and notices provided by the 65080
tax commissioner under this section are subject to all applicable 65081
confidentiality provisions of law. 65082

Sec. 5709.24. The tax commissioner may adopt rules to 65083
administer sections 5709.20 to 5709.27 of the Revised Code. 65084

Sec. 5709.25. (A) Whenever an ~~air or noise pollution control~~ 65085
~~exempt facility~~ certificate is issued ~~on a pollution control~~ 65086
~~facility~~, the transfer of tangible personal property to the holder 65087
of the certificate, whether such transfer takes place before or 65088
after the issuance of the certificate, shall not be considered a 65089
"sale" of such tangible personal property for the purpose of the 65090
sales tax, or a "use" for the purpose of the use tax, if the 65091
tangible personal property is to be or was a material or part to 65092
be incorporated into an ~~air or noise pollution control~~ exempt 65093
facility ~~as defined in section 5709.20 of the Revised Code.~~ 65094

(B) For the period subsequent to the effective date of an ~~air~~ 65095
~~or noise pollution control~~ exempt facility certificate and 65096
continuing for so long as the certificate is in force, no 65097
~~pollution control~~ exempt facility or certified portion thereof 65098

shall be considered to be either of the following: 65099

(1) An improvement on the land on which the ~~same~~ exempt facility is located for the purpose of real property taxation; 65100
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(2) As "used in business" for the purpose of personal property taxation; 65102
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~~(3) As an asset of any corporation in determining the value of its issued and outstanding shares or the value of the property owned and used by it in this state for the purpose of the franchise tax.~~ 65104
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(C)(1) The tax commissioner, upon receiving a properly completed application for an exempt facility certificate, may allow the applicant to claim the exemption provided by this section before the commissioner issues the certificate. The applicant is entitled to the exemption unless the commissioner notifies the applicant otherwise by serving notice upon the applicant in the manner prescribed by section 5703.37 of the Revised Code. 65108
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(2) A taxpayer whose tangible personal property is subject to taxation under Chapter 5727. of the Revised Code shall notify the commissioner in writing of any property the applicant does not want the commissioner to exclude from assessment. The notice shall be provided before the date the commissioner issues the preliminary assessment under section 5727.23 of the Revised Code. 65116
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(D)(1) Notwithstanding any other time limitations imposed by law, the commissioner may assess any additional tax or may assess any additional taxable property, including any applicable interest, on the denied portion of the applicant's claim for an exempt facility that the applicant claimed prior to the exempt facility certificate being issued or the application being denied. No assessment shall be made pursuant to this division after one hundred eighty days from the date the commissioner mails the 65122
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exempt facility certificate or notice of the denial of the exempt 65130
facility certificate pursuant to section 5709.22 of the Revised 65131
Code. Nothing in this section shall prohibit an assessment that 65132
otherwise may be timely made by law. 65133

(2) Assessments issued pursuant to division (D)(1) of this 65134
section shall be issued as amended preliminary assessment 65135
certificates under section 5711.31 of the Revised Code for 65136
personal property tax, as amended preliminary assessment 65137
certificates under section 5727.23 of the Revised Code for public 65138
utility tax, and as assessments under section 5733.11 of the 65139
Revised Code for corporation franchise tax, section 5739.13 of the 65140
Revised Code for sales tax, and section 5741.11 of the Revised 65141
Code for use tax, and are subject to the same appeal requirements 65142
as defined in those sections. 65143

(3) Nothing in division (D) of this section allows the tax 65144
commissioner, after the expiration of the time limitation, to 65145
issue an assessment referenced in division (D)(2) of this section 65146
that increases any tax beyond the amount claimed by the applicant 65147
as an exempt facility. 65148

(4) If an assessment is issued for only the denied portion of 65149
the application for an exempt facility, the only issue the 65150
applicant is permitted to raise on appeal of the assessment 65151
referenced in division (D)(2) of this section is that of the 65152
taxable property or transaction constituting the denied portion of 65153
the applicant's claim for an exempt facility. 65154

(E) Except as otherwise provided in this division, no 65155
exemption for additional property shall be claimed under this 65156
section after an exempt facility certificate has been issued for 65157
that facility unless the applicant files a new application under 65158
section 5709.21 of the Revised Code. The tax commissioner shall 65159
waive the requirement to file a new application under section 65160
5709.21 of the Revised Code if the cost of the additional 65161

property, net of retirements for similar property, does not exceed 65162
five hundred thousand dollars during any calendar year. The fee 65163
imposed under section 5709.212 of the Revised Code for 65164
applications filed as a result of this division shall be five 65165
hundred dollars. 65166

(F) If, as the result of a revaluation due to sale or 65167
bankruptcy or any other reason, the book value of property that is 65168
the subject of an exempt facility certificate is changed from the 65169
book value at the time of the original issuance of the 65170
certificate, the amount of exemption available to the owner is 65171
limited to the percentage resulting from the ratio of the 65172
historical cost of the property that is the subject of the exempt 65173
facility certificate to the historic cost of all tangible personal 65174
property and real property of the owner located at the same 65175
location as the property subject to the exempt facility 65176
certificate. If the result of using this ratio is greater than the 65177
original cost, then acceptable reasons for allowing such greater 65178
cost must be established with supporting documentation in order to 65179
qualify for the exemption above the original cost. 65180

(G) After two years from the date the tax commissioner 65181
receives an application, the applicant may request in writing that 65182
the tax commissioner take final action on the pending application. 65183
Within ten days after receiving such a request, the tax 65184
commissioner shall issue a proposed finding, under section 5709.22 65185
of the Revised Code, if the application is allowed in whole or in 65186
part. Otherwise, the tax commissioner shall issue a final 65187
determination denying the issuance of the certificate, which is a 65188
final determination appealable under section 5717.02 of the 65189
Revised Code. 65190

Sec. 5709.26. When an air or noise pollution control exempt 65191
facility certificate is revoked because obtained by fraud or 65192

~~misrepresentation~~ or modified for the reason stated in division 65193
(C)(1) of section 5709.22 of the Revised Code, all taxes ~~which~~ 65194
that would have been payable had no certificate been issued shall 65195
be assessed with ~~maximum~~ penalties and interest prescribed by law 65196
applicable thereto dating to when the exemption was first allowed. 65197
Notwithstanding any other time limitations imposed by law, if the 65198
certificate is revoked or modified under division (C)(2), (3), or 65199
(4) of section 5709.22 of the Revised Code, all taxes that would 65200
have been payable had no certificate existed as of the first day 65201
of January of the calendar year in which the certificate was 65202
revoked or modified are subject to assessment. 65203

Sec. 5709.27. In the event of the sale, lease, or other 65204
transfer of an ~~air or noise pollution control~~ exempt facility, not 65205
involving a different location or use, the holder of ~~an air or~~ 65206
~~noise pollution control~~ the exempt facility certificate ~~for such~~ 65207
~~facility may~~ shall transfer the certificate by written instrument 65208
to the person who, except for the transfer of the certificate, 65209
would be obligated to pay taxes on ~~such~~ the facility. The 65210
transferee shall become the holder of the certificate and shall 65211
have all the rights to exemption from taxes ~~which were~~ granted to 65212
the former holder or holders, effective as of the date of transfer 65213
of the facility or the date of transfer of the certificate, 65214
whichever is earlier. The transferee shall promptly give written 65215
notice of the effective date of the transfer, together with a copy 65216
of the instrument of transfer, to the tax commissioner and the 65217
county auditor of the county in which the facility is located. 65218
Upon request, the commissioner may provide the transferee with any 65219
information the commissioner possesses related to the issuance of 65220
the exempt facility certificate. 65221

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the 65222
Revised Code: 65223

- (A) "Enterprise zone" or "zone" means any of the following: 65224
- (1) An area with a single continuous boundary designated in 65225
the manner set forth in section 5709.62 or 5709.63 of the Revised 65226
Code and certified by the director of development as having a 65227
population of at least four thousand according to the best and 65228
most recent data available to the director and having at least two 65229
of the following characteristics: 65230
- (a) It is located in a municipal corporation defined by the 65231
United States office of management and budget as a central city of 65232
a metropolitan statistical area or in a city designated as an 65233
urban cluster in a rural statistical area; 65234
- (b) It is located in a county designated as being in the 65235
"Appalachian region" under the "Appalachian Regional Development 65236
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 65237
- (c) Its average rate of unemployment, during the most recent 65238
twelve-month period for which data are available, is equal to at 65239
least one hundred twenty-five per cent of the average rate of 65240
unemployment for the state of Ohio for the same period; 65241
- (d) There is a prevalence of commercial or industrial 65242
structures in the area that are vacant or demolished, or are 65243
vacant and the taxes charged thereon are delinquent, and 65244
certification of the area as an enterprise zone would likely 65245
result in the reduction of the rate of vacant or demolished 65246
structures or the rate of tax delinquency in the area; 65247
- (e) The population of all census tracts in the area, 65248
according to the federal census of 1990, decreased by at least ten 65249
per cent between the years 1970 and 1990; 65250
- (f) At least fifty-one per cent of the residents of the area 65251
have incomes of less than eighty per cent of the median income of 65252
residents of the municipal corporation or municipal corporations 65253

in which the area is located, as determined in the same manner 65254
specified under section 119(b) of the "Housing and Community 65255
Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as 65256
amended; 65257

(g) The area contains structures previously used for 65258
industrial purposes, but currently not so used due to age, 65259
obsolescence, deterioration, relocation of the former occupant's 65260
operations, or cessation of operations resulting from unfavorable 65261
economic conditions either generally or in a specific economic 65262
sector; 65263

(h) It is located within one or more adjacent city, local, or 65264
exempted village school districts, the income-weighted tax 65265
capacity of each of which is less than seventy per cent of the 65266
average of the income-weighted tax capacity of all city, local, or 65267
exempted village school districts in the state according to the 65268
most recent data available to the director from the department of 65269
taxation. 65270

The director of development shall adopt rules in accordance 65271
with Chapter 119. of the Revised Code establishing conditions 65272
constituting the characteristics described in divisions (A)(1)(d), 65273
(g), and (h) of this section. 65274

If an area could not be certified as an enterprise zone 65275
unless it satisfied division (A)(1)(g) of this section, the 65276
legislative authority may enter into agreements in that zone under 65277
section 5709.62, 5709.63, or 5709.632 of the Revised Code only if 65278
such agreements result in the development of the facilities 65279
described in that division, the parcel of land on which such 65280
facilities are situated, or adjacent parcels. The director of 65281
development annually shall review all agreements in such zones to 65282
determine whether the agreements have resulted in such 65283
development; if the director determines that the agreements have 65284
not resulted in such development, the director immediately shall 65285

revoke certification of the zone and notify the legislative 65286
authority of such revocation. Any agreements entered into prior to 65287
revocation under this paragraph shall continue in effect for the 65288
period provided in the agreement. 65289

(2) An area with a single continuous boundary designated in 65290
the manner set forth in section 5709.63 of the Revised Code and 65291
certified by the director of development as: 65292

(a) Being located within a county that contains a population 65293
of three hundred thousand or less; 65294

(b) Having a population of at least one thousand according to 65295
the best and most recent data available to the director; 65296

(c) Having at least two of the characteristics described in 65297
divisions (A)(1)(b) to (h) of this section. 65298

(3) An area with a single continuous boundary designated in 65299
the manner set forth under division (A)(1) of section 5709.632 of 65300
the Revised Code and certified by the director of development as 65301
having a population of at least four thousand, or under division 65302
(A)(2) of that section and certified as having a population of at 65303
least one thousand, according to the best and most recent data 65304
available to the director. 65305

(B) "Enterprise" means any form of business organization 65306
including, but not limited to, any partnership, sole 65307
proprietorship, or corporation, including an S corporation as 65308
defined in section 1361 of the Internal Revenue Code and any 65309
corporation that is majority work-owned either directly through 65310
the ownership of stock or indirectly through participation in an 65311
employee stock ownership plan. 65312

(C) "Facility" means an enterprise's place of business in a 65313
zone, including land, buildings, machinery, equipment, and other 65314
materials, except inventory, used in business. "Facility" includes 65315
land, buildings, machinery, production and station equipment, 65316

other equipment, and other materials, except inventory, used in 65317
business to generate electricity, provided that, for purposes of 65318
sections 5709.61 to 5709.69 of the Revised Code, the value of the 65319
property at such a facility shall be reduced by the value, if any, 65320
that is not apportioned under section 5727.15 of the Revised Code 65321
to the taxing district in which the facility is physically 65322
located. In the case of such a facility that is physically located 65323
in two adjacent taxing districts, the property located in each 65324
taxing district constitutes a separate facility. 65325

"Facility" does not include any portion of an enterprise's 65326
place of business used primarily for making retail sales, unless 65327
the place of business is located in an impacted city as defined in 65328
section 1728.01 of the Revised Code. 65329

(D) "Vacant facility" means a facility that has been vacant 65330
for at least ninety days immediately preceding the date on which 65331
an agreement is entered into under section 5709.62 or 5709.63 of 65332
the Revised Code. 65333

(E) "Expand" means to make expenditures to add land, 65334
buildings, machinery, equipment, or other materials, except 65335
inventory, to a facility that equal at least ten per cent of the 65336
market value of the facility prior to such expenditures, as 65337
determined for the purposes of local property taxation. 65338

(F) "Renovate" means to make expenditures to alter or repair 65339
a facility that equal at least fifty per cent of the market value 65340
of the facility prior to such expenditures, as determined for the 65341
purposes of local property taxation. 65342

(G) "Occupy" means to make expenditures to alter or repair a 65343
vacant facility equal to at least twenty per cent of the market 65344
value of the facility prior to such expenditures, as determined 65345
for the purposes of local property taxation. 65346

(H) "Project site" means all or any part of a facility that 65347

is newly constructed, expanded, renovated, or occupied by an enterprise. 65348
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(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy. 65350
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(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties. 65353
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(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment. 65355
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(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise. 65360
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(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility. 65367
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(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended. 65374
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(O) "First used in business" means that the property referred 65378

to has not been used in business in this state by the enterprise 65379
that owns it, or by an enterprise that is a related member or 65380
predecessor enterprise of such an enterprise, other than as 65381
inventory, prior to being used in business at a facility as the 65382
result of a project. 65383

(P) "Training program" means any noncredit training program 65384
or course of study that is offered by any state college or 65385
university; university branch district; community college; 65386
technical college; nonprofit college or university certified under 65387
section 1713.02 of the Revised Code; school district; joint 65388
vocational school district; school registered and authorized to 65389
offer programs under section 3332.05 of the Revised Code; an 65390
entity administering any federal, state, or local adult education 65391
and training program; or any enterprise; and that meets all of the 65392
following requirements: 65393

(1) It is approved by the director of development; 65394

(2) It is established or operated to satisfy the need of a 65395
particular industry or enterprise for skilled or semi-skilled 65396
employees; 65397

(3) An individual is required to complete the course or 65398
program before filling a position at a project site. 65399

(Q) "Development" means to engage in the process of clearing 65400
and grading land, making, installing, or constructing water 65401
distribution systems, sewers, sewage collection systems, steam, 65402
gas, and electric lines, roads, curbs, gutters, sidewalks, storm 65403
drainage facilities, and construction of other facilities or 65404
buildings equal to at least fifty per cent of the market value of 65405
the facility prior to the expenditures, as determined for the 65406
purposes of local property taxation. 65407

(R) "Large manufacturing facility" means a single Ohio 65408
facility that employed an average of at least one thousand 65409

individuals during the five calendar years preceding an agreement 65410
authorized under division (C)(3) of section 5709.62 or division 65411
(B)(2) of section 5709.63 of the Revised Code. For purposes of 65412
this division, both of the following apply: 65413

(1) A single Ohio manufacturing facility employed an average 65414
of at least one thousand individuals during the five calendar 65415
years preceding entering into such an agreement if one-fifth of 65416
the sum of the number of employees employed on the highest 65417
employment day during each of the five calendar years equals or 65418
exceeds one thousand. 65419

(2) The highest employment day is the day or days during a 65420
calendar year on which the number of employees employed at a 65421
single Ohio manufacturing facility was greater than on any other 65422
day during the calendar year. 65423

(S) "Business cycle" means the cycle of business activity 65424
usually regarded as passing through alternating stages of 65425
prosperity and depression. 65426

(T) "Making retail sales" means the effecting of 65427
point-of-final-purchase transactions at a facility open to the 65428
consuming public, wherein one party is obligated to pay the price 65429
and the other party is obligated to provide a service or to 65430
transfer title to or possession of the item sold. 65431

(U) "Environmentally contaminated" means that hazardous 65432
substances exist at a facility under conditions that have caused 65433
or would cause the facility to be identified as contaminated by 65434
the state or federal environmental protection agency. These may 65435
include facilities located at sites identified in the master sites 65436
list or similar database maintained by the state environmental 65437
protection agency if the sites have been investigated by the 65438
agency and found to be contaminated. 65439

(V) "Remediate" means to make expenditures to clean up an 65440

environmentally contaminated facility so that it is no longer 65441
environmentally contaminated that equal at least ten per cent of 65442
the real property market value of the facility prior to such 65443
expenditures as determined for the purposes of property taxation. 65444

(W) "Related member" has the same meaning as defined in 65445
section 5733.042 of the Revised Code without regard to division 65446
(B) of that section, except that it is used with respect to an 65447
enterprise rather than a taxpayer. 65448

(X) "Predecessor enterprise" means an enterprise from which 65449
the assets or equity of another enterprise has been transferred, 65450
which transfer resulted in the full or partial nonrecognition of 65451
gain or loss, or resulted in a carryover basis, both as determined 65452
by rule adopted by the tax commissioner. 65453

(Y) "Successor enterprise" means an enterprise to which the 65454
assets or equity of another enterprise has been transferred, which 65455
transfer resulted in the full or partial nonrecognition of gain or 65456
loss, or resulted in a carryover basis, both as determined by rule 65457
adopted by the tax commissioner. 65458

Sec. 5709.62. (A) In any municipal corporation that is 65459
defined by the United States office of management and budget as a 65460
central city of a metropolitan statistical area, or in a city 65461
designated as an urban cluster in a rural statistical area, the 65462
legislative authority of the municipal corporation may designate 65463
one or more areas within its municipal corporation as proposed 65464
enterprise zones. Upon designating an area, the legislative 65465
authority shall petition the director of development for 65466
certification of the area as having the characteristics set forth 65467
in division (A)(1) of section 5709.61 of the Revised Code as 65468
amended by Substitute Senate Bill No. 19 of the 120th general 65469
assembly. Except as otherwise provided in division (E) of this 65470
section, on and after July 1, 1994, legislative authorities shall 65471

not enter into agreements under this section unless the 65472
legislative authority has petitioned the director and the director 65473
has certified the zone under this section as amended by that act; 65474
however, all agreements entered into under this section as it 65475
existed prior to July 1, 1994, and the incentives granted under 65476
those agreements shall remain in effect for the period agreed to 65477
under those agreements. Within sixty days after receiving such a 65478
petition, the director shall determine whether the area has the 65479
characteristics set forth in division (A)(1) of section 5709.61 of 65480
the Revised Code, and shall forward the findings to the 65481
legislative authority of the municipal corporation. If the 65482
director certifies the area as having those characteristics, and 65483
thereby certifies it as a zone, the legislative authority may 65484
enter into an agreement with an enterprise under division (C) of 65485
this section. 65486

(B) Any enterprise that wishes to enter into an agreement 65487
with a municipal corporation under division (C) of this section 65488
shall submit a proposal to the legislative authority of the 65489
municipal corporation on a form prescribed by the director of 65490
development, together with the application fee established under 65491
section 5709.68 of the Revised Code. The form shall require the 65492
following information: 65493

(1) An estimate of the number of new employees whom the 65494
enterprise intends to hire, or of the number of employees whom the 65495
enterprise intends to retain, within the zone at a facility that 65496
is a project site, and an estimate of the amount of payroll of the 65497
enterprise attributable to these employees; 65498

(2) An estimate of the amount to be invested by the 65499
enterprise to establish, expand, renovate, or occupy a facility, 65500
including investment in new buildings, additions or improvements 65501
to existing buildings, machinery, equipment, furniture, fixtures, 65502
and inventory; 65503

(3) A listing of the enterprise's current investment, if any, 65504
in a facility as of the date of the proposal's submission. 65505

The enterprise shall review and update the listings required 65506
under this division to reflect material changes, and any agreement 65507
entered into under division (C) of this section shall set forth 65508
final estimates and listings as of the time the agreement is 65509
entered into. The legislative authority may, on a separate form 65510
and at any time, require any additional information necessary to 65511
determine whether an enterprise is in compliance with an agreement 65512
and to collect the information required to be reported under 65513
section 5709.68 of the Revised Code. 65514

(C) Upon receipt and investigation of a proposal under 65515
division (B) of this section, if the legislative authority finds 65516
that the enterprise submitting the proposal is qualified by 65517
financial responsibility and business experience to create and 65518
preserve employment opportunities in the zone and improve the 65519
economic climate of the municipal corporation, the legislative 65520
authority, on or before ~~June 30, 2004~~ October 15, 2009, may do one 65521
of the following: 65522

(1) Enter into an agreement with the enterprise under which 65523
the enterprise agrees to establish, expand, renovate, or occupy a 65524
facility and hire new employees, or preserve employment 65525
opportunities for existing employees, in return for one or more of 65526
the following incentives: 65527

(a) Exemption for a specified number of years, not to exceed 65528
ten, of a specified portion, up to seventy-five per cent, of the 65529
assessed value of tangible personal property first used in 65530
business at the project site as a result of the agreement. An 65531
exemption granted pursuant to this division applies to inventory 65532
required to be listed pursuant to sections 5711.15 and 5711.16 of 65533
the Revised Code, except that, in the instance of an expansion or 65534

other situations in which an enterprise was in business at the 65535
facility prior to the establishment of the zone, the inventory 65536
that is exempt is that amount or value of inventory in excess of 65537
the amount or value of inventory required to be listed in the 65538
personal property tax return of the enterprise in the return for 65539
the tax year in which the agreement is entered into. 65540

(b) Exemption for a specified number of years, not to exceed 65541
ten, of a specified portion, up to seventy-five per cent, of the 65542
increase in the assessed valuation of real property constituting 65543
the project site subsequent to formal approval of the agreement by 65544
the legislative authority; 65545

(c) Provision for a specified number of years, not to exceed 65546
ten, of any optional services or assistance that the municipal 65547
corporation is authorized to provide with regard to the project 65548
site. 65549

(2) Enter into an agreement under which the enterprise agrees 65550
to remediate an environmentally contaminated facility, to spend an 65551
amount equal to at least two hundred fifty per cent of the true 65552
value in money of the real property of the facility prior to 65553
remediation as determined for the purposes of property taxation to 65554
establish, expand, renovate, or occupy the remediated facility, 65555
and to hire new employees or preserve employment opportunities for 65556
existing employees at the remediated facility, in return for one 65557
or more of the following incentives: 65558

(a) Exemption for a specified number of years, not to exceed 65559
ten, of a specified portion, not to exceed fifty per cent, of the 65560
assessed valuation of the real property of the facility prior to 65561
remediation; 65562

(b) Exemption for a specified number of years, not to exceed 65563
ten, of a specified portion, not to exceed one hundred per cent, 65564
of the increase in the assessed valuation of the real property of 65565

the facility during or after remediation; 65566

(c) The incentive under division (C)(1)(a) of this section, 65567
except that the percentage of the assessed value of such property 65568
exempted from taxation shall not exceed one hundred per cent; 65569

(d) The incentive under division (C)(1)(c) of this section. 65570

(3) Enter into an agreement with an enterprise that plans to 65571
purchase and operate a large manufacturing facility that has 65572
ceased operation or announced its intention to cease operation, in 65573
return for exemption for a specified number of years, not to 65574
exceed ten, of a specified portion, up to one hundred per cent, of 65575
the assessed value of tangible personal property used in business 65576
at the project site as a result of the agreement, or of the 65577
assessed valuation of real property constituting the project site, 65578
or both. 65579

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 65580
section, the portion of the assessed value of tangible personal 65581
property or of the increase in the assessed valuation of real 65582
property exempted from taxation under those divisions may exceed 65583
seventy-five per cent in any year for which that portion is 65584
exempted if the average percentage exempted for all years in which 65585
the agreement is in effect does not exceed sixty per cent, or if 65586
the board of education of the city, local, or exempted village 65587
school district within the territory of which the property is or 65588
will be located approves a percentage in excess of seventy-five 65589
per cent. For the purpose of obtaining such approval, the 65590
legislative authority shall deliver to the board of education a 65591
notice not later than forty-five days prior to approving the 65592
agreement, excluding Saturdays, Sundays, and legal holidays as 65593
defined in section 1.14 of the Revised Code. The notice shall 65594
state the percentage to be exempted, an estimate of the true value 65595
of the property to be exempted, and the number of years the 65596
property is to be exempted. The board of education, by resolution 65597

adopted by a majority of the board, shall approve or disapprove 65598
the agreement and certify a copy of the resolution to the 65599
legislative authority not later than fourteen days prior to the 65600
date stipulated by the legislative authority as the date upon 65601
which approval of the agreement is to be formally considered by 65602
the legislative authority. The board of education may include in 65603
the resolution conditions under which the board would approve the 65604
agreement, including the execution of an agreement to compensate 65605
the school district under division (B) of section 5709.82 of the 65606
Revised Code. The legislative authority may approve the agreement 65607
at any time after the board of education certifies its resolution 65608
approving the agreement to the legislative authority, or, if the 65609
board approves the agreement conditionally, at any time after the 65610
conditions are agreed to by the board and the legislative 65611
authority. 65612

If a board of education has adopted a resolution waiving its 65613
right to approve agreements and the resolution remains in effect, 65614
approval of an agreement by the board is not required under this 65615
division. If a board of education has adopted a resolution 65616
allowing a legislative authority to deliver the notice required 65617
under this division fewer than forty-five business days prior to 65618
the legislative authority's approval of the agreement, the 65619
legislative authority shall deliver the notice to the board not 65620
later than the number of days prior to such approval as prescribed 65621
by the board in its resolution. If a board of education adopts a 65622
resolution waiving its right to approve agreements or shortening 65623
the notification period, the board shall certify a copy of the 65624
resolution to the legislative authority. If the board of education 65625
rescinds such a resolution, it shall certify notice of the 65626
rescission to the legislative authority. 65627

(2) The legislative authority shall comply with section 65628
5709.83 of the Revised Code unless the board of education has 65629

adopted a resolution under that section waiving its right to 65630
receive such notice. 65631

(E) This division applies to zones certified by the director 65632
of development under this section prior to July 22, 1994. 65633

On or before ~~June 30, 2004~~ October 15, 2009, the legislative 65634
authority that designated a zone to which this division applies 65635
may enter into an agreement with an enterprise if the legislative 65636
authority makes the finding required under that division and 65637
determines that the enterprise satisfies one of the criteria 65638
described in divisions (E)(1) to (5) of this section: 65639

(1) The enterprise currently has no operations in this state 65640
and, subject to approval of the agreement, intends to establish 65641
operations in the zone; 65642

(2) The enterprise currently has operations in this state 65643
and, subject to approval of the agreement, intends to establish 65644
operations at a new location in the zone that would not result in 65645
a reduction in the number of employee positions at any of the 65646
enterprise's other locations in this state; 65647

(3) The enterprise, subject to approval of the agreement, 65648
intends to relocate operations, currently located in another 65649
state, to the zone; 65650

(4) The enterprise, subject to approval of the agreement, 65651
intends to expand operations at an existing site in the zone that 65652
the enterprise currently operates; 65653

(5) The enterprise, subject to approval of the agreement, 65654
intends to relocate operations, currently located in this state, 65655
to the zone, and the director of development has issued a waiver 65656
for the enterprise under division (B) of section 5709.633 of the 65657
Revised Code. 65658

The agreement shall require the enterprise to agree to 65659

establish, expand, renovate, or occupy a facility in the zone and 65660
hire new employees, or preserve employment opportunities for 65661
existing employees, in return for one or more of the incentives 65662
described in division (C) of this section. 65663

(F) All agreements entered into under this section shall be 65664
in the form prescribed under section 5709.631 of the Revised Code. 65665
After an agreement is entered into under this division, if the 65666
legislative authority revokes its designation of a zone, or if the 65667
director of development revokes the zone's certification, any 65668
entitlements granted under the agreement shall continue for the 65669
number of years specified in the agreement. 65670

(G) Except as otherwise provided in this division, an 65671
agreement entered into under this section shall require that the 65672
enterprise pay an annual fee equal to the greater of one per cent 65673
of the dollar value of incentives offered under the agreement or 65674
five hundred dollars; provided, however, that if the value of the 65675
incentives exceeds two hundred fifty thousand dollars, the fee 65676
shall not exceed two thousand five hundred dollars. The fee shall 65677
be payable to the legislative authority once per year for each 65678
year the agreement is effective on the days and in the form 65679
specified in the agreement. Fees paid shall be deposited in a 65680
special fund created for such purpose by the legislative authority 65681
and shall be used by the legislative authority exclusively for the 65682
purpose of complying with section 5709.68 of the Revised Code and 65683
by the tax incentive review council created under section 5709.85 65684
of the Revised Code exclusively for the purposes of performing the 65685
duties prescribed under that section. The legislative authority 65686
may waive or reduce the amount of the fee charged against an 65687
enterprise, but such a waiver or reduction does not affect the 65688
obligations of the legislative authority or the tax incentive 65689
review council to comply with section 5709.68 or 5709.85 of the 65690
Revised Code. 65691

(H) When an agreement is entered into pursuant to this 65692
section, the legislative authority authorizing the agreement shall 65693
forward a copy of the agreement to the director of development and 65694
to the tax commissioner within fifteen days after the agreement is 65695
entered into. If any agreement includes terms not provided for in 65696
section 5709.631 of the Revised Code affecting the revenue of a 65697
city, local, or exempted village school district or causing 65698
revenue to be foregone by the district, including any compensation 65699
to be paid to the school district pursuant to section 5709.82 of 65700
the Revised Code, those terms also shall be forwarded in writing 65701
to the director of development along with the copy of the 65702
agreement forwarded under this division. 65703

(I) After an agreement is entered into, the enterprise shall 65704
file with each personal property tax return required to be filed, 65705
or annual report required to be filed under section 5727.08 of the 65706
Revised Code, while the agreement is in effect, an informational 65707
return, on a form prescribed by the tax commissioner for that 65708
purpose, setting forth separately the property, and related costs 65709
and values, exempted from taxation under the agreement. 65710

(J) Enterprises may agree to give preference to residents of 65711
the zone within which the agreement applies relative to residents 65712
of this state who do not reside in the zone when hiring new 65713
employees under the agreement. 65714

(K) An agreement entered into under this section may include 65715
a provision requiring the enterprise to create one or more 65716
temporary internship positions for students enrolled in a course 65717
of study at a school or other educational institution in the 65718
vicinity, and to create a scholarship or provide another form of 65719
educational financial assistance for students holding such a 65720
position in exchange for the student's commitment to work for the 65721
enterprise at the completion of the internship. 65722

Sec. 5709.63. (A) With the consent of the legislative 65723
authority of each affected municipal corporation or of a board of 65724
township trustees, a board of county commissioners may, in the 65725
manner set forth in section 5709.62 of the Revised Code, designate 65726
one or more areas in one or more municipal corporations or in 65727
unincorporated areas of the county as proposed enterprise zones. A 65728
board of county commissioners may designate no more than one area 65729
within a township, or within adjacent townships, as a proposed 65730
enterprise zone. The board shall petition the director of 65731
development for certification of the area as having the 65732
characteristics set forth in division (A)(1) or (2) of section 65733
5709.61 of the Revised Code as amended by Substitute Senate Bill 65734
No. 19 of the 120th general assembly. Except as otherwise provided 65735
in division (D) of this section, on and after July 1, 1994, boards 65736
of county commissioners shall not enter into agreements under this 65737
section unless the board has petitioned the director and the 65738
director has certified the zone under this section as amended by 65739
that act; however, all agreements entered into under this section 65740
as it existed prior to July 1, 1994, and the incentives granted 65741
under those agreements shall remain in effect for the period 65742
agreed to under those agreements. The director shall make the 65743
determination in the manner provided under section 5709.62 of the 65744
Revised Code. Any enterprise wishing to enter into an agreement 65745
with the board under division (B) or (D) of this section shall 65746
submit a proposal to the board on the form and accompanied by the 65747
application fee prescribed under division (B) of section 5709.62 65748
of the Revised Code. The enterprise shall review and update the 65749
estimates and listings required by the form in the manner required 65750
under that division. The board may, on a separate form and at any 65751
time, require any additional information necessary to determine 65752
whether an enterprise is in compliance with an agreement and to 65753
collect the information required to be reported under section 65754

5709.68 of the Revised Code. 65755

(B) If the board of county commissioners finds that an 65756
enterprise submitting a proposal is qualified by financial 65757
responsibility and business experience to create and preserve 65758
employment opportunities in the zone and to improve the economic 65759
climate of the municipal corporation or municipal corporations or 65760
the unincorporated areas in which the zone is located and to which 65761
the proposal applies, the board, on or before ~~June 30, 2004~~ 65762
October 15, 2009, and with the consent of the legislative 65763
authority of each affected municipal corporation or of the board 65764
of township trustees may do either of the following: 65765

(1) Enter into an agreement with the enterprise under which 65766
the enterprise agrees to establish, expand, renovate, or occupy a 65767
facility in the zone and hire new employees, or preserve 65768
employment opportunities for existing employees, in return for the 65769
following incentives: 65770

(a) When the facility is located in a municipal corporation, 65771
the board may enter into an agreement for one or more of the 65772
incentives provided in division (C) of section 5709.62 of the 65773
Revised Code, subject to division (D) of that section; 65774

(b) When the facility is located in an unincorporated area, 65775
the board may enter into an agreement for one or more of the 65776
following incentives: 65777

(i) Exemption for a specified number of years, not to exceed 65778
ten, of a specified portion, up to sixty per cent, of the assessed 65779
value of tangible personal property first used in business at a 65780
project site as a result of the agreement. An exemption granted 65781
pursuant to this division applies to inventory required to be 65782
listed pursuant to sections 5711.15 and 5711.16 of the Revised 65783
Code, except, in the instance of an expansion or other situations 65784
in which an enterprise was in business at the facility prior to 65785

the establishment of the zone, the inventory that is exempt is 65786
that amount or value of inventory in excess of the amount or value 65787
of inventory required to be listed in the personal property tax 65788
return of the enterprise in the return for the tax year in which 65789
the agreement is entered into. 65790

(ii) Exemption for a specified number of years, not to exceed 65791
ten, of a specified portion, up to sixty per cent, of the increase 65792
in the assessed valuation of real property constituting the 65793
project site subsequent to formal approval of the agreement by the 65794
board; 65795

(iii) Provision for a specified number of years, not to 65796
exceed ten, of any optional services or assistance the board is 65797
authorized to provide with regard to the project site; 65798

(iv) The incentive described in division (C)(2) of section 65799
5709.62 of the Revised Code. 65800

(2) Enter into an agreement with an enterprise that plans to 65801
purchase and operate a large manufacturing facility that has 65802
ceased operation or has announced its intention to cease 65803
operation, in return for exemption for a specified number of 65804
years, not to exceed ten, of a specified portion, up to one 65805
hundred per cent, of tangible personal property used in business 65806
at the project site as a result of the agreement, or of real 65807
property constituting the project site, or both. 65808

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 65809
this section, the portion of the assessed value of tangible 65810
personal property or of the increase in the assessed valuation of 65811
real property exempted from taxation under those divisions may 65812
exceed sixty per cent in any year for which that portion is 65813
exempted if the average percentage exempted for all years in which 65814
the agreement is in effect does not exceed fifty per cent, or if 65815
the board of education of the city, local, or exempted village 65816

school district within the territory of which the property is or 65817
will be located approves a percentage in excess of sixty per cent. 65818
For the purpose of obtaining such approval, the board of 65819
commissioners shall deliver to the board of education a notice not 65820
later than forty-five days prior to approving the agreement, 65821
excluding Saturdays, Sundays, and legal holidays as defined in 65822
section 1.14 of the Revised Code. The notice shall state the 65823
percentage to be exempted, an estimate of the true value of the 65824
property to be exempted, and the number of years the property is 65825
to be exempted. The board of education, by resolution adopted by a 65826
majority of the board, shall approve or disapprove the agreement 65827
and certify a copy of the resolution to the board of commissioners 65828
not later than fourteen days prior to the date stipulated by the 65829
board of commissioners as the date upon which approval of the 65830
agreement is to be formally considered by the board of 65831
commissioners. The board of education may include in the 65832
resolution conditions under which the board would approve the 65833
agreement, including the execution of an agreement to compensate 65834
the school district under division (B) of section 5709.82 of the 65835
Revised Code. The board of county commissioners may approve the 65836
agreement at any time after the board of education certifies its 65837
resolution approving the agreement to the board of county 65838
commissioners, or, if the board of education approves the 65839
agreement conditionally, at any time after the conditions are 65840
agreed to by the board of education and the board of county 65841
commissioners. 65842

If a board of education has adopted a resolution waiving its 65843
right to approve agreements and the resolution remains in effect, 65844
approval of an agreement by the board of education is not required 65845
under division (C) of this section. If a board of education has 65846
adopted a resolution allowing a board of county commissioners to 65847
deliver the notice required under this division fewer than 65848
forty-five business days prior to approval of the agreement by the 65849

board of county commissioners, the board of county commissioners 65850
shall deliver the notice to the board of education not later than 65851
the number of days prior to such approval as prescribed by the 65852
board of education in its resolution. If a board of education 65853
adopts a resolution waiving its right to approve agreements or 65854
shortening the notification period, the board of education shall 65855
certify a copy of the resolution to the board of county 65856
commissioners. If the board of education rescinds such a 65857
resolution, it shall certify notice of the rescission to the board 65858
of county commissioners. 65859

(2) The board of county commissioners shall comply with 65860
section 5709.83 of the Revised Code unless the board of education 65861
has adopted a resolution under that section waiving its right to 65862
receive such notice. 65863

(D) This division applies to zones certified by the director 65864
of development under this section prior to July 22, 1994. 65865

On or before ~~June 30, 2004~~ October 15, 2009, and with the 65866
consent of the legislative authority of each affected municipal 65867
corporation or board of township trustees of each affected 65868
township, the board of commissioners that designated a zone to 65869
which this division applies may enter into an agreement with an 65870
enterprise if the board makes the finding required under that 65871
division and determines that the enterprise satisfies one of the 65872
criteria described in divisions (D)(1) to (5) of this section: 65873

(1) The enterprise currently has no operations in this state 65874
and, subject to approval of the agreement, intends to establish 65875
operations in the zone; 65876

(2) The enterprise currently has operations in this state 65877
and, subject to approval of the agreement, intends to establish 65878
operations at a new location in the zone that would not result in 65879
a reduction in the number of employee positions at any of the 65880

enterprise's other locations in this state; 65881

(3) The enterprise, subject to approval of the agreement, 65882
intends to relocate operations, currently located in another 65883
state, to the zone; 65884

(4) The enterprise, subject to approval of the agreement, 65885
intends to expand operations at an existing site in the zone that 65886
the enterprise currently operates; 65887

(5) The enterprise, subject to approval of the agreement, 65888
intends to relocate operations, currently located in this state, 65889
to the zone, and the director of development has issued a waiver 65890
for the enterprise under division (B) of section 5709.633 of the 65891
Revised Code. 65892

The agreement shall require the enterprise to agree to 65893
establish, expand, renovate, or occupy a facility in the zone and 65894
hire new employees, or preserve employment opportunities for 65895
existing employees, in return for one or more of the incentives 65896
described in division (B) of this section. 65897

(E) All agreements entered into under this section shall be 65898
in the form prescribed under section 5709.631 of the Revised Code. 65899
After an agreement under this section is entered into, if the 65900
board of county commissioners revokes its designation of the zone, 65901
or if the director of development revokes the zone's 65902
certification, any entitlements granted under the agreement shall 65903
continue for the number of years specified in the agreement. 65904

(F) Except as otherwise provided in this paragraph, an 65905
agreement entered into under this section shall require that the 65906
enterprise pay an annual fee equal to the greater of one per cent 65907
of the dollar value of incentives offered under the agreement or 65908
five hundred dollars; provided, however, that if the value of the 65909
incentives exceeds two hundred fifty thousand dollars, the fee 65910
shall not exceed two thousand five hundred dollars. The fee shall 65911

be payable to the board of commissioners once per year for each 65912
year the agreement is effective on the days and in the form 65913
specified in the agreement. Fees paid shall be deposited in a 65914
special fund created for such purpose by the board and shall be 65915
used by the board exclusively for the purpose of complying with 65916
section 5709.68 of the Revised Code and by the tax incentive 65917
review council created under section 5709.85 of the Revised Code 65918
exclusively for the purposes of performing the duties prescribed 65919
under that section. The board may waive or reduce the amount of 65920
the fee charged against an enterprise, but such waiver or 65921
reduction does not affect the obligations of the board or the tax 65922
incentive review council to comply with section 5709.68 or 5709.85 65923
of the Revised Code, respectively. 65924

(G) With the approval of the legislative authority of a 65925
municipal corporation or the board of township trustees of a 65926
township in which a zone is designated under division (A) of this 65927
section, the board of county commissioners may delegate to that 65928
legislative authority or board any powers and duties of the board 65929
to negotiate and administer agreements with regard to that zone 65930
under this section. 65931

(H) When an agreement is entered into pursuant to this 65932
section, the legislative authority authorizing the agreement shall 65933
forward a copy of the agreement to the director of development and 65934
to the tax commissioner within fifteen days after the agreement is 65935
entered into. If any agreement includes terms not provided for in 65936
section 5709.631 of the Revised Code affecting the revenue of a 65937
city, local, or exempted village school district or causing 65938
revenue to be foregone by the district, including any compensation 65939
to be paid to the school district pursuant to section 5709.82 of 65940
the Revised Code, those terms also shall be forwarded in writing 65941
to the director of development along with the copy of the 65942
agreement forwarded under this division. 65943

(I) After an agreement is entered into, the enterprise shall 65944
file with each personal property tax return required to be filed, 65945
or annual report that is required to be filed under section 65946
5727.08 of the Revised Code, while the agreement is in effect, an 65947
informational return, on a form prescribed by the tax commissioner 65948
for that purpose, setting forth separately the property, and 65949
related costs and values, exempted from taxation under the 65950
agreement. 65951

(J) Enterprises may agree to give preference to residents of 65952
the zone within which the agreement applies relative to residents 65953
of this state who do not reside in the zone when hiring new 65954
employees under the agreement. 65955

(K) An agreement entered into under this section may include 65956
a provision requiring the enterprise to create one or more 65957
temporary internship positions for students enrolled in a course 65958
of study at a school or other educational institution in the 65959
vicinity, and to create a scholarship or provide another form of 65960
educational financial assistance for students holding such a 65961
position in exchange for the student's commitment to work for the 65962
enterprise at the completion of the internship. 65963

Sec. 5709.632. (A)(1) The legislative authority of a 65964
municipal corporation defined by the United States office of 65965
management and budget as a central city of a metropolitan 65966
statistical area may, in the manner set forth in section 5709.62 65967
of the Revised Code, designate one or more areas in the municipal 65968
corporation as a proposed enterprise zone. 65969

(2) With the consent of the legislative authority of each 65970
affected municipal corporation or of a board of township trustees, 65971
a board of county commissioners may, in the manner set forth in 65972
section 5709.62 of the Revised Code, designate one or more areas 65973
in one or more municipal corporations or in unincorporated areas 65974

of the county as proposed urban jobs and enterprise zones, except 65975
that a board of county commissioners may designate no more than 65976
one area within a township, or within adjacent townships, as a 65977
proposed urban jobs and enterprise zone. 65978

(3) The legislative authority or board of county 65979
commissioners may petition the director of development for 65980
certification of the area as having the characteristics set forth 65981
in division (A)(3) of section 5709.61 of the Revised Code. Within 65982
sixty days after receiving such a petition, the director shall 65983
determine whether the area has the characteristics set forth in 65984
that division and forward the findings to the legislative 65985
authority or board of county commissioners. If the director 65986
certifies the area as having those characteristics and thereby 65987
certifies it as a zone, the legislative authority or board may 65988
enter into agreements with enterprises under division (B) of this 65989
section. Any enterprise wishing to enter into an agreement with a 65990
legislative authority or board of commissioners under this section 65991
and satisfying one of the criteria described in divisions (B)(1) 65992
to (5) of this section shall submit a proposal to the legislative 65993
authority or board on the form prescribed under division (B) of 65994
section 5709.62 of the Revised Code and shall review and update 65995
the estimates and listings required by the form in the manner 65996
required under that division. The legislative authority or board 65997
may, on a separate form and at any time, require any additional 65998
information necessary to determine whether an enterprise is in 65999
compliance with an agreement and to collect the information 66000
required to be reported under section 5709.68 of the Revised Code. 66001

(B) Prior to entering into an agreement with an enterprise, 66002
the legislative authority or board of county commissioners shall 66003
determine whether the enterprise submitting the proposal is 66004
qualified by financial responsibility and business experience to 66005
create and preserve employment opportunities in the zone and to 66006

improve the economic climate of the municipal corporation or 66007
municipal corporations or the unincorporated areas in which the 66008
zone is located and to which the proposal applies, and whether the 66009
enterprise satisfies one of the following criteria: 66010

(1) The enterprise currently has no operations in this state 66011
and, subject to approval of the agreement, intends to establish 66012
operations in the zone; 66013

(2) The enterprise currently has operations in this state 66014
and, subject to approval of the agreement, intends to establish 66015
operations at a new location in the zone that would not result in 66016
a reduction in the number of employee positions at any of the 66017
enterprise's other locations in this state; 66018

(3) The enterprise, subject to approval of the agreement, 66019
intends to relocate operations, currently located in another 66020
state, to the zone; 66021

(4) The enterprise, subject to approval of the agreement, 66022
intends to expand operations at an existing site in the zone that 66023
the enterprise currently operates; 66024

(5) The enterprise, subject to approval of the agreement, 66025
intends to relocate operations, currently located in this state, 66026
to the zone, and the director of development has issued a waiver 66027
for the enterprise under division (B) of section 5709.633 of the 66028
Revised Code. 66029

(C) If the legislative authority or board determines that the 66030
enterprise is so qualified and satisfies one of the criteria 66031
described in divisions (B)(1) to (5) of this section, the 66032
legislative authority or board may, after complying with section 66033
5709.83 of the Revised Code and on or before ~~June 30, 2004~~ October 66034
15, 2009, and, in the case of a board of commissioners, with the 66035
consent of the legislative authority of each affected municipal 66036
corporation or of the board of township trustees, enter into an 66037

agreement with the enterprise under which the enterprise agrees to 66038
establish, expand, renovate, or occupy a facility in the zone and 66039
hire new employees, or preserve employment opportunities for 66040
existing employees, in return for the following incentives: 66041

(1) When the facility is located in a municipal corporation, 66042
a legislative authority or board of commissioners may enter into 66043
an agreement for one or more of the incentives provided in 66044
division (C) of section 5709.62 of the Revised Code, subject to 66045
division (D) of that section; 66046

(2) When the facility is located in an unincorporated area, a 66047
board of commissioners may enter into an agreement for one or more 66048
of the incentives provided in divisions (B)(1)(b), (B)(2), and 66049
(B)(3) of section 5709.63 of the Revised Code, subject to division 66050
(C) of that section. 66051

(D) All agreements entered into under this section shall be 66052
in the form prescribed under section 5709.631 of the Revised Code. 66053
After an agreement under this section is entered into, if the 66054
legislative authority or board of county commissioners revokes its 66055
designation of the zone, or if the director of development revokes 66056
the zone's certification, any entitlements granted under the 66057
agreement shall continue for the number of years specified in the 66058
agreement. 66059

(E) Except as otherwise provided in this division, an 66060
agreement entered into under this section shall require that the 66061
enterprise pay an annual fee equal to the greater of one per cent 66062
of the dollar value of incentives offered under the agreement or 66063
five hundred dollars; provided, however, that if the value of the 66064
incentives exceeds two hundred fifty thousand dollars, the fee 66065
shall not exceed two thousand five hundred dollars. The fee shall 66066
be payable to the legislative authority or board of commissioners 66067
once per year for each year the agreement is effective on the days 66068
and in the form specified in the agreement. Fees paid shall be 66069

deposited in a special fund created for such purpose by the 66070
legislative authority or board and shall be used by the 66071
legislative authority or board exclusively for the purpose of 66072
complying with section 5709.68 of the Revised Code and by the tax 66073
incentive review council created under section 5709.85 of the 66074
Revised Code exclusively for the purposes of performing the duties 66075
prescribed under that section. The legislative authority or board 66076
may waive or reduce the amount of the fee charged against an 66077
enterprise, but such waiver or reduction does not affect the 66078
obligations of the legislative authority or board or the tax 66079
incentive review council to comply with section 5709.68 or 5709.85 66080
of the Revised Code, respectively. 66081

(F) With the approval of the legislative authority of a 66082
municipal corporation or the board of township trustees of a 66083
township in which a zone is designated under division (A)(2) of 66084
this section, the board of county commissioners may delegate to 66085
that legislative authority or board any powers and duties of the 66086
board to negotiate and administer agreements with regard to that 66087
zone under this section. 66088

(G) When an agreement is entered into pursuant to this 66089
section, the legislative authority or board of commissioners 66090
authorizing the agreement shall forward a copy of the agreement to 66091
the director of development and to the tax commissioner within 66092
fifteen days after the agreement is entered into. If any agreement 66093
includes terms not provided for in section 5709.631 of the Revised 66094
Code affecting the revenue of a city, local, or exempted village 66095
school district or causing revenue to be foregone by the district, 66096
including any compensation to be paid to the school district 66097
pursuant to section 5709.82 of the Revised Code, those terms also 66098
shall be forwarded in writing to the director of development along 66099
with the copy of the agreement forwarded under this division. 66100

(H) After an agreement is entered into, the enterprise shall 66101

file with each personal property tax return required to be filed 66102
while the agreement is in effect, an informational return, on a 66103
form prescribed by the tax commissioner for that purpose, setting 66104
forth separately the property, and related costs and values, 66105
exempted from taxation under the agreement. 66106

(I) An agreement entered into under this section may include 66107
a provision requiring the enterprise to create one or more 66108
temporary internship positions for students enrolled in a course 66109
of study at a school or other educational institution in the 66110
vicinity, and to create a scholarship or provide another form of 66111
educational financial assistance for students holding such a 66112
position in exchange for the student's commitment to work for the 66113
enterprise at the completion of the internship. 66114

Sec. 5709.64. (A) If an enterprise has been granted an 66115
incentive for the current calendar year under an agreement entered 66116
pursuant to section 5709.62, 5709.63, or 5709.632 of the Revised 66117
Code, it may apply, on or before the thirtieth day of April of 66118
that year, to the director of development, on a form prescribed by 66119
the director, for a tax incentive qualification certificate. The 66120
enterprise qualifies for an initial certificate if, on or before 66121
the last day of the calendar year immediately preceding that in 66122
which application is made, it satisfies all of the following 66123
requirements: 66124

(1) The enterprise has established, expanded, renovated, or 66125
occupied a facility pursuant to the agreement under section 66126
5709.62, 5709.63, or 5709.632 of the Revised Code. 66127

(2) The enterprise has hired new employees to fill nonretail 66128
positions at the facility, at least twenty-five per cent of whom 66129
at the time they were employed were at least one of the following: 66130

(a) Unemployed persons who had resided at least six months in 66131
the county in which the enterprise's project site is located; 66132

(b) JPTA eligible employees who had resided at least six months in the county in which the enterprise's project site is located; 66133
66134
66135

(c) Participants of the Ohio works first program under Chapter 5107. of the Revised Code or the prevention, retention, and contingency program under Chapter 5108. of the Revised Code or recipients of general assistance under former Chapter 5113. of the Revised Code, ~~disability~~ financial assistance under Chapter 5115. of the Revised Code, or unemployment compensation benefits who had resided at least six months in the county in which the enterprise's project site is located; 66136
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(d) Handicapped persons, as defined under division (A) of section 3304.11 of the Revised Code, who had resided at least six months in the county in which the enterprise's project site is located; 66144
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(e) Residents for at least one year of a zone located in the county in which the enterprise's project site is located. 66148
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The director of development shall, by rule, establish criteria for determining what constitutes a nonretail position at a facility. 66150
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66152

(3) The average number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the calendar year in which application is made exceeds the maximum number of positions attributable to the enterprise in the municipal corporation during the calendar year immediately preceding the first year the enterprise satisfies the requirements set forth in divisions (A)(1) and (2) of this section. If the enterprise is engaged in a business which, because of its seasonal nature, customarily enables the enterprise to operate at full capacity only during regularly recurring periods of the year, the average number of positions attributable to the 66153
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enterprise in the municipal corporation during each period of the 66164
calendar year immediately preceding the calendar year in which 66165
application is made must exceed only the maximum number of 66166
positions attributable to the enterprise in each corresponding 66167
period of the calendar year immediately preceding the first year 66168
the enterprise satisfies the requirements of divisions (A)(1) and 66169
(2) of this section. The director of development shall, by rule, 66170
prescribe methods for determining whether an enterprise is engaged 66171
in a seasonal business and for determining the length of the 66172
corresponding periods to be compared. 66173

(4) The enterprise has not closed or reduced employment at 66174
any place of business in the state for the primary purpose of 66175
establishing, expanding, renovating, or occupying a facility. The 66176
legislative authority of any municipal corporation or the board of 66177
county commissioners of any county that concludes that an 66178
enterprise has closed or reduced employment at a place of business 66179
in that municipal corporation or county for the primary purpose of 66180
establishing, expanding, renovating, or occupying a facility in a 66181
zone may appeal to the director to determine whether the 66182
enterprise has done so. Upon receiving such an appeal, the 66183
director shall investigate the allegations and make such a 66184
determination before issuing an initial or renewal tax incentive 66185
qualification certificate under this section. 66186

Within sixty days after receiving an application under this 66187
division, the director shall review, investigate, and verify the 66188
application and determine whether the enterprise qualifies for a 66189
certificate. The application shall include an affidavit executed 66190
by the applicant verifying that the enterprise satisfies the 66191
requirements of division (A)(2) of this section, and shall contain 66192
such information and documents as the director requires, by rule, 66193
to ascertain whether the enterprise qualifies for a certificate. 66194
If the director finds the enterprise qualified, the director shall 66195

issue a tax incentive qualification certificate, which shall bear 66196
as its date of issuance the thirtieth day of June of the year of 66197
application, and shall state that the applicant is entitled to 66198
receive, for the taxable year that includes the certificate's date 66199
of issuance, the tax incentives provided under section 5709.65 of 66200
the Revised Code with regard to the facility to which the 66201
certificate applies. If an enterprise is issued an initial 66202
certificate, it may apply, on or before the thirtieth day of April 66203
of each succeeding calendar year for which it has been granted an 66204
incentive under an agreement entered pursuant to section 5709.62, 66205
5709.63, or 5709.632 of the Revised Code, for a renewal 66206
certificate. Subsequent to its initial certification, the 66207
enterprise qualifies for up to three successive renewal 66208
certificates if, on or before the last day of the calendar year 66209
immediately preceding that in which the application is made, it 66210
satisfies all the requirements of divisions (A)(1) to (4) of this 66211
section, and neither the zone's designation nor the zone's 66212
certification has been revoked prior to the fifteenth day of June 66213
of the year in which the application is made. The application 66214
shall include an affidavit executed by the applicant verifying 66215
that the enterprise satisfies the requirements of division (A)(2) 66216
of this section. An enterprise with ten or more supervisory 66217
personnel at the facility to which a certificate applies qualifies 66218
for any subsequent renewal certificates only if it meets all of 66219
the foregoing requirements and, in addition, at least ten per cent 66220
of those supervisory personnel are employees who, when first hired 66221
by the enterprise, satisfied at least one of the criteria 66222
specified in divisions (A)(2)(a) to (e) of this section. If the 66223
enterprise qualifies, a renewal certificate shall be issued 66224
bearing as its date of issuance the thirtieth day of June of the 66225
year of application. The director shall send copies of the initial 66226
certificate, and each renewal certificate, by certified mail, to 66227
the enterprise, the tax commissioner, the board of county 66228

commissioners, and the chief executive of the municipal 66229
corporation in which the facility to which the certificate applies 66230
is located. 66231

(B) If the director determines that an enterprise is not 66232
qualified for an initial or renewal tax incentive qualification 66233
certificate, the director shall send notice of this determination, 66234
specifying the reasons for it, by certified mail, to the 66235
applicant, the tax commissioner, the board of county 66236
commissioners, and the chief executive of the municipal 66237
corporation in which the facility to which the certificate would 66238
have applied is located. Within thirty days after receiving such a 66239
notice, an enterprise may request, in writing, a hearing before 66240
the director for the purpose of reviewing the application and the 66241
reasons for the determination. Within sixty days after receiving a 66242
request for a hearing, the director shall afford one and, within 66243
thirty days after the hearing, shall issue a redetermination of 66244
the enterprise's qualification for a certificate. If the 66245
enterprise is found to be qualified, the director shall proceed in 66246
the manner provided under division (A) of this section. If the 66247
enterprise is found to be unqualified, the director shall send 66248
notice of this finding, by certified mail, to the applicant, the 66249
tax commissioner, the board of county commissioners, and the chief 66250
executive of the municipal corporation in which the facility to 66251
which the certificate would have applied is located. The 66252
director's redetermination that an enterprise is unqualified may 66253
be appealed to the board of tax appeals in the manner provided 66254
under section 5717.02 of the Revised Code. 66255

Sec. 5711.02. Except as otherwise provided by section 5711.13 66256
of the Revised Code, each year, beginning in tax year 2004, each 66257
taxpayer having taxable personal property with an aggregate 66258
taxable value in excess of ten thousand dollars shall make a 66259
return, ~~annually,~~ to the county auditor of each county in which 66260

any taxable property, ~~which~~ the taxpayer must return, is required 66261
by this chapter to be listed ~~and~~. The taxpayer shall truly and 66262
correctly list ~~therein~~ on the return all taxable property so 66263
required to be listed, including property exempt under division 66264
(C)(3) of section 5709.01 of the Revised Code. Such returns shall 66265
be made on the blanks prescribed by the tax commissioner, which 66266
the county auditor shall supply at ~~his~~ the auditor's office along 66267
with blanks of the kind required for the county supplemental 66268
return required by section 5711.131 of the Revised Code ~~for the~~ 66269
~~use of taxpayers~~. The county auditor shall mail or distribute such 66270
blanks prior to the fifteenth day of February to all persons known 66271
to ~~him~~ the auditor to be taxpayers and to all persons to whom the 66272
commissioner may direct blanks of either type to be mailed or 66273
distributed, ~~and he~~. The county auditor may place listing and 66274
county supplemental blanks at convenient places in ~~his~~ the county. 66275
The failure of a taxpayer to receive or procure blanks shall not 66276
excuse ~~him~~ the taxpayer from making any return or county 66277
supplemental return. The individual required to make the return 66278
shall furnish all statements and documents, give all information 66279
required, answer all questions asked on the required blanks, and 66280
subscribe to the truth and correctness of all matters contained 66281
therein. 66282

Sec. 5711.13. A Beginning in tax year 2004, each taxpayer 66283
having taxable property with an aggregate taxable value in excess 66284
of ten thousand dollars and required to be listed in more than one 66285
county shall make a combined return to the tax commissioner 66286
listing all its taxable property in this state, in conformity with 66287
sections 5711.01 to 5711.36 of the Revised Code, including 66288
property exempt under division (C)(3) of section 5709.01 of the 66289
Revised Code, but ~~it~~ the taxpayer shall not assign ~~its~~ property of 66290
the kinds mentioned in section 5709.02 of the Revised Code to any 66291
particular taxing district or county. The tax commissioner shall 66292

assess the personal property of such taxpayer in the several 66293
taxing districts in which it is required ~~by~~ to be assessed under 66294
sections 5711.01 to 5711.36 of the Revised Code, ~~to be assessed,~~ 66295
and shall issue assessment certificates therefor to the proper 66296
county auditors at the time and in the manner required by section 66297
5711.25 of the Revised Code. All other property of such taxpayer 66298
required to be so listed shall be entered on the intangible 66299
property tax list in the office of the treasurer of state, and 66300
~~taxed~~ shall be subject to taxation under section 5707.03 of the 66301
Revised Code. The commissioner shall assess all other property of 66302
each such taxpayer and, on or before the second Monday of August 66303
annually, shall certify the total value or amount of each kind 66304
thereof to the treasurer of state, who shall enter the value or 66305
amount on the intangible property tax list in ~~his~~ the treasurer of 66306
state's office in the manner provided in sections 5725.01 to 66307
5725.26 of the Revised Code. Sections 5711.01 to 5711.36 of the 66308
Revised Code shall apply to and govern such taxpayer, its proper 66309
officers and representatives, the commissioner, and the county 66310
auditor as to all proceedings in the assessment of the property of 66311
such taxpayer. 66312

Sec. 5711.18. (A) As used in this section: 66313

(1) "Qualifying manufacturing property" means machinery or 66314
equipment satisfying both of the following: 66315

(a) The machinery or equipment would qualify as a thing 66316
transferred and used primarily in a manufacturing operation for 66317
the purposes of division (E)(9) of section 5739.01 and section 66318
5739.011 of the Revised Code. 66319

(b) The machinery or equipment was first placed in service in 66320
this state on or after July 1, 2004, and has not been listed for 66321
taxation under this chapter, and was not required to have been so 66322
listed, for any tax year before tax year 2004. 66323

(2) "Phase-in percentage" means the percentage corresponding 66324
with each of the following tax years: 66325

<u>Tax Year</u>	<u>Percentage</u>	66326
<u>2004</u>	<u>90%</u>	66327
<u>2005</u>	<u>80%</u>	66328
<u>2006</u>	<u>70%</u>	66329
<u>2007</u>	<u>60%</u>	66330
<u>2008</u>	<u>50%</u>	66331
<u>2009</u>	<u>40%</u>	66332
<u>2010</u>	<u>30%</u>	66333
<u>2011</u>	<u>20%</u>	66334
<u>2012</u>	<u>10%</u>	66335
<u>2013 and thereafter</u>	<u>0%</u>	66336

(B) In the case of accounts receivable, the book value 66337
thereof less book reserves shall be listed and shall be taken as 66338
the true value thereof unless the assessor finds that such net 66339
book value is greater or less than the then true value of such 66340
accounts receivable in money. ~~It~~ 66341

(C) In the case of personal property used in business, the 66342
~~book value thereof less book depreciation at such time shall be~~ 66343
~~listed, and such depreciated book value~~ one of the following 66344
values shall be listed and shall be taken as the true value of 66345
such property, unless the assessor finds that such ~~depreciated~~ 66346
~~book~~ value is greater or less than the then true value of such 66347
property in money. ~~Claim:~~ 66348

(1) In the case of personal property other than qualifying 66349
manufacturing property, the book value of the property less book 66350
depreciation at the time of listing; 66351

(2) In the case of qualifying manufacturing property, the sum 66352
of the following: 66353

(a) The depreciated book value at which the property would be 66354

valued under division (C)(1) of this section if the property were 66355
valued at the lowest valuation percentage for the class life 66356
assigned to such property, as prescribed under the rules adopted 66357
by the tax commissioner for the purpose of valuing personal 66358
property used in business; 66359

(b) The phase-in percentage multiplied by the excess, if any, 66360
of (i) the book value of the property less book depreciation at 66361
the time of listing, as prescribed in such rules, over (ii) the 66362
value described in division (C)(2)(a) of this section. 66363

Nothing in this section shall cause the true value of 66364
qualifying manufacturing property for any tax year to exceed the 66365
book value of the property less book depreciation at the time of 66366
listing. 66367

(D) Claims for any deduction from net book value of accounts 66368
receivable or depreciated book value of personal property must be 66369
made in writing by the taxpayer at the time of making the 66370
taxpayer's return; ~~and when such.~~ If the return is made to the 66371
county auditor who is required by sections 5711.01 to 5711.36~~7~~ 66372
~~inclusive,~~ of the Revised Code~~7~~ to transmit it to the tax 66373
commissioner for assessment, the auditor shall, as deputy of the 66374
commissioner, investigate such claim and shall enter thereon, or 66375
attach thereto, in such form as the commissioner prescribes, the 66376
auditor's findings and recommendations with respect ~~thereto; when~~ 66377
~~such~~ to the claim. If the return is made to the tax commissioner, 66378
~~such~~ the claim for deduction from depreciated book value of 66379
personal property shall be referred to the auditor, as such 66380
deputy, of each county in which the property affected thereby is 66381
listed for investigation and report. 66382

(E) Any change in the method of determining true value, as 66383
prescribed by the tax commissioner on a prospective basis, shall 66384
not be admissible in any judicial or administrative action or 66385
proceeding as evidence of value with regard to prior years' taxes. 66386

Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying any such method shall not be subject to discovery or disclosure.

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

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

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, that are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the

year immediately succeeding their issuance. If such shares bear 66418
dividends the first calendar year after their issuance, which 66419
dividends are subject to taxation under the provisions of Chapter 66420
5747. of the Revised Code, it shall be deemed that the 66421
nondelinquent intangible property tax pursuant to division (A) of 66422
section 5707.04 of the Revised Code was paid on those dividends 66423
paid that first calendar year after the issuance of the shares. 66424

(B)(1) Boilers, machinery, equipment, and personal property 66425
the true value of which is determined under division (B) of 66426
section 5711.21 of the Revised Code shall be listed and assessed 66427
at an amount equal to the sum of the products determined under 66428
divisions (B)(1)(a), (b), and (c) of this section. 66429

(a) Multiply the portion of the true value determined under 66430
division (B)(1) of section 5711.21 of the Revised Code by the 66431
assessment rate in division (F) of this section; 66432

(b) Multiply the portion of the true value determined under 66433
division (B)(2) of section 5711.21 of the Revised Code by the 66434
assessment rate in section 5727.111 of the Revised Code that is 66435
applicable to the production equipment of an electric company; 66436

(c) Multiply the portion of the true value determined under 66437
division (B)(3) of section 5711.21 of the Revised Code by the 66438
assessment rate in section 5727.111 of the Revised Code that is 66439
applicable to the property of an electric company that is not 66440
production equipment. 66441

(2) Personal property leased to a public utility or 66442
interexchange telecommunications company as defined in section 66443
5727.01 of the Revised Code and used directly in the rendition of 66444
a public utility service as defined in division (P) of section 66445
5739.01 of the Revised Code shall be listed and assessed at the 66446
same percentage of true value in money that such property is 66447
required to be assessed by section 5727.111 of the Revised Code if 66448

owned by the public utility or interexchange telecommunications 66449
company. 66450

(C)(1) Merchandise or an agricultural product shipped from 66451
outside this state and held in this state in a warehouse or a 66452
place of storage without further manufacturing or processing and 66453
for storage only and for shipment outside this state, but that is 66454
taxable because it does not qualify as "not used in business in 66455
this state" under division (B)(1) or (2) of section 5701.08 of the 66456
Revised Code, shall be listed and assessed at a rate of 66457
twenty-five one-hundredths of its true value in money until 66458
reduced in accordance with the following schedule: 66459

(a) For any year, subtract five one-hundredths from the rate 66460
at which such property was required to be listed and assessed in 66461
the preceding year, if the total statewide collection of all real 66462
and tangible personal property taxes for the second preceding year 66463
exceeded the total statewide collection of all real and tangible 66464
personal property taxes for the third preceding year by more than 66465
the greater of four per cent or the rate of increase from the 66466
third to the second preceding years in the average consumer price 66467
index (all urban consumers, all items) prepared by the bureau of 66468
labor statistics of the United States department of labor; 66469

(b) If no reduction in the assessment rate is made for a 66470
year, the rate is the same as for the preceding year. 66471

(2) Each year until the year the assessment rate equals zero, 66472
the tax commissioner shall determine the assessment rate required 66473
under this division and shall notify all county auditors of that 66474
rate. 66475

(3) Notwithstanding provisions to the contrary in division 66476
(B) of section 5701.08 of the Revised Code, during and after the 66477
year for which the assessment rate as calculated under this 66478
division equals zero, any merchandise or agricultural product 66479

shipped from outside this state and held in this state in any 66480
warehouse or place of storage, whether public or private, without 66481
further manufacturing or processing and for storage only and for 66482
shipment outside this state to any person for any purpose is not 66483
used in business in this state for property tax purposes. 66484

(D)(1) Merchandise or an agricultural product owned by a 66485
qualified out-of-state person shipped from outside this state and 66486
held in this state in a public warehouse without further 66487
manufacturing or processing and for temporary storage only and for 66488
shipment inside this state, but that is taxable because it does 66489
not qualify as "not used in business in this state" under division 66490
(B)(1) or (2) of section 5701.08 of the Revised Code, shall be 66491
listed and assessed at a rate of twenty-five one-hundredths of its 66492
true value in money until reduced in accordance with the following 66493
schedule: 66494

(a) For any year, subtract five one-hundredths from the rate 66495
at which such property was required to be listed and assessed in 66496
the preceding year, if the total statewide collection of all real 66497
and tangible personal property taxes for the second preceding year 66498
exceeded the total statewide collection of all real and tangible 66499
personal property taxes for the third preceding year by more than 66500
the greater of four per cent or the rate of increase from the 66501
third to the second preceding years in the average consumer price 66502
index (all urban consumers, all items) prepared by the bureau of 66503
labor statistics of the United States department of labor; 66504

(b) If no reduction in the assessment rate is made for a 66505
year, the rate is the same as for the preceding year. 66506

(2) Each year until the year the assessment rate equals zero, 66507
the tax commissioner shall determine the assessment rate required 66508
under this division and shall notify all county auditors of that 66509
rate. 66510

(3) Notwithstanding provisions to the contrary in division 66511
(B) of section 5701.08 of the Revised Code, during and after the 66512
year for which the assessment rate as calculated under this 66513
division equals zero, any merchandise or agricultural product 66514
described in division (D)(1) of this section is not used in 66515
business in this state for property tax purposes. 66516

(4) As used in division (D) of this section: 66517

(a) "Qualified out-of-state person" means a person that does 66518
not own, lease, or use property, other than merchandise or an 66519
agricultural product described in this division, in this state, 66520
and does not have employees, agents, or representatives in this 66521
state; 66522

(b) "Public warehouse" means a warehouse in this state that 66523
is not subject to the control of or under the supervision of the 66524
owner of the merchandise or agricultural product stored in it, or 66525
staffed by the owner's employees, and from which the property is 66526
to be shipped inside this state. 66527

(E) Personal property valued pursuant to section 5711.15 of 66528
the Revised Code and personal property required to be listed on 66529
the average basis by division (A) of section 5711.16 of the 66530
Revised Code, except property described in division (C) or (D) of 66531
this section, business fixtures, and furniture not held for sale 66532
in the course of business, shall be listed and assessed at the 66533
rate of twenty-five per cent of its true value in money until 66534
reduced to zero in accordance with the following schedule: 66535

(1) Beginning in tax year 2002 and for each of tax years 66536
2003, and 2004, ~~2005, and 2006~~, subtract one percentage point from 66537
the rate at which the property was required to be listed and 66538
assessed in the preceding year, if the total statewide collection 66539
of tangible personal property taxes for the second preceding year 66540
exceeded the total statewide collection of tangible personal 66541

property taxes for the third preceding year. If no reduction in 66542
the assessment rate is made for a year, the rate is the same as 66543
for the preceding year. ~~For purposes of this division, total 66544~~
~~statewide collection of tangible personal property taxes excludes 66545~~
~~taxes collected from public utilities and interexchange 66546~~
~~telecommunications companies on property that is determined to be 66547~~
~~taxable pursuant to section 5727.06 of the Revised Code. 66548~~

(2) In tax year 2007, ~~the assessment rate shall be the lesser 66549~~
~~of twenty four per cent or one percentage point less than the rate 66550~~
~~at which property was required to be listed and assessed the 66551~~
~~preceding year. Each 2005 and each tax year thereafter, the 66552~~
assessment rate shall be reduced by ~~one~~ two percentage point until 66553
it equals zero per cent not later than tax year 2031 points, if 66554
the total statewide collection of tangible personal property taxes 66555
for the second preceding year exceeded the total statewide 66556
collection of tangible personal property taxes for the third 66557
preceding year. If no reduction in the assessment rate is made for 66558
a year, the rate is the same as for the preceding year. During and 66559
after the tax year that the assessment rate equals zero, the 66560
property described in division (E) of this section shall not be 66561
listed for taxation. 66562

Each year until the year the assessment rate equals zero, the 66563
tax commissioner shall determine the assessment rate required 66564
under this division and shall notify all county auditors of that 66565
rate. 66566

For purposes of division (E) of this section, "total 66567
statewide collection of tangible person property taxes" excludes 66568
taxes collected from public utilities and interexchange 66569
telecommunications companies on property that is determined to be 66570
taxable pursuant to section 5727.06 of the Revised Code. 66571

(F) Unless otherwise provided by law, all other personal 66572
property used in business that has not been legally regarded as an 66573

improvement on land and considered in arriving at the value of the 66574
real property assessed for taxation shall be listed and assessed 66575
at the rate of twenty-five per cent of its true value in money. 66576

Sec. 5711.27. No taxpayer shall fail to make a return within 66577
the time prescribed by law, or as extended pursuant to section 66578
5711.04 of the Revised Code, nor fail to list in a return or 66579
disclose on an accompanying balance sheet or in other information 66580
filed with the return any item of taxable property ~~which he~~ the 66581
taxpayer is required ~~by~~ to list in the return under sections 66582
5711.01 to 5711.36 of the Revised Code, ~~to list therein.~~ 66583

~~If any taxpayer does so fail the following shall apply:~~ 66584

~~(A) In the case of a taxpayer who fails to make a timely 66585
return, the assessor shall add to the taxpayer's assessment as a 66586
penalty, one half of the taxpayer's taxable value that is exempt 66587
from taxation under division (C)(3) of section 5709.01 of the 66588
Revised Code. If the taxpayer's taxable value that is exempt from 66589
taxation under division (C)(3) of section 5709.01 of the Revised 66590
Code is located in more than one taxing district, the penalty 66591
assessment shall be applied among taxing districts as if only five 66592
thousand dollars, or one half of the taxpayer's taxable valuation, 66593
whichever is less, had been exempt from taxation under such 66594
division.~~ 66595

~~(B) In the case of a taxpayer who fails to make a timely 66596
return, or fails to list or disclose any item he the taxpayer is 66597
required to return, the assessor shall add to the assessment of 66598
each class or item of taxable property ~~which~~ the taxpayer failed 66599
to return, list, or disclose ~~and to any amount added under~~ 66600
~~division (A) of this section,~~ a penalty of up to fifty per cent 66601
~~thereof~~ of the assessment; but if such taxpayer makes, within 66602
sixty days after the expiration of the time prescribed by such 66603
sections, a return or an amended or supplementary return and lists 66604~~

therein or discloses on an accompanying balance sheet or in other 66605
information filed with the return all items of taxable property 66606
~~which he~~ the taxpayer is required by such sections to list, and in 66607
all cases in which the taxpayer's only default is ~~his~~ the failure 66608
to pay the amounts specified in section 5719.02 of the Revised 66609
Code within the time therein specified, such penalty shall be five 66610
per cent of the assessment, and, if the assessment certificate has 66611
been issued, an amended assessment certificate shall be issued and 66612
substituted therefor. 66613

~~Either or both of the penalties~~ The penalty provided in this 66614
section may be abated in whole or in part by the assessor when it 66615
is shown that such failure is due to reasonable cause. The penalty 66616
assessment shall be entered on the proper tax list and duplicate, 66617
and taxes shall be levied thereon the same as on the assessment 66618
itself. 66619

~~If any taxpayer does so fail with respect to a return~~ 66620
~~required to be filed for tax year 1982 or any prior year, the~~ 66621
~~assessor shall add to the assessment of each class or item of~~ 66622
~~taxable property which the taxpayer failed to return, list or~~ 66623
~~disclose in addition to the penalties provided by law, an~~ 66624
~~additional charge at the rate of one half of one per cent per~~ 66625
~~month from the date such property should have been returned or~~ 66626
~~disclosed until the same is assessed, provided that said~~ 66627
~~additional charge shall not be added to an assessment for any~~ 66628
~~period of time in excess of ten years previous to the date of the~~ 66629
~~assessment.~~ 66630

A fiduciary against whom a penalty assessment is made shall 66631
be personally liable for the amount of taxes levied in respect to 66632
such penalty assessment and any additional charge, and in case of 66633
fraud or intent to evade taxes, such fiduciary shall have no right 66634
of reimbursement against the property held by ~~him~~ the fiduciary as 66635
such fiduciary nor against the person for whose benefit the same 66636

is held. 66637

Sec. 5711.33. (A)(1) When a county treasurer receives a 66638
certificate from a county auditor pursuant to division (A) of 66639
section 5711.32 of the Revised Code charging the treasurer with 66640
the collection of an amount of taxes due as the result of a 66641
deficiency assessment, the treasurer shall immediately prepare and 66642
mail a tax bill to the taxpayer owing such tax. The tax bill shall 66643
contain the name of the taxpayer; the taxable value, tax rate, and 66644
taxes charged for each year being assessed; the total amount of 66645
taxes due; the final date payment may be made without additional 66646
penalty; and any other information the treasurer considers 66647
pertinent or necessary. Taxes due and payable as a result of a 66648
deficiency assessment, less any amount specifically excepted from 66649
collection under division (B) of section 5711.32 of the Revised 66650
Code, shall be paid with interest thereon as prescribed by section 66651
5719.041 of the Revised Code on or before the sixtieth day 66652
following the date of issuance of the certificate by the county 66653
auditor. The balance of taxes found due and payable after a final 66654
determination by the tax commissioner or a final judgment of the 66655
board of tax appeals or any court to which such final judgment may 66656
be appealed, shall be paid with interest thereon as prescribed by 66657
section 5719.041 of the Revised Code on or before the sixtieth day 66658
following the date of certification by the auditor to the 66659
treasurer pursuant to division (C) of section 5711.32 of the 66660
Revised Code of such final determination or judgment. Such final 66661
dates for payment shall be determined and exhibited on the tax 66662
bill by the treasurer. 66663

(2) If, on or before the sixtieth day following the date of a 66664
certification of a deficiency assessment under division (A) of 66665
section 5711.32 of the Revised Code or of a certification of a 66666
final determination or judgment under division (C) of section 66667
5711.32 of the Revised Code, the taxpayer pays the full amount of 66668

taxes and interest due at the time of the receipt of certification 66669
with respect to that assessment, determination, or judgment, no 66670
interest shall accrue or be charged with respect to that 66671
assessment, determination, or judgment for the period that begins 66672
on the first day of the month in which the certification is made 66673
and that ends on the last day of the month preceding the month in 66674
which such sixtieth day occurs. 66675

(B) When the taxes charged, as mentioned in division (A) of 66676
this section, are not paid within the time prescribed by such 66677
division, a penalty of ten per cent of the amount due and unpaid 66678
and interest for the period described in division (A)(2) of this 66679
section shall accrue at the time the treasurer closes the 66680
treasurer's office for business on the last day so prescribed, but 66681
if the taxes are paid within ten days subsequent to the last day 66682
prescribed, the treasurer shall waive the collection of and the 66683
auditor shall remit one-half of the penalty. The treasurer shall 66684
not thereafter accept less than the full amount of taxes and 66685
penalty except as otherwise authorized by law. Such penalty shall 66686
be distributed in the same manner and at the same time as the tax 66687
upon which it has accrued. The whole amount collected shall be 66688
included in the next succeeding settlement of appropriate taxes. 66689

(C) When the taxes charged, as mentioned in division (A) of 66690
this section, remain unpaid after the final date for payment 66691
prescribed by such division, such charges shall be deemed to be 66692
delinquent taxes. The county auditor shall cause such charges, 66693
including the penalty that has accrued pursuant to this section, 66694
to be added to the delinquent tax duplicate in accordance with 66695
section 5719.04 of the Revised Code. 66696

(D) The county auditor, upon consultation with the county 66697
treasurer, shall remit a penalty imposed under division (B) of 66698
this section or division (C) of section 5719.03 of the Revised 66699
Code for the late payment of taxes when: 66700

(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 the county auditor. The application may be filed in person or by certified mail. If the application is filed by certified mail, the date of the United States postmark placed on the sender's receipt

by the postal service shall be treated as the date of filing. The 66732
commissioner shall consider the application, determine whether the 66733
penalty should be remitted, and certify the determination to the 66734
taxpayer and to the county treasurer and county auditor, who shall 66735
correct the tax list and duplicate accordingly. The commissioner 66736
~~shall~~ may issue orders and instructions for the uniform 66737
implementation of this section by all county auditors and county 66738
treasurers, and such orders and instructions shall be followed by 66739
such officers. 66740

Sec. 5713.07. The county auditor, at the time of making the 66741
assessment of real property subject to taxation, shall enter in a 66742
separate list pertinent descriptions of all burying grounds, 66743
public schoolhouses, houses used exclusively for public worship, 66744
institutions of purely public charity, real property used 66745
exclusively for a home for the aged, as defined in section 5701.13 66746
of the Revised Code, ~~and~~ public buildings and property used 66747
exclusively for any public purpose, and any other property, with 66748
the lot or tract of land on which such house, institution, ~~or~~ 66749
public building, or other property is situated, and which ~~are~~ 66750
~~exempt~~ have been exempted from taxation by either the tax 66751
commissioner under section 5715.27 of the Revised Code or by the 66752
housing officer under section 3735.67 of the Revised Code. ~~He~~ The 66753
auditor shall value such houses, buildings, property, and lots and 66754
tracts of land at their taxable value in the same manner as ~~he~~ the 66755
auditor is required to value other real property, designating in 66756
each case the township, municipal corporation, and number of the 66757
school district, or the name or designation of the school, 66758
religious society, or institution to which each house, lot, or 66759
tract belongs. If such property is held and used for other public 66760
purposes, ~~he~~ the auditor shall state by whom or how it is held. 66761

Sec. 5713.08. (A) The county auditor shall make a list of all 66762

real and personal property in the auditor's county, including 66763
money, credits, and investments in bonds, stocks, or otherwise, 66764
which is exempted from taxation. Such list shall show the name of 66765
the owner, the value of the property exempted, and a statement in 66766
brief form of the ground on which such exemption has been granted. 66767
It shall be corrected annually by adding thereto the items of 66768
property which have been exempted during the year, and by striking 66769
therefrom the items which in the opinion of the auditor have lost 66770
their right of exemption and which have been reentered on the 66771
taxable list. No additions shall be made to such exempt lists and 66772
no additional items of property shall be exempted from taxation 66773
without the consent of the tax commissioner as is provided for in 66774
section 5715.27 of the Revised Code, ~~but when~~ or without the 66775
consent of the housing officer under section 3735.67 of the 66776
Revised Code. When any personal property or endowment fund of an 66777
institution has once been held by the commissioner to be properly 66778
exempt from taxation, it is not necessary to obtain the 66779
commissioner's consent to the exemption of additional property or 66780
investments of the same kind belonging to the same institution, 66781
but such property shall appear on the abstract filed annually with 66782
the commissioner. The commissioner may revise at any time the list 66783
in every county so that no property is improperly or illegally 66784
exempted from taxation. The auditor shall follow the orders of the 66785
commissioner given under this section. An abstract of such list 66786
shall be filed annually with the commissioner, on a form approved 66787
by the commissioner, and a copy thereof shall be kept on file in 66788
the office of each auditor for public inspection. 66789

The commissioner shall not consider an application for 66790
exemption of property unless the application has attached thereto 66791
a certificate executed by the county treasurer certifying one of 66792
the following: 66793

(1) That all taxes, assessments, interest, and penalties 66794

levied and assessed against the property sought to be exempted 66795
have been paid in full to the date upon which the application for 66796
exemption is filed, except for such taxes, interest, and penalties 66797
that may be remitted under division (B) of this section; 66798

(2) That the applicant has entered into a valid delinquent 66799
tax contract with the county treasurer pursuant to division (A) of 66800
section 323.31 of the Revised Code to pay all of the delinquent 66801
taxes, assessments, interest, and penalties charged against the 66802
property, except for such taxes, interest, and penalties that may 66803
be remitted under division (B) of this section. If the auditor 66804
receives notice under section 323.31 of the Revised Code that such 66805
a written delinquent tax contract has become void, the auditor 66806
shall strike such property from the list of exempted property and 66807
reenter such property on the taxable list. If property is removed 66808
from the exempt list because a written delinquent tax contract has 66809
become void, current taxes shall first be extended against that 66810
property on the general tax list and duplicate of real and public 66811
utility property for the tax year in which the auditor receives 66812
the notice required by division (A) of section 323.31 of the 66813
Revised Code that the delinquent tax contract has become void or, 66814
if that notice is not timely made, for the tax year in which falls 66815
the latest date by which the treasurer is required by such section 66816
to give such notice. A county auditor shall not remove from any 66817
tax list and duplicate the amount of any unpaid delinquent taxes, 66818
assessments, interest, or penalties owed on property that is 66819
placed on the exempt list pursuant to this division. 66820

(3) That a tax certificate has been issued under section 66821
5721.32 or 5721.33 of the Revised Code with respect to the 66822
property that is the subject of the application, and the tax 66823
certificate is outstanding. 66824

(B) Any taxes, interest, and penalties which have become a 66825
lien after the property was first used for the exempt purpose, but 66826

in no case prior to the date of acquisition of the title to the 66827
property by the applicant, may be remitted by the commissioner, 66828
except as is provided in division (A) of section 5713.081 of the 66829
Revised Code. 66830

(C) Real property acquired by the state in fee simple is 66831
exempt from taxation from the date of acquisition of title or date 66832
of possession, whichever is the earlier date, provided that all 66833
taxes, interest, and penalties as provided in the apportionment 66834
provisions of section 319.20 of the Revised Code have been paid to 66835
the date of acquisition of title or date of possession by the 66836
state, whichever is earlier. The proportionate amount of taxes 66837
that are a lien but not yet determined, assessed, and levied for 66838
the year in which the property is acquired, shall be remitted by 66839
the county auditor for the balance of the year from date of 66840
acquisition of title or date of possession, whichever is earlier. 66841
This section shall not be construed to authorize the exemption of 66842
such property from taxation or the remission of taxes, interest, 66843
and penalties thereon until all private use has terminated. 66844

Sec. 5713.081. (A) No application for real property tax 66845
exemption and tax remission shall be filed with, or considered by, 66846
the tax commissioner in which tax remission is requested for more 66847
than three tax years, and the commissioner shall not remit more 66848
than three years' ~~delinquent~~ taxes, penalties, and interest. 66849

(B) All taxes, penalties, and interest, that have been 66850
delinquent for more than three years, appearing on the general tax 66851
list and duplicate of real property which have been levied and 66852
assessed against parcels of real property owned by the state, any 66853
political subdivision, or any other entity whose ownership of real 66854
property would constitute public ownership, shall be collected by 66855
the county auditor of the county where the real property is 66856
located. Such ~~official~~ auditor shall deduct from each distribution 66857

made by ~~him~~ the auditor, the amount necessary to pay the tax 66858
delinquency from any revenues or funds to the credit of the state, 66859
any political subdivision, or any other entity whose ownership of 66860
real property would constitute public ownership thereof, passing 66861
under ~~his~~ the auditor's control, or which come into ~~his~~ the 66862
auditor's possession, and such deductions shall be made on a 66863
continuing basis until all delinquent taxes, penalties, and 66864
interest noted in this section have been paid. 66865

(C) As used in division (B) of this section, "political 66866
subdivision" includes townships, municipalities, counties, school 66867
districts, boards of education, all state and municipal 66868
universities, park boards, and any other entity whose ownership of 66869
real property would constitute public ownership. 66870

Sec. 5713.082. (A) Whenever the county auditor reenters an 66871
item of property to the tax list as provided in section 5713.08 of 66872
the Revised Code and there has been no conveyance of the property 66873
between separate entities, the auditor shall send notice by 66874
certified mail to the owner of the property that it is now subject 66875
to property taxation as a result of such action. The auditor shall 66876
send the notice at the same time ~~he~~ the auditor certifies the real 66877
property tax duplicate to the county treasurer. The notice shall 66878
describe the property and indicate that the owner may reapply for 66879
tax exemption by filing an application for exemption as provided 66880
in section 5715.27 of the Revised Code, and that failure to file 66881
such an application within the proper time period will result in 66882
the owner having to pay the taxes even if the property continued 66883
to be used for an exempt purpose. 66884

(B) If the auditor failed to send the notice required by this 66885
section, and if the owner of the property subsequently files an 66886
application for tax exemption for the property for the current tax 66887
year, the tax commissioner may grant exemption to the property, 66888

and ~~he~~ the commissioner shall remit all ~~unpaid~~ taxes and penalties 66889
for each prior year since the property was reentered on the tax 66890
list notwithstanding the provisions of division (A) of section 66891
5713.081 of the Revised Code. 66892

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 66893
5715.01 of the Revised Code: 66894

(A) "Land devoted exclusively to agricultural use" means: 66895

(1) Tracts, lots, or parcels of land totaling not less than 66896
ten acres that, during the three calendar years prior to the year 66897
in which application is filed under section 5713.31 of the Revised 66898
Code, and through the last day of May of such year, were devoted 66899
exclusively to commercial animal or poultry husbandry, 66900
aquaculture, apiculture, the production for a commercial purpose 66901
of timber, field crops, tobacco, fruits, vegetables, nursery 66902
stock, ornamental trees, sod, or flowers, or the growth of timber 66903
for a noncommercial purpose, if the land on which the timber is 66904
grown is contiguous to or part of a parcel of land under common 66905
ownership that is otherwise devoted exclusively to agricultural 66906
use, or were devoted to and qualified for payments or other 66907
compensation under a land retirement or conservation program under 66908
an agreement with an agency of the federal government; 66909

(2) Tracts, lots, or parcels of land totaling less than ten 66910
acres that, during the three calendar years prior to the year in 66911
which application is filed under section 5713.31 of the Revised 66912
Code and through the last day of May of such year, were devoted 66913
exclusively to commercial animal or poultry husbandry, 66914
aquaculture, apiculture, the production for a commercial purpose 66915
of field crops, tobacco, fruits, vegetables, timber, nursery 66916
stock, ornamental trees, sod, or flowers where such activities 66917
produced an average yearly gross income of at least twenty-five 66918
hundred dollars during such three-year period or where there is 66919

evidence of an anticipated gross income of such amount from such 66920
activities during the tax year in which application is made, or 66921
were devoted to and qualified for payments or other compensation 66922
under a land retirement or conservation program under an agreement 66923
with an agency of the federal government; 66924

(3) A tract, lot, or parcel of land taxed under sections 66925
5713.22 to 5713.26 of the Revised Code is not land devoted 66926
exclusively to agricultural use; 66927

(4) Tracts, lots, or parcels of land, or portions thereof 66928
~~which that~~, during the previous three consecutive calendar years 66929
have been designated as land devoted exclusively to agricultural 66930
use, but such land has been lying idle or fallow for up to one 66931
year and no action has occurred to such land that is either 66932
inconsistent with the return of it to agricultural production or 66933
converts the land devoted exclusively to agricultural use as 66934
defined in this section. Such land shall remain designated as land 66935
devoted exclusively to agricultural use provided that beyond one 66936
year, but less than three years, the landowner proves good cause 66937
as determined by the board of revision. 66938

"Land devoted exclusively to agricultural use" includes 66939
tracts, lots, or parcels of land or portions thereof that are used 66940
for conservation practices, provided that the tracts, lots, or 66941
parcels of land or portions thereof comprise twenty-five per cent 66942
or less of the total of the tracts, lots, or parcels of land that 66943
satisfy the criteria established in division (A)(1), (2), or (4) 66944
of this section together with the tracts, lots, or parcels of land 66945
or portions thereof that are used for conservation practices. 66946

(B) "Conversion of land devoted exclusively to agricultural 66947
use" means any of the following: 66948

(1) The failure of the owner of land devoted exclusively to 66949
agricultural use during the next preceding calendar year to file a 66950

renewal application under section 5713.31 of the Revised Code 66951
without good cause as determined by the board of revision; 66952

(2) The failure of the new owner of such land to file an 66953
initial application under that section without good cause as 66954
determined by the board of revision; 66955

(3) The failure of such land or portion thereof to qualify as 66956
land devoted exclusively to agricultural use for the current 66957
calendar year as requested by an application filed under such 66958
section; 66959

(4) The failure of the owner of the land described in 66960
division (A)(4) of this section to act on such land in a manner 66961
that is consistent with the return of the land to agricultural 66962
production after three years. 66963

(C) "Tax savings" means the difference between the dollar 66964
amount of real property taxes levied in any year on land valued 66965
and assessed in accordance with its current agricultural use value 66966
and the dollar amount of real property taxes ~~which~~ that would have 66967
been levied upon such land if it had been valued and assessed for 66968
such year in accordance with Section 2 of Article XII, Ohio 66969
Constitution. 66970

(D) "Owner" includes, but is not limited to, any person 66971
owning a fee simple, fee tail, or life estate, or a buyer on a 66972
land installment contract. 66973

(E) "Conservation practices" includes, but is not limited to, 66974
the installation, construction, development, planting, or use of 66975
grass waterways, terraces, diversions, filter strips, field 66976
borders, windbreaks, riparian buffers, wetlands, ponds, and cover 66977
crops to abate soil erosion. 66978

(F) "Wetlands" has the same meaning as in section 6111.02 of 66979
the Revised Code. 66980

Sec. 5715.27. (A) The Except as provided in section 3735.67 66981
of the Revised Code, the owner of any property may file an 66982
application with the tax commissioner, on forms prescribed by the 66983
commissioner, requesting that such property be exempted from 66984
taxation and that ~~unpaid~~ taxes and penalties be remitted as 66985
provided in division (B) of section 5713.08 of the Revised Code. 66986

(B) The board of education of any school district may request 66987
the tax commissioner to provide it with notification of 66988
applications for exemption from taxation for property located 66989
within that district. If so requested, the commissioner shall send 66990
to the board for the quarters ending on the last day of March, 66991
June, September, and December of each year, reports that contain 66992
sufficient information to enable the board to identify each 66993
property that is the subject of an exemption application, 66994
including, but not limited to, the name of the property owner or 66995
applicant, the address of the property, and the auditor's parcel 66996
number. The commissioner shall mail the reports on or about the 66997
fifteenth day of the month following the end of the quarter. 66998

(C) A board of education that has requested notification 66999
under division (B) of this section may, with respect to any 67000
application for exemption of property located in the district and 67001
included in the commissioner's most recent report provided under 67002
that division, file a statement with the commissioner and with the 67003
applicant indicating its intent to submit evidence and participate 67004
in any hearing on the application. The statements shall be filed 67005
prior to the first day of the third month following the end of the 67006
quarter in which that application was docketed by the 67007
commissioner. A statement filed in compliance with this division 67008
entitles the district to submit evidence and to participate in any 67009
hearing on the property and makes the district a party for 67010
purposes of sections 5717.02 to 5717.04 of the Revised Code in any 67011

appeal of the commissioner's decision to the board of tax appeals. 67012

(D) The commissioner shall not hold a hearing on or grant or 67013
deny an application for exemption of property in a school district 67014
whose board of education has requested notification under division 67015
(B) of this section until the end of the period within which the 67016
board may submit a statement with respect to that application 67017
under division (C) of this section. The commissioner may act upon 67018
an application at any time prior to that date upon receipt of a 67019
written waiver from each such board of education, or, in the case 67020
of exemptions authorized by section 725.02, 1728.10, ~~3735.67,~~ 67021
5709.41, 5709.62, or 5709.63 of the Revised Code, upon the request 67022
of the property owner. Failure of a board of education to receive 67023
the report required in division (B) of this section shall not void 67024
an action of the commissioner with respect to any application. The 67025
commissioner may extend the time for filing a statement under 67026
division (C) of this section. 67027

(E) A complaint may also be filed with the commissioner by 67028
any person, board, or officer authorized by section 5715.19 of the 67029
Revised Code to file complaints with the county board of revision 67030
against the continued exemption of any property granted exemption 67031
by the commissioner under this section. 67032

(F) An application for exemption and a complaint against 67033
exemption shall be filed prior to the thirty-first day of December 67034
of the tax year for which exemption is requested or for which the 67035
liability of ~~any~~ the property to taxation in that year is 67036
requested. The commissioner shall consider such application or 67037
complaint in accordance with procedures established by the 67038
commissioner, determine whether the property is subject to 67039
taxation or exempt therefrom, and certify the commissioner's 67040
findings to the auditor, who shall correct the tax list and 67041
duplicate accordingly. If a tax certificate has been sold under 67042
section 5721.32 or 5721.33 of the Revised Code with respect to 67043

property for which an exemption has been requested, the tax 67044
commissioner shall also certify the findings to the county 67045
treasurer of the county in which the property is located. 67046

(G) Applications and complaints, and documents of any kind 67047
related to applications and complaints, filed with the tax 67048
commissioner under this section, are public records within the 67049
meaning of section 149.43 of the Revised Code. 67050

(H) If the commissioner determines that the use of property 67051
or other facts relevant to the taxability of property that is the 67052
subject of an application for exemption or a complaint under this 67053
section has changed while the application or complaint was 67054
pending, the commissioner may make the determination under 67055
division (F) of this section separately for each tax year 67056
beginning with the year in which the application or complaint was 67057
filed or the year for which remission of ~~unpaid~~ taxes under 67058
division (B) of section 5713.08 of the Revised Code was requested, 67059
and including each subsequent tax year during which the 67060
application or complaint is pending before the commissioner. 67061

Sec. 5715.39. (A) The tax commissioner may remit real 67062
property taxes, manufactured home taxes, penalties, and interest 67063
found by the commissioner to have been illegally assessed. The 67064
commissioner also may remit any penalty charged against any real 67065
property or manufactured or mobile home that was the subject of an 67066
application for exemption from taxation under section 5715.27 of 67067
the Revised Code if the commissioner determines that the applicant 67068
requested such exemption in good faith. The commissioner shall 67069
include notice of the remission in the commissioner's 67070
certification to the county auditor required under that section. 67071

(B) ~~The commissioner, on application by a taxpayer county~~ 67072
auditor, upon consultation with the county treasurer, shall remit 67073
a penalty for late payment of any real property taxes or 67074

manufactured home taxes when: 67075

~~(A)(1)~~ The taxpayer could not make timely payment of the tax 67076
because of the negligence or error of the county auditor or county 67077
treasurer in the performance of a statutory duty relating to the 67078
levy or collection of such tax. 67079

~~(B)(2)~~ In cases other than those described in division 67080
~~(A)(B)(1)~~ of this section, the taxpayer failed to receive a tax 67081
bill or a correct tax bill, and the taxpayer made a good faith 67082
effort to obtain such bill within thirty days after the last day 67083
for payment of the tax. 67084

~~(C)(3)~~ The tax was not timely paid because of the death or 67085
serious injury of the taxpayer, or the taxpayer's confinement in a 67086
hospital within sixty days preceding the last day for payment of 67087
the tax if, in any case, the tax was subsequently paid within 67088
sixty days after the last day for payment of such tax. 67089

~~(D)(4)~~ The taxpayer demonstrates ~~to the satisfaction of the~~ 67090
~~commissioner~~ that the full payment was properly deposited in the 67091
mail in sufficient time for the envelope to be postmarked by the 67092
United States postal service on or before the last day for payment 67093
of such tax. A private meter postmark on an envelope is not a 67094
valid postmark for purposes of establishing the date of payment of 67095
such tax. 67096

(5) In cases other than those described in division (B)(1) to 67097
(4) of this section, the taxpayer's failure to make timely payment 67098
of the tax is due to reasonable cause and not willful neglect. 67099

(C) The taxpayer, upon application within sixty days after 67100
the mailing of the county auditor's decision, may request the tax 67101
commissioner to review the denial of the remission of a penalty by 67102
the auditor. The application may be filed in person or by 67103
certified mail. If the application is filed by certified mail, the 67104
date of the United States postmark placed on the sender's receipt 67105

by the postal service shall be treated as the date of filing. The 67106
commissioner shall consider the application, determine whether the 67107
penalty should be remitted, and certify the determination to the 67108
taxpayer, to the county treasurer, and to the county auditor, who 67109
shall correct the tax list and duplicate accordingly. The 67110
commissioner may issue orders and instructions for the uniform 67111
implementation of this section by all county auditors and county 67112
treasurers, and such orders and instructions shall be followed by 67113
such officers. 67114

(D) This section shall not provide to the taxpayer any remedy 67115
with respect to any matter that the taxpayer may be authorized to 67116
complain of under section 4503.06, 5715.19, 5717.02, and or 67117
5727.47 of the Revised Code. 67118

(E) Applications for remission, and documents of any kind 67119
related to those applications, filed with the tax commissioner 67120
under this section, are public records within the meaning of 67121
section 149.43 of the Revised Code, unless otherwise excepted 67122
under that section. 67123

Sec. 5717.011. (A) As used in this chapter, "tax 67124
administrator" has the same meaning as in section 718.01 of the 67125
Revised Code. 67126

(B) Appeals from a municipal board of appeal created under 67127
section 718.11 of the Revised Code may be taken by the taxpayer or 67128
the tax administrator to the board of tax appeals or may be taken 67129
by the taxpayer or the tax administrator to a court of common 67130
pleas as otherwise provided by law. If the taxpayer or the tax 67131
administrator elects to make an appeal to the board of tax appeals 67132
or court of common pleas, the appeal shall be taken by the filing 67133
of a notice of appeal with the board of tax appeals or court of 67134
common pleas, the municipal board of appeal, and the opposing 67135
party. The notice of appeal shall be filed within sixty days after 67136

the day the appellant receives notice of the decision issued under 67137
section 718.11 of the Revised Code. The notice of appeal may be 67138
filed in person or by certified mail, express mail, or authorized 67139
delivery service as provided in section 5703.056 of the Revised 67140
Code. If the notice of appeal is filed by certified mail, express 67141
mail, or authorized delivery service as provided in section 67142
5703.056 of the Revised Code, the date of the United States 67143
postmark placed on the sender's receipt by the postal service or 67144
the date of receipt recorded by the authorized delivery service 67145
shall be treated as the date of filing. The notice of appeal shall 67146
have attached thereto and incorporated therein by reference a true 67147
copy of the decision issued under section 718.11 of the Revised 67148
Code and shall specify the errors therein complained of, but 67149
failure to attach a copy of such notice and incorporate it by 67150
reference in the notice of appeal does not invalidate the appeal. 67151

(C) Upon the filing of a notice of appeal with the board of 67152
tax appeals, the municipal board of appeal shall certify to the 67153
board of tax appeals a transcript of the record of the proceedings 67154
before it, together with all evidence considered by it in 67155
connection therewith. Such appeals may be heard by the board at 67156
its office in Columbus or in the county where the appellant 67157
resides, or it may cause its examiners to conduct such hearings 67158
and to report to it their findings for affirmation or rejection. 67159
The board may order the appeal to be heard upon the record and the 67160
evidence certified to it by the administrator, but upon the 67161
application of any interested party the board shall order the 67162
hearing of additional evidence, and the board may make such 67163
investigation concerning the appeal as it considers proper. 67164

Sec. 5717.03. (A) A decision of the board of tax appeals on 67165
an appeal filed with it pursuant to section 5717.01, 5717.011, or 67166
5717.02 of the Revised Code shall be entered of record on the 67167
journal together with the date when the order is filed with the 67168

secretary for journalization. 67169

(B) In case of an appeal from a decision of a county board of 67170
revision, the board of tax appeals shall determine the taxable 67171
value of the property whose valuation or assessment by the county 67172
board of revision is complained of, or in the event the complaint 67173
and appeal is against a discriminatory valuation, shall determine 67174
a valuation which shall correct such discrimination, and shall 67175
determine the liability of the property for taxation, if that 67176
question is in issue, and ~~it~~ the board of tax appeals's decision 67177
and the date when it was filed with the secretary for 67178
journalization shall be certified by ~~it~~ the board by certified 67179
mail to all persons who were parties to the appeal before ~~it~~ the 67180
board, to the person in whose name the property is listed, or 67181
sought to be listed, if such person is not a party to the appeal, 67182
to the county auditor of the county in which the property involved 67183
in the appeal is located, and to the tax commissioner. 67184

In correcting a discriminatory valuation, the board of tax 67185
appeals shall increase or decrease the value of the property whose 67186
valuation or assessment by the county board of revision is 67187
complained of by a per cent or amount which will cause such 67188
property to be listed and valued for taxation by an equal and 67189
uniform rule. 67190

(C) In the case of an appeal from a review, redetermination, 67191
or correction of a tax assessment, valuation, determination, 67192
finding, computation, or order of the tax commissioner, the order 67193
of the board of tax appeals and the date of the entry thereof upon 67194
its journal shall be certified by ~~it~~ the board by certified mail 67195
to all persons who were parties to the appeal before ~~it~~ the board, 67196
the person in whose name the property is listed or sought to be 67197
listed, if the decision determines the valuation or liability of 67198
property for taxation and if such person is not a party to the 67199
appeal, the taxpayer or other person to whom notice of the tax 67200

assessment, valuation, determination, finding, computation, or 67201
order, or correction or redetermination thereof, by the tax 67202
commissioner was by law required to be given, the director of 67203
budget and management, if the revenues affected by such decision 67204
would accrue primarily to the state treasury, and the county 67205
auditors of the counties to the undivided general tax funds of 67206
which the revenues affected by such decision would primarily 67207
accrue. 67208

(D) In the case of an appeal from a municipal board of appeal 67209
created under section 718.11 of the Revised Code, the order of the 67210
board of tax appeals and the date of the entry thereof upon the 67211
board's journal shall be certified by the board by certified mail 67212
to all persons who were parties to the appeal before the board. 67213

(E) In the case of all other appeals or applications filed 67214
with and determined by the board ~~its~~, the board's order and the 67215
date when ~~it~~ the order was filed by the secretary for 67216
journalization shall be certified by ~~it~~ the board by certified 67217
mail to the person who is a party to such appeal or application, 67218
to such persons as the law requires, and to such other persons as 67219
the board deems proper. 67220

(F) The orders of the board may affirm, reverse, vacate, 67221
modify, or remand the tax assessments, valuations, determinations, 67222
findings, computations, or orders complained of in the appeals 67223
determined by ~~it~~ the board, and ~~its~~ the board's decision shall 67224
become final and conclusive for the current year unless reversed, 67225
vacated, or modified as provided in section 5717.04 of the Revised 67226
Code. When an order of the board becomes final the tax 67227
commissioner and all officers to whom such decision has been 67228
certified shall make the changes in their tax lists or other 67229
records which the decision requires. 67230

(G) If the board finds that issues not raised on the appeal 67231
are important to a determination of a controversy, ~~it~~ the board 67232

may remand the cause for an administrative determination and the 67233
issuance of a new tax assessment, valuation, determination, 67234
finding, computation, or order, unless the parties stipulate to 67235
the determination of such other issues without remand. An order 67236
remanding the cause is a final order, ~~which~~. If the order relates 67237
to any issue other than a municipal income tax matter appealed 67238
under sections 718.11 and 5717.011 of the Revised Code, the order 67239
may be appealed to the court of appeals in Franklin county. If the 67240
order relates to a municipal income tax matter appealed under 67241
sections 718.11 and 5717.011 of the Revised Code, the order may be 67242
appealed to the court of appeals for the county in which the 67243
municipal corporation in which the dispute arose is primarily 67244
situated. 67245

Sec. 5719.07. Subject to the rules prescribed by the tax 67246
commissioner, a county treasurer charged with the collection of 67247
delinquent taxes may issue a certificate of release of the lien 67248
provided for in section 5719.04 of the Revised Code if the amount 67249
secured thereby has been paid or omitted from the delinquent tax 67250
list and duplicate pursuant to section 5719.06 of the Revised 67251
Code. The treasurer shall issue a certificate of partial discharge 67252
of any part of the real property subject to the lien ~~if he finds~~ 67253
after finding that the value of the part of the property remaining 67254
subject to the lien is at least double the amount of the 67255
delinquent taxes and all prior liens upon such real property. Such 67256
certificate shall be filed and recorded with the county recorder 67257
of the county in which the notice of lien has been filed, for 67258
which recording the recorder shall charge a base fee of two 67259
dollars for services and a housing trust fund fee of two dollars 67260
pursuant to section 317.36 of the Revised Code. 67261

Sec. 5727.111. The taxable property of each public utility, 67262
except a railroad company, and of each interexchange 67263

telecommunications company shall be assessed at the following 67264
percentages of true value: 67265

(A)(1) Except as provided in division (A)(2) of this section, 67266
fifty per cent in the case of a rural electric company; 67267

(2) For tax year 2001 and thereafter, fifty per cent in the 67268
case of the taxable transmission and distribution property of a 67269
rural electric company, and twenty-five per cent for all its other 67270
taxable property; 67271

(B) In the case of a telephone or telegraph company, 67272
twenty-five per cent for taxable property first subject to 67273
taxation in this state for tax year 1995 or thereafter, and 67274
~~eighty-eight per cent~~ the following for all other taxable 67275
property+: 67276

(1) For tax years prior to 2005, eighty-eight per cent; 67277

(2) For tax year 2005, sixty-seven per cent; 67278

(3) For tax year 2006, forty-six per cent; 67279

(4) For tax year 2007 and thereafter, twenty-five per cent. 67280

~~(C)(1) Except as provided in division (C)(2) of this section,~~ 67281
~~eighty-eight per cent in the case of a natural gas company;~~ 67282

~~(2) For tax year 2001 and thereafter, twenty-five~~ Twenty-five 67283
per cent in the case of a natural gas company. 67284

(D) Eighty-eight per cent in the case of a pipe-line, 67285
water-works, or heating company; 67286

(E)(1) Except as provided in division (E)(2) or (3) of this 67287
section, one hundred per cent in the case of the taxable 67288
production equipment of an electric company and eighty-eight per 67289
cent for all its other taxable property; 67290

(2) For tax year 2001 and thereafter, eighty-eight per cent 67291
in the case of the taxable transmission and distribution property 67292

of an electric company, and twenty-five per cent for all its other taxable property;

(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty-eight per cent for all such other taxable property until January 1, 2002.

(F) Twenty-five per cent in the case of an interexchange telecommunications company;

(G) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.30. (A) Except as provided in divisions (B) and, (C), and (D) of this section, each public utility, except railroad companies, shall be subject to an annual excise tax, as provided by sections 5727.31 to 5727.62 of the Revised Code, for the privilege of owning property in this state or doing business in this state during the twelve-month period next succeeding the period upon which the tax is based. The tax shall be imposed against each such public utility that, on the first day of such twelve-month period, owns property in this state or is doing business in this state, and the lien for the tax, including any penalties and interest accruing thereon, shall attach on such day to the property of the public utility in this state.

(B) An electric company's or a rural electric company's gross receipts received after April 30, 2001, are not subject to the annual excise tax imposed by this section.

(C) A natural gas company's gross receipts received after April 30, 2000, are not subject to the annual excise tax imposed by this section.

(D) A telephone company's gross receipts derived from amounts

billed to customers after June 30, 2004, are not subject to the 67323
annual excise tax imposed by this section. Notwithstanding any 67324
other provision of law, gross receipts derived from amounts billed 67325
by a telephone company to customers prior to July 1, 2004, shall 67326
be included in the telephone company's annual statement filed on 67327
or before August 1, 2004, which shall be the last statement or 67328
report filed under section 5727.31 of the Revised Code by a 67329
telephone company. A telephone company shall not deduct from its 67330
gross receipts included in that last statement any receipts it was 67331
unable to collect from its customers for the period of July 1, 67332
2003, to June 30, 2004. 67333

Sec. 5727.32. (A) For the purpose of the tax imposed by 67334
section 5727.30 of the Revised Code, the statement required by 67335
section 5727.31 of the Revised Code shall contain: 67336

(1) The name of the company; 67337

(2) The nature of the company, whether a person, association, 67338
or corporation, and under the laws of what state or country 67339
organized; 67340

(3) The location of its principal office; 67341

(4) The name and post-office address of the president, 67342
secretary, auditor, treasurer, and superintendent or general 67343
manager; 67344

(5) The name and post-office address of the chief officer or 67345
managing agent of the company in this state; 67346

(6) The amount of the excise taxes paid or to be paid with 67347
the reports made during the current calendar year as provided by 67348
section 5727.31 of the Revised Code; 67349

(7) In the case of telegraph ~~and telephone~~ companies: 67350

(a) The gross receipts from all sources, whether messages, 67351
telephone tolls, rentals, or otherwise, for business done within 67352

this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:

(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;

(ii) The receipts of amounts billed on behalf of other entities;

~~(iii) The receipts from sales to other telephone companies for resale;~~

~~(iv) The receipts from sales to providers of telecommunications service for resale, receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight hundred type service, and receipts from private communications service.~~

~~As used in this division, "receipts from sales to other telephone companies for resale" and "receipts from sales to providers of telecommunications service for resale" include but are not limited to, receipts of carrier access charges. "Carrier access charges" means compensation paid to the taxpayer telephone company by another telephone company or by a provider of telecommunications service for the use of the taxpayer's facilities to originate or terminate telephone calls or telecommunications service.~~

(b) The total gross receipts for such period from business done within this state.

(8) In the case of all public utilities subject to the tax imposed by section 5727.30 of the Revised Code, except telegraph and telephone companies:

(a) The gross receipts of the company, actually received, 67384
from all sources for business done within this state for the year 67385
next preceding the first day of May, including the company's 67386
proportion of gross receipts for business done by it within this 67387
state in connection with other companies, firms, corporations, 67388
persons, or associations, but excluding all both of the following: 67389

(i) Receipts from interstate business or business done for 67390
the federal government; 67391

(ii) Receipts from sales to another public utility for 67392
resale, provided such other public utility is subject to the tax 67393
levied by section 5727.24 or 5727.30 of the Revised Code; 67394

~~(iii) Receipts from the transmission or delivery of 67395
electricity to or for a rural electric company, provided that the 67396
electricity that has been so transmitted or delivered is for 67397
resale by the rural electric company. This division does not apply 67398
to tax years 2002 and thereafter. 67399~~

~~(iv) Receipts of an electric company, derived from the 67400
provision of electricity and other services to a qualified former 67401
owner of the production facilities that generated the electricity 67402
from which those receipts were derived. This division does not 67403
apply to tax years 2002 and thereafter. As used in this division, 67404
a "qualified former owner" means a person who meets both of the 67405
following conditions: 67406~~

~~(I) On or before October 11, 1991, the person had sold to an 67407
electric company part of the production facility at which the 67408
electricity is generated, and, for at least twenty years prior to 67409
that sale, the facility was used to generate electricity, but it 67410
was not owned in whole or in part during that period by an 67411
electric company. 67412~~

~~(II) At the time the electric company provided the 67413
electricity or other services for which the exclusion is claimed, 67414~~

~~the person, or a successor or assign of the person, owned not less than twenty per cent of the production facility and the rights to not less than twenty per cent of the production of that facility; and the person, or a successor or assign of the person, engaged primarily in a business other than providing electricity to others.~~

~~(v)~~ Receipts of a combined company derived from operating as a natural gas company that is subject to the tax imposed by section 5727.24 of the Revised Code.

(b) The total gross receipts of the company, for the year next preceding the first day of May, in this state from business done within the state.

(B) The reports required by section 5727.31 of the Revised Code shall contain:

(1) The name and principal mailing address of the company;

(2) The total amount of the gross receipts excise taxes charged or levied as based upon its last preceding annual statement filed prior to the first day of January of the year in which such report is filed;

(3) The amount of the excise taxes due with the report as provided by section 5727.31 of the Revised Code.

Sec. 5727.33. (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), and (D) ~~and (E)~~ of this section. The gross receipts for the tax year of each telegraph ~~and telephone~~ company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each

natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.

(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:

(1) All receipts derived wholly from interstate business;

(2) All receipts derived wholly from business done for or with the federal government;

~~(3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.~~

~~(4) All receipts from the sale of merchandise;~~

~~(5)(4) All receipts from sales to other public utilities, except railroad, and telegraph, ~~and telephone~~ companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.~~

~~(C) In ascertaining and determining the gross receipts of a telephone company, the following gross receipts are excluded:~~

~~(1) Receipts of amounts billed on behalf of other entities;~~

~~(2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;~~

~~(3) Receipts from incoming or outgoing wide area transmission~~

~~service or wide area transmission type service, including eight
hundred or eight hundred type service;~~ 67475
67476

~~(4) Receipts from private communications service as described
in division (AA)(2) of section 5739.01 of the Revised Code;~~ 67477
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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.~~ 67479
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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:~~ 67482
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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.~~ 67490
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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.~~ 67496
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~~(E)(C) In ascertaining and determining the gross receipts of
a natural gas company, receipts billed on behalf of other entities
are excluded. The tax imposed by section 5729.811 of the Revised
Code, along with transportation and billing and collection fees~~ 67502
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charged to other entities, shall be included in the gross receipts of a natural gas company.

~~(F)~~(D) In ascertaining and determining the gross receipts of a combined company subject to the tax imposed by section 5727.30 of the Revised Code, all receipts derived from operating as a natural gas company that are subject to the tax imposed by section 5727.24 of the Revised Code are excluded.

~~(G)~~(E) Except as provided in division ~~(H)~~(F) of this section, the amount ascertained by the commissioner under this section, less a deduction of twenty-five thousand dollars, shall be the taxable gross receipts of such companies for business done within this state for that year.

~~(H)~~(F) The amount ascertained under this section, less the following deduction, shall be the taxable gross receipts of a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code for business done within this state:

(1) For a natural gas company that files quarterly returns of the tax imposed by section 5727.24 of the Revised Code, six thousand two hundred fifty dollars for each quarterly return;

(2) For a natural gas company that files an annual return of the tax imposed by section 5727.24 of the Revised Code, twenty-five thousand dollars for each annual return;

(3) For a combined company, twenty-five thousand dollars on the annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

Sec. 5727.56. Any public utility whose articles of incorporation or license certificate to do or transact business in

this state has expired or has been canceled or revoked by the 67536
secretary of state, as provided by law for failure to make any 67537
report or return or to pay any tax or fee, upon payment to the 67538
secretary of state of any additional fees and penalties required 67539
to be paid to ~~him~~ the secretary of state, and upon the filing with 67540
the secretary of state of a certificate from the tax commissioner 67541
that it has complied with all the requirements of law as to 67542
franchise or excise tax reports and paid all franchise or excise 67543
taxes, fees, or penalties due thereon for every year of its 67544
delinquency, and upon the payment to the secretary of state of an 67545
additional fee of ten dollars, shall be reinstated and again 67546
entitled to exercise its rights, privileges, and franchises in 67547
this state, and the secretary of state shall cancel the entry of 67548
cancellation or expiration to exercise its rights, privileges, and 67549
franchises. If the reinstatement is not made within one year from 67550
the date of the cancellation of its articles of incorporation or 67551
date of the cancellation or expiration of its license to do 67552
business, and it appears that articles of incorporation or license 67553
certificate have been issued to a corporation of the same or 67554
similar name, the applicant for reinstatement shall be required by 67555
the secretary of state, as a condition prerequisite to such 67556
reinstatement, to amend its articles by changing its name. A 67557
certificate of reinstatement may be filed in the county recorder's 67558
office of any county in the state, for which the recorder shall 67559
charge and collect a base fee of three dollars for services and a 67560
housing trust fund fee of three dollars pursuant to section 317.36 67561
of the Revised Code. 67562

If a domestic public utility applying for reinstatement has 67563
not previously designated an agent upon whom process may be served 67564
as required by section 1701.07 of the Revised Code, such public 67565
utility shall at the time of reinstatement and as a prerequisite 67566
thereto designate an agent in accordance with such section. 67567

Any officer, shareholder, creditor, or receiver of any such public utility may at any time take all steps required by this section to effect such reinstatement, and in such case the designation of an agent upon whom process may be served shall not be a prerequisite to the reinstatement of the public utility.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of state aid amounts computed for a school district or joint vocational school district under Chapter 3317. of the Revised Code.

(5) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount

determined under division (D) of this section. 67598

(8) "Natural gas company tax value loss" means the amount 67599
determined under division (E) of this section. 67600

(9) "Tax value loss" means the sum of the electric company 67601
tax value loss and the natural gas company tax value loss. 67602

(10) "Fixed-rate levy" means any tax levied on property other 67603
than a fixed-sum levy. 67604

(11) "Fixed-rate levy loss" means the amount determined under 67605
division (G) of this section. 67606

(12) "Fixed-sum levy" means a tax levied on property at 67607
whatever rate is required to produce a specified amount of tax 67608
money or levied in excess of the ten-mill limitation to pay debt 67609
charges, and includes school district emergency levies imposed 67610
pursuant to section 5705.194 of the Revised Code. 67611

(13) "Fixed-sum levy loss" means the amount determined under 67612
division (H) of this section. 67613

(14) "Consumer price index" means the consumer price index 67614
(all items, all urban consumers) prepared by the bureau of labor 67615
statistics of the United States department of labor. 67616

(B) The kilowatt-hour tax receipts fund is hereby created in 67617
the state treasury and shall consist of money arising from the tax 67618
imposed by section 5727.81 of the Revised Code. All money in the 67619
kilowatt-hour tax receipts fund shall be credited as follows: 67620

(1) Fifty-nine and nine hundred seventy-six one-thousandths 67621
per cent, shall be credited to the general revenue fund. 67622

(2) Two and six hundred forty-six one-thousandths per cent 67623
shall be credited to the local government fund, for distribution 67624
in accordance with section 5747.50 of the Revised Code. 67625

(3) Three hundred seventy-eight one-thousandths per cent 67626
shall be credited to the local government revenue assistance fund, 67627

for distribution in accordance with section 5747.61 of the Revised Code. 67628
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(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. 67630
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(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. 67634
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(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. 67638
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(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 this section. 67648
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(C) The natural gas tax receipts fund is hereby created in 67659
the state treasury and shall consist of money arising from the tax 67660
imposed by section 5727.811 of the Revised Code. All money in the 67661
fund shall be credited as follows: 67662

(1) Sixty-eight and seven-tenths per cent shall be credited 67663
to the school district property tax replacement fund for the 67664
purpose of making the payments described in section 5727.85 of the 67665
Revised Code. 67666

(2) Thirty-one and three-tenths per cent shall be credited to 67667
the local government property tax replacement fund for the purpose 67668
of making the payments described in section 5727.86 of the Revised 67669
Code. 67670

(3) Beginning in fiscal year 2007, if the revenue arising 67671
from the tax levied by section 5727.811 of the Revised Code is 67672
less than ninety million dollars, an amount equal to the 67673
difference between the amount collected and ninety million dollars 67674
shall be transferred from the general revenue fund to each of the 67675
funds in divisions (C)(1) and (2) of this section in the same 67676
percentages as if that amount had been collected as taxes under 67677
section 5727.811 of the Revised Code. The tax commissioner shall 67678
certify to the director of budget and management the amounts that 67679
shall be transferred under this division. 67680

(D) Not later than January 1, 2002, the tax commissioner 67681
shall determine for each taxing district its electric company tax 67682
value loss, which is the sum of the applicable amounts described 67683
in divisions (D)(1) ~~and (2)~~ to (3) of this section: 67684

(1) The difference obtained by subtracting the amount 67685
described in division (D)(1)(b) from the amount described in 67686
division (D)(1)(a) of this section. 67687

(a) The value of electric company and rural electric company 67688
tangible personal property as assessed by the tax commissioner for 67689

tax year 1998 on a preliminary assessment, or an amended 67690
preliminary assessment if issued prior to March 1, 1999, and as 67691
apportioned to the taxing district for tax year 1998; 67692

(b) The value of electric company and rural electric company 67693
tangible personal property as assessed by the tax commissioner for 67694
tax year 1998 had the property been apportioned to the taxing 67695
district for tax year 2001, and assessed at the rates in effect 67696
for tax year 2001. 67697

(2) The difference obtained by subtracting the amount 67698
described in division (D)(2)(b) from the amount described in 67699
division (D)(2)(a) of this section. 67700

(a) The three-year average for tax years 1996, 1997, and 1998 67701
of the assessed value from nuclear fuel materials and assemblies 67702
assessed against a person under Chapter 5711. of the Revised Code 67703
from the leasing of them to an electric company for those 67704
respective tax years, as reflected in the preliminary assessments; 67705

(b) The three-year average assessed value from nuclear fuel 67706
materials and assemblies assessed under division (D)(2)(a) of this 67707
section for tax years 1996, 1997, and 1998, as reflected in the 67708
preliminary assessments, using an assessment rate of twenty-five 67709
per cent. 67710

(3) In the case of a taxing district having a nuclear power 67711
plant within its territory, any amount, resulting in an electric 67712
company tax value loss, obtained by subtracting the amount 67713
described in division (D)(1) of this section from the difference 67714
obtained by subtracting the amount described in division (D)(3)(b) 67715
of this section from the amount described in division (D)(3)(a) of 67716
this section. 67717

(a) The value of electric company tangible personal property 67718
as assessed by the tax commissioner for tax year 2000 on a 67719
preliminary assessment, or an amended preliminary assessment if 67720

issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000; 67721
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(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001. 67723
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(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section: 67728
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(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section. 67732
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(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999; 67735
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(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001. 67741
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(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section. 67746
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(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary 67749
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assessment if issued prior to March 1, 2001, and as apportioned in 67752
the taxing district for those respective years; 67753

(b) The three-year average assessed value from current gas 67754
under division (E)(2)(a) of this section for tax years 1997, 1998, 67755
and 1999, as reflected in the preliminary assessment, using an 67756
assessment rate of twenty-five per cent. 67757

(F) The tax commissioner may request that natural gas 67758
companies, electric companies, and rural electric companies file a 67759
report to help determine the tax value loss under divisions (D) 67760
and (E) of this section. The report shall be filed within thirty 67761
days of the commissioner's request. A company that fails to file 67762
the report or does not timely file the report is subject to the 67763
penalty in section 5727.60 of the Revised Code. 67764

(G) Not later than January 1, 2002, the tax commissioner 67765
shall determine for each school district, joint vocational school 67766
district, and local taxing unit its fixed-rate levy loss, which is 67767
the sum of its electric company tax value loss multiplied by the 67768
tax rate in effect in tax year 1998 for fixed-rate levies and its 67769
natural gas company tax value loss multiplied by the tax rate in 67770
effect in tax year 1999 for fixed-rate levies. 67771

(H) Not later than January 1, 2002, the tax commissioner 67772
shall determine for each school district, joint vocational school 67773
district, and local taxing unit its fixed-sum levy loss, which is 67774
the amount obtained by subtracting the amount described in 67775
division (H)(2) of this section from the amount described in 67776
division (H)(1) of this section: 67777

(1) The sum of the electric company tax value loss multiplied 67778
by the tax rate in effect in tax year 1998, and the natural gas 67779
company tax value loss multiplied by the tax rate in effect in tax 67780
year 1999, for fixed-sum levies for all taxing districts within 67781
each school district, joint vocational school district, and local 67782

taxing unit. For the years 2002 through 2006, this computation 67783
shall include school district emergency levies that existed in 67784
1998 in the case of the electric company tax value loss, and 1999 67785
in the case of the natural gas company tax value loss, and all 67786
other fixed-sum levies that existed in 1998 in the case of the 67787
electric company tax value loss and 1999 in the case of the 67788
natural gas company tax value loss and continue to be charged in 67789
the tax year preceding the distribution year. For the years 2007 67790
through 2016 in the case of school district emergency levies, and 67791
for all years after 2006 in the case of all other fixed-sum 67792
levies, this computation shall exclude all fixed-sum levies that 67793
existed in 1998 in the case of the electric company tax value loss 67794
and 1999 in the case of the natural gas company tax value loss, 67795
but are no longer in effect in the tax year preceding the 67796
distribution year. For the purposes of this section, an emergency 67797
levy that existed in 1998 in the case of the electric company tax 67798
value loss, and 1999 in the case of the natural gas company tax 67799
value loss, continues to exist in a year beginning on or after 67800
January 1, 2007, but before January 1, 2017, if, in that year, the 67801
board of education levies a school district emergency levy for an 67802
annual sum at least equal to the annual sum levied by the board in 67803
tax year 1998 or 1999, respectively, less the amount of the 67804
payment certified under this division for 2002. 67805

(2) The total taxable value in tax year 1999 less the tax 67806
value loss in each school district, joint vocational school 67807
district, and local taxing unit multiplied by one-fourth of one 67808
mill. 67809

If the amount computed under division (H) of this section for 67810
any school district, joint vocational school district, or local 67811
taxing unit is greater than zero, that amount shall equal the 67812
fixed-sum levy loss reimbursed pursuant to division (E) of section 67813
5727.85 of the Revised Code or division (A)(2) of section 5727.86 67814

of the Revised Code, and the one-fourth of one mill that is 67815
subtracted under division (H)(2) of this section shall be 67816
apportioned among all contributing fixed-sum levies in the 67817
proportion of each levy to the sum of all fixed-sum levies within 67818
each school district, joint vocational school district, or local 67819
taxing unit. 67820

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 67821
section, in computing the tax value loss, fixed-rate levy loss, 67822
and fixed-sum levy loss, the tax commissioner shall use the 67823
greater of the 1998 tax rate or the 1999 tax rate in the case of 67824
levy losses associated with the electric company tax value loss, 67825
but the 1999 tax rate shall not include for this purpose any tax 67826
levy approved by the voters after June 30, 1999, and the tax 67827
commissioner shall use the greater of the 1999 or the 2000 tax 67828
rate in the case of levy losses associated with the natural gas 67829
company tax value loss. 67830

(J) Not later than January 1, 2002, the tax commissioner 67831
shall certify to the department of education the tax value loss 67832
determined under divisions (D) and (E) of this section for each 67833
taxing district, the fixed-rate levy loss calculated under 67834
division (G) of this section, and the fixed-sum levy loss 67835
calculated under division (H) of this section. The calculations 67836
under divisions (G) and (H) of this section shall separately 67837
display the levy loss for each levy eligible for reimbursement. 67838

(K) Not later than September 1, 2001, the tax commissioner 67839
shall certify the amount of the fixed-sum levy loss to the county 67840
auditor of each county in which a school district with a fixed-sum 67841
levy loss has territory. 67842

Sec. 5728.04. (A) It is unlawful for any person to operate a 67843
commercial car with three or more axles when operated alone or as 67844
part of a commercial tandem, a commercial car with two axles that 67845

is to be operated as part of a commercial tandem with a gross 67846
vehicle weight or a registered gross vehicle weight exceeding 67847
twenty-six thousand pounds, or a commercial tractor when operated 67848
alone or as part of a commercial tractor combination or commercial 67849
tandem on a public highway ~~without~~ under either of the following 67850
circumstances: 67851

(1) Without a ~~valid~~ fuel use permit for such commercial car 67852
or commercial tractor. 67853

(2) With a suspended or surrendered fuel use permit for such 67854
commercial car or commercial tractor. 67855

(B) The judge or magistrate of any court finding any person 67856
guilty of unlawfully operating a commercial car or commercial 67857
tractor as provided for in this section shall immediately notify 67858
the tax commissioner of such violation and shall transmit to the 67859
tax commissioner the name and the permanent address of the owner 67860
of the commercial car or commercial tractor operated in violation 67861
of this section, the registration number, the state of 67862
registration, and the certificate of title number of the 67863
commercial car or commercial tractor. The commercial car or 67864
commercial tractor involved in a violation of division (A)(1) or 67865
(2) of this section may be detained until a valid fuel use permit 67866
is obtained or reinstated. 67867

Sec. 5728.06. (A) For the following purposes, an excise tax 67868
is hereby imposed on the use of motor fuel to operate on the 67869
public highways of this state a commercial car with three or more 67870
axles operated alone or as part of a commercial tandem, a 67871
commercial car with two axles operated as part of a commercial 67872
tandem having a gross vehicle weight or registered gross vehicle 67873
weight exceeding twenty-six thousand pounds, or a commercial 67874
tractor operated alone or as part of a commercial tractor 67875
combination or commercial tandem: to provide revenue for 67876

maintaining the state highway system, to widen existing surfaces 67877
on such highways, to resurface such highways, to enable the 67878
counties of the state properly to plan for, maintain, and repair 67879
their roads, to enable the municipal corporations to plan, 67880
construct, reconstruct, repave, widen, maintain, repair, clear, 67881
and clean public highways, roads, and streets; to pay that portion 67882
of the construction cost of a highway project that a county, 67883
township, or municipal corporation normally would be required to 67884
pay, but that the director of transportation, pursuant to division 67885
(B) of section 5531.08 of the Revised Code, determines instead 67886
will be paid from moneys in the highway operating fund; to 67887
maintain and repair bridges and viaducts; to purchase, erect, and 67888
maintain street and traffic signs and markers; to purchase, erect, 67889
and maintain traffic lights and signals; to pay the costs 67890
apportioned to the public under section 4907.47 of the Revised 67891
Code; and to supplement revenue already available for such 67892
purposes, to distribute equitably among those persons using the 67893
privilege of driving motor vehicles upon such highways and streets 67894
the cost of maintaining and repairing the same, and to pay the 67895
interest, principal, and charges on bonds and other obligations 67896
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 67897
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 67898
imposed in the same amount as the motor fuel tax imposed under 67899
Chapter 5735. of the Revised Code plus an additional tax of three 67900
cents per gallon of motor fuel used before July 1, 2004, ~~and an~~ 67901
provided that the additional tax of shall be reduced to two cents 67902
per gallon of motor fuel used ~~before~~ from July 1, 2004 through 67903
June 30, 2005, as determined by the gallons consumed while 67904
operated on the public highways of this state. Subject to section 67905
5735.292 of the Revised Code, on and after July 1, 2005, the tax 67906
shall be imposed in the same amount as the motor fuel tax imposed 67907
under Chapter 5735. of the Revised Code. Payment of the fuel use 67908
tax shall be made by the purchase of motor fuel within Ohio of 67909

such gallons as is equivalent to the gallons consumed while 67910
operating such a motor vehicle on the public highways of this 67911
state, or by direct remittance to the treasurer of state with the 67912
fuel use tax return filed pursuant to section 5728.08 of the 67913
Revised Code. 67914

Any person subject to the tax imposed under this section who 67915
purchases motor fuel in this state for use in another state in 67916
excess of the amount consumed while operating such motor vehicle 67917
on the public highways of this state shall be allowed a credit 67918
against the tax imposed by this section or a refund equal to the 67919
motor fuel tax paid to this state on such excess. No such credit 67920
or refund shall be allowed for taxes paid to any state that 67921
imposes a tax on motor fuel purchased or obtained in this state 67922
and used on the highways of such other state but does not allow a 67923
similar credit or refund for the tax paid to this state on motor 67924
fuel purchased or acquired in the other state and used on the 67925
public highways of this state. 67926

The tax commissioner is authorized to determine whether such 67927
credits or refunds are available and to prescribe such rules as 67928
are required for the purpose of administering this chapter. 67929

(B) Within sixty days after the last day of each month, the 67930
tax commissioner shall determine the amount of motor fuel tax 67931
allowed as a credit against the tax imposed by this section. The 67932
commissioner shall certify the amount to the director of budget 67933
and management and the treasurer of state, who shall credit the 67934
amount in accordance with section 5728.08 of the Revised Code from 67935
current revenue arising from the tax levied by section 5735.05 of 67936
the Revised Code. 67937

(C) The owner of each commercial car and commercial tractor 67938
subject to sections 5728.01 to 5728.14 of the Revised Code is 67939
liable for the payment of the full amount of the taxes imposed by 67940
this section. 67941

An owner who is a person regularly engaged, for compensation, 67942
in the business of leasing or renting motor vehicles without 67943
furnishing drivers may designate that the lessee of a motor 67944
vehicle leased for a period of thirty days or more shall report 67945
and pay the tax incurred during the duration of the lease. An 67946
owner who is an independent contractor that furnishes both the 67947
driver and motor vehicle, may designate that the person so 67948
furnished with the driver and motor vehicle for a period of thirty 67949
days or more shall report and pay the tax incurred during that 67950
period. An independent contractor that is not an owner, but that 67951
furnishes both the driver and motor vehicle and that has been 67952
designated by the owner of the motor vehicle to report and pay the 67953
tax, may designate that the person so furnished with driver and 67954
motor vehicle for a period of thirty days or more shall report and 67955
pay the tax incurred during that period. 67956

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of 67957
this section, whoever violates any provision of sections 5728.01 67958
to 5728.14 of the Revised Code, or any rule promulgated by the tax 67959
commissioner under the authority of any provision of those 67960
sections, for the violation of which no penalty is provided 67961
elsewhere, shall be fined not less than twenty-five nor more than 67962
one hundred dollars. 67963

(2) Division (A)(1) of this section does not apply to the 67964
filing of any false or fraudulent return, application, or permit 67965
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 67966
The filing of any false or fraudulent return, application, or 67967
permit under any of those sections is a violation of section 67968
2921.13 of the Revised Code. 67969

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 67970
the Revised Code is guilty of a misdemeanor of the fourth degree. 67971

(2) Whoever violates division (A)(2) of section 5728.04 of 67972

<u>the Revised Code is guilty of a felony of the fifth degree.</u>	67973
Sec. 5733.04. As used in this chapter:	67974
(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.	67975 67976 67977 67978 67979 67980 67981 67982 67983
(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.	67984 67985
(C) "Resident" means a corporation organized under the laws of this state.	67986 67987
(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.	67988 67989 67990
(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.	67991 67992 67993 67994 67995 67996 67997 67998
(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.	67999 68000 68001
(G) "Internal Revenue Code" means the "Internal Revenue Code	68002

of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 68003

(H) "Federal income tax" means the income tax imposed by the 68004
Internal Revenue Code. 68005

(I) Except as provided in section 5733.058 of the Revised 68006
Code, "net income" means the taxpayer's taxable income before 68007
operating loss deduction and special deductions, as required to be 68008
reported for the taxpayer's taxable year under the Internal 68009
Revenue Code, subject to the following adjustments: 68010

(1)(a) Deduct any net operating loss incurred in any taxable 68011
years ending in 1971 or thereafter, but exclusive of any net 68012
operating loss incurred in taxable years ending prior to January 68013
1, 1971. This deduction shall not be allowed in any tax year 68014
commencing before December 31, 1973, but shall be carried over and 68015
allowed in tax years commencing after December 31, 1973, until 68016
fully utilized in the next succeeding taxable year or years in 68017
which the taxpayer has net income, but in no case for more than 68018
the designated carryover period as described in division (I)(1)(b) 68019
of this section. The amount of such net operating loss, as 68020
determined under the allocation and apportionment provisions of 68021
section 5733.051 and division (B) of section 5733.05 of the 68022
Revised Code for the year in which the net operating loss occurs, 68023
shall be deducted from net income, as determined under the 68024
allocation and apportionment provisions of section 5733.051 and 68025
division (B) of section 5733.05 of the Revised Code, to the extent 68026
necessary to reduce net income to zero with the remaining unused 68027
portion of the deduction, if any, carried forward to the remaining 68028
years of the designated carryover period as described in division 68029
(I)(1)(b) of this section, or until fully utilized, whichever 68030
occurs first. 68031

(b) For losses incurred in taxable years ending on or before 68032
December 31, 1981, the designated carryover period shall be the 68033
five consecutive taxable years after the taxable year in which the 68034

net operating loss occurred. For losses incurred in taxable years 68035
ending on or after January 1, 1982, and beginning before August 6, 68036
1997, the designated carryover period shall be the fifteen 68037
consecutive taxable years after the taxable year in which the net 68038
operating loss occurs. For losses incurred in taxable years 68039
beginning on or after August 6, 1997, the designated carryover 68040
period shall be the twenty consecutive taxable years after the 68041
taxable year in which the net operating loss occurs. 68042

(c) The tax commissioner may require a taxpayer to furnish 68043
any information necessary to support a claim for deduction under 68044
division (I)(1)(a) of this section and no deduction shall be 68045
allowed unless the information is furnished. 68046

(2) Deduct any amount included in net income by application 68047
of section 78 or 951 of the Internal Revenue Code, amounts 68048
received for royalties, technical or other services derived from 68049
sources outside the United States, and dividends received from a 68050
subsidiary, associate, or affiliated corporation that neither 68051
transacts any substantial portion of its business nor regularly 68052
maintains any substantial portion of its assets within the United 68053
States. For purposes of determining net foreign source income 68054
deductible under division (I)(2) of this section, the amount of 68055
gross income from all such sources other than dividend income and 68056
income derived by application of section 78 or 951 of the Internal 68057
Revenue Code shall be reduced by: 68058

(a) The amount of any reimbursed expenses for personal 68059
services performed by employees of the taxpayer for the 68060
subsidiary, associate, or affiliated corporation; 68061

(b) Ten per cent of the amount of royalty income and 68062
technical assistance fees; 68063

(c) Fifteen per cent of the amount of all other income. 68064

The amounts described in divisions (I)(2)(a) to (c) of this 68065

section are deemed to be the expenses attributable to the 68066
production of deductible foreign source income unless the taxpayer 68067
shows, by clear and convincing evidence, less actual expenses, or 68068
the tax commissioner shows, by clear and convincing evidence, more 68069
actual expenses. 68070

(3) Add any loss or deduct any gain resulting from the sale, 68071
exchange, or other disposition of a capital asset, or an asset 68072
described in section 1231 of the Internal Revenue Code, to the 68073
extent that such loss or gain occurred prior to the first taxable 68074
year on which the tax provided for in section 5733.06 of the 68075
Revised Code is computed on the corporation's net income. For 68076
purposes of division (I)(3) of this section, the amount of the 68077
prior loss or gain shall be measured by the difference between the 68078
original cost or other basis of the asset and the fair market 68079
value as of the beginning of the first taxable year on which the 68080
tax provided for in section 5733.06 of the Revised Code is 68081
computed on the corporation's net income. At the option of the 68082
taxpayer, the amount of the prior loss or gain may be a percentage 68083
of the gain or loss, which percentage shall be determined by 68084
multiplying the gain or loss by a fraction, the numerator of which 68085
is the number of months from the acquisition of the asset to the 68086
beginning of the first taxable year on which the fee provided in 68087
section 5733.06 of the Revised Code is computed on the 68088
corporation's net income, and the denominator of which is the 68089
number of months from the acquisition of the asset to the sale, 68090
exchange, or other disposition of the asset. The adjustments 68091
described in this division do not apply to any gain or loss where 68092
the gain or loss is recognized by a qualifying taxpayer, as 68093
defined in section 5733.0510 of the Revised Code, with respect to 68094
a qualifying taxable event, as defined in that section. 68095

(4) Deduct the dividend received deduction provided by 68096
section 243 of the Internal Revenue Code. 68097

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

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

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

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

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under

Chapter 119. of the Revised Code establishing reasonable 68129
limitations on the extent that expenditures for modifying existing 68130
buildings or structures are attributable to the purpose of making 68131
the buildings or structures accessible to and usable by physically 68132
handicapped persons. 68133

(10) Deduct the amount of wages and salaries, if any, not 68134
otherwise allowable as a deduction but that would have been 68135
allowable as a deduction in computing federal taxable income 68136
before operating loss deduction and special deductions for the 68137
taxable year, had the targeted jobs credit allowed and determined 68138
under sections 38, 51, and 52 of the Internal Revenue Code not 68139
been in effect. 68140

(11) Deduct net interest income on obligations of the United 68141
States and its territories and possessions or of any authority, 68142
commission, or instrumentality of the United States to the extent 68143
the laws of the United States prohibit inclusion of the net 68144
interest for purposes of determining the value of the taxpayer's 68145
issued and outstanding shares of stock under division (B) of 68146
section 5733.05 of the Revised Code. As used in division (I)(11) 68147
of this section, "net interest" means interest net of any expenses 68148
taken on the federal income tax return that would not have been 68149
allowed under section 265 of the Internal Revenue Code if the 68150
interest were exempt from federal income tax. 68151

(12)(a) Except as set forth in division (I)(12)(d) of this 68152
section, to the extent not included in computing the taxpayer's 68153
federal taxable income before operating loss deduction and special 68154
deductions, add gains and deduct losses from direct or indirect 68155
sales, exchanges, or other dispositions, made by a related entity 68156
who is not a taxpayer, of the taxpayer's indirect, beneficial, or 68157
constructive investment in the stock or debt of another entity, 68158
unless the gain or loss has been included in computing the federal 68159
taxable income before operating loss deduction and special 68160

deductions of another taxpayer with a more closely related 68161
investment in the stock or debt of the other entity. The amount of 68162
gain added or loss deducted shall not exceed the product obtained 68163
by multiplying such gain or loss by the taxpayer's proportionate 68164
share, directly, indirectly, beneficially, or constructively, of 68165
the outstanding stock of the related entity immediately prior to 68166
the direct or indirect sale, exchange, or other disposition. 68167

(b) Except as set forth in division (I)(12)(e) of this 68168
section, to the extent not included in computing the taxpayer's 68169
federal taxable income before operating loss deduction and special 68170
deductions, add gains and deduct losses from direct or indirect 68171
sales, exchanges, or other dispositions made by a related entity 68172
who is not a taxpayer, of intangible property other than stock, 68173
securities, and debt, if such property was owned, or used in whole 68174
or in part, at any time prior to or at the time of the sale, 68175
exchange, or disposition by either the taxpayer or by a related 68176
entity that was a taxpayer at any time during the related entity's 68177
ownership or use of such property, unless the gain or loss has 68178
been included in computing the federal taxable income before 68179
operating loss deduction and special deductions of another 68180
taxpayer with a more closely related ownership or use of such 68181
intangible property. The amount of gain added or loss deducted 68182
shall not exceed the product obtained by multiplying such gain or 68183
loss by the taxpayer's proportionate share, directly, indirectly, 68184
beneficially, or constructively, of the outstanding stock of the 68185
related entity immediately prior to the direct or indirect sale, 68186
exchange, or other disposition. 68187

(c) As used in division (I)(12) of this section, "related 68188
entity" means those entities described in divisions (I)(12)(c)(i) 68189
to (iii) of this section: 68190

(i) An individual stockholder, or a member of the 68191
stockholder's family enumerated in section 318 of the Internal 68192

Revenue Code, if the stockholder and the members of the 68193
stockholder's family own, directly, indirectly, beneficially, or 68194
constructively, in the aggregate, at least fifty per cent of the 68195
value of the taxpayer's outstanding stock; 68196

(ii) A stockholder, or a stockholder's partnership, estate, 68197
trust, or corporation, if the stockholder and the stockholder's 68198
partnerships, estates, trusts, and corporations own directly, 68199
indirectly, beneficially, or constructively, in the aggregate, at 68200
least fifty per cent of the value of the taxpayer's outstanding 68201
stock; 68202

(iii) A corporation, or a party related to the corporation in 68203
a manner that would require an attribution of stock from the 68204
corporation to the party or from the party to the corporation 68205
under division (I)(12)(c)(iv) of this section, if the taxpayer 68206
owns, directly, indirectly, beneficially, or constructively, at 68207
least fifty per cent of the value of the corporation's outstanding 68208
stock. 68209

(iv) The attribution rules of section 318 of the Internal 68210
Revenue Code apply for purposes of determining whether the 68211
ownership requirements in divisions (I)(12)(c)(i) to (iii) of this 68212
section have been met. 68213

(d) For purposes of the adjustments required by division 68214
(I)(12)(a) of this section, the term "investment in the stock or 68215
debt of another entity" means only those investments where the 68216
taxpayer and the taxpayer's related entities directly, indirectly, 68217
beneficially, or constructively own, in the aggregate, at any time 68218
during the twenty-four month period commencing one year prior to 68219
the direct or indirect sale, exchange, or other disposition of 68220
such investment at least fifty per cent or more of the value of 68221
either the outstanding stock or such debt of such other entity. 68222

(e) For purposes of the adjustments required by division 68223

(I)(12)(b) of this section, the term "related entity" excludes all 68224
of the following: 68225

(i) Foreign corporations as defined in section 7701 of the 68226
Internal Revenue Code; 68227

(ii) Foreign partnerships as defined in section 7701 of the 68228
Internal Revenue Code; 68229

(iii) Corporations, partnerships, estates, and trusts created 68230
or organized in or under the laws of the Commonwealth of Puerto 68231
Rico or any possession of the United States; 68232

(iv) Foreign estates and foreign trusts as defined in section 68233
7701 of the Internal Revenue Code. 68234

The exclusions described in divisions (I)(12)(e)(i) to (iv) 68235
of this section do not apply if the corporation, partnership, 68236
estate, or trust is described in any one of divisions (C)(1) to 68237
(5) of section 5733.042 of the Revised Code. 68238

(f) Nothing in division (I)(12) of this section shall require 68239
or permit a taxpayer to add any gains or deduct any losses 68240
described in divisions (I)(12)(f)(i) and (ii) of this section: 68241

(i) Gains or losses recognized for federal income tax 68242
purposes by an individual, estate, or trust without regard to the 68243
attribution rules described in division (I)(12)(c) of this 68244
section; 68245

(ii) A related entity's gains or losses described in division 68246
(I)(12)(b) of this section if the taxpayer's ownership of or use 68247
of such intangible property was limited to a period not exceeding 68248
nine months and was attributable to a transaction or a series of 68249
transactions executed in accordance with the election or elections 68250
made by the taxpayer or a related entity pursuant to section 338 68251
of the Internal Revenue Code. 68252

(13) Any adjustment required by section 5733.042 of the 68253

Revised Code.	68254
(14) Add any amount claimed as a credit under section	68255
5733.0611 of the Revised Code to the extent that such amount	68256
satisfies either of the following:	68257
(a) It was deducted or excluded from the computation of the	68258
corporation's taxable income before operating loss deduction and	68259
special deductions as required to be reported for the	68260
corporation's taxable year under the Internal Revenue Code;	68261
(b) It resulted in a reduction of the corporation's taxable	68262
income before operating loss deduction and special deductions as	68263
required to be reported for any of the corporation's taxable years	68264
under the Internal Revenue Code.	68265
(15) Deduct the amount contributed by the taxpayer to an	68266
individual development account program established by a county	68267
department of job and family services pursuant to sections 329.11	68268
to 329.14 of the Revised Code for the purpose of matching funds	68269
deposited by program participants. On request of the tax	68270
commissioner, the taxpayer shall provide any information that, in	68271
the tax commissioner's opinion, is necessary to establish the	68272
amount deducted under division (I)(15) of this section.	68273
(16) Any adjustment required by section 5733.0510 <u>or</u>	68274
<u>5733.0511</u> of the Revised Code.	68275
(17)(a) Add five-sixths of the amount of depreciation expense	68276
allowed under subsection (k) of section 168 of the Internal	68277
Revenue Code, including a person's proportionate or distributive	68278
share of the amount of depreciation expense allowed by that	68279
subsection to any pass-through entity in which the person has	68280
direct or indirect ownership. The tax commissioner, under	68281
procedures established by the commissioner, may waive the add-back	68282
related to a pass-through entity if the person owns, directly or	68283
indirectly, less than five per cent of the pass-through entity.	68284

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

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

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

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

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

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

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

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

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

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

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

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

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

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

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

this chapter. 68345

(2)(a)(i) For purposes of making the ninety per cent 68346
computation under division (L)(1)(a) of this section, the net book 68347
value of the corporation's assets shall not include the net book 68348
value of aircraft or real property described in division 68349
(L)(1)(b)(i) of this section. 68350

(ii) For purposes of making the fifty per cent computation 68351
under division (L)(1)(a) of this section, the net book value of 68352
assets shall include the net book value of aircraft or real 68353
property described in division (L)(1)(b)(i) of this section. 68354

(b)(i) As used in division (L) of this section, "intangible 68355
asset" includes, but is not limited to, the corporation's direct 68356
interest in each pass-through entity only if at all times during 68357
the corporation's taxable year ending prior to the first day of 68358
the tax year the corporation's and the corporation's related 68359
members' combined direct and indirect interests in the capital or 68360
profits of such pass-through entity do not exceed fifty per cent. 68361
If the corporation's interest in the pass-through entity is an 68362
intangible asset for that taxable year, then the distributive 68363
share of any income from the pass-through entity shall be income 68364
from an intangible asset for that taxable year. 68365

(ii) If a corporation's and the corporation's related 68366
members' combined direct and indirect interests in the capital or 68367
profits of a pass-through entity exceed fifty per cent at any time 68368
during the corporation's taxable year ending prior to the first 68369
day of the tax year, "intangible asset" does not include the 68370
corporation's direct interest in the pass-through entity, and the 68371
corporation shall include in its assets its proportionate share of 68372
the assets of any such pass-through entity and shall include in 68373
its gross income its distributive share of the gross income of 68374
such pass-through entity in the same form as was earned by the 68375
pass-through entity. 68376

(iii) A pass-through entity's direct or indirect 68377
proportionate share of any other pass-through entity's assets 68378
shall be included for the purpose of computing the corporation's 68379
proportionate share of the pass-through entity's assets under 68380
division (L)(2)(b)(ii) of this section, and such pass-through 68381
entity's distributive share of any other pass-through entity's 68382
gross income shall be included for purposes of computing the 68383
corporation's distributive share of the pass-through entity's 68384
gross income under division (L)(2)(b)(ii) of this section. 68385

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), 68386
(2)(a)(i), and (2)(a)(ii) of this section, real property is 68387
described in division (L)(2)(c) of this section only if all of the 68388
following conditions are present at all times during the taxable 68389
year ending prior to the first day of the tax year: 68390

(i) The real property serves as the headquarters of the 68391
corporation's trade or business, or is the place from which the 68392
corporation's trade or business is principally managed or 68393
directed; 68394

(ii) Not more than ten per cent of the value of the real 68395
property and not more than ten per cent of the square footage of 68396
the building or buildings that are part of the real property is 68397
used, made available, or occupied for the purpose of providing, 68398
acquiring, transferring, selling, or disposing of tangible 68399
property or services in the normal course of business to persons 68400
other than related members, the corporation's employees and their 68401
families, and such related members' employees and their families. 68402

(d) As used in division (L) of this section, "related member" 68403
has the same meaning as in division (A)(6) of section 5733.042 of 68404
the Revised Code without regard to division (B) of that section. 68405

(3) The percentages described in division (L)(1)(a) of this 68406
section shall be equal to the quarterly average of those 68407

percentages as calculated during the corporation's taxable year 68408
ending prior to the first day of the tax year. 68409

(4) With respect to the election described in division 68410
(L)(1)(e) of this section: 68411

(a) The election need not accompany a timely filed report; 68412

(b) The election need not accompany the report; rather, the 68413
election may accompany a subsequently filed but timely application 68414
for refund and timely amended report, or a subsequently filed but 68415
timely petition for reassessment; 68416

(c) The election is not irrevocable; 68417

(d) The election applies only to the tax year specified by 68418
the corporation; 68419

(e) The corporation's related members comply with division 68420
(L)(1)(d) of this section. 68421

Nothing in division (L)(4) of this section shall be construed 68422
to extend any statute of limitations set forth in this chapter. 68423

(M) "Qualifying controlled group" means two or more 68424
corporations that satisfy the ownership and control requirements 68425
of division (A) of section 5733.052 of the Revised Code. 68426

(N) "Limited liability company" means any limited liability 68427
company formed under Chapter 1705. of the Revised Code or under 68428
the laws of any other state. 68429

(O) "Pass-through entity" means a corporation that has made 68430
an election under subchapter S of Chapter 1 of Subtitle A of the 68431
Internal Revenue Code for its taxable year under that code, or a 68432
partnership, limited liability company, or any other person, other 68433
than an individual, trust, or estate, if the partnership, limited 68434
liability company, or other person is not classified for federal 68435
income tax purposes as an association taxed as a corporation. 68436

(P) "Electric company₁" ~~and~~ "combined company₁" and 68437

"telephone company" have the same meanings as in section 5727.01 68438
of the Revised Code. 68439

Sec. 5733.05. As used in this section, "qualified research" 68440
means laboratory research, experimental research, and other 68441
similar types of research; research in developing or improving a 68442
product; or research in developing or improving the means of 68443
producing a product. It does not include market research, consumer 68444
surveys, efficiency surveys, management studies, ordinary testing 68445
or inspection of materials or products for quality control, 68446
historical research, or literary research. "Product" as used in 68447
this paragraph does not include services or intangible property. 68448

The annual report determines the value of the issued and 68449
outstanding shares of stock of the taxpayer, which under division 68450
(A) or divisions (B) and (C) of this section is the base or 68451
measure of the franchise tax liability. Such determination shall 68452
be made as of the date shown by the report to have been the 68453
beginning of the corporation's annual accounting period that 68454
includes the first day of January of the tax year. For the 68455
purposes of this chapter, the value of the issued and outstanding 68456
shares of stock of any corporation that is a financial institution 68457
shall be deemed to be the value as calculated in accordance with 68458
division (A) of this section. For the purposes of this chapter, 68459
the value of the issued and outstanding shares of stock of any 68460
corporation that is not a financial institution shall be deemed to 68461
be the values as calculated in accordance with divisions (B) and 68462
(C) of this section. Except as otherwise required by this section 68463
or section 5733.056 of the Revised Code, the value of a taxpayer's 68464
issued and outstanding shares of stock under division (A) or (C) 68465
of this section does not include any amount that is treated as a 68466
liability under generally accepted accounting principles. 68467

(A) The total value, as shown by the books of the financial 68468

institution, of its capital, surplus, whether earned or unearned, 68469
undivided profits, and reserves shall be determined as prescribed 68470
by section 5733.056 of the Revised Code for tax years 1998 and 68471
thereafter. 68472

(B) The sum of the corporation's net income during the 68473
corporation's taxable year, allocated or apportioned to this state 68474
as prescribed in divisions (B)(1) and (2) of this section, and 68475
subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 68476
5733.059, and 5733.0510 of the Revised Code: 68477

(1) The net income allocated to this state as provided by 68478
section 5733.051 of the Revised Code. 68479

(2) The amount of Ohio apportioned net income from sources 68480
other than those allocated under section 5733.051 of the Revised 68481
Code, which shall be determined by multiplying the corporation's 68482
net income by a fraction. The numerator of the fraction is the sum 68483
of the following products: the property factor multiplied by 68484
twenty, the payroll factor multiplied by twenty, and the sales 68485
factor multiplied by sixty. The denominator of the fraction is one 68486
hundred, provided that the denominator shall be reduced by twenty 68487
if the property factor has a denominator of zero, by twenty if the 68488
payroll factor has a denominator of zero, and by sixty if the 68489
sales factor has a denominator of zero. 68490

The property, payroll, and sales factors shall be determined 68491
as follows: 68492

(a) The property factor is a fraction the numerator of which 68493
is the average value of the corporation's real and tangible 68494
personal property owned or rented, and used in the trade or 68495
business in this state during the taxable year, and the 68496
denominator of which is the average value of all the corporation's 68497
real and tangible personal property owned or rented, and used in 68498
the trade or business everywhere during such year. There shall be 68499

excluded from the numerator and denominator of the property factor 68500
the original cost of all of the following property within Ohio: 68501
property with respect to which a "pollution control facility" 68502
certificate has been issued pursuant to section 5709.21 of the 68503
Revised Code; property with respect to which an "industrial water 68504
pollution control certificate" has been issued pursuant to that 68505
section or former section 6111.31 of the Revised Code; and 68506
property used exclusively during the taxable year for qualified 68507
research. 68508

(i) Property owned by the corporation is valued at its 68509
original cost. Property rented by the corporation is valued at 68510
eight times the net annual rental rate. "Net annual rental rate" 68511
means the annual rental rate paid by the corporation less any 68512
annual rental rate received by the corporation from subrentals. 68513

(ii) The average value of property shall be determined by 68514
averaging the values at the beginning and the end of the taxable 68515
year, but the tax commissioner may require the averaging of 68516
monthly values during the taxable year, if reasonably required to 68517
reflect properly the average value of the corporation's property. 68518

(b) The payroll factor is a fraction the numerator of which 68519
is the total amount paid in this state during the taxable year by 68520
the corporation for compensation, and the denominator of which is 68521
the total compensation paid everywhere by the corporation during 68522
such year. There shall be excluded from the numerator and the 68523
denominator of the payroll factor the total compensation paid in 68524
this state to employees who are primarily engaged in qualified 68525
research. 68526

(i) Compensation means any form of remuneration paid to an 68527
employee for personal services. 68528

(ii) Compensation is paid in this state if: (1) the 68529
recipient's service is performed entirely within this state, (2) 68530

the recipient's service is performed both within and without this 68531
state, but the service performed without this state is incidental 68532
to the recipient's service within this state, (3) some of the 68533
service is performed within this state and either the base of 68534
operations, or if there is no base of operations, the place from 68535
which the service is directed or controlled is within this state, 68536
or the base of operations or the place from which the service is 68537
directed or controlled is not in any state in which some part of 68538
the service is performed, but the recipient's residence is in this 68539
state. 68540

(iii) Compensation is paid in this state to any employee of a 68541
common or contract motor carrier corporation, who performs the 68542
employee's regularly assigned duties on a motor vehicle in more 68543
than one state, in the same ratio by which the mileage traveled by 68544
such employee within the state bears to the total mileage traveled 68545
by such employee everywhere during the taxable year. 68546

(c) Except as provided in section 5733.059 of the Revised 68547
Code, the sales factor is a fraction the numerator of which is the 68548
total sales in this state by the corporation during the taxable 68549
year, and the denominator of which is the total sales by the 68550
corporation everywhere during such year. In determining the 68551
numerator and denominator of the sales factor, receipts from the 68552
sale or other disposal of a capital asset or an asset described in 68553
section 1231 of the Internal Revenue Code shall be eliminated. 68554
Also, in determining the numerator and denominator of the sales 68555
factor, in the case of a reporting corporation owning at least 68556
eighty per cent of the issued and outstanding common stock of one 68557
or more insurance companies or public utilities, except an 68558
electric company and a combined company, and, for tax years 2005 68559
and thereafter, a telephone company, or owning at least 68560
twenty-five per cent of the issued and outstanding common stock of 68561
one or more financial institutions, receipts received by the 68562

reporting corporation from such utilities, insurance companies, 68563
and financial institutions shall be eliminated. 68564

For the purpose of this section and section 5733.03 of the 68565
Revised Code, sales of tangible personal property are in this 68566
state where such property is received in this state by the 68567
purchaser. In the case of delivery of tangible personal property 68568
by common carrier or by other means of transportation, the place 68569
at which such property is ultimately received after all 68570
transportation has been completed shall be considered as the place 68571
at which such property is received by the purchaser. Direct 68572
delivery in this state, other than for purposes of transportation, 68573
to a person or firm designated by a purchaser constitutes delivery 68574
to the purchaser in this state, and direct delivery outside this 68575
state to a person or firm designated by a purchaser does not 68576
constitute delivery to the purchaser in this state, regardless of 68577
where title passes or other conditions of sale. 68578

Except as provided in section 5733.059 of the Revised Code, 68579
sales, other than sales of tangible personal property, are in this 68580
state if either: 68581

(i) The income-producing activity is performed solely in this 68582
state; 68583

(ii) The income-producing activity is performed both within 68584
and without this state and a greater proportion of the 68585
income-producing activity is performed within this state than in 68586
any other state, based on costs of performance. 68587

(d) If the allocation and apportionment provisions of 68588
division (B) of this section do not fairly represent the extent of 68589
the taxpayer's business activity in this state, the taxpayer may 68590
request, which request must be in writing and must accompany the 68591
report, timely filed petition for reassessment, or timely filed 68592
amended report, or the tax commissioner may require, in respect to 68593

all or any part of the taxpayer's allocated or apportioned base, 68594
if reasonable, any one or more of the following: 68595

(i) Separate accounting; 68596

(ii) The exclusion of any one or more of the factors; 68597

(iii) The inclusion of one or more additional factors that 68598
will fairly represent the taxpayer's allocated or apportioned base 68599
in this state. 68600

An alternative method will be effective only with approval by 68601
the tax commissioner. 68602

Nothing in this section shall be construed to extend any 68603
statute of limitations set forth in this chapter. 68604

(e) The tax commissioner may adopt rules providing for 68605
alternative allocation and apportionment methods, and alternative 68606
calculations of a corporation's base, that apply to corporations 68607
engaged in telecommunications. 68608

(C)(1) Subject to divisions (C)(2) and (3) of this section, 68609
the total value, as shown on the books of each corporation that is 68610
not a qualified holding company, of the net book value of a 68611
corporation's assets less the net carrying value of its 68612
liabilities, and excluding from the corporation's assets land 68613
devoted exclusively to agricultural use as of the first Monday of 68614
June in the corporation's taxable year as determined by the county 68615
auditor of the county in which the land is located pursuant to 68616
section 5713.31 of the Revised Code. For the purposes of 68617
determining that total value, any reserves shown on the 68618
corporation's books shall be considered liabilities or contra 68619
assets, except for any reserves that are deemed appropriations of 68620
retained earnings under generally accepted accounting principles. 68621

(2)(a) If, on the last day of the taxpayer's taxable year 68622
preceding the tax year, the taxpayer is a related member to a 68623

corporation that elects to be a qualifying holding company for the 68624
tax year beginning after the last day of the taxpayer's taxable 68625
year, or if, on the last day of the taxpayer's taxable year 68626
preceding the tax year, a corporation that elects to be a 68627
qualifying holding company for the tax year beginning after the 68628
last day of the taxpayer's taxable year is a related member to the 68629
taxpayer, then the taxpayer's total value shall be adjusted by the 68630
qualifying amount. Except as otherwise provided under division 68631
(C)(2)(b) of this section, "qualifying amount" means the amount 68632
that, when added to the taxpayer's total value, and when 68633
subtracted from the net carrying value of the taxpayer's 68634
liabilities computed without regard to division (C)(2) of this 68635
section, or when subtracted from the taxpayer's total value and 68636
when added to the net carrying value of the taxpayer's liabilities 68637
computed without regard to division (C)(2) of this section, 68638
results in the taxpayer's debt-to-equity ratio equaling the 68639
debt-to-equity ratio of the qualifying controlled group on the 68640
last day of the taxable year ending prior to the first day of the 68641
tax year computed on a consolidated basis in accordance with 68642
general accepted accounting principles. For the purposes of 68643
division (C)(2)(a) of this section, the corporation's total value, 68644
after the adjustment required by that division, shall not exceed 68645
the net book value of the corporation's assets. 68646

(b)(i) The amount added to the taxpayer's total value and 68647
subtracted from the net carrying value of the taxpayer's 68648
liabilities shall not exceed the amount of the net carrying value 68649
of the taxpayer's liabilities owed to the taxpayer's related 68650
members. 68651

(ii) A liability owed to the taxpayer's related members 68652
includes, but is not limited to, any amount that the corporation 68653
owes to a person that is not a related member if the corporation's 68654
related member or related members in whole or in part guarantee 68655

any portion or all of that amount, or pledge, hypothecate, 68656
mortgage, or carry out any similar transactions to secure any 68657
portion or all of that amount. 68658

(3) The base upon which the tax is levied under division (C) 68659
of section 5733.06 of the Revised Code shall be computed by 68660
multiplying the amount determined under divisions (C)(1) and (2) 68661
of this section by the fraction determined under divisions 68662
(B)(2)(a) to (c) of this section and, if applicable, divisions 68663
(B)(2)(d)(ii) to (iv) of this section but without regard to 68664
section 5733.052 of the Revised Code. 68665

(4) For purposes of division (C) of this section, "related 68666
member" has the same meaning as in division (A)(6) of section 68667
5733.042 of the Revised Code without regard to division (B) of 68668
that section. 68669

Sec. 5733.051. Subject to section 5733.0510 of the Revised 68670
Code, net income of a corporation subject to the tax imposed by 68671
section 5733.06 of the Revised Code shall be allocated and 68672
apportioned to this state as follows: 68673

(A) Net rents and royalties from real property located in 68674
this state are allocable to this state. 68675

(B) Net rents and royalties from tangible personal property, 68676
to the extent such property is utilized in this state, are 68677
allocable to this state if the taxpayer is otherwise subject to 68678
the tax imposed by section 5733.06 of the Revised Code. 68679

(C) Capital gains and losses from the sale or other 68680
disposition of real property located in this state are allocable 68681
to this state. 68682

(D) Capital gains and losses from the sale or other 68683
disposition of tangible personal property are allocable to this 68684
state if the property had a situs in this state at the time of 68685

sale and the taxpayer is otherwise subject to the tax imposed by 68686
section 5733.06 of the Revised Code. 68687

(E) Capital gains and losses from the sale or other 68688
disposition of intangible property which may produce income 68689
enumerated in division (F) of this section are allocable on the 68690
same basis as set forth in that division. Capital gains and losses 68691
from the sale or other disposition of all other intangible 68692
property are apportionable under division (I) of this section. 68693

(F) Dividends or distributions which are not otherwise 68694
deducted or excluded from net income, other than dividends or 68695
distributions from a domestic international sales corporation, are 68696
allocable to this state in accordance with the ratio of the book 68697
value of the physical assets of the payor of the dividends or 68698
distributions located in this state divided by the book value of 68699
the total physical assets of the payor located everywhere. 68700
Dividends or distributions received from a domestic international 68701
sales corporation, or from a payor the location of whose physical 68702
assets is unavailable to the taxpayer, are apportionable under 68703
division (I) of this section. 68704

(G) Patent and copyright royalties and technical assistance 68705
fees, not representing the principal source of gross receipts of 68706
the taxpayer, are allocable to this state to the extent that the 68707
activity of the payor thereof giving rise to the payment takes 68708
place in this state. If the location of the payor's activity is 68709
unavailable to the taxpayer, such royalties and fees are 68710
apportionable under division (I) of this section. 68711

(H) The following amounts ~~described in division (B)(5) of~~ 68712
~~section 5747.20 of the Revised Code~~ are allocable to this state: 68713

(1)(a) All lottery prize awards paid by the state lottery 68714
commission pursuant to Chapter 3770. of the Revised Code. 68715

(b) All earnings, profit, income, and gain from the sale, 68716

exchange, or other disposition of lottery prize awards paid or to 68717
be paid to any person by the state lottery commission pursuant to 68718
Chapter 3770. of the Revised Code. 68719

(c) All earnings, profit, income, and gain from the direct or 68720
indirect ownership of lottery prize awards paid or to be paid to 68721
any person by the state lottery commission pursuant to Chapter 68722
3770. of the Revised Code. 68723

(d) All earnings, profit, income, and gain from the direct or 68724
indirect interest in any right in or to any lottery prize awards 68725
paid or to be paid to any person by the state lottery commission 68726
pursuant to Chapter 3770. of the Revised Code. 68727

(2) Lottery prize awards and related earnings, profit, 68728
income, or gain with regard to lotteries sponsored by persons or 68729
agencies outside this state are allocable outside this state. 68730

(I) Any other net income, from sources other than those 68731
enumerated in divisions (A) to (H) of this section, is 68732
apportionable to this state on the basis of the mechanism provided 68733
in division (B)(2) of section 5733.05 of the Revised Code. 68734

Sec. 5733.056. (A) As used in this section: 68735

(1) "Billing address" means the address where any notice, 68736
statement, or bill relating to a customer's account is mailed, as 68737
indicated in the books and records of the taxpayer on the first 68738
day of the taxable year or on such later date in the taxable year 68739
when the customer relationship began. 68740

(2) "Borrower or credit card holder located in this state" 68741
means: 68742

(a) A borrower, other than a credit card holder, that is 68743
engaged in a trade or business and maintains its commercial 68744
domicile in this state; or 68745

(b) A borrower that is not engaged in a trade or business, or 68746

a credit card holder, whose billing address is in this state. 68747

(3) "Branch" means a "domestic branch" as defined in section 68748
3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 68749
1813(o), as amended. 68750

(4) "Compensation" means wages, salaries, commissions, and 68751
any other form of remuneration paid to employees for personal 68752
services that are included in such employee's gross income under 68753
the Internal Revenue Code. In the case of employees not subject to 68754
the Internal Revenue Code, such as those employed in foreign 68755
countries, the determination of whether such payments would 68756
constitute gross income to such employees under the Internal 68757
Revenue Code shall be made as though such employees were subject 68758
to the Internal Revenue Code. 68759

(5) "Credit card" means a credit, travel, or entertainment 68760
card. 68761

(6) "Credit card issuer's reimbursement fee" means the fee a 68762
taxpayer receives from a merchant's bank because one of the 68763
persons to whom the taxpayer has issued a credit card has charged 68764
merchandise or services to the credit card. 68765

(7) "Deposits" has the meaning given in section 3 of the 68766
"Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), 68767
as amended. 68768

(8) "Employee" means, with respect to a particular taxpayer, 68769
any individual who under the usual common law rules applicable in 68770
determining the employer-employee relationship, has the status of 68771
an employee of that taxpayer. 68772

(9) "Gross rents" means the actual sum of money or other 68773
consideration payable for the use or possession of property. 68774
"Gross rents" includes: 68775

(a) Any amount payable for the use or possession of real 68776

property or tangible personal property whether designated as a 68777
fixed sum of money or as a percentage of receipts, profits, or 68778
otherwise; 68779

(b) Any amount payable as additional rent or in lieu of rent, 68780
such as interest, taxes, insurance, repairs, or any other amount 68781
required to be paid by the terms of a lease or other arrangement; 68782
and 68783

(c) A proportionate part of the cost of any improvement to 68784
real property made by or on behalf of the taxpayer which reverts 68785
to the owner or lessor upon termination of a lease or other 68786
arrangement. The amount to be included in gross rents is the 68787
amount of amortization or depreciation allowed in computing the 68788
taxable income base for the taxable year. However, where a 68789
building is erected on leased land, by or on behalf of the 68790
taxpayer, the value of the land is determined by multiplying the 68791
gross rent by eight, and the value of the building is determined 68792
in the same manner as if owned by the taxpayer. 68793

(d) The following are not included in the term "gross rents": 68794

(i) Reasonable amounts payable as separate charges for water 68795
and electric service furnished by the lessor; 68796

(ii) Reasonable amounts payable as service charges for 68797
janitorial services furnished by the lessor; 68798

(iii) Reasonable amounts payable for storage, provided such 68799
amounts are payable for space not designated and not under the 68800
control of the taxpayer; and 68801

(iv) That portion of any rental payment which is applicable 68802
to the space subleased from the taxpayer and not used by it. 68803

(10) "Loan" means any extension of credit resulting from 68804
direct negotiations between the taxpayer and its customer, or the 68805
purchase, in whole or in part, of such extension of credit from 68806

another. Loans include debt obligations of subsidiaries, 68807
participations, syndications, and leases treated as loans for 68808
federal income tax purposes. "Loan" does not include: properties 68809
treated as loans under section 595 of the Internal Revenue Code; 68810
futures or forward contracts; options; notional principal 68811
contracts such as swaps; credit card receivables, including 68812
purchased credit card relationships; non-interest bearing balances 68813
due from depositor institutions; cash items in the process of 68814
collection; federal funds sold; securities purchased under 68815
agreements to resell; assets held in a trading account; 68816
securities; interests in a real estate mortgage investment conduit 68817
or other mortgage-backed or asset-backed security; and other 68818
similar items. 68819

(11) "Loan secured by real property" means that fifty per 68820
cent or more of the aggregate value of the collateral used to 68821
secure a loan or other obligation, when valued at fair market 68822
value as of the time the original loan or obligation was incurred, 68823
was real property. 68824

(12) "Merchant discount" means the fee, or negotiated 68825
discount, charged to a merchant by the taxpayer for the privilege 68826
of participating in a program whereby a credit card is accepted in 68827
payment for merchandise or services sold to the card holder. 68828

(13) "Participation" means an extension of credit in which an 68829
undivided ownership interest is held on a pro rata basis in a 68830
single loan or pool of loans and related collateral. In a loan 68831
participation, the credit originator initially makes the loan and 68832
then subsequently resells all or a portion of it to other lenders. 68833
The participation may or may not be known to the borrower. 68834

(14) "Principal base of operations" with respect to 68835
transportation property means the place of more or less permanent 68836
nature from which the property is regularly directed or 68837
controlled. With respect to an employee, the "principal base of 68838

operations" means the place of more or less permanent nature from 68839
which the employee regularly (a) starts work and to which the 68840
employee customarily returns in order to receive instructions from 68841
the employer or (b) communicates with the employee's customers or 68842
other persons or (c) performs any other functions necessary to the 68843
exercise of the trade or profession at some other point or points. 68844

(15) "Qualified institution" means a financial institution 68845
that on or after June 1, 1997: 68846

(a)(i) Has consummated one or more approved transactions with 68847
insured banks with different home states that would qualify under 68848
section 102 of the "Riegle-Neal Interstate Banking and Branching 68849
Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338; 68850

(ii) Is a federal savings association or federal savings bank 68851
that has consummated one or more interstate acquisitions that 68852
result in a financial institution that has branches in more than 68853
one state; or 68854

(iii) Has consummated one or more approved interstate 68855
acquisitions under authority of Title XI of the Revised Code that 68856
result in a financial institution that has branches in more than 68857
one state; and 68858

(b) Has at least nine per cent of its deposits in this state 68859
as of the last day of June prior to the beginning of the tax year. 68860

(16) "Real property owned" and "tangible personal property 68861
owned" mean real and tangible personal property, respectively, on 68862
which the taxpayer may claim depreciation for federal income tax 68863
purposes, or to which the taxpayer holds legal title and on which 68864
no other person may claim depreciation for federal income tax 68865
purposes, or could claim depreciation if subject to federal income 68866
tax. Real and tangible personal property do not include coin, 68867
currency, or property acquired in lieu of or pursuant to a 68868
foreclosure. 68869

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division (D) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to

specific assets;	68901
(2) Taxes due and payable during the year for which such report was made;	68902 68903
(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;	68904 68905 68906
(4) Good will, appreciation, and abandoned property as set up in the annual report of the financial institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.	68907 68908 68909 68910 68911 68912
(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:	68913 68914 68915
(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, <u>except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies,</u> of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;	68916 68917 68918 68919 68920 68921 68922 68923
(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;	68924 68925 68926 68927 68928 68929 68930
(c) Dividing (1) the amount of the financial institution's	68931

assets, as shown on its books, represented by investments in the 68932
capital stock and indebtedness of other financial institutions of 68933
which at least twenty-five per cent of the other financial 68934
institution's issued and outstanding common stock is owned by the 68935
financial institution by (2) the total assets of the financial 68936
institution as shown on its books. Division (B)(5)(c) of this 68937
section applies only with respect to such other financial 68938
institutions that for the tax year immediately following the 68939
taxpayer's taxable year will pay the tax imposed by division (D) 68940
of section 5733.06 of the Revised Code. 68941

(6) Land that has been determined pursuant to section 5713.31 68942
of the Revised Code by the county auditor of the county in which 68943
the land is located to be devoted exclusively to agricultural use 68944
as of the first Monday of June in the financial institution's 68945
taxable year. 68946

(7) Property within this state used exclusively during the 68947
taxable year for qualified research as defined in section 5733.05 68948
of the Revised Code. 68949

(C) The base upon which the tax levied under division (D) of 68950
section 5733.06 of the Revised Code shall be computed by 68951
multiplying the value of a financial institution's issued and 68952
outstanding shares of stock as determined in division (B) of this 68953
section by a fraction. The numerator of the fraction is the sum of 68954
the following: the property factor multiplied by fifteen, the 68955
payroll factor multiplied by fifteen, and the sales factor 68956
multiplied by seventy. The denominator of the fraction is one 68957
hundred, provided that the denominator shall be reduced by fifteen 68958
if the property factor has a denominator of zero, by fifteen if 68959
the payroll factor has a denominator of zero, and by seventy if 68960
the sales factor has a denominator of zero. 68961

(D) A financial institution shall calculate the property 68962
factor as follows: 68963

(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 the first day of the taxable year and the value on the last day of

the taxable year and dividing the sum by two. If averaging on this 68995
basis does not properly reflect average value, the tax 68996
commissioner may require averaging on a more frequent basis. The 68997
taxpayer may elect to average on a more frequent basis. When 68998
averaging on a more frequent basis is required by the tax 68999
commissioner or is elected by the taxpayer, the same method of 69000
valuation must be used consistently by the taxpayer with respect 69001
to property within and without this state and on all subsequent 69002
returns unless the taxpayer receives prior permission from the tax 69003
commissioner or the tax commissioner requires a different method 69004
of determining value. 69005

(4)(a) The average value of real property and tangible 69006
personal property that the taxpayer has rented from another and is 69007
not treated as property owned by the taxpayer for federal income 69008
tax purposes, shall be determined annually by multiplying the 69009
gross rents payable during the taxable year by eight. 69010

(b) Where the use of the general method described in division 69011
(D)(4)(a) of this section results in inaccurate valuations of 69012
rented property, any other method which properly reflects the 69013
value may be adopted by the tax commissioner or by the taxpayer 69014
when approved in writing by the tax commissioner. Once approved, 69015
such other method of valuation must be used on all subsequent 69016
returns unless the taxpayer receives prior approval from the tax 69017
commissioner or the tax commissioner requires a different method 69018
of valuation. 69019

(5)(a) Except as described in division (D)(5)(b) of this 69020
section, real property and tangible personal property owned by or 69021
rented to the taxpayer is considered to be located within this 69022
state if it is physically located, situated, or used within this 69023
state. 69024

(b) Transportation property is included in the numerator of 69025
the property factor to the extent that the property is used in 69026

this state. The extent an aircraft will be deemed to be used in 69027
this state and the amount of value that is to be included in the 69028
numerator of this state's property factor is determined by 69029
multiplying the average value of the aircraft by a fraction, the 69030
numerator of which is the number of landings of the aircraft in 69031
this state and the denominator of which is the total number of 69032
landings of the aircraft everywhere. If the extent of the use of 69033
any transportation property within this state cannot be 69034
determined, then the property will be deemed to be used wholly in 69035
the state in which the property has its principal base of 69036
operations. A motor vehicle will be deemed to be used wholly in 69037
the state in which it is registered. 69038

(6)(a)(i) A loan, other than a loan or advance described in 69039
division (D)(6)(d) of this section, is considered to be located 69040
within this state if it is properly assigned to a regular place of 69041
business of the taxpayer within this state. 69042

(ii) A loan is properly assigned to the regular place of 69043
business with which it has a preponderance of substantive 69044
contacts. A loan assigned by the taxpayer to a regular place of 69045
business without the state shall be presumed to have been properly 69046
assigned if: 69047

(I) The taxpayer has assigned, in the regular course of its 69048
business, such loan on its records to a regular place of business 69049
consistent with federal or state regulatory requirements; 69050

(II) Such assignment on its records is based upon substantive 69051
contacts of the load to such regular place of business; and 69052

(III) The taxpayer uses the records reflecting assignment of 69053
loans for the filing of all state and local tax returns for which 69054
an assignment of loans to a regular place of business is required. 69055

(iii) The presumption of proper assignment of a loan provided 69056
in division (D)(6)(a)(ii) of this section may be rebutted upon a 69057

showing by the tax commissioner, supported by a preponderance of 69058
the evidence, that the preponderance of substantive contacts 69059
regarding such loan did not occur at the regular place of business 69060
to which it was assigned on the taxpayer's records. When such 69061
presumption has been rebutted, the loan shall then be located 69062
within this state if (1) the taxpayer had a regular place of 69063
business within this state at the time the loan was made; and (2) 69064
the taxpayer fails to show, by a preponderance of the evidence, 69065
that the preponderance of substantive contacts regarding such loan 69066
did not occur within this state. 69067

(b) In the case of a loan which is assigned by the taxpayer 69068
to a place without this state which is not a regular place of 69069
business, it shall be presumed, subject to rebuttal by the 69070
taxpayer on a showing supported by the preponderance of evidence, 69071
that the preponderance of substantive contacts regarding the loan 69072
occurred within this state if, at the time the loan was made the 69073
taxpayer's commercial domicile was within this state. 69074

(c) To determine the state in which the preponderance of 69075
substantive contacts relating to a loan have occurred, the facts 69076
and circumstances regarding the loan at issue shall be reviewed on 69077
a case-by-case basis and consideration shall be given to such 69078
activities as the solicitation, investigation, negotiation, 69079
approval, and administration of the loan. The terms 69080
"solicitation," "investigation," "negotiation," "approval," and 69081
"administration" are defined as follows: 69082

(i) "Solicitation" is either active or passive. Active 69083
solicitation occurs when an employee of the taxpayer initiates the 69084
contact with the customer. Such activity is located at the regular 69085
place of business which the taxpayer's employee is regularly 69086
connected with or working out of, regardless of where the services 69087
of such employee were actually performed. Passive solicitation 69088
occurs when the customer initiates the contact with the taxpayer. 69089

If the customer's initial contact was not at a regular place of 69090
business of the taxpayer, the regular place of business, if any, 69091
where the passive solicitation occurred is determined by the facts 69092
in each case. 69093

(ii) "Investigation" is the procedure whereby employees of 69094
the taxpayer determine the creditworthiness of the customer as 69095
well as the degree of risk involved in making a particular 69096
agreement. Such activity is located at the regular place of 69097
business which the taxpayer's employees are regularly connected 69098
with or working out of, regardless of where the services of such 69099
employees were actually performed. 69100

(iii) Negotiation is the procedure whereby employees of the 69101
taxpayer and its customer determine the terms of the agreement, 69102
such as the amount, duration, interest rate, frequency of 69103
repayment, currency denomination, and security required. Such 69104
activity is located at the regular place of business to which the 69105
taxpayer's employees are regularly connected or working from, 69106
regardless of where the services of such employees were actually 69107
performed. 69108

(iv) "Approval" is the procedure whereby employees or the 69109
board of directors of the taxpayer make the final determination 69110
whether to enter into the agreement. Such activity is located at 69111
the regular place of business to which the taxpayer's employees 69112
are regularly connected or working from, regardless of where the 69113
services of such employees were actually performed. If the board 69114
of directors makes the final determination, such activity is 69115
located at the commercial domicile of the taxpayer. 69116

(v) "Administration" is the process of managing the account. 69117
This process includes bookkeeping, collecting the payments, 69118
corresponding with the customer, reporting to management regarding 69119
the status of the agreement, and proceeding against the borrower 69120
or the security interest if the borrower is in default. Such 69121

activity is located at the regular place of business that oversees 69122
this activity. 69123

(d) A loan or advance to a subsidiary corporation at least 69124
fifty-one per cent of whose common stock is owned by the financial 69125
institution shall be allocated in and out of the state by the 69126
application of a ratio whose numerator is the sum of the net book 69127
value of the subsidiary's real property owned in this state and 69128
the subsidiary's tangible personal property owned in this state 69129
and whose denominator is the sum of the subsidiary's real property 69130
owned wherever located and the subsidiary's tangible personal 69131
property owned wherever located. For purposes of calculating this 69132
ratio, the taxpayer shall determine net book value in accordance 69133
with generally accepted accounting principles. If the subsidiary 69134
corporation owns at least fifty-one per cent of the common stock 69135
of another corporation, the ratio shall be calculated by including 69136
the other corporation's real property and tangible personal 69137
property. The calculation of the ratio applies with respect to all 69138
lower-tiered subsidiaries, provided that the immediate parent 69139
corporation of the subsidiary owns at least fifty-one per cent of 69140
the common stock of that subsidiary. 69141

(7) For purposes of determining the location of credit card 69142
receivables, credit card receivables shall be treated as loans and 69143
shall be subject to division (D)(6) of this section. 69144

(8) A loan that has been properly assigned to a state shall, 69145
absent any change of material fact, remain assigned to that state 69146
for the length of the original term of the loan. Thereafter, the 69147
loan may be properly assigned to another state if the loan has a 69148
preponderance of substantive contact to a regular place of 69149
business there. 69150

(E) A financial institution shall calculate the payroll 69151
factor as follows: 69152

(1) The payroll factor is a fraction, the numerator of which 69153
is the total amount paid in this state during the taxable year by 69154
the taxpayer for compensation, and the denominator of which is the 69155
total compensation paid both within and without this state during 69156
the taxable year. 69157

(2) Compensation is paid in this state if any one of the 69158
following tests, applied consecutively, is met: 69159

(a) The employee's services are performed entirely within 69160
this state. 69161

(b) The employee's services are performed both within and 69162
without this state, but the service performed without this state 69163
is incidental to the employee's service within this state. The 69164
term "incidental" means any service which is temporary or 69165
transitory in nature, or which is rendered in connection with an 69166
isolated transaction. 69167

(c) The employee's services are performed both within and 69168
without this state, and: 69169

(i) The employee's principal base of operations is within 69170
this state; or 69171

(ii) There is no principal base of operations in any state in 69172
which some part of the services are performed, but the place from 69173
which the services are directed or controlled is in this state; or 69174

(iii) The principal base of operations and the place from 69175
which the services are directed or controlled are not in any state 69176
in which some part of the service is performed but the employee's 69177
residence is in this state. 69178

(F) A financial institution shall calculate the sales factor 69179
as follows: 69180

(1) The sales factor is a fraction, the numerator of which is 69181
the receipts of the taxpayer in this state during the taxable year 69182

and the denominator of which is the receipts of the taxpayer 69183
within and without this state during the taxable year. The method 69184
of calculating receipts for purposes of the denominator is the 69185
same as the method used in determining receipts for purposes of 69186
the numerator. 69187

(2) The numerator of the sales factor includes receipts from 69188
the lease or rental of real property owned by the taxpayer if the 69189
property is located within this state, or receipts from the 69190
sublease of real property if the property is located within this 69191
state. 69192

(3)(a) Except as described in division (F)(3)(b) of this 69193
section the numerator of the sales factor includes receipts from 69194
the lease or rental of tangible personal property owned by the 69195
taxpayer if the property is located within this state when it is 69196
first placed in service by the lessee. 69197

(b) Receipts from the lease or rental of transportation 69198
property owned by the taxpayer are included in the numerator of 69199
the sales factor to the extent that the property is used in this 69200
state. The extent an aircraft will be deemed to be used in this 69201
state and the amount of receipts that is to be included in the 69202
numerator of this state's sales factor is determined by 69203
multiplying all the receipts from the lease or rental of the 69204
aircraft by a fraction, the numerator of which is the number of 69205
landings of the aircraft in this state and the denominator of 69206
which is the total number of landings of the aircraft. If the 69207
extent of the use of any transportation property within this state 69208
cannot be determined, then the property will be deemed to be used 69209
wholly in the state in which the property has its principal base 69210
of operations. A motor vehicle will be deemed to be used wholly in 69211
the state in which it is registered. 69212

(4)(a) The numerator of the sales factor includes interest 69213
and fees or penalties in the nature of interest from loans secured 69214

by real property if the property is located within this state. If 69215
the property is located both within this state and one or more 69216
other states, the receipts described in this paragraph are 69217
included in the numerator of the sales factor if more than fifty 69218
per cent of the fair market value of the real property is located 69219
within this state. If more than fifty per cent of the fair market 69220
value of the real property is not located within any one state, 69221
then the receipts described in this paragraph shall be included in 69222
the numerator of the sales factor if the borrower is located in 69223
this state. 69224

(b) The determination of whether the real property securing a 69225
loan is located within this state shall be made as of the time the 69226
original agreement was made and any and all subsequent 69227
substitutions of collateral shall be disregarded. 69228

(5) The numerator of the sales factor includes interest and 69229
fees or penalties in the nature of interest from loans not secured 69230
by real property if the borrower is located in this state. 69231

(6) The numerator of the sales factor includes net gains from 69232
the sale of loans. Net gains from the sale of loans includes 69233
income recorded under the coupon stripping rules of section 1286 69234
of the Internal Revenue Code. 69235

(a) The amount of net gains, but not less than zero, from the 69236
sale of loans secured by real property included in the numerator 69237
is determined by multiplying such net gains by a fraction the 69238
numerator of which is the amount included in the numerator of the 69239
sales factor pursuant to division (F)(4) of this section and the 69240
denominator of which is the total amount of interest and fees or 69241
penalties in the nature of interest from loans secured by real 69242
property. 69243

(b) The amount of net gains, but not less than zero, from the 69244
sale of loans not secured by real property included in the 69245

numerator is determined by multiplying such net gains by a 69246
fraction the numerator of which is the amount included in the 69247
numerator of the sales factor pursuant to division (F)(5) of this 69248
section and the denominator of which is the total amount of 69249
interest and fees or penalties in the nature of interest from 69250
loans not secured by real property. 69251

(7) The numerator of the sales factor includes interest and 69252
fees or penalties in the nature of interest from credit card 69253
receivables and receipts from fees charged to card holders, such 69254
as annual fees, if the billing address of the card holder is in 69255
this state. 69256

(8) The numerator of the sales factor includes net gains, but 69257
not less than zero, from the sale of credit card receivables 69258
multiplied by a fraction, the numerator of which is the amount 69259
included in the numerator of the sales factor pursuant to division 69260
(F)(7) of this section and the denominator of which is the 69261
taxpayer's total amount of interest and fees or penalties in the 69262
nature of interest from credit card receivables and fees charged 69263
to card holders. 69264

(9) The numerator of the sales factor includes all credit 69265
card issuer's reimbursement fees multiplied by a fraction, the 69266
numerator of which is the amount included in the numerator of the 69267
sales factor pursuant to division (F)(7) of this section and the 69268
denominator of which is the taxpayer's total amount of interest 69269
and fees or penalties in the nature of interest from credit card 69270
receivables and fees charged to card holders. 69271

(10) The numerator of the sales factor includes receipts from 69272
merchant discount if the commercial domicile of the merchant is in 69273
this state. Such receipts shall be computed net of any card holder 69274
charge backs, but shall not be reduced by any interchange 69275
transaction fees or by any issuer's reimbursement fees paid to 69276
another for charges made by its card holders. 69277

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities;

trading account assets; federal funds; securities purchased and 69309
sold under agreements to resell or repurchase; options; futures 69310
contracts; forward contracts; notional principal contracts such as 69311
swaps; equities; and foreign currency transactions. With respect 69312
to the investment and trading assets and activities described in 69313
divisions (F)(13)(a)(i) and (ii) of this section, the sales factor 69314
shall include the amounts described in such divisions. 69315

(i) The sales factor shall include the amount by which 69316
interest from federal funds sold and securities purchased under 69317
resale agreements exceeds interest expense on federal funds 69318
purchased and securities sold under repurchase agreements. 69319

(ii) The sales factor shall include the amount by which 69320
interest, dividends, gains, and other income from trading assets 69321
and activities, including, but not limited to, assets and 69322
activities in the matched book, in the arbitrage book, and foreign 69323
currency transactions, exceed amounts paid in lieu of interest, 69324
amounts paid in lieu of dividends, and losses from such assets and 69325
activities. 69326

(b) The numerator of the sales factor includes interest, 69327
dividends, net gains, but not less than zero, and other income 69328
from investment assets and activities and from trading assets and 69329
activities described in division (F)(13)(a) of this section that 69330
are attributable to this state. 69331

(i) The amount of interest, other than interest described in 69332
division (F)(13)(b)(iv) of this section, dividends, other than 69333
dividends described in that division, net gains, but not less than 69334
zero, and other income from investment assets and activities in 69335
the investment account to be attributed to this state and included 69336
in the numerator is determined by multiplying all such income from 69337
such assets and activities by a fraction, the numerator of which 69338
is the average value of such assets which are properly assigned to 69339
a regular place of business of the taxpayer within this state and 69340

the denominator of which is the average value of all such assets. 69341

(ii) The amount of interest from federal funds sold and 69342
purchased and from securities purchased under resale agreements 69343
and securities sold under repurchase agreements attributable to 69344
this state and included in the numerator is determined by 69345
multiplying the amount described in division (F)(13)(a)(i) of this 69346
section from such funds and such securities by a fraction, the 69347
numerator of which is the average value of federal funds sold and 69348
securities purchased under agreements to resell which are properly 69349
assigned to a regular place of business of the taxpayer within 69350
this state and the denominator of which is the average value of 69351
all such funds and such securities. 69352

(iii) The amount of interest, dividends, gains, and other 69353
income from trading assets and activities, including but not 69354
limited to assets and activities in the matched book, in the 69355
arbitrage book, and foreign currency transaction, but excluding 69356
amounts described in division (F)(13)(b)(i) or (ii) of this 69357
section, attributable to this state and included in the numerator 69358
is determined by multiplying the amount described in division 69359
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69360
which is the average value of such trading assets which are 69361
properly assigned to a regular place of business of the taxpayer 69362
within this state and the denominator of which is the average 69363
value of all such assets. 69364

(iv) The amount of dividends received on the capital stock 69365
of, and the amount of interest received from loans and advances 69366
to, subsidiary corporations at least fifty-one per cent of whose 69367
common stock is owned by the reporting financial institution shall 69368
be allocated in and out of this state by the application of a 69369
ratio whose numerator is the sum of the net book value of the 69370
payor's real property owned in this state and the payor's tangible 69371
personal property owned in this state and whose denominator is the 69372

sum of the net book value of the payor's real property owned 69373
wherever located and the payor's tangible personal property owned 69374
wherever located. For purposes of calculating this ratio, the 69375
taxpayer shall determine net book value in accordance with 69376
generally accepted accounting principles. 69377

(v) For purposes of this division, average value shall be 69378
determined using the rules for determining the average value of 69379
tangible personal property set forth in division (D)(2) and (3) of 69380
this section. 69381

(c) In lieu of using the method set forth in division 69382
(F)(13)(b) of this section, the taxpayer may elect, or the tax 69383
commissioner may require in order to fairly represent the business 69384
activity of the taxpayer in this state, the use of the method set 69385
forth in division (F)(13)(c) of this section. 69386

(i) The amount of interest, other than interest described in 69387
division (F)(13)(b)(iv) of this section, dividends, other than 69388
dividends described in that division, net gains, but not less than 69389
zero, and other income from investment assets and activities in 69390
the investment account to be attributed to this state and included 69391
in the numerator is determined by multiplying all such income from 69392
such assets and activities by a fraction, the numerator of which 69393
is the gross income from such assets and activities which are 69394
properly assigned to a regular place of business of the taxpayer 69395
within this state, and the denominator of which is the gross 69396
income from all such assets and activities. 69397

(ii) The amount of interest from federal funds sold and 69398
purchased and from securities purchased under resale agreements 69399
and securities sold under repurchase agreements attributable to 69400
this state and included in the numerator is determined by 69401
multiplying the amount described in division (F)(13)(a)(i) of this 69402
section from such funds and such securities by a fraction, the 69403
numerator of which is the gross income from such funds and such 69404

securities which are properly assigned to a regular place of 69405
business of the taxpayer within this state and the denominator of 69406
which is the gross income from all such funds and such securities. 69407

(iii) The amount of interest, dividends, gains, and other 69408
income from trading assets and activities, including, but not 69409
limited to, assets and activities in the matched book, in the 69410
arbitrage book, and foreign currency transactions, but excluding 69411
amounts described in division (F)(13)(a)(i) or (ii) of this 69412
section, attributable to this state and included in the numerator, 69413
is determined by multiplying the amount described in division 69414
(F)(13)(a)(ii) of this section by a fraction, the numerator of 69415
which is the gross income from such trading assets and activities 69416
which are properly assigned to a regular place of business of the 69417
taxpayer within this state and the denominator of which is the 69418
gross income from all such assets and activities. 69419

(iv) The amount of dividends received on the capital stock 69420
of, and the amount of interest received from loans and advances 69421
to, subsidiary corporations at least fifty-one per cent of whose 69422
common stock is owned by the reporting financial institution shall 69423
be allocated in and out of this state by the application of a 69424
ratio whose numerator is the sum of the net book value of the 69425
payor's real property owned in this state and the payor's tangible 69426
personal property owned in this state and whose denominator is the 69427
sum of the payor's real property owned wherever located and the 69428
payor's tangible personal property owned wherever located. For 69429
purposes of calculating this ratio, the taxpayer shall determine 69430
net book value in accordance with generally accepted accounting 69431
principles. 69432

(d) If the taxpayer elects or is required by the tax 69433
commissioner to use the method set forth in division (F)(13)(c) of 69434
this section, it shall use this method on all subsequent returns 69435
unless the taxpayer receives prior permission from the tax 69436

commissioner to use or the tax commissioner requires a different 69437
method. 69438

(e) The taxpayer shall have the burden of proving that an 69439
investment asset or activity or trading asset or activity was 69440
properly assigned to a regular place of business outside of this 69441
state by demonstrating that the day-to-day decisions regarding the 69442
asset or activity occurred at a regular place of business outside 69443
this state. Where the day-to-day decisions regarding an investment 69444
asset or activity or trading asset or activity occur at more than 69445
one regular place of business and one such regular place of 69446
business is in this state and one such regular place of business 69447
is outside this state such asset or activity shall be considered 69448
to be located at the regular place of business of the taxpayer 69449
where the investment or trading policies or guidelines with 69450
respect to the asset or activity are established. Unless the 69451
taxpayer demonstrates to the contrary, such policies and 69452
guidelines shall be presumed to be established at the commercial 69453
domicile of the taxpayer. 69454

(14) The numerator of the sales factor includes all other 69455
receipts if either: 69456

(a) The income-producing activity is performed solely in this 69457
state; or 69458

(b) The income-producing activity is performed both within 69459
and without this state and a greater proportion of the 69460
income-producing activity is performed within this state than in 69461
any other state, based on costs of performance. 69462

(G) A qualified institution may calculate the base upon which 69463
the fee provided for in division (D) of section 5733.06 of the 69464
Revised Code is determined for each tax year by multiplying the 69465
value of its issued and outstanding shares of stock determined 69466
under division (B) of this section by a single deposits fraction 69467

whose numerator is the deposits assigned to branches in this state 69468
and whose denominator is the deposits assigned to branches 69469
everywhere. Deposits shall be assigned to branches in the same 69470
manner in which the assignment is made for regulatory purposes. If 69471
the base calculated under this division is less than the base 69472
calculated under division (C) of this section, then the qualifying 69473
institution may elect to substitute the base calculated under this 69474
division for the base calculated under division (C) of this 69475
section. Such election may be made annually for each tax year on 69476
the corporate report. The election need not accompany the report; 69477
rather, the election may accompany a subsequently filed but timely 69478
application for refund, a subsequently filed but timely amended 69479
report, or a subsequently filed but timely petition for 69480
reassessment. The election is not irrevocable and it applies only 69481
to the specified tax year. Nothing in this division shall be 69482
construed to extend any statute of limitations set forth in this 69483
chapter. 69484

(H) If the apportionment provisions of this section do not 69485
fairly represent the extent of the taxpayer's business activity in 69486
this state, the taxpayer may petition for or the tax commissioner 69487
may require, in respect to all or any part of the taxpayer's 69488
business activity, if reasonable: 69489

(1) Separate accounting; 69490

(2) The exclusion of any one or more of the factors; 69491

(3) The inclusion of one or more additional factors which 69492
will fairly represent the taxpayer's business activity in this 69493
state; or 69494

(4) The employment of any other method to effectuate an 69495
equitable allocation and apportionment of the taxpayer's value. 69496

Sec. 5733.059. (A) As used in this section: 69497

(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.

(2) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:

(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with

division (B) of this section. Any remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situate the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the siting provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting; 69560

(2) The exclusion of one or more additional situsing factors 69561
that will fairly represent the taxpayer's and the related member's 69562
sales in this state; 69563

(3) The inclusion of one or more additional situsing factors 69564
that will fairly represent the taxpayer's and the related member's 69565
sales in this state. 69566

The taxpayer's request shall be in writing and shall be filed 69567
with the report required by section 5733.02 of the Revised Code, a 69568
timely filed petition for reassessment, or a timely filed amended 69569
report. An alternative situsing method shall be effective with the 69570
approval of the tax commissioner. 69571

Nothing in this section shall be construed to extend any 69572
statute of limitations set forth in this chapter. 69573

(F) If the situsing provisions of this section do not fairly 69574
represent activity in this state, the tax commissioner may 69575
promulgate rules to situs sales using a methodology that fairly 69576
reflects sales in this state. 69577

(G) Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69578
5703.56 of the Revised Code to the contrary, a person situsing a 69579
sale outside this state has the burden to establish by a 69580
preponderance of the evidence that the doctrines enumerated in 69581
~~those sections~~ that section do not apply. 69582

Sec. 5733.0511. (A) As used in this section: 69583

(1) "Qualifying telephone company taxpayer" means either of 69584
the following: 69585

(a) A telephone company, but only if the telephone company 69586
was subject to the tax imposed by section 5727.30 of the Revised 69587
Code for gross receipts received during the period from July 1, 69588

2003, to June 30, 2004, and the telephone company's property 69589
subject to taxation under Chapter 5727. of the Revised Code for 69590
tax years 2003 through 2006 was assessed using the true value 69591
percentages provided for in division (B) of section 5727.111 of 69592
the Revised Code. 69593

(b) Any taxpayer not described in division (A)(1)(a) of this 69594
section if a telephone company described in division (A)(1)(a) of 69595
this section transfers all or a portion of its assets and equity 69596
directly or indirectly to the taxpayer, the transfer occurred as 69597
part of an entity organization or reorganization, or subsequent 69598
entity organization or reorganization, and the gain or loss with 69599
respect to the transfer is not recognized in whole or in part for 69600
federal income tax purposes under the Internal Revenue Code on 69601
account of a transfer as part of an entity organization or 69602
reorganization, or subsequent entity organization or 69603
reorganization. 69604

(2) "Qualifying telephone company asset" means any asset 69605
shown on the qualifying telephone company taxpayer's books and 69606
records on December 31, 2003, in accordance with generally 69607
accepted accounting principles. 69608

(3) "Net income" has the same meaning as in division (I) of 69609
section 5733.04 of the Revised Code. 69610

(4) "Book-tax difference" means the difference, if any, 69611
between a qualifying telephone company asset's net book value 69612
shown on the qualifying telephone company taxpayer's books and 69613
records on December 31, 2003, in accordance with generally 69614
accepted accounting principles, and such asset's adjusted basis on 69615
December 31, 2003. The book-tax difference may be a negative 69616
number. 69617

(5) Solely for purposes of division (A)(1)(a) of this 69618
section, "tax year" has the same meaning as used in section 69619

5727.01 of the Revised Code. 69620

(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. 69621
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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. 69636
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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. 69642
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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 division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this 69646
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section, except that the tax hereby charged each financial 69651
institution subject to this chapter shall be the amount computed 69652
under division (D) of this section: 69653

(A) Except as set forth in division (F) of this section, five 69654
and one-tenth per cent upon the first fifty thousand dollars of 69655
the value of the taxpayer's issued and outstanding shares of stock 69656
as determined under division (B) of section 5733.05 of the Revised 69657
Code; 69658

(B) Except as set forth in division (F) of this section, 69659
eight and one-half per cent upon the value so determined in excess 69660
of fifty thousand dollars; or 69661

(C)(1) Except as otherwise provided under division (G) of 69662
this section, four mills times that portion of the value of the 69663
issued and outstanding shares of stock as determined under 69664
division (C) of section 5733.05 of the Revised Code. For the 69665
purposes of division (C) of this section, division (C)(2) of 69666
section 5733.065, and division (C) of section 5733.066 of the 69667
Revised Code, the value of the issued and outstanding shares of 69668
stock of an eligible corporation for tax year 2003 through tax 69669
year 2007, or of a qualified holding company, is zero. 69670

(2) As used in division (C) of this section, "eligible 69671
corporation" means a person treated as a corporation for federal 69672
income tax purposes that meets all of the following criteria: 69673

(a) The corporation conducts business for an entire taxable 69674
year as a qualified trade or business as defined by division (C) 69675
of section 122.15 of the Revised Code. 69676

(b) The corporation uses more than fifty per cent of the 69677
corporation's assets, based on net book value, that are located in 69678
Ohio solely to conduct activities that constitute a qualified 69679
trade or business as defined by section 122.15 of the Revised 69680
Code. 69681

(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.

(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.

(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:

- (1) For tax years prior to the 1999 tax year, fifteen mills;
- (2) For the 1999 tax year, fourteen mills;
- (3) For tax year 2000 and thereafter, thirteen mills.

(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 power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for ~~all corporations~~ each

corporation shall be fifty dollars as follows: 69713

(1) One thousand dollars in the case of a corporation having 69714
gross receipts for the taxable year equal to at least five million 69715
dollars from activities within or outside this state or in the 69716
case of a corporation employing at least three hundred employees 69717
at some time during the taxable year within or outside this state; 69718

(2) Fifty dollars in the case of any other corporation. 69719

The tax charged to corporations under this chapter for the 69720
privilege of engaging in business in this state, which is an 69721
excise tax levied on the value of the issued and outstanding 69722
shares of stock, shall in no manner be construed as prohibiting or 69723
otherwise limiting the powers of municipal corporations, joint 69724
economic development zones created under section 715.691 of the 69725
Revised Code, and joint economic development districts created 69726
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 69727
Revised Code in this state to impose an income tax on the income 69728
of such corporations. 69729

(F) If two or more taxpayers satisfy the ownership or control 69730
requirements of division (A) of section 5733.052 of the Revised 69731
Code, each such taxpayer shall substitute "the taxpayer's pro-rata 69732
amount" for "fifty thousand dollars" in divisions (A) and (B) of 69733
this section. For purposes of this division, "the taxpayer's 69734
pro-rata amount" is an amount that, when added to the other such 69735
taxpayers' pro-rata amounts, does not exceed fifty thousand 69736
dollars. For the purpose of making that computation, the 69737
taxpayer's pro-rata amount shall not be less than zero. Nothing in 69738
this division derogates from or eliminates the requirement to make 69739
the alternative computation of tax under division (C) of this 69740
section. 69741

(G) The tax liability of any corporation under division (C) 69742
of this section shall not exceed one hundred fifty thousand 69743

dollars. 69744

(H)(1) For the purposes of division (H) of this section, 69745
"exiting corporation" means a corporation that satisfies all of 69746
the following conditions: 69747

(a) The corporation had nexus with or in this state under the 69748
Constitution of the United States during any portion of a calendar 69749
year; 69750

(b) The corporation was not a corporation described in 69751
division (A) of section 5733.01 of the Revised Code on the first 69752
day of January immediately following that calendar year; 69753

(c) The corporation was not a financial institution on the 69754
first day of January immediately following that calendar year; 69755

(d) If the corporation was a transferor as defined in section 69756
5733.053 of the Revised Code, the corporation's transferee was not 69757
required to add to the transferee's net income the income of the 69758
transferor pursuant to division (B) of that section; 69759

(e) During any portion of that calendar year, or any portion 69760
of the immediately preceding calendar year, the corporation had 69761
net income that was not included in a report filed by the 69762
corporation or its transferee pursuant to section 5733.02, 69763
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 69764

(f) The corporation would have been subject to the tax 69765
computed under divisions (A), (B), (C), (F), and (G) of this 69766
section if the corporation is assumed to be a corporation 69767
described in division (A) of section 5733.01 of the Revised Code 69768
on the first day of January immediately following the calendar 69769
year to which division (H)(1)(a) of this section refers. 69770

(2) For the purposes of division (H) of this section, 69771
"unreported net income" means net income that was not previously 69772
included in a report filed pursuant to section 5733.02, 5733.021, 69773

5733.03, 5733.031, or 5733.053 of the Revised Code and that was 69774
realized or recognized during the calendar year to which division 69775
(H)(1) of this section refers or the immediately preceding 69776
calendar year. 69777

(3) Each exiting corporation shall pay a tax computed by 69778
first allocating and apportioning the unreported net income 69779
pursuant to division (B) of section 5733.05 and section 5733.051 69780
and, if applicable, section 5733.052 of the Revised Code. The 69781
exiting corporation then shall compute the tax due on its 69782
unreported net income allocated and apportioned to this state by 69783
applying divisions (A), (B), and (F) of this section to that 69784
income. 69785

(4) Divisions (C) and (G) of this section, division (D)(2) of 69786
section 5733.065, and division (C) of section 5733.066 of the 69787
Revised Code do not apply to an exiting corporation, but exiting 69788
corporations are subject to every other provision of this chapter. 69789

(5) Notwithstanding division (B) of section 5733.01 or 69790
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 69791
contrary, each exiting corporation shall report and pay the tax 69792
due under division (H) of this section on or before the 69793
thirty-first day of May immediately following the calendar year to 69794
which division (H)(1)(a) of this section refers. The exiting 69795
corporation shall file that report on the form most recently 69796
prescribed by the tax commissioner for the purposes of complying 69797
with sections 5733.02 and 5733.03 of the Revised Code. Upon 69798
request by the corporation, the tax commissioner may extend the 69799
date for filing the report. 69800

(6) If, on account of the application of section 5733.053 of 69801
the Revised Code, net income is subject to the tax imposed by 69802
divisions (A) and (B) of this section, such income shall not be 69803
subject to the tax imposed by division (H)(3) of this section. 69804

(7) The amendments made to division (H) of this section by 69805
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 69806
any transfer, as defined in section 5733.053 of the Revised Code, 69807
for which negotiations began prior to January 1, 2001, and that 69808
was commenced in and completed during calendar year 2001, unless 69809
the taxpayer makes an election prior to December 31, 2001, to 69810
apply those amendments. 69811

(8) The tax commissioner may adopt rules governing division 69812
(H) of this section. 69813

(I) Any reference in the Revised Code to "the tax imposed by 69814
section 5733.06 of the Revised Code" or "the tax due under section 69815
5733.06 of the Revised Code" includes the taxes imposed under 69816
sections 5733.065 and 5733.066 of the Revised Code. 69817

(J)(1) Division (J) of this section applies solely to a 69818
combined company. Section 5733.057 of the Revised Code shall apply 69819
when calculating the adjustments required by division (J) of this 69820
section. 69821

(2) Subject to division (J)(4) of this section, the total tax 69822
calculated in divisions (A) and (B) of this section shall be 69823
reduced by an amount calculated by multiplying such tax by a 69824
fraction, the numerator of which is the total taxable gross 69825
receipts attributed to providing public utility activity other 69826
than as an electric company under section 5727.03 of the Revised 69827
Code for the year upon which the taxable gross receipts are 69828
measured immediately preceding the tax year, and the denominator 69829
of which is the total gross receipts from all sources for the year 69830
upon which the taxable gross receipts are measured immediately 69831
preceding the tax year. Nothing herein shall be construed to 69832
exclude from the denominator any item of income described in 69833
section 5733.051 of the Revised Code. 69834

(3) Subject to division (J)(4) of this section, the total tax 69835

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

division (A) or (C) of section 5733.09 of the Revised Code or a 69867
person described in section 501(c) of the Internal Revenue Code or 69868
division (F) of section 3334.01 of the Revised Code, but that 69869
would be entitled to claim the nonrefundable credit under this 69870
section if that person were a taxpayer, may file an application 69871
for refund pursuant to section 5733.12 of the Revised Code. Upon 69872
proper application for refund under that section, the tax 69873
commissioner shall issue a refund in the amount of the credit to 69874
which that person would have been entitled under division (A)(1) 69875
of this section if the person had been a taxpayer, and as if the 69876
credit were a refundable credit. 69877

(C) If an organization described in section 401(a) of the 69878
Internal Revenue Code or a trust or fund is entitled to a 69879
proportionate share of the lesser of either the tax due or the tax 69880
paid by any qualifying entity under section 5733.41 of the Revised 69881
Code, and if that proportionate share is then or could be 69882
allocable to an exempt person as defined in division (D) of this 69883
section, then the organization, trust, or fund may file an 69884
application for refund with respect to such allocable amounts 69885
pursuant to section 5733.12 of the Revised Code. Upon proper 69886
application for refund under that section, the tax commissioner 69887
shall issue a refund in the amount of the credit to which the 69888
organization, trust, or fund would have been entitled under 69889
division (A)(1) of this section had the organization, trust, or 69890
fund been a taxpayer, and as if the credit were a refundable 69891
credit. To the extent that such an organization, trust, or fund is 69892
permitted to apply for a refund under this division, or to the 69893
extent that such an organization, trust, or fund has applied for 69894
such a refund, exempt persons are not entitled to the credit 69895
authorized under this section or section 5747.059 of the Revised 69896
Code. 69897

(D)(1) For the purposes of division (C) of this section only, 69898

"exempt person" means any of the following: 69899

(a) A person that is or may be the beneficiary of a trust if 69900
the trust is subject to Subchapter D of Chapter 1 of Subtitle A of 69901
the Internal Revenue Code. 69902

(b) A person that is or may be the beneficiary of or the 69903
recipient of payments from a nuclear decommissioning reserve fund, 69904
a designated settlement fund, or any other trust or fund 69905
established to resolve and satisfy claims that may otherwise be 69906
asserted by the beneficiary or a member of the beneficiary's 69907
family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the 69908
Internal Revenue Code apply to the determination of whether such a 69909
person is an exempt person under division (D) of this section. 69910

(c) A person, other than a person that is treated as a C 69911
corporation for federal income tax purposes, who is or may be the 69912
beneficiary of a trust that, under its governing instrument, is 69913
not required to distribute all of its income currently. Division 69914
(D)(1)(c) of this section applies only if the trust irrevocably 69915
agrees that for the taxable year during or for which the trust 69916
distributes any of its income to any of the beneficiaries, the 69917
trust is a qualifying trust as defined in section 5733.40 of the 69918
Revised Code and will pay the estimated tax, and will withhold and 69919
pay the withheld tax as required under section 5733.41 and 69920
sections 5747.40 to 5747.453 of the Revised Code. 69921

(2) An exempt person does not include any person that would 69922
not qualify as an exempt person under the doctrines of "economic 69923
reality," "sham transaction," "step doctrine," or "substance over 69924
form." Notwithstanding ~~sections 5733.111 and 5747.131~~ section 69925
5703.56 of the Revised Code to the contrary, an organization, 69926
trust, or fund described in division (C) of this section bears the 69927
burden of establishing by a preponderance of the evidence that any 69928
transaction giving rise to a claim for a refundable credit under 69929
this section does not have as a principal purpose a claim for that 69930

credit. Nothing in this section shall be construed to limit solely 69931
to this section the application of the doctrines referred to in 69932
division (D)(2) of this section. 69933

(E) Nothing in this section shall be construed to allow a 69934
refund more than once with respect to the taxes imposed under 69935
section 5733.41 or 5747.41 of the Revised Code. 69936

Sec. 5733.09. (A) ~~An~~ (1) Except as provided in divisions 69937
(A)(2) and (3) of this section, an incorporated company, whether 69938
foreign or domestic, owning and operating a public utility in this 69939
state, and required by law to file reports with the tax 69940
commissioner and to pay an excise tax upon its gross receipts, and 69941
insurance, fraternal, beneficial, bond investment, and other 69942
corporations required by law to file annual reports with the 69943
superintendent of insurance and dealers in intangibles, the shares 69944
of which are, or the capital or ownership in capital employed by 69945
such dealer is, subject to the taxes imposed by section 5707.03 of 69946
the Revised Code, shall not be subject to this chapter, except for 69947
sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 69948
5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 69949
5747.453 of the Revised Code. However, for reports required to be 69950
filed under section 5725.14 of the Revised Code in 2003 and 69951
thereafter, nothing in this section shall be construed to exempt 69952
the property of any dealer in intangibles under section 5725.13 of 69953
the Revised Code from the tax imposed under section 5707.03 of the 69954
Revised Code. ~~An~~ 69955

(2) An electric company subject to the filing requirements of 69956
section 5727.08 of the Revised Code or otherwise having nexus with 69957
or in this state under the Constitution of the United States, or 69958
any other corporation having any gross receipts directly 69959
attributable to providing public utility service as an electric 69960
company or having any property directly attributable to providing 69961

public utility service as an electric company, is subject to this chapter. 69962
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(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent. 69964
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(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year. 69973
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A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect. 69978
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(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all investors, shareholders, and 69982
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other similar investors who owned any interest or invested in the 69994
entity during the preceding calendar year. The commissioner may 69995
extend the date by which the report must be submitted for 69996
reasonable cause shown by the entity. The commissioner may 69997
prescribe the form of the report required for exemption under this 69998
division. 69999

(D)(1) As used in this division: 70000

(a) "Commercial printer" means a person primarily engaged in 70001
the business of commercial printing. However, "commercial printer" 70002
does not include a person primarily engaged in the business of 70003
providing duplicating services using photocopy machines or other 70004
xerographic processes. 70005

(b) "Commercial printing" means printing by one or more 70006
common processes such as letterpress, lithography, gravure, 70007
screen, or digital imaging, and includes related activities such 70008
as binding, platemaking, prepress operation, cartographic 70009
composition, and typesetting. 70010

(c) "Contract for printing" means an oral or written 70011
agreement for the purchase of printed materials produced by a 70012
commercial printer. 70013

(d) "Intangible property located at the premises of a 70014
commercial printer" means intangible property of any kind owned or 70015
licensed by a customer of the commercial printer and furnished to 70016
the commercial printer for use in commercial printing. 70017

(e) "Printed material" means any tangible personal property 70018
produced or processed by a commercial printer pursuant to a 70019
contract for printing. 70020

(f) "Related member" has the same meaning as in ~~division~~ 70021
~~(A)(6)~~ of section 5733.042 of the Revised Code without regard to 70022
division (B) of that section. 70023

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the

commercial printer or the commercial printer's related member. 70056

(3) The exemption under this division does not apply for a 70057
taxable year to any corporation having on the first day of January 70058
of the tax year or at any time during the taxable year ending 70059
immediately preceding the first day of January of the tax year a 70060
related member which, on the first day of January of the tax year 70061
or during any portion of such taxable year of the corporation, has 70062
nexus in or with this state under the Constitution of the United 70063
States or holds a certificate of compliance with the laws of this 70064
state authorizing it to do business in this state. 70065

(4) With respect to allowing the exemption under this 70066
division, the tax commissioner shall be guided by the doctrines of 70067
"economic reality," "sham transaction," "step transaction," and 70068
"substance over form." A corporation shall bear the burden of 70069
establishing by a preponderance of the evidence that any 70070
transaction giving rise to an exemption claimed under this 70071
division did not have as a principal purpose the avoidance of any 70072
portion of the tax imposed by section 5733.06 of the Revised Code. 70073

Application of the doctrines listed in division (D)(4) of 70074
this section is not limited to this division. 70075

Sec. 5733.121. If a corporation entitled to a refund under 70076
section 5733.11 or 5733.12 of the Revised Code is indebted to this 70077
state for any tax, workers' compensation premium due under section 70078
4123.35 of the Revised Code, unemployment compensation 70079
contribution due under section 4141.25 of the Revised Code, or 70080
unemployment compensation payment in lieu of contribution under 70081
section 4141.241 of the Revised Code or fee administered by the 70082
~~tax commissioner~~ that is paid to the state or to the clerk of 70083
courts pursuant to section 4505.06 of the Revised Code, or any 70084
charge, penalty, or interest arising from such a tax, workers' 70085
compensation premium, unemployment compensation contribution, or 70086

unemployment compensation payment in lieu of contribution under 70087
section 4141.241 of the Revised Code or fee, the amount refundable 70088
may be applied in satisfaction of the debt. If the amount 70089
refundable is less than the amount of the debt, it may be applied 70090
in partial satisfaction of the debt. If the amount refundable is 70091
greater than the amount of the debt, the amount remaining after 70092
satisfaction of the debt shall be refunded. If the corporation has 70093
more than one such debt, any debt subject to section 5739.33 or 70094
division (G) of section 5747.07 of the Revised Code shall be 70095
satisfied first. This section applies only to debts that have 70096
become final. 70097

The tax commissioner may, with the consent of the taxpayer, 70098
provide for the crediting, against tax due for any tax year, of 70099
the amount of any refund due the taxpayer under this chapter for a 70100
preceding tax year. 70101

Sec. 5733.18. Annually, on the day fixed for the payment of 70102
any excise or franchise tax required to be paid by law, such tax, 70103
together with any penalties subsequently accruing thereon, shall 70104
become a lien on all property in this state of a corporation, 70105
whether such property is employed by the corporation in the 70106
prosecution of its business or is in the hands of an assignee, 70107
trustee, or receiver for the benefit of the creditors and 70108
stockholders. Such lien shall continue until such taxes, together 70109
with any penalties subsequently accruing, are paid. 70110

Upon failure of such corporation to pay such tax on the day 70111
fixed for payment, the tax commissioner may file, for which filing 70112
no fee shall be charged, in the office of the county recorder in 70113
each county in this state in which such corporation owns or has a 70114
beneficial interest in real estate, notice of such lien containing 70115
a brief description of such real estate. Such lien shall not be 70116
valid as against any mortgagee, purchaser, or judgment creditor 70117

whose rights have attached prior to the time such notice is so 70118
filed in the county in which the real estate which is the subject 70119
of such mortgage, purchase, or judgment lien is located. Such 70120
notice shall be recorded in a book kept by the recorder, called 70121
the corporation franchise lien record, and indexed under the name 70122
of the corporation charged with such tax. When such tax, together 70123
with any penalties subsequently accruing thereon, has been paid, 70124
the tax commissioner shall furnish to the corporation an 70125
acknowledgment of such payment which the corporation may record 70126
with the recorder of each county in which notice of such lien has 70127
been filed, for which recording the recorder shall charge and 70128
receive a base fee of two dollars for services and a housing trust 70129
fund fee of two dollars pursuant to section 317.36 of the Revised 70130
Code. 70131

Sec. 5733.22. (A)(1) Any corporation whose articles of 70132
incorporation or license certificate to do or transact business in 70133
this state has been canceled by the secretary of state pursuant to 70134
section 5733.20 of the Revised Code for failure to make any report 70135
or return or to pay any tax or fee, shall be reinstated and again 70136
entitled to exercise its rights, privileges, and franchises in 70137
this state, and the secretary of state shall cancel the entry of 70138
cancellation to exercise its rights, privileges, and franchises 70139
upon compliance with all of the following: 70140

(a) Payment to the secretary of state of any additional fees 70141
and penalties required to be paid to the secretary of state; 70142

(b) Filing with the secretary of state a certificate from the 70143
tax commissioner that it has complied with all the requirements of 70144
law as to franchise or excise tax reports and paid all franchise 70145
or excise taxes, fees, or penalties due thereon for every year of 70146
its delinquency; 70147

(c) Payment to the secretary of state of an additional fee of 70148

ten dollars. 70149

(2) The applicant for reinstatement shall be required by the 70150
secretary of state, as a condition prerequisite to such 70151
reinstatement, to amend its articles by changing its name if all 70152
of the following apply: 70153

(a) The reinstatement is not made within one year from the 70154
date of the cancellation of its articles of incorporation or date 70155
of the cancellation of its license to do business; 70156

(b) It appears that the applicant's articles of incorporation 70157
or license certificate has been issued to another entity and is 70158
not distinguishable upon the record from the name of the 70159
applicant; 70160

(c) It appears that the articles of organization of a limited 70161
liability company, registration of a foreign limited liability 70162
company, certificate of limited partnership, registration of a 70163
foreign limited partnership, registration of a domestic or foreign 70164
limited liability partnership, or registration of a trade name has 70165
been issued to another entity and is not distinguishable upon the 70166
record from the name of the applicant. A certificate of 70167
reinstatement may be filed in the recorder's office of any county 70168
in the state, for which the recorder shall charge and collect a 70169
base fee of three dollars for services and a housing trust fund 70170
fee of three dollars pursuant to section 317.36 of the Revised 70171
Code. 70172

Any officer, shareholder, creditor, or receiver of any such 70173
corporation may at any time take all steps required by this 70174
section to effect such reinstatement. 70175

(B) The rights, privileges, and franchises of a corporation 70176
whose articles of incorporation have been reinstated in accordance 70177
with this section, are subject to section 1701.922 of the Revised 70178
Code. 70179

(C) Notwithstanding a violation of section 5733.21 of the Revised Code, upon reinstatement of a corporation's articles of incorporation in accordance with this section, neither section 5733.20 nor section 5733.21 of the Revised Code shall be applied to invalidate the exercise or attempt to exercise any right, privilege, or franchise on behalf of the corporation by an officer, agent, or employee of the corporation after cancellation and prior to the reinstatement of the articles, if the conditions set forth in divisions (B)(1)(a) and (b) of section 1701.922 of the Revised Code are met.

Sec. 5733.45. (A) For purposes of this section, a "qualifying dealer in intangibles" is a dealer in intangibles that is a member of a qualifying controlled group of which a financial institution is also a member on the first day of the financial institution's tax year.

(B) For tax years 2002 and thereafter, there is hereby allowed to each financial institution a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code. The amount of the credit shall be computed in accordance with division (C) of this section. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. The credit shall not exceed the amount of tax otherwise due under section 5733.06 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.

(C) Subject to division (D) of this section, the amount of the nonrefundable credit is the lesser of the amount described in division (C)(1) of this section or the amount described in division (C)(2) of this section.

(1) The amount of tax that a qualifying dealer in intangibles paid under Chapter 5707. of the Revised Code during the calendar

year immediately preceding the financial institution's tax year. 70211
Such amount shall be reduced, but not below zero, by any refunds 70212
of such tax received by the qualifying dealer in intangibles under 70213
Chapter 5703. of the Revised Code during that calendar year. 70214

(2) The product of the amounts described in division 70215
(C)(2)(a) to (C)(2)(c) of this section. The amount described in 70216
division (C)(2)(a) of this section shall be ascertained on the 70217
last day of the financial institution's taxable year immediately 70218
preceding the tax year. 70219

(a) The cost of the financial institution's direct investment 70220
in the capital stock of the qualifying dealer in intangibles. The 70221
cost does not include any appreciation or goodwill to the extent 70222
those amounts are allowed as an exempted asset on the financial 70223
institution's annual report. 70224

(b) The ratio described in section 5725.15 of the Revised 70225
Code for the calendar year immediately preceding the financial 70226
institution's tax year; 70227

(c) The tax rate imposed under division (D) of section 70228
5707.03 of the Revised Code for the calendar year immediately 70229
preceding the financial institution's tax year. 70230

(D)(1) The principles and concepts set forth in section 70231
5733.057 of the Revised Code shall apply to ascertain if a dealer 70232
in intangibles is a member of a qualifying controlled group of 70233
which the financial institution also is a member and to ascertain 70234
the cost of the financial institution's direct investment in the 70235
capital stock of the qualifying dealer in intangibles. 70236

(2) Notwithstanding section ~~5733.111~~ 5703.56 of the Revised 70237
Code to the contrary, a financial institution claiming the credit 70238
provided by this section has the burden to establish by a 70239
preponderance of the evidence that none of the doctrines 70240
enumerated in that section would apply to deny to the financial 70241

institution all or a part of the credit otherwise provided by this 70242
section. 70243

(E) For tax years 2002 and 2003, the credit allowed by this 70244
section applies only if the qualifying dealer in intangibles on 70245
account of which the financial institution is claiming the credit 70246
submits to the ~~Tax Commissioner~~ tax commissioner, not later than 70247
January 15, 2002, a written statement that the qualifying dealer 70248
in intangibles irrevocably agrees that it will not seek a refund 70249
of the tax paid by the dealer under section 5707.03 of the Revised 70250
Code in 2000 and 2001, and irrevocably agrees to continue paying 70251
that tax in 2002, regardless of the amendment of section 5725.26 70252
of the Revised Code by Am. Sub. H.B. 405 of the 124th general 70253
assembly. 70254

Sec. 5733.55. (A) As used in this section: 70255

(1) "9-1-1 system" has the same meaning as in section 4931.40 70256
of the Revised Code. 70257

(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges 70258
approved by the public utilities commission for the telephone 70259
network portion of a 9-1-1 system pursuant to section 4931.47 of 70260
the Revised Code. 70261

(3) "Eligible nonrecurring 9-1-1 charges" means all 70262
nonrecurring 9-1-1 charges for a 9-1-1 system, except: 70263

(a) Charges for a system that was not established pursuant to 70264
a plan adopted under section 4931.44 of the Revised Code or an 70265
agreement under section 4931.48 of the Revised Code; 70266

(b) Charges for that part of a system established pursuant to 70267
such a plan or agreement that are excluded from the credit by 70268
division (C)(2) of section 4931.47 of the Revised Code. 70269

(4) "Telephone company" has the same meaning as in section 70270
5727.01 of the Revised Code. 70271

(B) Beginning in tax year 2005, a telephone company shall be 70272
allowed a nonrefundable credit against the tax imposed by section 70273
5733.06 of the Revised Code equal to the amount of its eligible 70274
nonrecurring 9-1-1 charges. The credit shall be claimed for the 70275
company's taxable year that covers the period in which the 9-1-1 70276
service for which the credit is claimed becomes available for use. 70277
The credit shall be claimed in the order required by section 70278
5733.98 of the Revised Code. If the credit exceeds the total taxes 70279
due under section 5733.06 of the Revised Code for the tax year, 70280
the commissioner shall credit the excess against taxes due under 70281
that section for succeeding tax years until the full amount of the 70282
credit is granted. 70283

(C) After the last day a return, with any extensions, may be 70284
filed by any telephone company that is eligible to claim a credit 70285
under this section, the commissioner shall determine whether the 70286
sum of the credits allowed for prior tax years commencing with tax 70287
year 2005 plus the sum of the credits claimed for the current tax 70288
year exceeds fifteen million dollars. If it does, the credits 70289
allowed under this section for the current tax year shall be 70290
reduced by a uniform percentage such that the sum of the credits 70291
allowed for the current tax year do not exceed fifteen million 70292
dollars claimed by all telephone companies for all tax years. 70293
Thereafter, no credit shall be granted under this section, except 70294
for the remaining portions of any credits allowed under division 70295
(B) of this section. 70296

(D) A telephone company that is entitled to carry forward a 70297
credit against its public utility excise tax liability under 70298
section 5727.39 of the Revised Code is entitled to carry forward 70299
any amount of that credit remaining after its last public utility 70300
excise tax payment for the period of July 1, 2003, through June 70301
30, 2004, and claim that amount as a credit against its 70302
corporation franchise tax liability under this section. Nothing in 70303

this section authorizes a telephone company to claim a credit 70304
under this section for any eligible nonrecurring 9-1-1 charges for 70305
which it has already claimed a credit under section 5727.39 of the 70306
Revised Code. 70307

Sec. 5733.56. Beginning in tax year 2005, a telephone company 70308
that provides any telephone service program to aid the 70309
communicatively impaired in accessing the telephone network under 70310
section 4905.79 of the Revised Code is allowed a nonrefundable 70311
credit against the tax imposed by section 5733.06 of the Revised 70312
Code. The amount of the credit is the cost incurred by the company 70313
for providing the telephone service program during its taxable 70314
year, excluding any costs incurred prior to July 1, 2004. If the 70315
tax commissioner determines that the credit claimed under this 70316
section by a telephone company was not correct, the commissioner 70317
shall determine the proper credit. 70318

A telephone company shall claim the credit in the order 70319
required by section 5733.98 of the Revised Code. If the credit 70320
exceeds the total taxes due under section 5733.06 of the Revised 70321
Code for the tax year, the commissioner shall credit the excess 70322
against taxes due under that section for succeeding tax years 70323
until the full amount of the credit is granted. Nothing in this 70324
section authorizes a telephone company to claim a credit under 70325
this section for any costs incurred for providing a telephone 70326
service program for which it is claiming a credit under section 70327
5727.44 of the Revised Code. 70328

Sec. 5733.57. (A) As used in this section: 70329

(1) "Small telephone company" means a telephone company, 70330
existing as such as of January 1, 2003, with twenty-five thousand 70331
or fewer access lines as shown on the company's annual report 70332
filed under section 4905.14 of the Revised Code for the calendar 70333

year immediately preceding the tax year, and is an "incumbent 70334
local exchange carrier" under 47 U.S.C. 251(h). 70335

(2) "Gross receipts tax amount" means the product obtained by 70336
multiplying four and three-fourths per cent by the amount of a 70337
small telephone company's taxable gross receipts, excluding the 70338
deduction of twenty-five thousand dollars, that the tax 70339
commissioner would have determined under section 5727.33 of the 70340
Revised Code for that small telephone company for the annual 70341
period ending on the thirtieth day of June of the calendar year 70342
immediately preceding the tax year, as that section applied in the 70343
measurement period from July 1, 2002, to June 30, 2003. 70344

(3) "Applicable percentage" means one hundred per cent for 70345
tax year 2005; eighty per cent for tax year 2006; sixty per cent 70346
for tax year 2007; forty per cent for tax year 2008; twenty per 70347
cent for tax year 2009; and zero per cent for each subsequent tax 70348
year thereafter. 70349

(4) "Applicable amount" means the amount resulting from 70350
subtracting the gross receipts tax amount from the tax imposed by 70351
sections 5733.06, 5733.065, and 5733.066 of the Revised Code for 70352
the tax year, without regard to any credits available to the small 70353
telephone company. 70354

(B)(1) Except as provided in division (B)(2) of this section, 70355
beginning in tax year 2005, a small telephone company is hereby 70356
allowed a nonrefundable credit against the tax imposed by sections 70357
5733.06, 5733.065, and 5733.066 of the Revised Code, equal to the 70358
product obtained by multiplying the applicable percentage by the 70359
applicable amount. The credit shall be claimed in the order 70360
required by section 5733.98 of the Revised Code. 70361

(2) If the applicable amount for a tax year is less than 70362
zero, a small telephone company shall not be allowed for that tax 70363
year the credit provided under this section. 70364

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

- (1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;
- (2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;
- (3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;
- (4) The subsidiary corporation credit under section 5733.067 of the Revised Code;
- (5) The savings and loan assessment credit under section 5733.063 of the Revised Code;
- (6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;
- (7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;
- (8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;
- (9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;
- (10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;
- (11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;

(12) The credit for losses on loans made under the Ohio	70393
venture capital program under sections 150.01 to 150.10 of th <u>the</u>	70394
Revised Code if the taxpayer elected a nonrefundable credit under	70395
section 150.07 of the Revised Code;	70396
(13) The credit for purchases of new manufacturing machinery	70397
and equipment under section 5733.31 or section 5733.311 of the	70398
Revised Code;	70399
(14) The second credit for purchases of new manufacturing	70400
machinery and equipment under section 5733.33 of the Revised Code;	70401
(15) The job training credit under section 5733.42 of the	70402
Revised Code;	70403
(16) The credit for qualified research expenses under section	70404
5733.351 of the Revised Code;	70405
(17) The enterprise zone credit under section 5709.66 of the	70406
Revised Code;	70407
(18) The credit for the eligible costs associated with a	70408
voluntary action under section 5733.34 of the Revised Code;	70409
(19) The credit for employers that establish on-site child	70410
day-care under section 5733.37 of the Revised Code;	70411
(20) The ethanol plant investment credit under section	70412
5733.46 of the Revised Code;	70413
(21) The credit for purchases of qualifying grape production	70414
property under section 5733.32 of the Revised Code;	70415
(22) The export sales credit under section 5733.069 of the	70416
Revised Code;	70417
(23) The credit for research and development and technology	70418
transfer investors under section 5733.35 of the Revised Code;	70419
(24) The enterprise zone credits under section 5709.65 of the	70420
Revised Code;	70421

(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	70422 70423
(26) <u>The credit for small telephone companies under section 5733.57 of the Revised Code;</u>	70424 70425
(27) <u>The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;</u>	70426 70427
(28) <u>The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;</u>	70428 70429 70430
(29) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	70431 70432
(27) (30) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;	70433 70434
(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.	70435 70436 70437 70438
(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.	70439 70440 70441 70442 70443 70444 70445
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	70446 70447 70448 70449 70450 70451

section 5531.08 of the Revised Code, determines instead will be 70452
paid from moneys in the highway operating fund; to enable the 70453
counties of the state properly to plan, maintain, and repair their 70454
roads and to pay principal, interest, and charges on bonds and 70455
other obligations issued pursuant to Chapter 133. of the Revised 70456
Code for highway improvements; to enable the municipal 70457
corporations to plan, construct, reconstruct, repave, widen, 70458
maintain, repair, clear, and clean public highways, roads, and 70459
streets, and to pay the principal, interest, and charges on bonds 70460
and other obligations issued pursuant to Chapter 133. of the 70461
Revised Code for highway improvements; to enable the Ohio turnpike 70462
commission to construct, reconstruct, maintain, and repair 70463
turnpike projects; to maintain and repair bridges and viaducts; to 70464
purchase, erect, and maintain street and traffic signs and 70465
markers; to purchase, erect, and maintain traffic lights and 70466
signals; to pay the costs apportioned to the public under sections 70467
4907.47 and 4907.471 of the Revised Code and to supplement revenue 70468
already available for such purposes; to pay the costs incurred by 70469
the public utilities commission in administering sections 4907.47 70470
to 4907.476 of the Revised Code; to distribute equitably among 70471
those persons using the privilege of driving motor vehicles upon 70472
such highways and streets the cost of maintaining and repairing 70473
them; to pay the interest, principal, and charges on highway 70474
capital improvements bonds and other obligations issued pursuant 70475
to Section 2m of Article VIII, Ohio Constitution, and section 70476
151.06 of the Revised Code; to pay the interest, principal, and 70477
charges on highway obligations issued pursuant to Section 2i of 70478
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 70479
of the Revised Code; ~~and~~ to provide revenue for the purposes of 70480
sections 1547.71 to 1547.78 of the Revised Code; and to pay the 70481
expenses of the department of taxation incident to the 70482
administration of the motor fuel laws, a motor fuel excise tax is 70483
hereby imposed on all motor fuel dealers upon receipt of motor 70484

fuel within this state at the rate of two cents plus the cents per 70485
gallon rate on each gallon so received, to be computed in the 70486
manner set forth in section 5735.06 of the Revised Code; provided 70487
that no tax is hereby imposed upon the following transactions: 70488

(1) The sale of dyed diesel fuel by a licensed motor fuel 70489
dealer from a location other than a retail service station 70490
provided the licensed motor fuel dealer places on the face of the 70491
delivery document or invoice, or both if both are used, a 70492
conspicuous notice stating that the fuel is dyed and is not for 70493
taxable use, and that taxable use of that fuel is subject to a 70494
penalty. The tax commissioner, by rule, may provide that any 70495
notice conforming to rules or regulations issued by the United 70496
States department of the treasury or the Internal Revenue Service 70497
is sufficient notice for the purposes of division (A)(1) of this 70498
section. 70499

(2) The sale of K-1 kerosene to a retail service station, 70500
except when placed directly in the fuel supply tank of a motor 70501
vehicle. Such sale shall be rebuttably presumed to not be 70502
distributed or sold for use or used to generate power for the 70503
operation of motor vehicles upon the public highways or upon the 70504
waters within the boundaries of this state. 70505

(3) The sale of motor fuel by a licensed motor fuel dealer to 70506
another licensed motor fuel dealer; 70507

(4) The exportation of motor fuel by a licensed motor fuel 70508
dealer from this state to any other state or foreign country; 70509

(5) The sale of motor fuel to the United States government or 70510
any of its agencies, except such tax as is permitted by it, where 70511
such sale is evidenced by an exemption certificate, in a form 70512
approved by the tax commissioner, executed by the United States 70513
government or an agency thereof certifying that the motor fuel 70514
therein identified has been purchased for the exclusive use of the 70515

United States government or its agency; 70516

(6) The sale of motor fuel ~~which~~ that is in the process of 70517
transportation in foreign or interstate commerce, except ~~in so far~~ 70518
insofar as it may be taxable under the Constitution and statutes 70519
of the United States, and except as may be agreed upon in writing 70520
by the dealer and the commissioner; 70521

(7) The sale of motor fuel when sold exclusively for use in 70522
the operation of aircraft, where such sale is evidenced by an 70523
exemption certificate prescribed by the commissioner and executed 70524
by the purchaser certifying that the motor fuel purchased has been 70525
purchased for exclusive use in the operation of aircraft; 70526

(8) The sale for exportation of motor fuel by a licensed 70527
motor fuel dealer to a licensed exporter type A; 70528

(9) The sale for exportation of motor fuel by a licensed 70529
motor fuel dealer to a licensed exporter type B, provided that the 70530
destination state motor fuel tax has been paid or will be accrued 70531
and paid by the licensed motor fuel dealer. 70532

(10) The sale to a consumer of diesel fuel, by a motor fuel 70533
dealer for delivery from a bulk lot vehicle, for consumption in 70534
operating a vessel when the use of such fuel in a vessel would 70535
otherwise qualify for a refund under section 5735.14 of the 70536
Revised Code. 70537

Division (A)(1) of this section does not apply to the sale or 70538
distribution of dyed diesel fuel used to operate a motor vehicle 70539
on the public highways or upon water within the boundaries of this 70540
state by persons permitted under regulations of the United States 70541
department of the treasury or of the Internal Revenue Service to 70542
so use dyed diesel fuel. 70543

(B) The two cent motor fuel tax levied by this section is 70544
also for the purpose of paying the expenses of administering and 70545
enforcing the state law relating to the registration and operation 70546

of motor vehicles. 70547

(C) After the tax provided for by this section on the receipt 70548
of any motor fuel has been paid by the motor fuel dealer, the 70549
motor fuel may thereafter be used, sold, or resold by any person 70550
having lawful title to it, without incurring liability for such 70551
tax. 70552

If a licensed motor fuel dealer sells motor fuel received by 70553
the licensed motor fuel dealer to another licensed motor fuel 70554
dealer, the seller may deduct on the report required by section 70555
5735.06 of the Revised Code the number of gallons so sold for the 70556
month within which the motor fuel was sold or delivered. In this 70557
event the number of gallons is deemed to have been received by the 70558
purchaser, who shall report and pay the tax imposed thereon. 70559

Sec. 5735.053. There is hereby created in the state treasury 70560
the motor fuel tax administration fund for the purpose of paying 70561
the expenses of the department of taxation incident to the 70562
administration of the motor fuel laws. After the treasurer of 70563
state credits the tax refund fund out of tax receipts as required 70564
by sections 5735.23, 5735.26, 5735.291, and 5735.30 of the Revised 70565
Code, the treasurer of state shall transfer to the motor fuel tax 70566
administration fund two hundred seventy-five one-thousandths per 70567
cent of the receipts from the taxes levied by sections 5735.05, 70568
5735.25, 5735.29, and 5735.30 of the Revised Code. 70569

Sec. 5735.14. (A) Any person who uses any motor fuel, on 70570
which the tax imposed by this chapter has been paid, for the 70571
purpose of operating stationary gas engines, tractors not used on 70572
public highways, unlicensed motor vehicles used exclusively in 70573
intraplant operations, vessels when used in trade, including 70574
vessels when used in connection with an activity that constitutes 70575
a person's chief business or means of livelihood or any other 70576

vessel used entirely for commercial purposes, vessels used for 70577
commercial fishing, vessels used by the sea scout department of 70578
the boy scouts of America chiefly for training scouts in 70579
seamanship, vessels used or owned by any railroad company, 70580
railroad car ferry company, the United States, this state, or any 70581
political subdivision of this state, or aircraft, or who uses any 70582
such fuel upon which such tax has been paid, for cleaning or for 70583
dyeing, or any purpose other than the operation of motor vehicles 70584
upon highways or upon waters within the boundaries of this state, 70585
shall be reimbursed in the amount of the tax so paid on such motor 70586
fuel as provided in this section; provided, that any person 70587
purchasing motor fuel in this state on which taxes levied under 70588
Title LVII of the Revised Code have been paid shall be reimbursed 70589
for such taxes paid in this state on such fuel used by that person 70590
in another state on which a tax is paid for such usage, except 70591
such tax used as a credit against the tax levied by section 70592
5728.06 of the Revised Code. A person shall not be reimbursed for 70593
taxes paid on fuel that is used while a motor vehicle is idling or 70594
used to provide comfort or safety in the operation of a motor 70595
vehicle. Sales of motor fuel, on which the tax imposed by this 70596
chapter has been paid, from one person to another do not 70597
constitute use of the fuel and are not subject to a refund under 70598
this section. 70599

Such (B) Any person who uses in this state any motor fuel 70600
with water intentionally added to the fuel, on which the taxes 70601
imposed by this chapter or Chapter 5728. of the Revised Code have 70602
been paid, shall be reimbursed in the amount of the taxes so paid 70603
on ninety-five per cent of the water. This division applies only 70604
to motor fuel that contains at least nine per cent water, by 70605
volume. 70606

(C) A person claiming reimbursement under this section shall 70607
file with the tax commissioner an application for refund within 70608

one year from the date of purchase, stating the quantity of fuel 70609
used for the refundable purposes ~~other than the operation of motor~~ 70610
~~vehicles in division (A) or (B) of this section~~, except that no 70611
person shall file a claim for the tax on fewer than one hundred 70612
gallons of motor fuel. An application for refund filed for the 70613
purpose of division (B) of this section also shall state the 70614
quantity of water intentionally added to the motor fuel. No person 70615
shall claim reimbursement under that division on fewer than one 70616
hundred gallons of water. The application shall be accompanied by 70617
the statement described in section 5735.15 of the Revised Code 70618
showing such purchase, together with evidence of payment thereof. 70619

(D) After consideration of the application and statement, the 70620
commissioner shall determine the amount of refund to which the 70621
applicant is entitled. If the amount is not less than that 70622
claimed, the commissioner shall certify the amount to the director 70623
of budget and management and treasurer of state for payment from 70624
the tax refund fund created by section 5703.052 of the Revised 70625
Code. If the amount is less than that claimed, the commissioner 70626
shall proceed in accordance with section 5703.70 of the Revised 70627
Code. 70628

No refund shall be authorized or paid under this section on a 70629
single claim for tax on fewer than one hundred gallons of motor 70630
fuel. And, when water has been intentionally added to fuel, no 70631
refund shall be authorized or paid under this section on a single 70632
claim for tax on fewer than one hundred gallons of water. The 70633
commissioner may require that the application be supported by the 70634
affidavit of the claimant. 70635

The refund authorized by this section or section 5703.70 of 70636
the Revised Code shall be reduced by the cents per gallon amount 70637
of any qualified fuel credit received under section 5735.145 of 70638
the Revised Code, as determined by the commissioner, for each 70639
gallon of qualified fuel included in the total gallonage of motor 70640

fuel upon which the refund is computed. 70641

(E) The right to receive any refund under this section or 70642
section 5703.70 of the Revised Code is not assignable. The payment 70643
of this refund shall not be made to any person other than the 70644
person originally entitled thereto who used the motor fuel upon 70645
which the claim for refund is based, except that such refunds, 70646
when allowed and certified as provided in this section, may be 70647
paid to the executor, ~~the~~ administrator, ~~the~~ receiver, ~~the~~ trustee 70648
in bankruptcy, or ~~the~~ assignee in insolvency proceedings of such 70649
person. 70650

Sec. 5735.142. (A)(1) Any person who uses any motor fuel, on 70651
which the tax imposed by sections 5735.05, 5735.25, and 5735.29 of 70652
the Revised Code has been paid, for the purpose of operating a 70653
transit bus shall be reimbursed in the amount of the tax paid on 70654
motor fuel used by public transportation systems providing transit 70655
or paratransit service on a regular and continuing basis within 70656
the state; 70657

(2) A city, exempted village, joint vocational, or local 70658
school district or educational service center that ~~uses~~ purchases 70659
any motor fuel for school district or service center operations, 70660
on which any tax imposed by section 5735.29 of the Revised Code 70661
that became effective on or after July 1, 2003, has been paid, 70662
may, if an application is filed under this section, be reimbursed 70663
in the amount of all but two cents per gallon of ~~that~~ the total 70664
tax imposed by such section and paid on motor fuel, ~~used for~~ 70665
~~providing transportation for pupils in a vehicle the district owns~~ 70666
~~or leases.~~ 70667

(B) Such person, school district, or educational service 70668
center shall file with the tax commissioner an application for 70669
refund within one year from the date of purchase, stating the 70670
quantity of fuel used for operating transit buses used by local 70671

transit systems in furnishing scheduled common carrier, public 70672
passenger land transportation service along regular routes 70673
primarily in one or more municipal corporations or for operating 70674
vehicles used ~~by for school districts to transport pupils district~~ 70675
or service center operations. However, no ~~person shall file a~~ 70676
claim shall be made for the tax on fewer than one hundred gallons 70677
of motor fuel. A school district or educational service center 70678
shall not apply for a refund for any tax paid on motor fuel that 70679
is sold by the district or educational service center. The 70680
application shall be accompanied by the statement described in 70681
section 5735.15 of the Revised Code showing the purchase, together 70682
with evidence of payment thereof. 70683

(C) After consideration of the application and statement, the 70684
commissioner shall determine the amount of refund to which the 70685
applicant is entitled. If the amount is not less than that 70686
claimed, the commissioner shall certify the amount to the director 70687
of budget and management and treasurer of state for payment from 70688
the tax refund fund created by section 5703.052 of the Revised 70689
Code. If the amount is less than that claimed, the commissioner 70690
shall proceed in accordance with section 5703.70 of the Revised 70691
Code. 70692

The commissioner may require that the application be 70693
supported by the affidavit of the claimant. No refund shall be 70694
authorized or ordered for any single claim for the tax on fewer 70695
than one hundred gallons of motor fuel. No refund shall be 70696
authorized or ordered on motor fuel that is sold by a school 70697
district or educational service center. 70698

(D) The refund authorized by this section or section 5703.70 70699
of the Revised Code shall be reduced by the cents per gallon 70700
amount of any qualified fuel credit received under section 70701
5735.145 of the Revised Code, as determined by the commissioner, 70702
for each gallon of qualified fuel included in the total gallonage 70703

of motor fuel upon which the refund is computed. 70704

(E) The right to receive any refund under this section or 70705
section 5703.70 of the Revised Code is not assignable. The payment 70706
of this refund shall not be made to any person or entity other 70707
than the person or entity originally entitled thereto who used the 70708
motor fuel upon which the claim for refund is based, except that 70709
the refund when allowed and certified, as provided in this 70710
section, may be paid to the executor, the administrator, the 70711
receiver, the trustee in bankruptcy, or the assignee in insolvency 70712
proceedings of the person. 70713

Sec. 5735.15. When motor fuel is sold to a person who claims 70714
to be entitled to a refund under section 5735.14 or 5735.142 of 70715
the Revised Code, the seller of such motor fuel shall ~~make out in~~ 70716
~~duplicate on forms prescribed and supplied by the tax~~ 70717
~~commissioner, which forms shall have printed thereon~~ provide to 70718
the person documentation that indicates that the liability to the 70719
state for the excise tax imposed under the motor fuel laws of this 70720
state on such motor fuel has been assumed by the seller, and that 70721
said excise tax has already been paid or will be paid by the 70722
seller when the same becomes payable, ~~a statement setting. The~~ 70723
documentation also shall set forth the name and address of the 70724
purchaser, the number of gallons of motor fuel sold, the price 70725
paid for or the price per gallon of the motor fuel sold, the 70726
proposed use for which such motor fuel is purchased, and such 70727
other information as the commissioner requires. When motor fuel is 70728
sold to a person who claims to be entitled to reimbursement under 70729
division (B) of section 5735.14 of the Revised Code, the 70730
documentation also shall state the number of gallons of water 70731
intentionally added to the motor fuel. The ~~original of such~~ 70732
~~statement~~ documentation shall be given to the purchaser, and ~~the~~ 70733
~~duplicate~~ a copy shall be retained by the seller. 70734

Sec. 5735.19. (A) The tax commissioner may examine, during 70735
the usual business hours of the day, the records, books, and 70736
~~papers~~ invoices, storage tanks, and any other equipment of any 70737
motor fuel dealer, retail dealer, exporter, terminal operator, 70738
purchaser, or common carrier pertaining to motor fuel received, 70739
sold, shipped, or delivered, to determine whether the taxes 70740
imposed by this chapter have been paid and to verify the truth and 70741
accuracy of any statement, report, or return. The 70742

(B) The tax commissioner may, in the enforcement of the motor 70743
fuel laws of this state, hold hearings, take the testimony of any 70744
person, issue subpoenas and compel the attendance of witnesses, 70745
and conduct such investigations as the commissioner deems 70746
necessary, ~~but no person shall disclose the information acquired~~ 70747
~~by the commissioner under this section, except when required to do~~ 70748
~~so in court.~~ Such information or evidence is not privileged when 70749
used by the state or any officer thereof in any proceeding for the 70750
collection of the tax, or any prosecution for violation of the 70751
motor fuel laws. 70752

(C) The commissioner may prescribe all forms upon which 70753
reports shall be made to the commissioner, forms for claims for 70754
refund presented to the commissioner, or forms of records to be 70755
used by motor fuel dealers. 70756

(D)(1) As used in this division, "designated inspection site" 70757
means any state highway inspection station, weigh station, mobile 70758
station, or other similar location designated by the tax 70759
commissioner to be used as a fuel inspection site. 70760

(2) An employee of the department of taxation that is so 70761
authorized by the tax commissioner may physically inspect, 70762
examine, or otherwise search any tank, reservoir, or other 70763
container that can or may be used for the production, storage, or 70764
transportation of fuel, fuel dyes, or fuel markers, and books and 70765

records, if any, that are maintained at the place of inspection 70766
and are kept to determine tax liability under this chapter. 70767
Inspections may be performed at any place at which motor fuel is 70768
or may be produced or stored, or at any designated inspection 70769
site. 70770

(3) An employee of the department of taxation who is a duly 70771
authorized enforcement agent may detain any motor vehicle, train, 70772
barge, ship, or vessel for the purpose of inspecting its fuel 70773
tanks and storage tanks. Detainment shall be on the premises under 70774
inspection or at a designated inspection site. Detainment may 70775
continue for a reasonable period of time as is necessary to 70776
determine the amount and composition of the fuel. 70777

(4) Any employee described in division (D)(2) or (3) of this 70778
section who has been properly trained may take and remove samples 70779
of fuel in quantities as are reasonably necessary to determine the 70780
composition of the fuel. 70781

(5) No person shall refuse to allow an inspection under 70782
division (D) of this section. Any person who refuses to allow an 70783
inspection shall be subject to revocation or cancellation of any 70784
license or permit issued under Chapter 5728. or 5735. of the 70785
Revised Code. 70786

Sec. 5735.23. (A) Out of receipts from the tax levied by 70787
section 5735.05 of the Revised Code, the treasurer of state shall 70788
place to the credit of the tax refund fund established by section 70789
5703.052 of the Revised Code amounts equal to the refunds 70790
certified by the tax commissioner pursuant to sections 5735.13, 70791
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 70792
treasurer of state shall then transfer the amount required by 70793
section 5735.051 of the Revised Code to the waterways safety fund 70794
and, the amount required by section 4907.472 of the Revised Code 70795
to the grade crossing protection fund, and the amount required by 70796

section 5735.053 of the Revised Code to the motor fuel tax 70797
administration fund. 70798

(B) Except as provided in division (D) of this section, each 70799
month the balance of the receipts from the tax levied by section 70800
5735.05 of the Revised Code shall be credited, after receipt by 70801
the treasurer of state of certification from the commissioners of 70802
the sinking fund, as required by section 5528.35 of the Revised 70803
Code, that there are sufficient moneys to the credit of the 70804
highway obligations bond retirement fund to meet in full all 70805
payments of interest, principal, and charges for the retirement of 70806
highway obligations issued pursuant to Section 2i of Article VIII, 70807
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 70808
Code due and payable during the current calendar year, as follows: 70809

(1) To the state and local government highway distribution 70810
fund, which is hereby created in the state treasury, an amount 70811
that is the same percentage of the balance to be credited as that 70812
portion of the tax per gallon determined under division (B)(2)(a) 70813
of section 5735.06 of the Revised Code is of the total tax per 70814
gallon determined under divisions (B)(2)(a) and (b) of that 70815
section. 70816

(2) After making the distribution to the state and local 70817
government highway distribution fund, the remainder shall be 70818
credited as follows: 70819

(a) Thirty per cent to the gasoline excise tax fund for 70820
distribution pursuant to division (A)(1) of section 5735.27 of the 70821
Revised Code; 70822

(b) Twenty-five per cent to the gasoline excise tax fund for 70823
distribution pursuant to division (A)(3) of section 5735.27 of the 70824
Revised Code; 70825

(c) Except as provided in division (D) of this section, 70826
forty-five per cent to the highway operating fund for distribution 70827

pursuant to division (B)(1) of section 5735.27 of the Revised Code. 70828
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(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: 70830
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(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; 70833
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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. 70840
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The remainder of the balance shall be distributed as follows on the fifteenth day of the following month: 70854
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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 70856
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purpose for which payments received under that division may be 70859
used. Beginning August 15, 2004, the sum of two hundred 70860
forty-eight thousand six hundred twenty-five dollars shall be 70861
~~annually~~ monthly subtracted from the amount so computed and 70862
credited to the highway operating fund. 70863

(b) Five per cent shall be paid to townships for distribution 70864
pursuant to division (A)(5) of section 5735.27 of the Revised Code 70865
and may be used for any purpose for which payments received under 70866
that division may be used. Beginning August 15, 2004, the sum of 70867
eighty-seven thousand seven hundred fifty dollars shall be 70868
~~annually~~ monthly subtracted from the amount so computed and 70869
credited to the highway operating fund. 70870

(c) Nine and three-tenths per cent shall be paid to counties 70871
for distribution pursuant to division (A)(3) of section 5735.27 of 70872
the Revised Code and may be used for any purpose for which 70873
payments received under that division may be used. Beginning 70874
August 15, 2004, the sum of two hundred forty-eight thousand six 70875
hundred twenty-five dollars shall be ~~annually~~ monthly subtracted 70876
from the amount so computed and credited to the highway operating 70877
fund. 70878

(d) Except as provided in division (D) of this section, the 70879
balance shall be transferred to the highway operating fund and 70880
used for the purposes set forth in division (B)(1) of section 70881
5735.27 of the Revised Code. 70882

(D) Beginning on the first day of September each fiscal year, 70883
any amounts required to be credited or transferred to the highway 70884
operating fund pursuant to division (B)(2)(c) or (C)(2)(d) of this 70885
section shall be credited or transferred to the highway capital 70886
improvement bond service fund created in section 151.06 of the 70887
Revised Code, until such time as the office of budget and 70888
management receives certification from the treasurer of state or 70889
the treasurer of state's designee that sufficient money has been 70890

credited or transferred to the bond service fund to meet in full 70891
all payments of debt service and financing costs due during the 70892
fiscal year from that fund. 70893

Sec. 5735.26. The treasurer of state shall place to the 70894
credit of the tax refund fund created by section 5703.052 of the 70895
Revised Code, out of receipts from the tax levied by section 70896
5735.25 of the Revised Code, amounts equal to the refunds 70897
certified by the tax commissioner pursuant to sections 5735.142 70898
and 5735.25 of the Revised Code, which shall be paid from such 70899
fund. ~~Receipts from the tax shall be used by the tax commissioner~~ 70900
~~for the maintenance and administration of the motor fuel laws.~~ The 70901
treasurer of state shall then transfer the amount required by 70902
section 5735.051 of the Revised Code to the waterways safety fund 70903
and the amount required by section 5735.053 of the Revised Code to 70904
the motor fuel tax administration fund. 70905

The balance of taxes collected under section 5735.25 of the 70906
Revised Code shall be credited as follows, after the credits to 70907
the tax refund fund, ~~and after deduction of the cost of~~ 70908
~~administration of the motor fuel laws,~~ and after the ~~transfer~~ 70909
transfers to the waterways safety fund and motor fuel tax 70910
administration fund, and after receipt by the treasurer of state 70911
of certifications from the commissioners of the sinking fund 70912
certifying, as required by sections 5528.15 and 5528.35 of the 70913
Revised Code, there are sufficient moneys to the credit of the 70914
highway improvement bond retirement fund to meet in full all 70915
payments of interest, principal, and charges for the retirement of 70916
bonds and other obligations issued pursuant to Section 2g of 70917
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70918
of the Revised Code due and payable during the current calendar 70919
year, and that there are sufficient moneys to the credit of the 70920
highway obligations bond retirement fund to meet in full all 70921
payments of interest, principal, and charges for the retirement of 70922

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 70953
corporations within the state in accordance with division (A)(2) 70954
of section 5735.27 of the Revised Code, thirty-seven and fourteen 70955
hundredths per cent of the specified portion shall be distributed 70956
among the counties within the state in accordance with division 70957
(A)(3) of section 5735.27 of the Revised Code, and twenty per cent 70958
of the specified portion shall be combined with twenty per cent of 70959
any amounts transferred from the highway operating fund to the 70960
gasoline excise tax fund through biennial appropriations acts of 70961
the general assembly pursuant to the planned phase-in of a new 70962
source of funding for the state highway patrol, and shall be 70963
distributed among the townships within the state in accordance 70964
with division (A)(5)(b) of section 5735.27 of the Revised Code. 70965
Subject to division (B) of this section, the remainder of the tax 70966
levied by section 5735.29 of the Revised Code after receipt by the 70967
treasurer of state of certifications from the commissioners of the 70968
sinking fund certifying, as required by sections 5528.15 and 70969
5528.35 of the Revised Code, that there are sufficient moneys to 70970
the credit of the highway improvement bond retirement fund created 70971
by section 5528.12 of the Revised Code to meet in full all 70972
payments of interest, principal, and charges for the retirement of 70973
bonds and other obligations issued pursuant to Section 2g of 70974
Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 70975
of the Revised Code due and payable during the current calendar 70976
year, and that there are sufficient moneys to the credit of the 70977
highway obligations bond retirement fund created by section 70978
5528.32 of the Revised Code to meet in full all payments of 70979
interest, principal, and charges for the retirement of highway 70980
obligations issued pursuant to Section 2i of Article VIII, Ohio 70981
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 70982
due and payable during the current calendar year, shall be 70983
credited to the highway operating fund, which is hereby created in 70984
the state treasury and shall be used solely for the purposes 70985

enumerated in section 5735.29 of the Revised Code. All investment 70986
earnings of the fund shall be credited to the fund. 70987

(B)(1) Effective August 15, 2003, prior to the distribution 70988
from the gasoline excise tax fund to municipal corporations of the 70989
forty-two and eighty-six hundredths per cent of the specified 70990
portion as provided in division (A) of this section, the 70991
department of taxation shall deduct thirty-three and one-third per 70992
cent of the amount specified in division (A)(5)(c) of section 70993
5735.27 of the Revised Code and use it for distribution to 70994
townships pursuant to division (A)(5)(b) of that section. 70995

(2) Effective August 15, 2003, prior to the distribution from 70996
the gasoline excise tax fund to counties of the thirty-seven and 70997
fourteen hundredths per cent of the specified portion as provided 70998
in division (A) of this section, the department of taxation shall 70999
deduct thirty-three and one-third per cent of the amount specified 71000
in division (A)(5)(c) of section 5735.27 of the Revised Code and 71001
use it for distribution to townships pursuant to division 71002
(A)(5)(b) of that section. 71003

(3) Effective August 15, 2003, prior to crediting any revenue 71004
resulting from the tax levied by section 5735.29 of the Revised 71005
Code to the highway operating fund, the department of taxation 71006
shall deduct thirty-three and one-third per cent of the amount 71007
specified in division (A)(5)(c) of section 5735.27 of the Revised 71008
Code and use it for distribution to townships pursuant to division 71009
(A)(5)(b) of that section. 71010

(C) As used in this section, "specified portion" means all of 71011
the following: 71012

(1) Until August 15, 2003, none of the taxes collected under 71013
section 5735.29 of the Revised Code; 71014

(2) Effective August 15, 2003, one-eighth of the balance of 71015
taxes collected under section 5735.29 of the Revised Code, after 71016

the credits to the tax refund fund and ~~after the transfer~~ 71017
transfers to the waterways safety fund and the motor fuel tax 71018
administration fund; 71019

(3) Effective August 15, 2004, one-sixth of the balance of 71020
taxes described in division (C)(2) of this section; 71021

(4) Effective August 15, 2005, three-sixteenths of the 71022
balance of taxes described in division (C)(2) of this section. 71023

Sec. 5735.30. (A) For the purpose of providing funds to pay 71024
the state's share of the cost of constructing and reconstructing 71025
highways and eliminating railway grade crossings on the major 71026
thoroughfares of the state highway system and urban extensions 71027
thereof, to pay that portion of the construction cost of a highway 71028
project which a county, township, or municipal corporation 71029
normally would be required to pay, but which the director of 71030
transportation, pursuant to division (B) of section 5531.08 of the 71031
Revised Code, determines instead will be paid from moneys in the 71032
highway operating fund, to pay the interest, principal, and 71033
charges on bonds and other obligations issued pursuant to Section 71034
2g of Article VIII, Ohio Constitution, and sections 5528.10 and 71035
5528.11 of the Revised Code, to pay the interest, principal, and 71036
charges on highway obligations issued pursuant to Section 2i of 71037
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 71038
of the Revised Code, ~~and~~ to provide revenues for the purposes of 71039
sections 1547.71 to 1547.78 of the Revised Code, and to pay the 71040
expenses of the department of taxation incident to the 71041
administration of the motor fuel laws, a motor fuel excise tax is 71042
hereby imposed on all motor fuel dealers upon their receipt of 71043
motor fuel within the state, at the rate of one cent on each 71044
gallon so received, to be reported, computed, paid, collected, 71045
administered, enforced, refunded, and subject to the same 71046
exemptions and penalties as provided in this chapter of the 71047

Revised Code. 71048

The tax imposed by this section shall be in addition to the 71049
tax imposed by sections 5735.05, 5735.25, and 5735.29 of the 71050
Revised Code. 71051

(B) The treasurer of state shall place to the credit of the 71052
tax refund fund created by section 5703.052 of the Revised Code, 71053
out of receipts from the tax levied by this section, amounts equal 71054
to the refunds certified by the tax commissioner pursuant to this 71055
section. The refund provided for by ~~the first paragraph~~ division 71056
(A) of this section shall be paid from such fund. The treasurer 71057
shall then transfer the amount required by section 5735.051 of the 71058
Revised Code to the waterways safety fund and the amount required 71059
by section 5735.053 of the Revised Code to the motor fuel tax 71060
administration fund. The balance of taxes for which the liability 71061
has become fixed prior to July 1, 1955, under this section, after 71062
the credit to the tax refund fund, shall be credited to the 71063
highway operating fund. 71064

(C)(1) The moneys derived from the tax levied by this 71065
section, after ~~the credit to the tax refund fund and the waterways~~ 71066
~~safety fund as provided~~ and transfers required by division (B) of 71067
this section, shall, during each calendar year, be credited to the 71068
highway improvement bond retirement fund created by section 71069
5528.12 of the Revised Code, until the commissioners of the 71070
sinking fund certify to the treasurer of state, as required by 71071
section 5528.17 of the Revised Code, that there are sufficient 71072
moneys to the credit of the highway improvement bond retirement 71073
fund to meet in full all payments of interest, principal, and 71074
charges for the retirement of bonds and other obligations issued 71075
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71076
sections 5528.10 and 5528.11 of the Revised Code due and payable 71077
during the current calendar year and during the next succeeding 71078
calendar year. From the date of the receipt of the certification 71079

required by section 5528.17 of the Revised Code by the treasurer 71080
of state until the thirty-first day of December of the calendar 71081
year in which such certification is made, all moneys received in 71082
the state treasury from the tax levied by this section, after the 71083
~~credit to the tax refund fund and the waterways safety fund as~~ 71084
~~provided and transfers required by division (B) of this section,~~ 71085
shall be credited to the highway obligations bond retirement fund 71086
created by section 5528.32 of the Revised Code, until the 71087
commissioners of the sinking fund certify to the treasurer of 71088
state, as required by section 5528.38 of the Revised Code, that 71089
there are sufficient moneys to the credit of the highway 71090
obligations bond retirement fund to meet in full all payments of 71091
interest, principal, and charges for the retirement of obligations 71092
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 71093
and sections 5528.30 and 5528.31 of the Revised Code due and 71094
payable during the current calendar year and during the next 71095
succeeding calendar year. ~~From~~ 71096

(2) From the date of the receipt of the certification 71097
required by section 5528.38 of the Revised Code by the treasurer 71098
of state until the thirty-first day of December of the calendar 71099
year in which such certification is made, all moneys received in 71100
the state treasury from the tax levied by this section, after the 71101
~~credit to the tax refund fund and the waterways safety fund as~~ 71102
~~provided and transfers required by division (B) of this section,~~ 71103
shall be credited to the highway operating fund, except as 71104
provided in ~~the next succeeding paragraph~~ division (C)(3) of this 71105
section. 71106

(3) From the date of the receipt by the treasurer of state of 71107
certifications from the commissioners of the sinking fund, as 71108
required by sections 5528.18 and 5528.39 of the Revised Code, 71109
certifying that the moneys to the credit of the highway 71110
improvement bond retirement fund are sufficient to meet in full 71111

all payments of interest, principal, and charges for the 71112
retirement of all bonds and other obligations which may be issued 71113
pursuant to Section 2g of Article VIII, Ohio Constitution, and 71114
sections 5528.10 and 5528.11 of the Revised Code, and to the 71115
credit of the highway obligations bond retirement fund are 71116
sufficient to meet in full all payments of interest, principal, 71117
and charges for the retirement of all obligations issued pursuant 71118
to Section 2i of Article VIII, Ohio Constitution, and sections 71119
5528.30 and 5528.31 of the Revised Code, the moneys derived from 71120
the tax levied by this section, after the credit to the tax refund 71121
fund and the waterways safety fund as provided and transfers 71122
required by division (B) of this section, shall be credited to the 71123
highway operating fund. 71124

Sec. 5735.99. (A) Whoever violates division (F) of section 71125
5735.02, division (D) of section 5735.021, division (B) of section 71126
5735.063, division (B) of section 5735.064, or division (A)(2) of 71127
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71128
the first degree. 71129

(B) Whoever violates division (E) of section 5735.06 of the 71130
Revised Code is guilty of a felony of the fourth degree. 71131

(C) Whoever violates section 5735.025 or division (A)(1) of 71132
section 5735.20 of the Revised Code is guilty of a misdemeanor of 71133
the first degree, if the tax owed or the fraudulent refund 71134
received is not greater than five hundred dollars. If the tax owed 71135
or the fraudulent refund received is greater than five hundred 71136
dollars but not greater than ten thousand dollars, the offender is 71137
guilty of a felony of the fourth degree; for each subsequent 71138
offense when the tax owed or the fraudulent refund received is 71139
greater than five hundred dollars but not greater than ten 71140
thousand dollars, the offender is guilty of a felony of the third 71141
degree. If the tax owed or the fraudulent refund received is 71142

greater than ten thousand dollars, the offender is guilty of a 71143
felony of the second degree. 71144

(D) Whoever violates a provision of this chapter for which a 71145
penalty is not otherwise prescribed under this section is guilty 71146
of a misdemeanor of the fourth degree. 71147

(E) Whoever violates division (D)(5) of section 5735.19 of 71148
the Revised Code is guilty of a misdemeanor of the first degree. 71149

Sec. 5739.01. As used in this chapter: 71150

(A) "Person" includes individuals, receivers, assignees, 71151
trustees in bankruptcy, estates, firms, partnerships, 71152
associations, joint-stock companies, joint ventures, clubs, 71153
societies, corporations, the state and its political subdivisions, 71154
and combinations of individuals of any form. 71155

(B) "Sale" and "selling" include all of the following 71156
transactions for a consideration in any manner, whether absolutely 71157
or conditionally, whether for a price or rental, in money or by 71158
exchange, and by any means whatsoever: 71159

(1) All transactions by which title or possession, or both, 71160
of tangible personal property, is or is to be transferred, or a 71161
license to use or consume tangible personal property is or is to 71162
be granted; 71163

(2) All transactions by which lodging by a hotel is or is to 71164
be furnished to transient guests; 71165

(3) All transactions by which: 71166

(a) An item of tangible personal property is or is to be 71167
repaired, except property, the purchase of which would not be 71168
subject to the tax imposed by section 5739.02 of the Revised Code; 71169

(b) An item of tangible personal property is or is to be 71170
installed, except property, the purchase of which would not be 71171

subject to the tax imposed by section 5739.02 of the Revised Code 71172
or property that is or is to be incorporated into and will become 71173
a part of a production, transmission, transportation, or 71174
distribution system for the delivery of a public utility service; 71175

(c) The service of washing, cleaning, waxing, polishing, or 71176
painting a motor vehicle is or is to be furnished; 71177

(d) ~~Industrial laundry~~ Laundry and dry cleaning services are 71178
or are to be provided; 71179

(e) Automatic data processing, computer services, or 71180
electronic information services are or are to be provided for use 71181
in business when the true object of the transaction is the receipt 71182
by the consumer of automatic data processing, computer services, 71183
or electronic information services rather than the receipt of 71184
personal or professional services to which automatic data 71185
processing, computer services, or electronic information services 71186
are incidental or supplemental. Notwithstanding any other 71187
provision of this chapter, such transactions that occur between 71188
members of an affiliated group are not sales. An affiliated group 71189
means two or more persons related in such a way that one person 71190
owns or controls the business operation of another member of the 71191
group. In the case of corporations with stock, one corporation 71192
owns or controls another if it owns more than fifty per cent of 71193
the other corporation's common stock with voting rights. 71194

(f) Telecommunications service, other than mobile 71195
telecommunications service after July 31, 2002, is or is to be 71196
provided ~~that originates or terminates in this state and is~~ 71197
~~charged in the records of the telecommunications service vendor to~~ 71198
~~the consumer's telephone number or account in this state, or that~~ 71199
~~both originates and terminates in this state;~~ but does not 71200
include transactions by which ~~telecommunications service is paid~~ 71201
~~for by using a prepaid authorization number or prepaid telephone~~ 71202
~~calling card, or by which~~ local telecommunications service is 71203

obtained from a coin-operated telephone and paid for by using coin;	71204 71205
(g) Landscaping and lawn care service is or is to be provided;	71206 71207
(h) Private investigation and security service is or is to be provided;	71208 71209
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	71210 71211
(j) Building maintenance and janitorial service is or is to be provided;	71212 71213
(k) Employment service is or is to be provided;	71214
(l) Employment placement service is or is to be provided;	71215
(m) Exterminating service is or is to be provided;	71216
(n) Physical fitness facility service is or is to be provided;	71217 71218
(o) Recreation and sports club service is or is to be provided.	71219 71220
(p) After July 31, 2002, mobile telecommunications service is or is to be provided in this state when that service is sitused 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.	71221 71222 71223 71224 71225
<u>(q) Satellite broadcasting service is or is to be provided;</u>	71226
<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>	71227 71228 71229 71230 71231 71232

XLVII of the Revised Code who are authorized to perform 71233
therapeutic massage pursuant to their scope of practice, or the 71234
cutting, coloring, or styling of an individual's hair. 71235

(s) The transportation of persons by motor vehicle or 71236
aircraft is or is to be provided, when the point of origin and the 71237
point of termination are both within this state, except for 71238
transportation provided by an ambulance service, by a transit bus, 71239
as defined in section 5735.01 of the Revised Code, and 71240
transportation provided by a citizen of the United States holding 71241
a certificate of public convenience and necessity issued under 49 71242
U.S.C. 41102; 71243

(t) Motor vehicle towing service is or is to be provided. As 71244
used in this division, "motor vehicle towing service" means the 71245
towing or conveyance of a wrecked, disabled, or illegally parked 71246
motor vehicle. 71247

(u) Snow removal service is or is to be provided. As used in 71248
this division, "snow removal" means the removal of snow by any 71249
mechanized means. 71250

(4) All transactions by which printed, imprinted, 71251
overprinted, lithographic, multilithic, blueprinted, photostatic, 71252
or other productions or reproductions of written or graphic matter 71253
are or are to be furnished or transferred; 71254

(5) The production or fabrication of tangible personal 71255
property for a consideration for consumers who furnish either 71256
directly or indirectly the materials used in the production of 71257
fabrication work; and include the furnishing, preparing, or 71258
serving for a consideration of any tangible personal property 71259
consumed on the premises of the person furnishing, preparing, or 71260
serving such tangible personal property. Except as provided in 71261
section 5739.03 of the Revised Code, a construction contract 71262
pursuant to which tangible personal property is or is to be 71263

incorporated into a structure or improvement on and becoming a 71264
part of real property is not a sale of such tangible personal 71265
property. The construction contractor is the consumer of such 71266
tangible personal property, provided that the sale and 71267
installation of carpeting, the sale and installation of 71268
agricultural land tile, the sale and erection or installation of 71269
portable grain bins, or the provision of landscaping and lawn care 71270
service and the transfer of property as part of such service is 71271
never a construction contract. The transfer of copyrighted motion 71272
picture films for exhibition purposes is not a sale, except such 71273
films as are used solely for advertising purposes. ~~Other than as~~ 71274
~~provided in this section, "sale" and "selling" do not include~~ 71275
~~transfers of interest in leased property where the original lessee~~ 71276
~~and the terms of the original lease agreement remain unchanged, or~~ 71277
~~professional, insurance, or personal service transactions that~~ 71278
~~involve the transfer of tangible personal property as an~~ 71279
~~inconsequential element, for which no separate charges are made.~~ 71280

As used in division (B)(5) of this section: 71281

(a) "Agricultural land tile" means fired clay or concrete 71282
tile, or flexible or rigid perforated plastic pipe or tubing, 71283
incorporated or to be incorporated into a subsurface drainage 71284
system appurtenant to land used or to be used directly in 71285
production by farming, agriculture, horticulture, or floriculture. 71286
The term does not include such materials when they are or are to 71287
be incorporated into a drainage system appurtenant to a building 71288
or structure even if the building or structure is used or to be 71289
used in such production. 71290

(b) "Portable grain bin" means a structure that is used or to 71291
be used by a person engaged in farming or agriculture to shelter 71292
the person's grain and that is designed to be disassembled without 71293
significant damage to its component parts. 71294

(6) All transactions in which all of the shares of stock of a 71295

closely held corporation are transferred, if the corporation is 71296
not engaging in business and its entire assets consist of boats, 71297
planes, motor vehicles, or other tangible personal property 71298
operated primarily for the use and enjoyment of the shareholders; 71299

(7) All transactions in which a warranty, maintenance or 71300
service contract, or similar agreement by which the vendor of the 71301
warranty, contract, or agreement agrees to repair or maintain the 71302
tangible personal property of the consumer is or is to be 71303
provided; 71304

(8) ~~All transactions by which a prepaid authorization number 71305
or a prepaid telephone calling card is or is to be transferred~~ All 71306
transactions by which tangible personal property is or is to be 71307
stored, except such property that the consumer of the storage 71308
holds for sale in the regular course of business. 71309

Except as provided in this section, "sale" and "selling" do 71310
not include transfers of interest in leased property where the 71311
original lessee and the terms of the original lease agreement 71312
remain unchanged, or professional, insurance, or personal service 71313
transactions that involve the transfer of tangible personal 71314
property as an inconsequential element, for which no separate 71315
charges are made. 71316

(C) "Vendor" means the person providing the service or by 71317
whom the transfer effected or license given by a sale is or is to 71318
be made or given and, for sales described in division (B)(3)(i) of 71319
this section, the telecommunications service vendor that provides 71320
the nine hundred telephone service; if two or more persons are 71321
engaged in business at the same place of business under a single 71322
trade name in which all collections on account of sales by each 71323
are made, such persons shall constitute a single vendor. 71324

Physicians, dentists, hospitals, and veterinarians who are 71325
engaged in selling tangible personal property as received from 71326

others, such as eyeglasses, mouthwashes, dentifrices, or similar 71327
articles, are vendors. Veterinarians who are engaged in 71328
transferring to others for a consideration drugs, the dispensing 71329
of which does not require an order of a licensed veterinarian or 71330
physician under federal law, are vendors. 71331

(D)(1) "Consumer" means the person for whom the service is 71332
provided, to whom the transfer effected or license given by a sale 71333
is or is to be made or given, to whom the service described in 71334
division (B)(3)(f) or (i) of this section is charged, or to whom 71335
the admission is granted. 71336

(2) Physicians, dentists, hospitals, and blood banks operated 71337
by nonprofit institutions and persons licensed to practice 71338
veterinary medicine, surgery, and dentistry are consumers of all 71339
tangible personal property and services purchased by them in 71340
connection with the practice of medicine, dentistry, the rendition 71341
of hospital or blood bank service, or the practice of veterinary 71342
medicine, surgery, and dentistry. In addition to being consumers 71343
of drugs administered by them or by their assistants according to 71344
their direction, veterinarians also are consumers of drugs that 71345
under federal law may be dispensed only by or upon the order of a 71346
licensed veterinarian or physician, when transferred by them to 71347
others for a consideration to provide treatment to animals as 71348
directed by the veterinarian. 71349

(3) A person who performs a facility management, or similar 71350
service contract for a contractee is a consumer of all tangible 71351
personal property and services purchased for use in connection 71352
with the performance of such contract, regardless of whether title 71353
to any such property vests in the contractee. The purchase of such 71354
property and services is not subject to the exception for resale 71355
under division (E)(1) of this section. 71356

(4)(a) In the case of a person who purchases printed matter 71357
for the purpose of distributing it or having it distributed to the 71358

public or to a designated segment of the public, free of charge, 71359
that person is the consumer of that printed matter, and the 71360
purchase of that printed matter for that purpose is a sale. 71361

(b) In the case of a person who produces, rather than 71362
purchases, printed matter for the purpose of distributing it or 71363
having it distributed to the public or to a designated segment of 71364
the public, free of charge, that person is the consumer of all 71365
tangible personal property and services purchased for use or 71366
consumption in the production of that printed matter. That person 71367
is not entitled to claim ~~exception~~ exemption under division 71368
~~(E)(8)(B)(43)(f)~~ of ~~this~~ section 5739.02 of the Revised Code for 71369
any material incorporated into the printed matter or any 71370
equipment, supplies, or services primarily used to produce the 71371
printed matter. 71372

(c) The distribution of printed matter to the public or to a 71373
designated segment of the public, free of charge, is not a sale to 71374
the members of the public to whom the printed matter is 71375
distributed or to any persons who purchase space in the printed 71376
matter for advertising or other purposes. 71377

(5) A person who makes sales of any of the services listed in 71378
division (B)(3) of this section is the consumer of any tangible 71379
personal property used in performing the service. The purchase of 71380
that property is not subject to the resale exception under 71381
division (E)(1) of this section. 71382

(E) "Retail sale" and "sales at retail" include all sales, 71383
except those in which the purpose of the consumer is+ 71384

~~(1) To~~ to resell the thing transferred or benefit of the 71385
service provided, by a person engaging in business, in the form in 71386
which the same is, or is to be, received by the person+ 71387

~~(2) To incorporate the thing transferred as a material or a 71388
part, into tangible personal property to be produced for sale by 71389~~

~~manufacturing, assembling, processing, or refining, or to use or 71390
consume the thing transferred directly in producing a product for 71391
sale by mining, including without limitation the extraction from 71392
the earth of all substances that are classed geologically as 71393
minerals, production of crude oil and natural gas, farming, 71394
agriculture, horticulture, or floriculture, and persons engaged in 71395
rendering farming, agricultural, horticultural, or floricultural 71396
services, and services in the exploration for, and production of, 71397
crude oil and natural gas, for others are deemed engaged directly 71398
in farming, agriculture, horticulture, and floriculture, or 71399
exploration for, and production of, crude oil and natural gas; 71400
directly in the rendition of a public utility service, except that 71401
the sales tax levied by section 5739.02 of the Revised Code shall 71402
be collected upon all meals, drinks, and food for human 71403
consumption sold upon Pullman and railroad coaches. This paragraph 71404
does not exempt or except from "retail sale" or "sales at retail" 71405
the sale of tangible personal property that is to be incorporated 71406
into a structure or improvement to real property. 71407~~

~~(3) To hold the thing transferred as security for the 71408
performance of an obligation of the vendor; 71409~~

~~(4) To use or consume the thing transferred in the process of 71410
reclamation as required by Chapters 1513. and 1514. of the Revised 71411
Code; 71412~~

~~(5) To resell, hold, use, or consume the thing transferred as 71413
evidence of a contract of insurance; 71414~~

~~(6) To use or consume the thing directly in commercial 71415
fishing; 71416~~

~~(7) To incorporate the thing transferred as a material or a 71417
part into, or to use or consume the thing transferred directly in 71418
the production of, magazines distributed as controlled circulation 71419
publications; 71420~~

~~(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;~~

~~(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;~~

~~(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;~~

~~(11) To use the thing transferred as qualified research and development equipment;~~

~~(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.~~

~~(13) 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 71452
property sold or by a vendor of a warranty, maintenance or service 71453
contract, or similar agreement the provision of which is defined 71454
as a sale under division (B)(7) of this section; 71455~~

~~(14) To use or consume the thing transferred in the 71456
production of a newspaper for distribution to the public; 71457~~

~~(15) To use tangible personal property to perform a service 71458
listed in division (B)(3) of this section, if the property is or 71459
is to be permanently transferred to the consumer of the service as 71460
an integral part of the performance of the service. 71461~~

~~As used in division (E) of this section, "thing" includes all 71462
transactions included in divisions (B)(3)(a), (b), and (c) of this 71463
section. 71464~~

~~Sales conducted through a coin-operated device that activates 71465
vacuum equipment or equipment that dispenses water, whether or not 71466
in combination with soap or other cleaning agents or wax, to the 71467
consumer for the consumer's use on the premises in washing, 71468
cleaning, or waxing a motor vehicle, provided no other personal 71469
property or personal service is provided as part of the 71470
transaction, are not retail sales or sales at retail. 71471~~

~~(F) "Business" includes any activity engaged in by any person 71472
with the object of gain, benefit, or advantage, either direct or 71473
indirect. "Business" does not include the activity of a person in 71474
managing and investing the person's own funds. 71475~~

~~(G) "Engaging in business" means commencing, conducting, or 71476
continuing in business, and liquidating a business when the 71477
liquidator thereof holds itself out to the public as conducting 71478
such business. Making a casual sale is not engaging in business. 71479~~

~~(H)(1)(a) "Price," except as provided in divisions (H)(2) and 71480
(3) of this section, means the aggregate value in money of 71481
anything paid or delivered, or promised to be paid or delivered, 71482~~

~~in the complete performance of a retail sale, without any 71483~~
~~deduction on account of the cost of the property sold, cost of 71484~~
~~materials used, labor or service cost, interest, discount paid or 71485~~
~~allowed after the sale is consummated, or any other expense. If 71486~~
~~the retail sale consists of the rental or lease of tangible 71487~~
~~personal property, "price" means the aggregate value in money of 71488~~
~~anything paid or delivered, or promised to be paid or delivered, 71489~~
~~in the complete performance of the rental or lease, without any 71490~~
~~deduction for tax, interest, labor or service charge, damage 71491~~
~~liability waiver, termination or damage charge, discount paid or 71492~~
~~allowed after the lease is consummated, or any other expense. 71493~~
~~Except as provided in division (H)(4) of this section, the sales 71494~~
~~tax shall be calculated and collected by the lessor on each 71495~~
~~payment made by the lessee. "Price" does not include the 71496~~
~~consideration received as a deposit refundable to the consumer 71497~~
~~upon return of a beverage container, the consideration received as 71498~~
~~a deposit on a carton or case that is used for such returnable 71499~~
~~containers, or the consideration received as a refundable security 71500~~
~~deposit for the use of tangible personal property to the extent 71501~~
~~that it actually is refunded, if the consideration for such 71502~~
~~refundable deposit is separately stated from the consideration 71503~~
~~received or to be received for the tangible personal property 71504~~
~~transferred in the retail sale. Such separation must appear in the 71505~~
~~sales agreement or on the initial invoice or initial billing 71506~~
~~rendered by the vendor to the consumer. "Price" also does not 71507~~
~~include delivery charges that are separately stated on the initial 71508~~
~~invoice or initial billing rendered by the vendor. Price is the 71509~~
~~amount received inclusive of the tax, provided the vendor 71510~~
~~establishes to the satisfaction of the tax commissioner that the 71511~~
~~tax was added to the price. When the price includes both a charge 71512~~
~~for tangible personal property and a charge for providing a 71513~~
~~service and the sale of the property and the charge for the 71514~~
~~service are separately taxable, or have a separately determinable 71515~~

~~tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.~~ 71516
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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.~~ 71518
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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:~~ 71529
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~~(i) The vendor's cost of the property sold;~~ 71538

~~(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;~~ 71539
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~~(iii) Charges by the vendor for any services necessary to complete the sale;~~ 71542
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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~~ 71544
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<u>property or a service, including transportation, shipping,</u>	71547
<u>postage, handling, crating, and packing.</u>	71548
<u>(v) Installation charges;</u>	71549
<u>(vi) The value of exempt tangible personal property given to</u>	71550
<u>the consumer where taxable and exempt tangible personal property</u>	71551
<u>have been bundled together and sold by the vendor as a single</u>	71552
<u>product or piece of merchandise.</u>	71553
<u>(b) "Price" does not include any of the following:</u>	71554
<u>(i) Discounts, including cash, term, or coupons that are not</u>	71555
<u>reimbursed by a third party that are allowed by a vendor and taken</u>	71556
<u>by a consumer on a sale;</u>	71557
<u>(ii) Interest, financing, and carrying charges from credit</u>	71558
<u>extended on the sale of tangible personal property or services, if</u>	71559
<u>the amount is separately stated on the invoice, bill of sale, or</u>	71560
<u>similar document given to the purchaser;</u>	71561
<u>(iii) Any taxes legally imposed directly on the consumer that</u>	71562
<u>are separately stated on the invoice, bill of sale, or similar</u>	71563
<u>document given to the consumer.</u>	71564
(2) In the case of a sale of any new motor vehicle by a new	71565
motor vehicle dealer, as defined in section 4517.01 of the Revised	71566
Code, in which another motor vehicle is accepted by the dealer as	71567
part of the consideration received, "price" has the same meaning	71568
as in division (H)(1) of this section, reduced by the credit	71569
afforded the consumer by the dealer for the motor vehicle received	71570
in trade.	71571
(3) In the case of a sale of any watercraft or outboard motor	71572
by a watercraft dealer licensed in accordance with section	71573
1547.543 of the Revised Code, in which another watercraft,	71574
watercraft and trailer, or outboard motor is accepted by the	71575
dealer as part of the consideration received, "price" has the same	71576

meaning as in division (H)(1) of this section, reduced by the 71577
credit afforded the consumer by the dealer for the watercraft, 71578
watercraft and trailer, or outboard motor received in trade. As 71579
used in this division, "watercraft" includes an outdrive unit 71580
attached to the watercraft. 71581

~~(4) In the case of the lease of any motor vehicle designed by 71582
the manufacturer to carry a load of not more than one ton, 71583
watercraft, outboard motor, or aircraft, or the lease of any 71584
tangible personal property, other than motor vehicles designed by 71585
the manufacturer to carry a load of more than one ton, to be used 71586
by the lessee primarily for business purposes, the sales tax shall 71587
be collected by the vendor at the time the lease is consummated 71588
and shall be calculated by the vendor on the basis of the total 71589
amount to be paid by the lessee under the lease agreement. If the 71590
total amount of the consideration for the lease includes amounts 71591
that are not calculated at the time the lease is executed, the tax 71592
shall be calculated and collected by the vendor at the time such 71593
amounts are billed to the lessee. In the case of an open end 71594
lease, the sales tax shall be calculated by the vendor on the 71595
basis of the total amount to be paid during the initial fixed term 71596
of the lease, and then for each subsequent renewal period as it 71597
comes due. 71598~~

~~As used in divisions (H)(3) and (4) of this section, "motor 71599
vehicle" has the same meaning as in section 4501.01 of the Revised 71600
Code, and "watercraft" includes an outdrive unit attached to the 71601
watercraft. 71602~~

In the case of a transaction in which telecommunications 71603
service, mobile telecommunications service, or cable television 71604
service is sold in a bundled transaction with other distinct 71605
services for a single price that is not itemized, the entire price 71606
is subject to the taxes levied under sections 5739.02, 5739.021, 71607
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71608

reasonably identify the nontaxable portion from its books and 71609
records kept in the regular course of business. Upon the request 71610
of the consumer, the vendor shall disclose to the consumer the 71611
selling price for the taxable services included in the selling 71612
price for the taxable and nontaxable services billed on an 71613
aggregated basis. The burden of proving any nontaxable charges is 71614
on the vendor. 71615

(I) "Receipts" means the total amount of the prices of the 71616
sales of vendors, provided that cash discounts allowed and taken 71617
on sales at the time they are consummated are not included, minus 71618
any amount deducted as a bad debt pursuant to section 5739.121 of 71619
the Revised Code. "Receipts" does not include the sale price of 71620
property returned or services rejected by consumers when the full 71621
sale price and tax are refunded either in cash or by credit. 71622

(J) "Place of business" means any location at which a person 71623
engages in business. 71624

(K) "Premises" includes any real property or portion thereof 71625
upon which any person engages in selling tangible personal 71626
property at retail or making retail sales and also includes any 71627
real property or portion thereof designated for, or devoted to, 71628
use in conjunction with the business engaged in by such person. 71629

(L) "Casual sale" means a sale of an item of tangible 71630
personal property that was obtained by the person making the sale, 71631
through purchase or otherwise, for the person's own use and was 71632
previously subject to any state's taxing jurisdiction on its sale 71633
or use, and includes such items acquired for the seller's use that 71634
are sold by an auctioneer employed directly by the person for such 71635
purpose, provided the location of such sales is not the 71636
auctioneer's permanent place of business. As used in this 71637
division, "permanent place of business" includes any location 71638
where such auctioneer has conducted more than two auctions during 71639
the year. 71640

(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.~~ 71673

(Q) "Refining" means removing or separating a desirable 71674
product from raw or contaminated materials by distillation or 71675
physical, mechanical, or chemical processes. 71676

(R) "Assembly" and "assembling" mean attaching or fitting 71677
together parts to form a product, but do not include packaging a 71678
product. 71679

(S) "Manufacturing operation" means a process in which 71680
materials are changed, converted, or transformed into a different 71681
state or form from which they previously existed and includes 71682
refining materials, assembling parts, and preparing raw materials 71683
and parts by mixing, measuring, blending, or otherwise committing 71684
such materials or parts to the manufacturing process. 71685
"Manufacturing operation" does not include packaging. 71686

(T) "Fiscal officer" means, with respect to a regional 71687
transit authority, the secretary-treasurer thereof, and with 71688
respect to a county that is a transit authority, the fiscal 71689
officer of the county transit board if one is appointed pursuant 71690
to section 306.03 of the Revised Code or the county auditor if the 71691
board of county commissioners operates the county transit system. 71692

(U) "Transit authority" means a regional transit authority 71693
created pursuant to section 306.31 of the Revised Code or a county 71694
in which a county transit system is created pursuant to section 71695
306.01 of the Revised Code. For the purposes of this chapter, a 71696
transit authority must extend to at least the entire area of a 71697
single county. A transit authority that includes territory in more 71698
than one county must include all the area of the most populous 71699
county that is a part of such transit authority. County population 71700
shall be measured by the most recent census taken by the United 71701
States census bureau. 71702

(V) "Legislative authority" means, with respect to a regional 71703

transit authority, the board of trustees thereof, and with respect 71704
to a county that is a transit authority, the board of county 71705
commissioners. 71706

(W) "Territory of the transit authority" means all of the 71707
area included within the territorial boundaries of a transit 71708
authority as they from time to time exist. Such territorial 71709
boundaries must at all times include all the area of a single 71710
county or all the area of the most populous county that is a part 71711
of such transit authority. County population shall be measured by 71712
the most recent census taken by the United States census bureau. 71713

(X) "Providing a service" means providing or furnishing 71714
anything described in division (B)(3) of this section for 71715
consideration. 71716

(Y)(1)(a) "Automatic data processing" means processing of 71717
others' data, including keypunching or similar data entry services 71718
together with verification thereof, or providing access to 71719
computer equipment for the purpose of processing data. 71720

(b) "Computer services" means providing services consisting 71721
of specifying computer hardware configurations and evaluating 71722
technical processing characteristics, computer programming, and 71723
training of computer programmers and operators, provided in 71724
conjunction with and to support the sale, lease, or operation of 71725
taxable computer equipment or systems. 71726

(c) "Electronic information services" means providing access 71727
to computer equipment by means of telecommunications equipment for 71728
the purpose of either of the following: 71729

(i) Examining or acquiring data stored in or accessible to 71730
the computer equipment; 71731

(ii) Placing data into the computer equipment to be retrieved 71732
by designated recipients with access to the computer equipment. 71733

(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 71764
by any oral, written, graphic, or electronic medium; 71765

(j) Providing debt collection services by any oral, written, 71766
graphic, or electronic means. 71767

The services listed in divisions (Y)(2)(a) to (j) of this 71768
section are not automatic data processing or computer services. 71769

(Z) "Highway transportation for hire" means the 71770
transportation of personal property belonging to others for 71771
consideration by any of the following: 71772

(1) The holder of a permit or certificate issued by this 71773
state or the United States authorizing the holder to engage in 71774
transportation of personal property belonging to others for 71775
consideration over or on highways, roadways, streets, or any 71776
similar public thoroughfare; 71777

(2) A person who engages in the transportation of personal 71778
property belonging to others for consideration over or on 71779
highways, roadways, streets, or any similar public thoroughfare 71780
but who could not have engaged in such transportation on December 71781
11, 1985, unless the person was the holder of a permit or 71782
certificate of the types described in division (Z)(1) of this 71783
section; 71784

(3) A person who leases a motor vehicle to and operates it 71785
for a person described by division (Z)(1) or (2) of this section. 71786

(AA) "Telecommunications service" means the transmission of 71787
any interactive, two-way electromagnetic communications, including 71788
voice, image, data, and information, through the use of any medium 71789
such as wires, cables, microwaves, cellular radio, radio waves, 71790
light waves, or any combination of those or similar media. 71791
"Telecommunications service" includes message toll service even 71792
though the vendor provides the message toll service by means of 71793
wide area transmission type service or private communications 71794

service purchased from another telecommunications service 71795
provider, ~~but~~ and other related fees and ancillary services, 71796
including universal service fees, detailed billing service, 71797
directory assistance, service initiation, voice mail service, and 71798
vertical services, such as caller ID and three-way calling. 71799
"Telecommunications service" does not include any of the 71800
following: 71801

(1) Sales of incoming or outgoing wide area transmission 71802
service or wide area transmission type service, including eight 71803
hundred or eight-hundred-type service, but not including local 71804
exchange service as defined in division (A) of section 4927.01 of 71805
the Revised Code, to the person contracting for the receipt of 71806
that service for business use; 71807

(2) Sales of private communications service to the person 71808
contracting for the receipt of that service ~~that entitles the~~ 71809
~~purchaser to exclusive or priority use of a communications channel~~ 71810
~~or group of channels between exchanges;~~ As used in this division, 71811
"private communications service" means a telecommunication service 71812
that entitles the customer to exclusive or priority use of a 71813
communications channel or group of channels between or among 71814
termination points, regardless of the manner in which such channel 71815
or channels are connected, and includes switching capacity, 71816
extension lines, stations, and any other associated services that 71817
are provided in connection with the use of such channel or 71818
channels. 71819

(3) Sales of telecommunications service billed to persons 71820
before January 1, 2004, by telephone companies subject to the 71821
excise tax imposed by Chapter 5727. of the Revised Code; 71822

(4) Sales of telecommunications service to a provider of 71823
telecommunications service or of mobile telecommunications 71824
service, including access services, for use in providing 71825
telecommunications service or mobile telecommunications service; 71826

(5) Value-added nonvoice services in which computer 71827
processing applications are used to act on the form, content, 71828
code, or protocol of the information to be transmitted; 71829

(6) Transmission of interactive video programming by a cable 71830
television system as defined in section 505.90 of the Revised 71831
Code; 71832

(7) After July 31, 2002, mobile telecommunications service. 71833

(BB) "~~Industrial laundry~~ Laundry and dry cleaning services" 71834
means removing soil or dirt from ~~or supplying~~ towels, linens, ~~or~~ 71835
articles of clothing, or other fabric items that belong to others 71836
and ~~are used in a trade or business~~ supplying towels, linens, 71837
articles of clothing, or other fabric items. "Laundry and dry 71838
cleaning services" does not include the provision of self-service 71839
facilities for use by consumers to remove soil or dirt from 71840
towels, linens, articles of clothing, or other fabric items. 71841

(CC) "Magazines distributed as controlled circulation 71842
publications" means magazines containing at least twenty-four 71843
pages, at least twenty-five per cent editorial content, issued at 71844
regular intervals four or more times a year, and circulated 71845
without charge to the recipient, provided that such magazines are 71846
not owned or controlled by individuals or business concerns which 71847
conduct such publications as an auxiliary to, and essentially for 71848
the advancement of the main business or calling of, those who own 71849
or control them. 71850

(DD) "Landscaping and lawn care service" means the services 71851
of planting, seeding, sodding, removing, cutting, trimming, 71852
pruning, mulching, aerating, applying chemicals, watering, 71853
fertilizing, and providing similar services to establish, promote, 71854
or control the growth of trees, shrubs, flowers, grass, ground 71855
cover, and other flora, or otherwise maintaining a lawn or 71856
landscape grown or maintained by the owner for ornamentation or 71857

other nonagricultural purpose. However, "landscaping and lawn care 71858
service" does not include the providing of such services by a 71859
person who has less than five thousand dollars in sales of such 71860
services during the calendar year. 71861

(EE) "Private investigation and security service" means the 71862
performance of any activity for which the provider of such service 71863
is required to be licensed pursuant to Chapter 4749. of the 71864
Revised Code, or would be required to be so licensed in performing 71865
such services in this state, and also includes the services of 71866
conducting polygraph examinations and of monitoring or overseeing 71867
the activities on or in, or the condition of, the consumer's home, 71868
business, or other facility by means of electronic or similar 71869
monitoring devices. "Private investigation and security service" 71870
does not include special duty services provided by off-duty police 71871
officers, deputy sheriffs, and other peace officers regularly 71872
employed by the state or a political subdivision. 71873

(FF) "Information services" means providing conversation, 71874
giving consultation or advice, playing or making a voice or other 71875
recording, making or keeping a record of the number of callers, 71876
and any other service provided to a consumer by means of a nine 71877
hundred telephone call, except when the nine hundred telephone 71878
call is the means by which the consumer makes a contribution to a 71879
recognized charity. 71880

(GG) "Research and development" means designing, creating, or 71881
formulating new or enhanced products, equipment, or manufacturing 71882
processes, and also means conducting scientific or technological 71883
inquiry and experimentation in the physical sciences with the goal 71884
of increasing scientific knowledge which may reveal the bases for 71885
new or enhanced products, equipment, or manufacturing processes. 71886

(HH) "Qualified research and development equipment" means 71887
capitalized tangible personal property, and leased personal 71888
property that would be capitalized if purchased, used by a person 71889

primarily to perform research and development. Tangible personal 71890
property primarily used in testing, as defined in division (A)(4) 71891
of section 5739.011 of the Revised Code, or used for recording or 71892
storing test results, is not qualified research and development 71893
equipment unless such property is primarily used by the consumer 71894
in testing the product, equipment, or manufacturing process being 71895
created, designed, or formulated by the consumer in the research 71896
and development activity or in recording or storing such test 71897
results. 71898

(II) "Building maintenance and janitorial service" means 71899
cleaning the interior or exterior of a building and any tangible 71900
personal property located therein or thereon, including any 71901
services incidental to such cleaning for which no separate charge 71902
is made. However, "building maintenance and janitorial service" 71903
does not include the providing of such service by a person who has 71904
less than five thousand dollars in sales of such service during 71905
the calendar year. 71906

(JJ) "Employment service" means providing or supplying 71907
personnel, on a temporary or long-term basis, to perform work or 71908
labor under the supervision or control of another, when the 71909
personnel so supplied receive their wages, salary, or other 71910
compensation from the provider of the service. "Employment 71911
service" does not include: 71912

(1) Acting as a contractor or subcontractor, where the 71913
personnel performing the work are not under the direct control of 71914
the purchaser. 71915

(2) Medical and health care services. 71916

(3) Supplying personnel to a purchaser pursuant to a contract 71917
of at least one year between the service provider and the 71918
purchaser that specifies that each employee covered under the 71919
contract is assigned to the purchaser on a permanent basis. 71920

(4) Transactions between members of an affiliated group, as 71921
defined in division (B)(3)(e) of this section. 71922

(KK) "Employment placement service" means locating or finding 71923
employment for a person or finding or locating an employee to fill 71924
an available position. 71925

(LL) "Exterminating service" means eradicating or attempting 71926
to eradicate vermin infestations from a building or structure, or 71927
the area surrounding a building or structure, and includes 71928
activities to inspect, detect, or prevent vermin infestation of a 71929
building or structure. 71930

(MM) "Physical fitness facility service" means all 71931
transactions by which a membership is granted, maintained, or 71932
renewed, including initiation fees, membership dues, renewal fees, 71933
monthly minimum fees, and other similar fees and dues, by a 71934
physical fitness facility such as an athletic club, health spa, or 71935
gymnasium, which entitles the member to use the facility for 71936
physical exercise. 71937

(NN) "Recreation and sports club service" means all 71938
transactions by which a membership is granted, maintained, or 71939
renewed, including initiation fees, membership dues, renewal fees, 71940
monthly minimum fees, and other similar fees and dues, by a 71941
recreation and sports club, which entitles the member to use the 71942
facilities of the organization. "Recreation and sports club" means 71943
an organization that has ownership of, or controls or leases on a 71944
continuing, long-term basis, the facilities used by its members 71945
and includes an aviation club, gun or shooting club, yacht club, 71946
card club, swimming club, tennis club, golf club, country club, 71947
riding club, amateur sports club, or similar organization. 71948

(OO) "Livestock" means farm animals commonly raised for food 71949
or food production, and includes but is not limited to cattle, 71950
sheep, goats, swine, and poultry. "Livestock" does not include 71951

invertebrates, fish, amphibians, reptiles, horses, domestic pets, 71952
animals for use in laboratories or for exhibition, or other 71953
animals not commonly raised for food or food production. 71954

(PP) "Livestock structure" means a building or structure used 71955
exclusively for the housing, raising, feeding, or sheltering of 71956
livestock, and includes feed storage or handling structures and 71957
structures for livestock waste handling. 71958

(QQ) "Horticulture" means the growing, cultivation, and 71959
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 71960
and nursery stock. As used in this division, "nursery stock" has 71961
the same meaning as in section 927.51 of the Revised Code. 71962

(RR) "Horticulture structure" means a building or structure 71963
used exclusively for the commercial growing, raising, or 71964
overwintering of horticultural products, and includes the area 71965
used for stocking, storing, and packing horticultural products 71966
when done in conjunction with the production of those products. 71967

(SS) "Newspaper" means an unbound publication bearing a title 71968
or name that is regularly published, at least as frequently as 71969
biweekly, and distributed from a fixed place of business to the 71970
public in a specific geographic area, and that contains a 71971
substantial amount of news matter of international, national, or 71972
local events of interest to the general public. 71973

(TT) "Professional racing team" means a person that employs 71974
at least twenty full-time employees for the purpose of conducting 71975
a motor vehicle racing business for profit. The person must 71976
conduct the business with the purpose of racing one or more motor 71977
racing vehicles in at least ten competitive professional racing 71978
events each year that comprise all or part of a motor racing 71979
series sanctioned by one or more motor racing sanctioning 71980
organizations. A "motor racing vehicle" means a vehicle for which 71981
the chassis, engine, and parts are designed exclusively for motor 71982

racing, and does not include a stock or production model vehicle 71983
that may be modified for use in racing. For the purposes of this 71984
division: 71985

(1) A "competitive professional racing event" is a motor 71986
vehicle racing event sanctioned by one or more motor racing 71987
sanctioning organizations, at which aggregate cash prizes in 71988
excess of eight hundred thousand dollars are awarded to the 71989
competitors. 71990

(2) "Full-time employee" means an individual who is employed 71991
for consideration for thirty-five or more hours a week, or who 71992
renders any other standard of service generally accepted by custom 71993
or specified by contract as full-time employment. 71994

~~(UU)(1) "Prepaid authorization number" means a numeric or 71995
alphanumeric combination that represents a prepaid account that 71996
can be used by the account holder solely to obtain 71997
telecommunications service, and includes any renewals or increases 71998
in the prepaid account. 71999~~

~~(2) "Prepaid telephone calling card" means a tangible item 72000
that contains a prepaid authorization number that can be used 72001
solely to obtain telecommunications service, and includes any 72002
renewals or increases in the prepaid account. 72003~~

~~(VV) "Lease" or "rental" means any transfer for a 72004
consideration of the possession or control of and right to use, 72005
but not title to, tangible personal property for a fixed period of 72006
time greater than thirty days or for an open ended period of time 72007
with a minimum fixed period of more than thirty days or indefinite 72008
term, for consideration. "Lease" or "rental" includes future 72009
options to purchase or extend, and agreements described in 26 72010
U.S.C. 7701(h)(1) covering motor vehicles and trailers where the 72011
amount of consideration may be increased or decreased by reference 72012
to the amount realized upon the sale or disposition of the 72013~~

<u>property. "Lease" or "rental" does not include:</u>	72014
<u>(a) A transfer of possession or control of tangible personal</u>	72015
<u>property under a security agreement or a deferred payment plan</u>	72016
<u>that requires the transfer of title upon completion of the</u>	72017
<u>required payments;</u>	72018
<u>(b) A transfer of possession or control of tangible personal</u>	72019
<u>property under an agreement that requires the transfer of title</u>	72020
<u>upon completion of required payments and payment of an option</u>	72021
<u>price that does not exceed the greater of one hundred dollars or</u>	72022
<u>one per cent of the total required payments;</u>	72023
<u>(c) Providing tangible personal property along with an</u>	72024
<u>operator for a fixed or indefinite period of time, if the operator</u>	72025
<u>is necessary for the property to perform as designed. For purposes</u>	72026
<u>of this division, the operator must do more than maintain,</u>	72027
<u>inspect, or set-up the tangible personal property.</u>	72028
<u>(2) "Lease" and "rental," as defined in division (UU) of this</u>	72029
<u>section, shall not apply to leases or rentals that exist before</u>	72030
<u>the effective date of this amendment.</u>	72031
<u>(3) "Lease" and "rental" have the same meaning as in division</u>	72032
<u>(UU)(1) of this section regardless of whether a transaction is</u>	72033
<u>characterized as a lease or rental under generally accepted</u>	72034
<u>accounting principles, the Internal Revenue Code, Title XIII of</u>	72035
<u>the Revised Code, or other federal, state, or local laws.</u>	72036
(WW) (VV) "Mobile telecommunications service" has the same	72037
meaning as in the "Mobile Telecommunications Sourcing Act," Pub.	72038
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as	72039
amended, and includes related fees and ancillary services,	72040
including universal service fees, detailed billing service,	72041
directory assistance, service initiation, voice mail service, and	72042
vertical services, such as caller ID and three-way calling.	72043
(XX) (WW) "Certified service provider" has the same meaning as	72044

in section 5740.01 of the Revised Code. 72045

(XX) "Satellite broadcasting service" means the distribution 72046
or broadcasting of programming or services by satellite directly 72047
to the subscriber's premises without the use of ground receiving 72048
or distribution equipment, except at the subscriber's premises or 72049
in the uplink process to the satellite, and includes all service 72050
and rental charges, premium channels or other special services, 72051
installation and repair service charges, and any other charges 72052
having any connection with the provision of the satellite 72053
broadcasting service. 72054

(YY) "Tangible personal property" means personal property 72055
that can be seen, weighed, measured, felt, or touched, or that is 72056
in any other manner perceptible to the senses. For purposes of 72057
this chapter and Chapter 5741. of the Revised Code, "tangible 72058
personal property" includes motor vehicles, electricity, water, 72059
gas, steam, and prewritten computer software. 72060

(ZZ) "Direct mail" means printed material delivered or 72061
distributed by United States mail or other delivery service to a 72062
mass audience or to addressees on a mailing list provided by the 72063
consumer or at the direction of the consumer when the cost of the 72064
items are not billed directly to the recipients. "Direct mail" 72065
includes tangible personal property supplied directly or 72066
indirectly by the consumer to the direct mail vendor for inclusion 72067
in the package containing the printed material. "Direct mail" does 72068
not include multiple items of printed material delivered to a 72069
single address. 72070

(AAA) "Computer" means an electronic device that accepts 72071
information in digital or similar form and manipulates it for a 72072
result based on a sequence of instructions. 72073

(BBB) "Computer software" means a set of coded instructions 72074
designed to cause a computer or automatic data processing 72075

equipment to perform a task. 72076

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media. 72077
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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. 72080
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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 72101
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beer; soft drinks; sodas and beverages that are ordinarily 72108
dispensed at or in connection with bars and soda fountains, other 72109
than coffee, tea, and cocoa; root beer and root beer extracts; 72110
malt and malt extracts; mineral oils, cod liver oils, and halibut 72111
liver oil; medicines, including tonics, vitamin preparations, and 72112
other products sold primarily for their medicinal properties; and 72113
water, including mineral, bottled, and carbonated waters, and ice. 72114

(2) On and after July 1, 2004, "food" means substances, 72115
whether in liquid, concentrated, solid, frozen, dried, or 72116
dehydrated form, that are sold for ingestion or chewing by humans 72117
and are consumed for their taste or nutritional value. "Food" does 72118
not include alcoholic beverages, dietary supplements, soft drinks, 72119
or tobacco. 72120

(3) As used in division (EEE)(2) of this section: 72121

(a) "Alcoholic beverages" means beverages that are suitable 72122
for human consumption and contain one-half of one per cent or more 72123
of alcohol by volume. 72124

(b) "Dietary supplements" means any product, other than 72125
tobacco, that is intended to supplement the diet and that is 72126
intended for ingestion in tablet, capsule, powder, softgel, 72127
gelcap, or liquid form, or, if not intended for ingestion in such 72128
a form, is not represented as conventional food for use as a sole 72129
item of a meal or of the diet; that is required to be labeled as a 72130
dietary supplement, identifiable by the "supplement facts" box 72131
found on the label, as required by 21 C.F.R. 101.36; and that 72132
contains one or more of the following dietary ingredients: 72133

(i) A vitamin; 72134

(ii) A mineral; 72135

(iii) An herb or other botanical; 72136

(iv) An amino acid; 72137

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; 72138
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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. 72140
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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. 72143
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 72148
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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. 72150
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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. 72159
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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. 72163
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(III) "Mobility enhancing equipment" means equipment, 72168
including repair and replacement parts for such equipment, that is 72169
primarily and customarily used to provide or increase the ability 72170
to move from one place to another and is appropriate for use 72171
either in a home or a motor vehicle, that is not generally used by 72172
persons with normal mobility, and that does not include any motor 72173
vehicle or equipment on a motor vehicle normally provided by a 72174
motor vehicle manufacturer. 72175

(JJJ) "Prosthetic device" means a replacement, corrective, or 72176
supportive device, including repair and replacement parts for the 72177
device, worn on or in the human body to artificially replace a 72178
missing portion of the body, prevent or correct physical deformity 72179
or malfunction, or support a weak or deformed portion of the body. 72180
As used in this division, "prosthetic device" does not include 72181
corrective eyeglasses, contact lenses, or dental prosthesis. 72182

(KKK)(1) "Fractional aircraft ownership program" means a 72183
program in which persons within an affiliated group sell and 72184
manage fractional ownership program aircraft, provided that at 72185
least three hundred airworthy aircraft are operated in the program 72186
and the program meets all of the following criteria: 72187

(a) Management services are provided by at least one program 72188
manager within an affiliated group on behalf of the fractional 72189
owners. 72190

(b) Each program aircraft is owned or possessed by at least 72191
one fractional owner. 72192

(c) Each fractional owner owns or possesses at least a 72193
one-sixteenth interest in at least one fixed-wing program 72194
aircraft. 72195

(d) A dry-lease aircraft interchange arrangement is in effect 72196
among all of the fractional owners. 72197

<u>(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.</u>	72198
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<u>(2) As used in division (KKK)(1) of this section:</u>	72201
<u>(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.</u>	72202
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<u>(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.</u>	72204
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<u>(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.</u>	72208
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<u>(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.</u>	72215
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<u>(e) "Program manager" means the person that offers management</u>	72228

services to fractional owners pursuant to a management services 72229
agreement under division (KKK)(1)(e) of this section. 72230

Sec. 5739.011. (A) As used in this section: 72231

(1) "Manufacturer" means a person who is engaged in 72232
manufacturing, processing, assembling, or refining a product for 72233
sale. 72234

(2) "Manufacturing facility" means a single location where a 72235
manufacturing operation is conducted, including locations 72236
consisting of one or more buildings or structures in a contiguous 72237
area owned or controlled by the manufacturer. 72238

(3) "Materials handling" means the movement of the product 72239
being or to be manufactured, during which movement the product is 72240
not undergoing any substantial change or alteration in its state 72241
or form. 72242

(4) "Testing" means a process or procedure to identify the 72243
properties or assure the quality of a material or product. 72244

(5) "Completed product" means a manufactured item that is in 72245
the form and condition as it will be sold by the manufacturer. An 72246
item is completed when all processes that change or alter its 72247
state or form or enhance its value are finished, even though the 72248
item subsequently will be tested to ensure its quality or be 72249
packaged for storage or shipment. 72250

(6) "Continuous manufacturing operation" means the process in 72251
which raw materials or components are moved through the steps 72252
whereby manufacturing occurs. Materials handling of raw materials 72253
or parts from the point of receipt or preproduction storage or of 72254
a completed product, to or from storage, to or from packaging, or 72255
to the place from which the completed product will be shipped, is 72256
not a part of a continuous manufacturing operation. 72257

(B) For purposes of division ~~(E)(9)~~(B)(43)(g) of section 72258

~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" 72259
includes, but is not limited to, any of the following: 72260

(1) Production machinery and equipment that act upon the 72261
product or machinery and equipment that treat the materials or 72262
parts in preparation for the manufacturing operation; 72263

(2) Materials handling equipment that moves the product 72264
through a continuous manufacturing operation; equipment that 72265
temporarily stores the product during the manufacturing operation; 72266
or, excluding motor vehicles licensed to operate on public 72267
highways, equipment used in intraplant or interplant transfers of 72268
work in process where the plant or plants between which such 72269
transfers occur are manufacturing facilities operated by the same 72270
person; 72271

(3) Catalysts, solvents, water, acids, oil, and similar 72272
consumables that interact with the product and that are an 72273
integral part of the manufacturing operation; 72274

(4) Machinery, equipment, and other tangible personal 72275
property used during the manufacturing operation that control, 72276
physically support, produce power for, lubricate, or are otherwise 72277
necessary for the functioning of production machinery and 72278
equipment and the continuation of the manufacturing operation; 72279

(5) Machinery, equipment, fuel, power, material, parts, and 72280
other tangible personal property used to manufacture machinery, 72281
equipment, or other tangible personal property used in 72282
manufacturing a product for sale; 72283

(6) Machinery, equipment, and other tangible personal 72284
property used by a manufacturer to test raw materials, the product 72285
being manufactured, or the completed product; 72286

(7) Machinery and equipment used to handle or temporarily 72287
store scrap that is intended to be reused in the manufacturing 72288
operation at the same manufacturing facility; 72289

(8) Coke, gas, water, steam, and similar substances used in 72290
the manufacturing operation; machinery and equipment used for, and 72291
fuel consumed in, producing or extracting those substances; 72292
machinery, equipment, and other tangible personal property used to 72293
treat, filter, pump, or otherwise make the substance suitable for 72294
use in the manufacturing operation; and machinery and equipment 72295
used for, and fuel consumed in, producing electricity for use in 72296
the manufacturing operation; 72297

(9) Machinery, equipment, and other tangible personal 72298
property used to transport or transmit electricity, coke, gas, 72299
water, steam, or similar substances used in the manufacturing 72300
operation from the point of generation, if produced by the 72301
manufacturer, or from the point where the substance enters the 72302
manufacturing facility, if purchased by the manufacturer, to the 72303
manufacturing operation; 72304

(10) Machinery, equipment, and other tangible personal 72305
property that treats, filters, cools, refines, or otherwise 72306
renders water, steam, acid, oil, solvents, or similar substances 72307
used in the manufacturing operation reusable, provided that the 72308
substances are intended for reuse and not for disposal, sale, or 72309
transportation from the manufacturing facility; 72310

(11) Parts, components, and repair and installation services 72311
for items described in division (B) of this section. 72312

(C) For purposes of division ~~(E)(9)(B)(43)(g)~~ of section 72313
~~5739.01~~ 5739.02 of the Revised Code, the "thing transferred" does 72314
not include any of the following: 72315

(1) Tangible personal property used in administrative, 72316
personnel, security, inventory control, record-keeping, ordering, 72317
billing, or similar functions; 72318

(2) Tangible personal property used in storing raw materials 72319
or parts prior to the commencement of the manufacturing operation 72320

or used to handle or store a completed product, including storage	72321
that actively maintains a completed product in a marketable state	72322
or form;	72323
(3) Tangible personal property used to handle or store scrap	72324
or waste intended for disposal, sale, or other disposition, other	72325
than reuse in the manufacturing operation at the same	72326
manufacturing facility;	72327
(4) Tangible personal property that is or is to be	72328
incorporated into realty;	72329
(5) Machinery, equipment, and other tangible personal	72330
property used for ventilation, dust or gas collection, humidity or	72331
temperature regulation, or similar environmental control, except	72332
machinery, equipment, and other tangible personal property that	72333
totally regulates the environment in a special and limited area of	72334
the manufacturing facility where the regulation is essential for	72335
production to occur;	72336
(6) Tangible personal property used for the protection and	72337
safety of workers, unless the property is attached to or	72338
incorporated into machinery and equipment used in a continuous	72339
manufacturing operation;	72340
(7) Tangible personal property used to store fuel, water,	72341
solvents, acid, oil, or similar items consumed in the	72342
manufacturing operation;	72343
(8) Machinery, equipment, and other tangible personal	72344
property used to clean, repair, or maintain real or personal	72345
property in the manufacturing facility;	72346
(9) Motor vehicles registered for operation on public	72347
highways.	72348
(D) For purposes of division (E)(9) <u>(B)(43)(g)</u> of section	72349
5739.01 <u>5739.02</u> of the Revised Code, if the "thing transferred" is	72350

a machine used by a manufacturer in both a taxable and an exempt 72351
manner, it shall be totally taxable or totally exempt from 72352
taxation based upon its quantified primary use. If the "things 72353
transferred" are fungibles, they shall be taxed based upon the 72354
proportion of the fungibles used in a taxable manner. 72355

Sec. 5739.012. (A) As used in this section: 72356

(1) "Sham transaction" means a transaction or series of 72357
transactions without economic substance because there is no 72358
business purpose or expectation of profit other than obtaining tax 72359
benefits. 72360

(2) "Tax" includes only those taxes levied by or pursuant to 72361
Chapter 5739. of the Revised Code that are required to be 72362
calculated and collected as prescribed by division ~~(H)(4)(A)(2)~~ of 72363
section ~~5739.01~~ 5739.02 of the Revised Code. 72364

(3) "Taxpayer" includes any person required to pay or to 72365
collect and remit tax. 72366

(B)(1) The tax commissioner may disregard any sham 72367
transaction and ascertain a taxpayer's liability for tax without 72368
the sham transaction. 72369

(2) A lease with a renewal clause and a termination penalty 72370
or similar provision that applies if the renewal clause is not 72371
exercised is presumed to be a sham transaction. In such a case, 72372
the tax shall be calculated and paid on the basis of the entire 72373
length of the lease period, including any renewal periods, until 72374
the termination penalty or similar provision no longer applies. 72375
The taxpayer shall bear the burden of establishing, by a 72376
preponderance of the evidence, that the transaction or series of 72377
transactions is not a sham transaction. 72378

(C) The tax commissioner may prescribe rules to administer 72379
this section. 72380

Sec. 5739.02. For the purpose of providing revenue with which 72381
to meet the needs of the state, for the use of the general revenue 72382
fund of the state, for the purpose of securing a thorough and 72383
efficient system of common schools throughout the state, for the 72384
purpose of affording revenues, in addition to those from general 72385
property taxes, permitted under constitutional limitations, and 72386
from other sources, for the support of local governmental 72387
functions, and for the purpose of reimbursing the state for the 72388
expense of administering this chapter, an excise tax is hereby 72389
levied on each retail sale made in this state. 72390

(A)(1) The tax shall be collected pursuant to the schedules 72391
as provided in section 5739.025 of the Revised Code, provided that 72392
on and after July 1, 2003, and on or before June 30, 2005, the 72393
rate of tax shall be six per cent. On and after July 1, 2005, the 72394
rate of the tax shall be five per cent. The 72395

~~The~~ tax applies and is collectible when the sale is made, 72396
regardless of the time when the price is paid or delivered. 72397

~~In~~ (2) In the case of the lease or rental, with a fixed term 72398
of more than thirty days or an indefinite term with a minimum 72399
period of more than thirty days, of any motor vehicles designed by 72400
the manufacturer to carry a load of not more than one ton, 72401
watercraft, outboard motor, or aircraft, or of any tangible 72402
personal property, other than motor vehicles designed by the 72403
manufacturer to carry a load of more than one ton, to be used by 72404
the lessee or renter primarily for business purposes, the tax 72405
shall be collected by the vendor at the time the lease or rental 72406
is consummated and shall be calculated by the vendor on the basis 72407
of the total amount to be paid by the lessee or renter under the 72408
lease agreement. If the total amount of the consideration for the 72409
lease or rental includes amounts that are not calculated at the 72410
time the lease or rental is executed, the tax shall be calculated 72411

and collected by the vendor at the time such amounts are billed to 72412
the lessee or renter. In the case of an open-end lease or rental, 72413
the tax shall be calculated by the vendor on the basis of the 72414
total amount to be paid during the initial fixed term of the lease 72415
or rental, and for each subsequent renewal period as it comes due. 72416
As used in this division, "motor vehicle" has the same meaning as 72417
in section 4501.01 of the Revised Code, and "watercraft" includes 72418
an outdrive unit attached to the watercraft. 72419

(3) Except as provided in division (A)(2) of this section, in 72420
the case of a sale, the price of which consists in whole or in 72421
part of ~~rentals for the use of the thing transferred~~ the lease or 72422
rental of tangible personal property, the tax, ~~as regards those~~ 72423
~~rentals,~~ shall be measured by the installments of ~~those rentals~~ 72424
that lease or rental. 72425

(4) In the case of a sale of a physical fitness facility 72426
service or recreation and sports club service defined under 72427
~~division (MM) or (NN) of section 5739.01 of the Revised Code,~~ the 72428
price of which consists in whole or in part of a membership for 72429
the receipt of the benefit of the service, the tax applicable to 72430
the sale shall be measured by the installments thereof. 72431

(B) The tax does not apply to the following: 72432

(1) Sales to the state or any of its political subdivisions, 72433
or to any other state or its political subdivisions if the laws of 72434
that state exempt from taxation sales made to this state and its 72435
political subdivisions; 72436

(2) Sales of food for human consumption off the premises 72437
where sold; 72438

(3) Sales of food sold to students only in a cafeteria, 72439
dormitory, fraternity, or sorority maintained in a private, 72440
public, or parochial school, college, or university; 72441

(4) Sales of newspapers and of magazine subscriptions and 72442

sales or transfers of magazines distributed as controlled	72443
circulation publications;	72444
(5) The furnishing, preparing, or serving of meals without	72445
charge by an employer to an employee provided the employer records	72446
the meals as part compensation for services performed or work	72447
done;	72448
(6) Sales of motor fuel upon receipt, use, distribution, or	72449
sale of which in this state a tax is imposed by the law of this	72450
state, but this exemption shall not apply to the sale of motor	72451
fuel on which a refund of the tax is allowable under <u>division (A)</u>	72452
<u>of</u> section 5735.14 of the Revised Code; and the tax commissioner	72453
may deduct the amount of tax levied by this section applicable to	72454
the price of motor fuel when granting a refund of motor fuel tax	72455
pursuant to <u>division (A) of</u> section 5735.14 of the Revised Code	72456
and shall cause the amount deducted to be paid into the general	72457
revenue fund of this state;	72458
(7) Sales of natural gas by a natural gas company, of water	72459
by a water-works company, or of steam by a heating company, if in	72460
each case the thing sold is delivered to consumers through pipes	72461
or conduits, and all sales of communications services by a	72462
telephone or telegraph company, all terms as defined in section	72463
5727.01 of the Revised Code, <u>and sales of electricity delivered</u>	72464
<u>through wires</u> ;	72465
(8) Casual sales by a person, or auctioneer employed directly	72466
by the person to conduct such sales, except as to such sales of	72467
motor vehicles, watercraft or outboard motors required to be	72468
titled under section 1548.06 of the Revised Code, watercraft	72469
documented with the United States coast guard, snowmobiles, and	72470
all-purpose vehicles as defined in section 4519.01 of the Revised	72471
Code;	72472
(9) Sales of services or tangible personal property, other	72473

than motor vehicles, mobile homes, and manufactured homes, by 72474
churches, organizations exempt from taxation under section 72475
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72476
organizations operated exclusively for charitable purposes as 72477
defined in division (B)(12) of this section, provided that the 72478
number of days on which such tangible personal property or 72479
services, other than items never subject to the tax, are sold does 72480
not exceed six in any calendar year. If the number of days on 72481
which such sales are made exceeds six in any calendar year, the 72482
church or organization shall be considered to be engaged in 72483
business and all subsequent sales by it shall be subject to the 72484
tax. In counting the number of days, all sales by groups within a 72485
church or within an organization shall be considered to be sales 72486
of that church or organization, except that sales made by separate 72487
student clubs and other groups of students of a primary or 72488
secondary school, and sales made by a parent-teacher association, 72489
booster group, or similar organization that raises money to 72490
support or fund curricular or extracurricular activities of a 72491
primary or secondary school, shall not be considered to be sales 72492
of such school, and sales by each such club, group, association, 72493
or organization shall be counted separately for purposes of the 72494
six-day limitation. This division does not apply to sales by a 72495
noncommercial educational radio or television broadcasting 72496
station. 72497

(10) Sales not within the taxing power of this state under 72498
the Constitution of the United States; 72499

(11) The Except for transactions that are sales under 72500
division (B)(3)(s) of section 5739.01 of the Revised Code, the 72501
transportation of persons or property, unless the transportation 72502
is by a private investigation and security service; 72503

(12) Sales of tangible personal property or services to 72504
churches, to organizations exempt from taxation under section 72505

501(c)(3) of the Internal Revenue Code of 1986, and to any other 72506
nonprofit organizations operated exclusively for charitable 72507
purposes in this state, no part of the net income of which inures 72508
to the benefit of any private shareholder or individual, and no 72509
substantial part of the activities of which consists of carrying 72510
on propaganda or otherwise attempting to influence legislation; 72511
sales to offices administering one or more homes for the aged or 72512
one or more hospital facilities exempt under section 140.08 of the 72513
Revised Code; and sales to organizations described in division (D) 72514
of section 5709.12 of the Revised Code. 72515

"Charitable purposes" means the relief of poverty; the 72516
improvement of health through the alleviation of illness, disease, 72517
or injury; the operation of an organization exclusively for the 72518
provision of professional, laundry, printing, and purchasing 72519
services to hospitals or charitable institutions; the operation of 72520
a home for the aged, as defined in section 5701.13 of the Revised 72521
Code; the operation of a radio or television broadcasting station 72522
that is licensed by the federal communications commission as a 72523
noncommercial educational radio or television station; the 72524
operation of a nonprofit animal adoption service or a county 72525
humane society; the promotion of education by an institution of 72526
learning that maintains a faculty of qualified instructors, 72527
teaches regular continuous courses of study, and confers a 72528
recognized diploma upon completion of a specific curriculum; the 72529
operation of a parent-teacher association, booster group, or 72530
similar organization primarily engaged in the promotion and 72531
support of the curricular or extracurricular activities of a 72532
primary or secondary school; the operation of a community or area 72533
center in which presentations in music, dramatics, the arts, and 72534
related fields are made in order to foster public interest and 72535
education therein; the production of performances in music, 72536
dramatics, and the arts; or the promotion of education by an 72537
organization engaged in carrying on research in, or the 72538

dissemination of, scientific and technological knowledge and 72539
information primarily for the public. 72540

Nothing in this division shall be deemed to exempt sales to 72541
any organization for use in the operation or carrying on of a 72542
trade or business, or sales to a home for the aged for use in the 72543
operation of independent living facilities as defined in division 72544
(A) of section 5709.12 of the Revised Code. 72545

(13) Building and construction materials and services sold to 72546
construction contractors for incorporation into a structure or 72547
improvement to real property under a construction contract with 72548
this state or a political subdivision of this state, or with the 72549
United States government or any of its agencies; building and 72550
construction materials and services sold to construction 72551
contractors for incorporation into a structure or improvement to 72552
real property that are accepted for ownership by this state or any 72553
of its political subdivisions, or by the United States government 72554
or any of its agencies at the time of completion of the structures 72555
or improvements; building and construction materials sold to 72556
construction contractors for incorporation into a horticulture 72557
structure or livestock structure for a person engaged in the 72558
business of horticulture or producing livestock; building 72559
materials and services sold to a construction contractor for 72560
incorporation into a house of public worship or religious 72561
education, or a building used exclusively for charitable purposes 72562
under a construction contract with an organization whose purpose 72563
is as described in division (B)(12) of this section; building 72564
materials and services sold to a construction contractor for 72565
incorporation into a building under a construction contract with 72566
an organization exempt from taxation under section 501(c)(3) of 72567
the Internal Revenue Code of 1986 when the building is to be used 72568
exclusively for the organization's exempt purposes; building and 72569
construction materials sold for incorporation into the original 72570

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 72635
perambulation; and items of tangible personal property used to 72636
supplement impaired functions of the human body such as 72637
respiration, hearing, or elimination; 72638~~

~~(b) Sales of wheelchairs; items incorporated into or used in 72639
conjunction with a motor vehicle for the purpose of transporting 72640
wheelchairs, other than transportation conducted in connection 72641
with the sale or delivery of wheelchairs; and items incorporated 72642
into or used in conjunction with a motor vehicle that are 72643
specifically designed to assist a person with a disability to 72644
access or operate the motor vehicle. As used in this division, 72645
"person with a disability" means any person who has lost the use 72646
of one or both legs or one or both arms, who is blind, deaf, or 72647
disabled to the extent that the person is unable to move about 72648
without the aid of crutches or a wheelchair, or whose mobility is 72649
restricted by a permanent cardiovascular, pulmonary, or other 72650
disabling condition. 72651~~

~~(c) No exemption under this division shall be allowed for 72652
nonprescription drugs, medicines, or remedies; items or devices 72653
used to supplement vision; items or devices whose function is 72654
solely or primarily cosmetic; or physical fitness equipment. This 72655
division does not apply to sales to a physician or medical 72656
facility for use in the treatment of a patient, durable medical 72657
equipment for home use, or mobility enhancing equipment, when made 72658
pursuant to a prescription and when such devices or equipment are 72659
for use by a human being. 72660~~

(20) Sales of emergency and fire protection vehicles and 72661
equipment to nonprofit organizations for use solely in providing 72662
fire protection and emergency services, including trauma care and 72663
emergency medical services, for political subdivisions of the 72664
state; 72665

(21) Sales of tangible personal property manufactured in this 72666

state, if sold by the manufacturer in this state to a retailer for 72667
use in the retail business of the retailer outside of this state 72668
and if possession is taken from the manufacturer by the purchaser 72669
within this state for the sole purpose of immediately removing the 72670
same from this state in a vehicle owned by the purchaser; 72671

(22) Sales of services provided by the state or any of its 72672
political subdivisions, agencies, instrumentalities, institutions, 72673
or authorities, or by governmental entities of the state or any of 72674
its political subdivisions, agencies, instrumentalities, 72675
institutions, or authorities; 72676

(23) Sales of motor vehicles to nonresidents of this state 72677
upon the presentation of an affidavit executed in this state by 72678
the nonresident purchaser affirming that the purchaser is a 72679
nonresident of this state, that possession of the motor vehicle is 72680
taken in this state for the sole purpose of immediately removing 72681
it from this state, that the motor vehicle will be permanently 72682
titled and registered in another state, and that the motor vehicle 72683
will not be used in this state; 72684

(24) Sales to persons engaged in the preparation of eggs for 72685
sale of tangible personal property used or consumed directly in 72686
such preparation, including such tangible personal property used 72687
for cleaning, sanitizing, preserving, grading, sorting, and 72688
classifying by size; packages, including material and parts for 72689
packages, and machinery, equipment, and material for use in 72690
packaging eggs for sale; and handling and transportation equipment 72691
and parts therefor, except motor vehicles licensed to operate on 72692
public highways, used in intraplant or interplant transfers or 72693
shipment of eggs in the process of preparation for sale, when the 72694
plant or plants within or between which such transfers or 72695
shipments occur are operated by the same person. "Packages" 72696
includes containers, cases, baskets, flats, fillers, filler flats, 72697
cartons, closure materials, labels, and labeling materials, and 72698

"packaging" means placing therein.	72699
(25)(a) Sales of water to a consumer for residential use,	72700
except the sale of bottled water, distilled water, mineral water,	72701
carbonated water, or ice;	72702
(b) Sales of water by a nonprofit corporation engaged	72703
exclusively in the treatment, distribution, and sale of water to	72704
consumers, if such water is delivered to consumers through pipes	72705
or tubing.	72706
(26) Fees charged for inspection or reinspection of motor	72707
vehicles under section 3704.14 of the Revised Code;	72708
(27) Sales to persons licensed to conduct a food service	72709
operation pursuant to section 3717.43 of the Revised Code, of	72710
tangible personal property primarily used directly for the	72711
following:	72712
(a) To prepare food for human consumption for sale;	72713
(b) To preserve food that has been or will be prepared for	72714
human consumption for sale by the food service operator, not	72715
including tangible personal property used to display food for	72716
selection by the consumer;	72717
(c) To clean tangible personal property used to prepare or	72718
serve food for human consumption for sale.	72719
(28) Sales of animals by nonprofit animal adoption services	72720
or county humane societies;	72721
(29) Sales of services to a corporation described in division	72722
(A) of section 5709.72 of the Revised Code, and sales of tangible	72723
personal property that qualifies for exemption from taxation under	72724
section 5709.72 of the Revised Code;	72725
(30) Sales and installation of agricultural land tile, as	72726
defined in division (B)(5)(a) of section 5739.01 of the Revised	72727
Code;	72728

(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; 72729
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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; 72732
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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; 72736
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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. 72741
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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, 72757
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including, but not limited to, gold, silver, platinum, and 72760
palladium, and which is in such state or condition that its value 72761
depends upon its content and not upon its form. "Investment metal 72762
bullion" does not include fabricated precious metal that has been 72763
processed or manufactured for one or more specific and customary 72764
industrial, professional, or artistic uses. "Investment coins" 72765
means numismatic coins or other forms of money and legal tender 72766
manufactured of gold, silver, platinum, palladium, or other metal 72767
under the laws of the United States or any foreign nation with a 72768
fair market value greater than any statutory or nominal value of 72769
such coins. 72770

(36)(a) Sales where the purpose of the consumer is to use or 72771
consume the things transferred in making retail sales and 72772
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72773
certificates, or other advertising material that prices and 72774
describes tangible personal property offered for retail sale. 72775

(b) Sales to direct marketing vendors of preliminary 72776
materials such as photographs, artwork, and typesetting that will 72777
be used in printing advertising material; of printed matter that 72778
offers free merchandise or chances to win sweepstake prizes and 72779
that is mailed to potential customers with advertising material 72780
described in division (B)(36)(a) of this section; and of equipment 72781
such as telephones, computers, facsimile machines, and similar 72782
tangible personal property primarily used to accept orders for 72783
direct marketing retail sales. 72784

(c) Sales of automatic food vending machines that preserve 72785
food with a shelf life of forty-five days or less by refrigeration 72786
and dispense it to the consumer. 72787

For purposes of division (B)(36) of this section, "direct 72788
marketing" means the method of selling where consumers order 72789
tangible personal property by United States mail, delivery 72790
service, or telecommunication and the vendor delivers or ships the 72791

tangible personal property sold to the consumer from a warehouse, 72792
catalogue distribution center, or similar fulfillment facility by 72793
means of the United States mail, delivery service, or common 72794
carrier. 72795

(37) Sales to a person engaged in the business of 72796
horticulture or producing livestock of materials to be 72797
incorporated into a horticulture structure or livestock structure; 72798

~~(38) The sale of a motor vehicle that is used exclusively for 72799
a vanpool ridesharing arrangement to persons participating in the 72800
vanpool ridesharing arrangement when the vendor is selling the 72801
vehicle pursuant to a contract between the vendor and the 72802
department of transportation; 72803~~

~~(39)~~ Sales of personal computers, computer monitors, computer 72804
keyboards, modems, and other peripheral computer equipment to an 72805
individual who is licensed or certified to teach in an elementary 72806
or a secondary school in this state for use by that individual in 72807
preparation for teaching elementary or secondary school students; 72808

~~(40)~~(39) Sales to a professional racing team of any of the 72809
following: 72810

(a) Motor racing vehicles; 72811

(b) Repair services for motor racing vehicles; 72812

(c) Items of property that are attached to or incorporated in 72813
motor racing vehicles, including engines, chassis, and all other 72814
components of the vehicles, and all spare, replacement, and 72815
rebuilt parts or components of the vehicles; except not including 72816
tires, consumable fluids, paint, and accessories consisting of 72817
instrumentation sensors and related items added to the vehicle to 72818
collect and transmit data by means of telemetry and other forms of 72819
communication. 72820

~~(41)~~(40) Sales of used manufactured homes and used mobile 72821

homes, as defined in section 5739.0210 of the Revised Code, made 72822
on or after January 1, 2000; 72823

~~(42)~~(41) Sales of tangible personal property and services to 72824
a provider of electricity used or consumed directly and primarily 72825
in generating, transmitting, or distributing electricity for use 72826
by others, including property that is or is to be incorporated 72827
into and will become a part of the consumer's production, 72828
transmission, or distribution system and that retains its 72829
classification as tangible personal property after incorporation; 72830
fuel or power used in the production, transmission, or 72831
distribution of electricity; and tangible personal property and 72832
services used in the repair and maintenance of the production, 72833
transmission, or distribution system, including only those motor 72834
vehicles as are specially designed and equipped for such use. The 72835
exemption provided in this division shall be in lieu of all other 72836
~~exceptions~~ exemptions in division ~~(E)(2)~~(B)(43)(a) of this section 72837
~~5739.01 of the Revised Code~~ to which a provider of electricity may 72838
otherwise be entitled based on the use of the tangible personal 72839
property or service purchased in generating, transmitting, or 72840
distributing electricity. 72841

(42) Sales to a person providing services under division 72842
(B)(3)(s) of section 5739.01 of the Revised Code of tangible 72843
personal property and services used directly and primarily in 72844
providing taxable services under that section. 72845

(43) Sales where the purpose of the purchaser is to do any of 72846
the following: 72847

(a) To incorporate the thing transferred as a material or a 72848
part into tangible personal property to be produced for sale by 72849
manufacturing, assembling, processing, or refining; or to use or 72850
consume the thing transferred directly in producing tangible 72851
personal property for sale by mining, including, without 72852
limitation, the extraction from the earth of all substances that 72853

are classed geologically as minerals, production of crude oil and 72854
natural gas, farming, agriculture, horticulture, or floriculture, 72855
or directly in the rendition of a public utility service, except 72856
that the sales tax levied by this section shall be collected upon 72857
all meals, drinks, and food for human consumption sold when 72858
transporting persons. Persons engaged in rendering farming, 72859
agricultural, horticultural, or floricultural services, and 72860
services in the exploration for, and production of, crude oil and 72861
natural gas, for others are deemed engaged directly in farming, 72862
agriculture, horticulture, and floriculture, or exploration for, 72863
and production of, crude oil and natural gas. This paragraph does 72864
not exempt from "retail sale" or "sales at retail" the sale of 72865
tangible personal property that is to be incorporated into a 72866
structure or improvement to real property. 72867

(b) To hold the thing transferred as security for the 72868
performance of an obligation of the vendor; 72869

(c) To resell, hold, use, or consume the thing transferred as 72870
evidence of a contract of insurance; 72871

(d) To use or consume the thing directly in commercial 72872
fishing; 72873

(e) To incorporate the thing transferred as a material or a 72874
part into, or to use or consume the thing transferred directly in 72875
the production of, magazines distributed as controlled circulation 72876
publications; 72877

(f) To use or consume the thing transferred in the production 72878
and preparation in suitable condition for market and sale of 72879
printed, imprinted, overprinted, lithographic, multilithic, 72880
blueprinted, photostatic, or other productions or reproductions of 72881
written or graphic matter; 72882

(g) To use the thing transferred, as described in section 72883
5739.011 of the Revised Code, primarily in a manufacturing 72884

<u>operation to produce tangible personal property for sale;</u>	72885
<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>	72886 72887 72888 72889 72890 72891
<u>(i) To use the thing transferred as qualified research and development equipment;</u>	72892 72893
<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>	72894 72895 72896 72897 72898 72899 72900 72901 72902 72903 72904 72905 72906
<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>	72907 72908 72909 72910 72911 72912 72913
<u>(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;</u>	72914 72915

(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. 72916
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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. 72921
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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. 72924
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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. 72931
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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. 72937
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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~~ 72941
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~~substitutes, tea, and cocoa and cocoa products. It does not 72947
include: spirituous liquors, wine, mixed beverages, or beer; soft 72948
drinks; sodas and beverages that are ordinarily dispensed at or in 72949
connection with bars and soda fountains, other than coffee, tea, 72950
and cocoa; root beer and root beer extracts; malt and malt 72951
extracts; mineral oils, cod liver oils, and halibut liver oil; 72952
medicines, including tonics, vitamin preparations, and other 72953
products sold primarily for their medicinal properties; and water, 72954
including mineral, bottled, and carbonated waters, and ice. 72955~~

~~(C)(D) The levy of this tax on retail sales of recreation and 72956
sports club service shall not prevent a municipal corporation from 72957
levying any tax on recreation and sports club dues or on any 72958
income generated by recreation and sports club dues. 72959~~

~~(E) The tax collected by the vendor from the consumer under 72960
this chapter is not part of the price, but is a tax collection for 72961
the benefit of the state, and of counties levying an additional 72962
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72963
Code and of transit authorities levying an additional sales tax 72964
pursuant to section 5739.023 of the Revised Code. Except for the 72965
discount authorized under section 5739.12 of the Revised Code and 72966
the effects of any rounding pursuant to section 5703.055 of the 72967
Revised Code, no person other than the state or such a county or 72968
transit authority shall derive any benefit from the collection or 72969
payment of the tax levied by this section or section 5739.021, 72970
5739.023, or 5739.026 of the Revised Code. 72971~~

Sec. 5739.021. (A) For the purpose of providing additional 72972
general revenues for the county or supporting criminal and 72973
administrative justice services in the county, or both, and to pay 72974
the expenses of administering such levy, any county may levy a tax 72975
at the rate of not more than one per cent at any multiple of 72976
one-fourth of one per cent upon every retail sale made in the 72977

county, except sales of watercraft and outboard motors required to 72978
be titled pursuant to Chapter 1548. of the Revised Code and sales 72979
of motor vehicles, and may increase the rate of an existing tax to 72980
not more than one per cent at any multiple of one-fourth of one 72981
per cent. 72982

The tax shall be levied and the rate increased pursuant to a 72983
resolution of the board of county commissioners. The resolution 72984
shall state the purpose for which the tax is to be levied and the 72985
number of years for which the tax is to be levied, or that it is 72986
for a continuing period of time. If the tax is to be levied for 72987
the purpose of providing additional general revenues and for the 72988
purpose of supporting criminal and administrative justice 72989
services, the resolution shall state the rate or amount of the tax 72990
to be apportioned to each such purpose. The rate or amount may be 72991
different for each year the tax is to be levied, but the rates or 72992
amounts actually apportioned each year shall not be different from 72993
that stated in the resolution for that year. If the resolution is 72994
adopted as an emergency measure necessary for the immediate 72995
preservation of the public peace, health, or safety, it must 72996
receive an affirmative vote of all of the members of the board of 72997
county commissioners and shall state the reasons for such 72998
necessity. A The board shall deliver a certified copy of the 72999
resolution shall be delivered to the tax commissioner either 73000
personally or by certified mail, not later than the ~~sixtieth~~ 73001
sixty-fifth day prior to the date on which the tax is to become 73002
effective, which shall be the first day of the calendar quarter. 73003

Prior to the adoption of any resolution under this section, 73004
the board of county commissioners shall conduct two public 73005
hearings on the resolution, the second hearing to be not less than 73006
three nor more than ten days after the first. Notice of the date, 73007
time, and place of the hearings shall be given by publication in a 73008
newspaper of general circulation in the county once a week on the 73009

same day of the week for two consecutive weeks, the second 73010
publication being not less than ten nor more than thirty days 73011
prior to the first hearing. 73012

Except as provided in division (B)(3) of this section, the 73013
resolution shall ~~become effective on the first day of a calendar~~ 73014
~~quarter following the expiration of sixty days from the date of~~ 73015
~~its adoption,~~ be subject to a referendum as provided in sections 73016
305.31 to 305.41 of the Revised Code. 73017

If a petition for a referendum is filed, the county auditor 73018
with whom the petition was filed shall, within five days, notify 73019
the board of county commissioners and the tax commissioner of the 73020
filing of the petition by certified mail. If the board of 73021
elections with which the petition was filed declares the petition 73022
invalid, the board of elections, within five days, shall notify 73023
the board of county commissioners and the tax commissioner of that 73024
declaration by certified mail. If the petition is declared to be 73025
invalid, the effective date of the tax or increased rate of tax 73026
levied by this section shall be the first day of a calendar 73027
quarter following the expiration of sixty-five days from the date 73028
the ~~petition was declared invalid by~~ commissioner receives notice 73029
from the board of elections that the petition is invalid. 73030

(B)(1) A resolution that is not adopted as an emergency 73031
measure may direct the board of elections to submit the question 73032
of levying the tax or increasing the rate of tax to the electors 73033
of the county at a special election held on the date specified by 73034
the board of county commissioners in the resolution, provided that 73035
the election occurs not less than seventy-five days after a 73036
certified copy of such resolution is transmitted to the board of 73037
elections and the election is not held in February or August of 73038
any year. Upon transmission of the resolution to the board of 73039
elections, the board of county commissioners shall notify the tax 73040
commissioner in writing of the levy question to be submitted to 73041

the electors. No resolution adopted under this division shall go 73042
into effect unless approved by a majority of those voting upon it, 73043
and, except as provided in division (B)(3) of this section, shall 73044
become effective on the first day of a calendar quarter following 73045
the expiration of sixty-five days from the date ~~of notice to~~ the 73046
tax commissioner ~~by~~ receives notice from the board of elections of 73047
the affirmative vote. 73048

(2) A resolution that is adopted as an emergency measure 73049
shall go into effect as provided in division (A) of this section, 73050
but may direct the board of elections to submit the question of 73051
repealing the tax or increase in the rate of the tax to the 73052
electors of the county at the next general election in the county 73053
occurring not less than seventy-five days after a certified copy 73054
of the resolution is transmitted to the board of elections. Upon 73055
transmission of the resolution to the board of elections, the 73056
board of county commissioners shall notify the tax commissioner in 73057
writing of the levy question to be submitted to the electors. The 73058
ballot question shall be the same as that prescribed in section 73059
5739.022 of the Revised Code. The board of elections shall notify 73060
the board of county commissioners and the tax commissioner of the 73061
result of the election immediately after the result has been 73062
declared. If a majority of the qualified electors voting on the 73063
question of repealing the tax or increase in the rate of the tax 73064
vote for repeal of the tax or repeal of the increase, the board of 73065
county commissioners, on the first day of a calendar quarter 73066
following the expiration of sixty-five days after the date ~~it~~ 73067
~~received~~ the board and tax commissioner receive notice of the 73068
result of the election, shall, in the case of a repeal of the tax, 73069
cease to levy the tax, or, in the case of a repeal of an increase 73070
in the rate of the tax, cease to levy the increased rate and levy 73071
the tax at the rate at which it was imposed immediately prior to 73072
the increase in rate. 73073

(3) If a vendor that is registered with the central 73074
electronic registration system provided for in section 5740.05 of 73075
the Revised Code makes a sale in this state by printed catalog and 73076
the consumer computed the tax on the sale based on local rates 73077
published in the catalog, any tax levied or repealed or rate 73078
changed under this section shall not apply to such ~~sales~~ a sale 73079
until the first day of a calendar quarter following the expiration 73080
of one hundred twenty days from the date of notice by the tax 73081
commissioner ~~to the vendor, or to the vendor's certified service~~ 73082
~~provider, if the vendor has selected one~~ pursuant to division (H) 73083
of this section. 73084

(C) If a resolution is rejected at a referendum or if a 73085
resolution adopted after January 1, 1982, as an emergency measure 73086
is repealed by the electors pursuant to division (B)(2) of this 73087
section or section 5739.022 of the Revised Code, then for one year 73088
after the date of the election at which the resolution was 73089
rejected or repealed the board of county commissioners may not 73090
adopt any resolution authorized by this section as an emergency 73091
measure. 73092

(D) The board of county commissioners, at any time while a 73093
tax levied under this section is in effect, may by resolution 73094
reduce the rate at which the tax is levied to a lower rate 73095
authorized by this section. Any reduction in the rate at which the 73096
tax is levied shall be made effective on the first day of a 73097
calendar quarter next following the ~~sixtieth~~ sixty-fifth day after 73098
~~the certification~~ a certified copy of the resolution is delivered 73099
to the tax commissioner. 73100

(E) The tax on every retail sale subject to a tax levied 73101
pursuant to this section shall be in addition to the tax levied by 73102
section 5739.02 of the Revised Code and any tax levied pursuant to 73103
section 5739.023 or 5739.026 of the Revised Code. 73104

A county that levies a tax pursuant to this section shall 73105
levy a tax at the same rate pursuant to section 5741.021 of the 73106
Revised Code. 73107

The additional tax levied by the county shall be collected 73108
pursuant to section 5739.025 of the Revised Code. If the 73109
additional tax or some portion thereof is levied for the purpose 73110
of criminal and administrative justice services, the revenue from 73111
the tax, or the amount or rate apportioned to that purpose, shall 73112
be credited to a special fund created in the county treasury for 73113
receipt of that revenue. 73114

Any tax levied pursuant to this section is subject to the 73115
exemptions provided in section 5739.02 of the Revised Code and in 73116
addition shall not be applicable to sales not within the taxing 73117
power of a county under the Constitution of the United States or 73118
the Ohio Constitution. 73119

(F) For purposes of this section, a copy of a resolution is 73120
"certified" when it contains a written statement attesting that 73121
the copy is a true and exact reproduction of the original 73122
resolution. 73123

(G) If a board of commissioners intends to adopt a resolution 73124
to levy a tax in whole or in part for the purpose of criminal and 73125
administrative justice services, the board shall prepare and make 73126
available at the first public hearing at which the resolution is 73127
considered a statement containing the following information: 73128

(1) For each of the two preceding fiscal years, the amount of 73129
expenditures made by the county from the county general fund for 73130
the purpose of criminal and administrative justice services; 73131

(2) For the fiscal year in which the resolution is adopted, 73132
the board's estimate of the amount of expenditures to be made by 73133
the county from the county general fund for the purpose of 73134
criminal and administrative justice services; 73135

(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 73168
powers and duties vested in that court; the exercise by the clerk 73169
of the court of common pleas, any clerk of a municipal court 73170
having jurisdiction throughout the county, or the clerk of any 73171
county court of all powers and duties vested in the clerk by law 73172
except, in the case of the clerk of the court of common pleas, the 73173
titling of motor vehicles or watercraft pursuant to Chapter 1548. 73174
or 4505. of the Revised Code; the exercise by the county coroner 73175
of all powers and duties vested in that office by law; making 73176
payments to any other public agency or a private, nonprofit 73177
agency, the purposes of which in the county include the diversion, 73178
adjudication, detention, or rehabilitation of criminals or 73179
juvenile offenders; the operation and maintenance of any detention 73180
facility, as defined in section 2921.01 of the Revised Code; and 73181
the construction, acquisition, equipping, or repair of such a 73182
detention facility, including the payment of any debt charges 73183
incurred in the issuance of securities pursuant to Chapter 133. of 73184
the Revised Code for the purpose of constructing, acquiring, 73185
equipping, or repairing such a facility. 73186

Sec. 5739.022. (A) The question of repeal of either a county 73187
permissive tax or an increase in the rate of a county permissive 73188
tax that was adopted as an emergency measure pursuant to section 73189
5739.021 or 5739.026 of the Revised Code may be initiated by 73190
filing with the board of elections of the county not less than 73191
seventy-five days before the general election in any year a 73192
petition requesting that an election be held on the question. The 73193
question of repealing an increase in the rate of the county 73194
permissive tax shall be submitted to the electors as a separate 73195
question from the repeal of the tax in effect prior to the 73196
increase in the rate. Any petition filed under this section shall 73197
be signed by qualified electors residing in the county equal in 73198
number to ten per cent of those voting for governor at the most 73199

recent gubernatorial election. 73200

After determination by it that the petition is valid, the 73201
board of elections shall submit the question to the electors of 73202
the county at the next general election. The election shall be 73203
conducted, canvassed, and certified in the same manner as regular 73204
elections for county offices in the county. The board of elections 73205
shall notify the tax commissioner, in writing, of the election 73206
upon determining that the petition is valid. Notice of the 73207
election shall also be published in a newspaper of general 73208
circulation in the district once a week for four consecutive weeks 73209
prior to the election, stating the purpose, the time, and the 73210
place of the election. The form of the ballot cast at the election 73211
shall be prescribed by the secretary of state; however, the ballot 73212
question shall read, "shall the tax (or, increase in the rate of 73213
the tax) be retained? 73214

	Yes
	No

"

The question covered by the petition shall be submitted as a 73215
separate proposition, but it may be printed on the same ballot 73216
with any other proposition submitted at the same election other 73217
than the election of officers. 73218

(B) If a majority of the qualified electors voting on the 73219
question of repeal of either a county permissive tax or an 73220
increase in the rate of a county permissive tax approve the 73221
repeal, the board of elections shall notify the board of county 73222
commissioners and the tax commissioner of the result of the 73223
election immediately after the result has been declared. The board 73224
of county commissioners shall, on the first day of the ~~month~~ 73225
calendar quarter following the expiration of ~~thirty~~ sixty-five 73226
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days after the date ~~it receives~~ the board and the tax commissioner 73231
receive the notice, in the case of a repeal of a county permissive 73232
tax, cease to levy the tax, or, in the case of a repeal of an 73233
increase in the rate of a county permissive tax, levy the tax at 73234
the rate at which it was imposed immediately prior to the increase 73235
in rate and cease to levy the increased rate. 73236

(C) Upon receipt from a board of elections of a notice of the 73237
results of an election required by division (B) of this section, 73238
the tax commissioner shall provide notice of a tax repeal or rate 73239
change in a manner that is reasonably accessible to all affected 73240
vendors. The commissioner shall provide this notice at least sixty 73241
days prior to the effective date of the rate change. The 73242
commissioner, by rule, may establish the method by which notice 73243
will be provided. 73244

(D) If a vendor that is registered with the central 73245
electronic registration system provided for in section 5740.05 of 73246
the Revised Code makes a sale in this state by printed catalog and 73247
the consumer computed the tax on the sale based on local rates 73248
published in the catalog, any tax repealed or rate changed under 73249
this section shall not apply to such a sale until the first day of 73250
a calendar quarter following the expiration of one hundred twenty 73251
days from the date of notice by the tax commissioner pursuant to 73252
division (C) of this section. 73253

Sec. 5739.023. (A)(1) For the purpose of providing additional 73254
general revenues for a transit authority and paying the expenses 73255
of administering such levy, any transit authority as defined in 73256
division (U) of section 5739.01 of the Revised Code may levy a tax 73257
upon every retail sale made in the territory of the transit 73258
authority, except sales of watercraft and outboard motors required 73259
to be titled pursuant to Chapter 1548. of the Revised Code and 73260
sales of motor vehicles, at a rate of not more than one and 73261

one-half per cent at any multiple of one-fourth of one per cent 73262
and may increase the existing rate of tax to not more than one and 73263
one-half per cent at any multiple of one-fourth of one per cent. 73264
The tax shall be levied and the rate increased pursuant to a 73265
resolution of the legislative authority of the transit authority 73266
and a certified copy of the resolution shall be delivered by the 73267
fiscal officer to the board of elections as provided in section 73268
3505.071 of the Revised Code and to the tax commissioner. The 73269
resolution shall specify the number of years for which the tax is 73270
to be in effect or that the tax is for a continuing period of 73271
time, and the date of the election on the question of the tax 73272
pursuant to section 306.70 of the Revised Code. The board of 73273
elections shall certify the results of the election to the transit 73274
authority and tax commissioner. 73275

(2) Except as provided in division (C) of this section, the 73276
tax levied by the resolution shall become effective on the first 73277
day of a calendar quarter next following the ~~sixtieth~~ sixty-fifth 73278
day following the date the tax commissioner receives from the 73279
board of elections the certification of the results of the 73280
election on the question of the tax ~~by the board of elections~~. 73281

(B) The legislative authority may, at any time while the tax 73282
is in effect, by resolution fix the rate of the tax at any rate 73283
authorized by this section and not in excess of that approved by 73284
the voters pursuant to section 306.70 of the Revised Code. Except 73285
as provided in division (C) of this section, any change in the 73286
rate of the tax shall be made effective on the first day of a 73287
calendar quarter next following the ~~sixtieth~~ sixty-fifth day 73288
following the date the tax commissioner receives the certification 73289
of the resolution ~~to the tax commissioner~~; provided, that in any 73290
case where bonds, or notes in anticipation of bonds, of a regional 73291
transit authority have been issued under section 306.40 of the 73292
Revised Code without a vote of the electors while the tax proposed 73293

to be reduced was in effect, the board of trustees of the regional 73294
transit authority shall continue to levy and collect under 73295
authority of the original election authorizing the tax a rate of 73296
tax that the board of trustees reasonably estimates will produce 73297
an amount in that year equal to the amount of principal of and 73298
interest on those bonds as is payable in that year. 73299

(C) Upon receipt from the board of elections of the 73300
certification of the results of the election required by division 73301
(A) of this section, or from the legislative authority of the 73302
certification of a resolution under division (B) of this section, 73303
the tax commissioner shall provide notice of a tax rate change in 73304
a manner that is reasonably accessible to all affected vendors. 73305
The commissioner shall provide this notice at least sixty days 73306
prior to the effective date of the rate change. The commissioner, 73307
by rule, may establish the method by which notice will be 73308
provided. 73309

(D) If a vendor that is registered with the central 73310
electronic registration system provided for in section 5740.05 of 73311
the Revised Code makes a sale in this state by printed catalog and 73312
the consumer computed the tax on the sale based on local rates 73313
published in the catalog, any tax levied or rate changed under 73314
this section shall not apply to such a sale until the first day of 73315
a calendar quarter following the expiration of one hundred twenty 73316
days from the date of notice by the tax commissioner ~~to the~~ 73317
~~vendor, or to the vendor's certified service provider, if the~~ 73318
~~vendor has selected one~~ pursuant to division (C) of this section. 73319

~~(D)~~(E) The tax on every retail sale subject to a tax levied 73320
pursuant to this section is in addition to the tax levied by 73321
section 5739.02 of the Revised Code and any tax levied pursuant to 73322
section 5739.021 or 5739.026 of the Revised Code. 73323

~~(E)~~(F) The additional tax levied by the transit authority 73324
shall be collected pursuant to section 5739.025 of the Revised 73325

Code. 73326

~~(F)~~(G) Any tax levied pursuant to this section is subject to 73327
the exemptions provided in section 5739.02 of the Revised Code and 73328
in addition shall not be applicable to sales not within the taxing 73329
power of a transit authority under the constitution of the United 73330
States or the constitution of this state. 73331

~~(G)~~(H) The rate of a tax levied under this section is subject 73332
to reduction under section 5739.028 of the Revised Code, if a 73333
ballot question is approved by voters pursuant to that section. 73334

Sec. 5739.025. As used in this section, "local tax" means a 73335
tax imposed pursuant to section 5739.021, 5739.023, 5739.026, 73336
5741.021, 5741.022, or 5741.023 of the Revised Code. 73337

(A) The taxes levied by sections 5739.02 and 5741.02 of the 73338
Revised Code shall be collected as follows: 73339

(1) On and after July 1, 2003, and on or before June 30, 73340
2005, in accordance with the following schedule: 73341

<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>	73342
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73343
<u>.17</u>	<u>.33</u>	<u>2¢</u>	73344
<u>.34</u>	<u>.50</u>	<u>3¢</u>	73345
<u>.51</u>	<u>.66</u>	<u>4¢</u>	73346
<u>.67</u>	<u>.83</u>	<u>5¢</u>	73347
<u>.84</u>	<u>1.00</u>	<u>6¢</u>	73348

If the price exceeds one dollar, the tax is six cents on each 73351
one dollar. If the price exceeds one dollar or a multiple thereof 73352
by not more than seventeen cents, the amount of tax is six cents 73353
for each one dollar plus one cent. If the price exceeds one dollar 73354
or a multiple thereof by more than seventeen cents, the amount of 73355

tax is six cents for each one dollar plus the amount of tax for 73356
prices eighteen cents through ninety-nine cents in accordance with 73357
the schedule above. 73358

(2) On and after July 1, 2005, and on and before December 31, 73359
2005, in accordance with the following schedule: 73360

<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	73361
.16	.20	1¢	73362
.21	.40	2¢	73363
.41	.60	3¢	73364
.61	.80	4¢	73365
.81	1.00	5¢	73366

If the price exceeds one dollar, the tax is five cents on 73369
 each one dollar. If the price exceeds one dollar or a multiple 73370
 thereof by not more than twenty cents, the amount of tax is five 73371
 cents for each one dollar plus one cent. If the price exceeds one 73372
 dollar or a multiple thereof by more than twenty cents, the amount 73373
 of tax is five cents for each one dollar plus the amount of tax 73374
 for prices twenty-one cents through ninety-nine cents in 73375
 accordance with the schedule above. 73376

(B) ~~The~~ On and after July 1, 2003, and on and before June 30, 73377
2005, the combined taxes levied by sections 5739.02 and 5741.02 73378
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73379
5741.022, and 5741.023 of the Revised Code shall be collected in 73380
accordance with the following schedules: 73381

(1) When the combined rate of state and local tax is six and 73382
one-fourth per cent: 73383

<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>	73384
<u>.16</u>	<u>.16</u>	<u>1¢</u>	73385
			73386
			73387

<u>.17</u>	<u>.32</u>	<u>2¢</u>	73388
<u>.33</u>	<u>.48</u>	<u>3¢</u>	73389
<u>.49</u>	<u>.64</u>	<u>4¢</u>	73390
<u>.65</u>	<u>.80</u>	<u>5¢</u>	73391
<u>.81</u>	<u>.96</u>	<u>6¢</u>	73392
<u>.97</u>	<u>1.12</u>	<u>7¢</u>	73393
<u>1.13</u>	<u>1.28</u>	<u>8¢</u>	73394
<u>1.29</u>	<u>1.44</u>	<u>9¢</u>	73395
<u>1.45</u>	<u>1.60</u>	<u>10¢</u>	73396
<u>1.61</u>	<u>1.76</u>	<u>11¢</u>	73397
<u>1.77</u>	<u>1.92</u>	<u>12¢</u>	73398
<u>1.93</u>	<u>2.08</u>	<u>13¢</u>	73399
<u>2.09</u>	<u>2.24</u>	<u>14¢</u>	73400
<u>2.25</u>	<u>2.40</u>	<u>15¢</u>	73401
<u>2.41</u>	<u>2.56</u>	<u>16¢</u>	73402
<u>2.57</u>	<u>2.72</u>	<u>17¢</u>	73403
<u>2.73</u>	<u>2.88</u>	<u>18¢</u>	73404
<u>2.89</u>	<u>3.04</u>	<u>19¢</u>	73405
<u>3.05</u>	<u>3.20</u>	<u>20¢</u>	73406
<u>3.21</u>	<u>3.36</u>	<u>21¢</u>	73407
<u>3.37</u>	<u>3.52</u>	<u>22¢</u>	73408
<u>3.53</u>	<u>3.68</u>	<u>23¢</u>	73409
<u>3.69</u>	<u>3.84</u>	<u>24¢</u>	73410
<u>3.85</u>	<u>4.00</u>	<u>25¢</u>	73411

If the price exceeds four dollars, the tax is twenty-five 73412
cents on each four dollars. If the price exceeds four dollars or a 73413
multiple thereof by not more than sixteen cents, the amount of tax 73414
is twenty-five cents for each four dollars plus one cent. If the 73415
price exceeds four dollars or a multiple thereof by more than 73416
sixteen cents, the amount of tax is twenty-five cents for each 73417
four dollars plus the amount of tax for prices seventeen cents 73418
through three dollars and ninety-nine cents in accordance with the 73419
schedule above. 73420

(2) When the combined rate of state and local tax is six and one-half per cent: 73421
73422

<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>	73425
<u>.16</u>	<u>.30</u>	<u>2¢</u>	73426
<u>.31</u>	<u>.46</u>	<u>3¢</u>	73427
<u>.47</u>	<u>.61</u>	<u>4¢</u>	73428
<u>.62</u>	<u>.76</u>	<u>5¢</u>	73429
<u>.77</u>	<u>.92</u>	<u>6¢</u>	73430
<u>.93</u>	<u>1.07</u>	<u>7¢</u>	73431
<u>1.08</u>	<u>1.23</u>	<u>8¢</u>	73432
<u>1.24</u>	<u>1.38</u>	<u>9¢</u>	73433
<u>1.39</u>	<u>1.53</u>	<u>10¢</u>	73434
<u>1.54</u>	<u>1.69</u>	<u>11¢</u>	73435
<u>1.70</u>	<u>1.84</u>	<u>12¢</u>	73436
<u>1.85</u>	<u>2.00</u>	<u>13¢</u>	73437

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. 73438
73439
73440
73441
73442
73443
73444
73445

(3) When the combined rate of state and local tax is six and three-fourths per cent: 73446
73447

<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>	73450
<u>.16</u>	<u>.29</u>	<u>2¢</u>	73451
<u>.30</u>	<u>.44</u>	<u>3¢</u>	73452

<u>.45</u>	<u>.59</u>	<u>4¢</u>	73453
<u>.60</u>	<u>.74</u>	<u>5¢</u>	73454
<u>.75</u>	<u>.88</u>	<u>6¢</u>	73455
<u>.89</u>	<u>1.03</u>	<u>7¢</u>	73456
<u>1.04</u>	<u>1.18</u>	<u>8¢</u>	73457
<u>1.19</u>	<u>1.33</u>	<u>9¢</u>	73458
<u>1.34</u>	<u>1.48</u>	<u>10¢</u>	73459
<u>1.49</u>	<u>1.62</u>	<u>11¢</u>	73460
<u>1.63</u>	<u>1.77</u>	<u>12¢</u>	73461
<u>1.78</u>	<u>1.92</u>	<u>13¢</u>	73462
<u>1.93</u>	<u>2.07</u>	<u>14¢</u>	73463
<u>2.08</u>	<u>2.22</u>	<u>15¢</u>	73464
<u>2.23</u>	<u>2.37</u>	<u>16¢</u>	73465
<u>2.38</u>	<u>2.51</u>	<u>17¢</u>	73466
<u>2.52</u>	<u>2.66</u>	<u>18¢</u>	73467
<u>2.67</u>	<u>2.81</u>	<u>19¢</u>	73468
<u>2.82</u>	<u>2.96</u>	<u>20¢</u>	73469
<u>2.97</u>	<u>3.11</u>	<u>21¢</u>	73470
<u>3.12</u>	<u>3.25</u>	<u>22¢</u>	73471
<u>3.26</u>	<u>3.40</u>	<u>23¢</u>	73472
<u>3.41</u>	<u>3.55</u>	<u>24¢</u>	73473
<u>3.56</u>	<u>3.70</u>	<u>25¢</u>	73474
<u>3.71</u>	<u>3.85</u>	<u>26¢</u>	73475
<u>3.86</u>	<u>4.00</u>	<u>27¢</u>	73476

If the price exceeds four dollars, the tax is twenty-seven 73477
cents on each four dollars. If the price exceeds four dollars or a 73478
multiple thereof by not more than fourteen cents, the amount of 73479
tax is twenty-seven cents for each four dollars plus one cent. If 73480
the price exceeds four dollars or a multiple thereof by more than 73481
fourteen but by not more than twenty-nine cents, the amount of tax 73482
is twenty-seven cents for each four dollars plus two cents. If the 73483
price exceeds four dollars or a multiple thereof by more than 73484
twenty-nine cents the amount of tax is twenty-seven cents for each 73485

four dollars plus the amount of tax for prices thirty cents 73486
through three dollars and ninety-nine cents in accordance with the 73487
schedule above. 73488

(4) When the combined rate of state and local tax is seven 73489
per cent: 73490

<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>	73491
<u>.16</u>	<u>.28</u>	<u>2¢</u>	73492
<u>.29</u>	<u>.42</u>	<u>3¢</u>	73493
<u>.43</u>	<u>.57</u>	<u>4¢</u>	73494
<u>.58</u>	<u>.71</u>	<u>5¢</u>	73495
<u>.72</u>	<u>.85</u>	<u>6¢</u>	73496
<u>.86</u>	<u>1.00</u>	<u>7¢</u>	73497

If the price exceeds one dollar, the tax is seven cents on 73500
each one dollar. If the price exceeds one dollar or a multiple 73501
thereof by not more than fifteen cents, the amount of tax is seven 73502
cents for each one dollar plus one cent. If the price exceeds one 73503
dollar or a multiple thereof by more than fifteen cents, the 73504
amount of tax is seven cents for each one dollar plus the amount 73505
of tax for prices sixteen cents through ninety-nine cents in 73506
accordance with the schedule above. 73507

(5) When the combined rate of state and local tax is seven 73508
and one-fourth per cent: 73509

<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>	73510
<u>.16</u>	<u>.27</u>	<u>2¢</u>	73511
<u>.28</u>	<u>.41</u>	<u>3¢</u>	73512
<u>.42</u>	<u>.55</u>	<u>4¢</u>	73513
<u>.56</u>	<u>.68</u>	<u>5¢</u>	73514
<u>.69</u>	<u>.82</u>	<u>6¢</u>	73515

<u>.83</u>	<u>.96</u>	<u>7¢</u>	73518
<u>.97</u>	<u>1.10</u>	<u>8¢</u>	73519
<u>1.11</u>	<u>1.24</u>	<u>9¢</u>	73520
<u>1.25</u>	<u>1.37</u>	<u>10¢</u>	73521
<u>1.38</u>	<u>1.51</u>	<u>11¢</u>	73522
<u>1.52</u>	<u>1.65</u>	<u>12¢</u>	73523
<u>1.66</u>	<u>1.79</u>	<u>13¢</u>	73524
<u>1.80</u>	<u>1.93</u>	<u>14¢</u>	73525
<u>1.94</u>	<u>2.06</u>	<u>15¢</u>	73526
<u>2.07</u>	<u>2.20</u>	<u>16¢</u>	73527
<u>2.21</u>	<u>2.34</u>	<u>17¢</u>	73528
<u>2.35</u>	<u>2.48</u>	<u>18¢</u>	73529
<u>2.49</u>	<u>2.62</u>	<u>19¢</u>	73530
<u>2.63</u>	<u>2.75</u>	<u>20¢</u>	73531
<u>2.76</u>	<u>2.89</u>	<u>21¢</u>	73532
<u>2.90</u>	<u>3.03</u>	<u>22¢</u>	73533
<u>3.04</u>	<u>3.17</u>	<u>23¢</u>	73534
<u>3.18</u>	<u>3.31</u>	<u>24¢</u>	73535
<u>3.32</u>	<u>3.44</u>	<u>25¢</u>	73536
<u>3.45</u>	<u>3.58</u>	<u>26¢</u>	73537
<u>3.59</u>	<u>3.72</u>	<u>27¢</u>	73538
<u>3.73</u>	<u>3.86</u>	<u>28¢</u>	73539
<u>3.87</u>	<u>4.00</u>	<u>29¢</u>	73540

If the price exceeds four dollars, the tax is twenty-nine 73541
cents on each four dollars. If the price exceeds four dollars or a 73542
multiple thereof by not more than thirteen cents, the amount of 73543
tax is twenty-nine cents for each four dollars plus one cent. If 73544
the price exceeds four dollars or a multiple thereof by more than 73545
thirteen cents but by not more than twenty-seven cents, the amount 73546
of tax is twenty-nine cents for each four dollars plus two cents. 73547
If the price exceeds four dollars or a multiple thereof by more 73548
than twenty-seven cents, the amount of tax is twenty-nine cents 73549
for each four dollars plus the amount of tax for prices 73550

twenty-eight cents through three dollars and ninety-nine cents in 73551
accordance with the schedule above. 73552

(6) When the combined rate of state and local tax is seven 73553
and one-half per cent: 73554

<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>	73557
<u>.16</u>	<u>.26</u>	<u>2¢</u>	73558
<u>.27</u>	<u>.40</u>	<u>3¢</u>	73559
<u>.41</u>	<u>.53</u>	<u>4¢</u>	73560
<u>.54</u>	<u>.65</u>	<u>5¢</u>	73561
<u>.66</u>	<u>.80</u>	<u>6¢</u>	73562
<u>.81</u>	<u>.93</u>	<u>7¢</u>	73563
<u>.94</u>	<u>1.06</u>	<u>8¢</u>	73564
<u>1.07</u>	<u>1.20</u>	<u>9¢</u>	73565
<u>1.21</u>	<u>1.33</u>	<u>10¢</u>	73566
<u>1.34</u>	<u>1.46</u>	<u>11¢</u>	73567
<u>1.47</u>	<u>1.60</u>	<u>12¢</u>	73568
<u>1.61</u>	<u>1.73</u>	<u>13¢</u>	73569
<u>1.74</u>	<u>1.86</u>	<u>14¢</u>	73570
<u>1.87</u>	<u>2.00</u>	<u>15¢</u>	73571

If the price exceeds two dollars, the tax is fifteen cents on 73572
each two dollars. If the price exceeds two dollars or a multiple 73573
thereof by not more than fifteen cents, the amount of tax is 73574
fifteen cents for each two dollars plus one cent. If the price 73575
exceeds two dollars or a multiple thereof by more than fifteen 73576
cents, the amount of tax is fifteen cents for each two dollars 73577
plus the amount of tax for prices sixteen cents through one dollar 73578
and ninety-nine cents in accordance with the schedule above. 73579

(7) When the combined rate of state and local tax is seven 73580
and three-fourths per cent: 73581

If the price 73582
The amount of

cents on each four dollars. If the price exceeds four dollars or a 73616
multiple thereof by not more than twelve cents, the amount of tax 73617
is thirty-one cents for each four dollars plus one cent. If the 73618
price exceeds four dollars or a multiple thereof by more than 73619
twelve cents but by not more than twenty-five cents, the amount of 73620
tax is thirty-one cents for each four dollars plus two cents. If 73621
the price exceeds four dollars or a multiple thereof by more than 73622
twenty-five cents, the amount of tax is thirty-one cents for each 73623
four dollars plus the amount of tax for prices twenty-six cents 73624
through three dollars and ninety-nine cents in accordance with the 73625
schedule above. 73626

(8) When the combined rate of state and local tax is eight 73627
per cent: 73628

<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>	73630
<u>.16</u>	<u>.25</u>	<u>2¢</u>	73631
<u>.26</u>	<u>.37</u>	<u>3¢</u>	73632
<u>.38</u>	<u>.50</u>	<u>4¢</u>	73633
<u>.51</u>	<u>.62</u>	<u>5¢</u>	73634
<u>.63</u>	<u>.75</u>	<u>6¢</u>	73635
<u>.76</u>	<u>.87</u>	<u>7¢</u>	73636
<u>.88</u>	<u>1.00</u>	<u>8¢</u>	73637

If the price exceeds one dollar, the tax is eight cents on 73639
each one dollar. If the price exceeds one dollar or a multiple 73640
thereof by not more than twelve cents, the amount of tax is eight 73641
cents for each one dollar plus one cent. If the price exceeds one 73642
dollar or a multiple thereof by more than twelve cents but not 73643
more than twenty-five cents, the amount of tax is eight cents for 73644
each one dollar plus two cents. If the price exceeds one dollar or 73645
a multiple thereof by more than twenty-five cents, the amount of 73646
tax is eight cents for each one dollar plus the amount of tax for 73647

prices twenty-six cents through ninety-nine cents in accordance 73648
with the schedule above. 73649

(9) When the combined rate of state and local tax is eight 73650
and one-fourth per cent: 73651

<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>	73654
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73655
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73656
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73657
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73658
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73659
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73660
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73661
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73662
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73663
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73664
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73665
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73666
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73667
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73668
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73669
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73670
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73671
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73672
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73673
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73674
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73675
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73676
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73677
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73678
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73679
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73680

<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73681
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73682
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73683
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73684
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	73685
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	73686

If the price exceeds four dollars, the tax is thirty-three 73687
cents on each four dollars. If the price exceeds four dollars or a 73688
multiple thereof by not more than eleven cents, the amount of tax 73689
is thirty-three cents for each four dollars plus one cent. If the 73690
price exceeds four dollars or a multiple thereof by more than 73691
eleven cents but by not more than twenty-four cents, the amount of 73692
tax is thirty-three cents for each four dollars plus two cents. If 73693
the price exceeds four dollars or a multiple thereof by more than 73694
twenty-four cents, the amount of tax is thirty-three cents for 73695
each four dollars plus the amount of tax for prices twenty-six 73696
cents through three dollars and ninety-nine cents in accordance 73697
with the schedule above. 73698

(10) When the combined rate of state and local tax is eight 73699
and one-half per cent: 73700

<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>	73701
<u>.16</u>	<u>.23</u>	<u>2¢</u>	73702
<u>.24</u>	<u>.35</u>	<u>3¢</u>	73703
<u>.36</u>	<u>.47</u>	<u>4¢</u>	73704
<u>.48</u>	<u>.58</u>	<u>5¢</u>	73705
<u>.59</u>	<u>.70</u>	<u>6¢</u>	73706
<u>.71</u>	<u>.82</u>	<u>7¢</u>	73707
<u>.83</u>	<u>.94</u>	<u>8¢</u>	73708
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	73709
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	73710

<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	73713
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	73714
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	73715
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	73716
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	73717
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	73718
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	73719

If the price exceeds two dollars, the tax is seventeen cents 73720
on each two dollars. If the price exceeds two dollars or a 73721
multiple thereof by not more than eleven cents, the amount of tax 73722
is seventeen cents for each two dollars plus one cent. If the 73723
price exceeds two dollars or a multiple thereof by more than 73724
eleven cents but by not more than twenty-three cents, the amount 73725
of tax is seventeen cents for each two dollars plus two cents. If 73726
the price exceeds two dollars or a multiple thereof by more than 73727
twenty-three cents, the amount of tax is seventeen cents for each 73728
two dollars plus the amount of tax for prices twenty-four cents 73729
through one dollar and ninety-nine cents in accordance with the 73730
schedule above. 73731

(11) When the combined rate of state and local tax is eight 73732
and three-fourths per cent: 73733

<u>If the price</u>		<u>The amount of</u>	73734
<u>is at least</u>	<u>But not more than</u>	<u>the tax is</u>	73735
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73736
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73737
<u>.23</u>	<u>.34</u>	<u>3¢</u>	73738
<u>.35</u>	<u>.45</u>	<u>4¢</u>	73739
<u>.46</u>	<u>.57</u>	<u>5¢</u>	73740
<u>.58</u>	<u>.68</u>	<u>6¢</u>	73741
<u>.69</u>	<u>.80</u>	<u>7¢</u>	73742
<u>.81</u>	<u>.91</u>	<u>8¢</u>	73743
<u>.92</u>	<u>1.02</u>	<u>9¢</u>	73744

<u>1.03</u>	<u>1.14</u>	<u>10¢</u>	73745
<u>1.15</u>	<u>1.25</u>	<u>11¢</u>	73746
<u>1.26</u>	<u>1.37</u>	<u>12¢</u>	73747
<u>1.38</u>	<u>1.48</u>	<u>13¢</u>	73748
<u>1.49</u>	<u>1.60</u>	<u>14¢</u>	73749
<u>1.61</u>	<u>1.71</u>	<u>15¢</u>	73750
<u>1.72</u>	<u>1.82</u>	<u>16¢</u>	73751
<u>1.83</u>	<u>1.94</u>	<u>17¢</u>	73752
<u>1.95</u>	<u>2.05</u>	<u>18¢</u>	73753
<u>2.06</u>	<u>2.17</u>	<u>19¢</u>	73754
<u>2.18</u>	<u>2.28</u>	<u>20¢</u>	73755
<u>2.29</u>	<u>2.40</u>	<u>21¢</u>	73756
<u>2.41</u>	<u>2.51</u>	<u>22¢</u>	73757
<u>2.52</u>	<u>2.62</u>	<u>23¢</u>	73758
<u>2.63</u>	<u>2.74</u>	<u>24¢</u>	73759
<u>2.75</u>	<u>2.85</u>	<u>25¢</u>	73760
<u>2.86</u>	<u>2.97</u>	<u>26¢</u>	73761
<u>2.98</u>	<u>3.08</u>	<u>27¢</u>	73762
<u>3.09</u>	<u>3.20</u>	<u>28¢</u>	73763
<u>3.21</u>	<u>3.31</u>	<u>29¢</u>	73764
<u>3.32</u>	<u>3.42</u>	<u>30¢</u>	73765
<u>3.43</u>	<u>3.54</u>	<u>31¢</u>	73766
<u>3.55</u>	<u>3.65</u>	<u>32¢</u>	73767
<u>3.66</u>	<u>3.77</u>	<u>33¢</u>	73768
<u>3.78</u>	<u>3.88</u>	<u>34¢</u>	73769
<u>3.89</u>	<u>4.00</u>	<u>35¢</u>	73770

If the price exceeds four dollars, the tax is thirty-five 73771
cents on each four dollars. If the price exceeds four dollars or a 73772
multiple thereof by not more than eleven cents, the amount of tax 73773
is thirty-five cents for each four dollars plus one cent. If the 73774
price exceeds four dollars or a multiple thereof by more than 73775
eleven cents but by not more than twenty-two cents, the amount of 73776
tax is thirty-five cents for each four dollars plus two cents. If 73777

the price exceeds four dollars or a multiple thereof by more than 73778
twenty-two cents, the amount of tax is thirty-five cents for each 73779
four dollars plus the amount of tax for prices twenty-three cents 73780
through three dollars and ninety-nine cents in accordance with the 73781
schedule above. 73782

(12) When the combined rate of state and local tax is nine 73783
per cent: 73784

<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>	73785
<u>.16</u>	<u>.22</u>	<u>2¢</u>	73786
<u>.23</u>	<u>.33</u>	<u>3¢</u>	73787
<u>.34</u>	<u>.44</u>	<u>4¢</u>	73788
<u>.45</u>	<u>.55</u>	<u>5¢</u>	73789
<u>.56</u>	<u>.66</u>	<u>6¢</u>	73790
<u>.67</u>	<u>.77</u>	<u>7¢</u>	73791
<u>.78</u>	<u>.88</u>	<u>8¢</u>	73792
<u>.89</u>	<u>1.00</u>	<u>9¢</u>	73793

If the price exceeds one dollar, the tax is nine cents on 73794
each one dollar. If the price exceeds one dollar or a multiple 73795
thereof by not more than eleven cents, the amount of tax is nine 73796
cents for each one dollar plus one cent. If the price exceeds one 73797
dollar or a multiple thereof by more than eleven cents but by not 73798
more than twenty-two cents, the amount of tax is nine cents for 73799
each one dollar plus two cents. If the price exceeds one dollar or 73800
a multiple thereof by more than twenty-two cents, the amount of 73801
tax is nine cents for each one dollar plus the amount of tax for 73802
prices twenty-three cents through ninety-nine cents in accordance 73803
with the schedule above. 73804

(C) On and after July 1, 2005, and on and before December 31, 73805
2005, the combined taxes levied by sections 5739.02 and 5741.02 73806
and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 73807

5741.022, and 5741.023 of the Revised Code shall be collected in 73810
accordance with the following schedules: 73811

(1) When the total rate of local tax is one-fourth per cent: 73812

If the price	But not	The amount	73813
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is at least	more than	of the tax is	73814
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\$.01	\$.15	No tax	73815
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.16	.19	1¢	73816
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.20	.38	2¢	73817
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.39	.57	3¢	73818
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.58	.76	4¢	73819
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.77	.95	5¢	73820
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.96	1.14	6¢	73821
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1.15	1.33	7¢	73822
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1.34	1.52	8¢	73823
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1.53	1.71	9¢	73824
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1.72	1.90	10¢	73825
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1.91	2.09	11¢	73826
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2.10	2.28	12¢	73827
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2.29	2.47	13¢	73828
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2.48	2.66	14¢	73829
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2.67	2.85	15¢	73830
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2.86	3.04	16¢	73831
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3.05	3.23	17¢	73832
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3.24	3.42	18¢	73833
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3.43	3.61	19¢	73834
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3.62	3.80	20¢	73835
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3.81	4.00	21¢	73836
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If the price exceeds four dollars, the tax is twenty-one 73837

cents on each four dollars. If the price exceeds four dollars or a 73838

multiple thereof by not more than nineteen cents, the amount of 73839

tax is twenty-one cents for each four dollars plus one cent. If 73840

the price exceeds four dollars or a multiple thereof by more than 73841

nineteen cents, the amount of tax is twenty-one cents for each 73842
four dollars plus the amount of tax for prices twenty cents 73843
through three dollars and ninety-nine cents in accordance with the 73844
schedule above. 73845

(2) When the combined rate of local tax is one-half per cent: 73846

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73849
.16	.18	1¢	73850
.19	.36	2¢	73851
.37	.54	3¢	73852
.55	.72	4¢	73853
.73	.90	5¢	73854
.91	1.09	6¢	73855
1.10	1.27	7¢	73856
1.28	1.46	8¢	73857
1.47	1.64	9¢	73858
1.65	1.82	10¢	73859
1.83	2.00	11¢	73860

If the price exceeds two dollars, the tax is eleven cents on 73861
each two dollars. If the price exceeds two dollars or a multiple 73862
thereof by not more than eighteen cents, the amount of tax is 73863
eleven cents for each two dollars plus one cent. If the price 73864
exceeds two dollars or a multiple thereof by more than eighteen 73865
cents, the amount of tax is eleven cents for each two dollars plus 73866
the amount of tax for prices nineteen cents through one dollar and 73867
ninety-nine cents in accordance with the schedule above. 73868

(3) When the combined rate of local tax is three-fourths per 73869
cent: 73870

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73873

.16	.17	1¢	73874
.18	.34	2¢	73875
.35	.52	3¢	73876
.53	.69	4¢	73877
.70	.86	5¢	73878
.87	1.04	6¢	73879
1.05	1.21	7¢	73880
1.22	1.39	8¢	73881
1.40	1.56	9¢	73882
1.57	1.73	10¢	73883
1.74	1.91	11¢	73884
1.92	2.08	12¢	73885
2.09	2.26	13¢	73886
2.27	2.43	14¢	73887
2.44	2.60	15¢	73888
2.61	2.78	16¢	73889
2.79	2.95	17¢	73890
2.96	3.13	18¢	73891
3.14	3.30	19¢	73892
3.31	3.47	20¢	73893
3.48	3.65	21¢	73894
3.66	3.82	22¢	73895
3.83	4.00	23¢	73896

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.

(4) When the combined rate of local tax is one per cent:			73906
If the price	But not	The amount	73907
is at least	more than	of the tax is	73908
\$.01	\$.15	No tax	73909
.16	.17	1¢	73910
.18	.34	2¢	73911
.35	.50	3¢	73912
.51	.67	4¢	73913
.68	.83	5¢	73914
.84	1.00	6¢	73915

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	73926
is at least	more than	of the tax is	73927
\$.01	\$.15	No tax	73928
.16	.16	1¢	73929
.17	.32	2¢	73930
.33	.48	3¢	73931
.49	.64	4¢	73932
.65	.80	5¢	73933
.81	.96	6¢	73934
.97	1.12	7¢	73935
1.13	1.28	8¢	73936
1.29	1.44	9¢	73937

1.45	1.60	10¢	73938
1.61	1.76	11¢	73939
1.77	1.92	12¢	73940
1.93	2.08	13¢	73941
2.09	2.24	14¢	73942
2.25	2.40	15¢	73943
2.41	2.56	16¢	73944
2.57	2.72	17¢	73945
2.73	2.88	18¢	73946
2.89	3.04	19¢	73947
3.05	3.20	20¢	73948
3.21	3.36	21¢	73949
3.37	3.52	22¢	73950
3.53	3.68	23¢	73951
3.69	3.84	24¢	73952
3.85	4.00	25¢	73953

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	But not	The amount	73965
is at least	more than	of the tax is	73966
\$.01	\$.15	No tax	73967
.16	.30	2¢	73968
.31	.46	3¢	73969

.47	.61	4¢	73970
.62	.76	5¢	73971
.77	.92	6¢	73972
.93	1.07	7¢	73973
1.08	1.23	8¢	73974
1.24	1.38	9¢	73975
1.39	1.53	10¢	73976
1.54	1.69	11¢	73977
1.70	1.84	12¢	73978
1.85	2.00	13¢	73979

If the price exceeds two dollars, the tax is thirteen cents 73980
 on each two dollars. If the price exceeds two dollars or a 73981
 multiple thereof by not more than fifteen cents, the amount of tax 73982
 is thirteen cents for each two dollars plus one cent. If the price 73983
 exceeds two dollars or a multiple thereof by more than fifteen 73984
 cents, the amount of tax is thirteen cents for each two dollars 73985
 plus the amount of tax for prices sixteen cents through one dollar 73986
 and ninety-nine cents in accordance with the schedule above. 73987

(7) When the combined rate of local tax is one and 73988
 three-fourths per cent: 73989

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73990
.16	.29	2¢	73991
.30	.44	3¢	73992
.45	.59	4¢	73993
.60	.74	5¢	73994
.75	.88	6¢	73995
.89	1.03	7¢	73996
1.04	1.18	8¢	73997
1.19	1.33	9¢	73998
1.34	1.48	10¢	73999
			74000
			74001

1.49	1.62	11¢	74002
1.63	1.77	12¢	74003
1.78	1.92	13¢	74004
1.93	2.07	14¢	74005
2.08	2.22	15¢	74006
2.23	2.37	16¢	74007
2.38	2.51	17¢	74008
2.52	2.66	18¢	74009
2.67	2.81	19¢	74010
2.82	2.96	20¢	74011
2.97	3.11	21¢	74012
3.12	3.25	22¢	74013
3.26	3.40	23¢	74014
3.41	3.55	24¢	74015
3.56	3.70	25¢	74016
3.71	3.85	26¢	74017
3.86	4.00	27¢	74018

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	74034
.16	.28	2¢	74035
.29	.42	3¢	74036
.43	.57	4¢	74037
.58	.71	5¢	74038
.72	.85	6¢	74039
.86	1.00	7¢	74040

If the price exceeds one dollar, the tax is seven cents on 74041
 each one dollar. If the price exceeds one dollar or a multiple 74042
 thereof by not more than fifteen cents, the amount of tax is seven 74043
 cents for each one dollar plus one cent. If the price exceeds one 74044
 dollar or a multiple thereof by more than fifteen cents, the 74045
 amount of tax is seven cents for each one dollar plus the amount 74046
 of tax for prices sixteen cents through ninety-nine cents in 74047
 accordance with the schedule above. 74048

(9) When the combined rate of local tax is two and one-fourth 74049
 per cent: 74050

If the price	But not	The amount	74051
is at least	more than	of the tax is	74052
\$.01	\$.15	No tax	74053
.16	.27	2¢	74054
.28	.41	3¢	74055
.42	.55	4¢	74056
.56	.68	5¢	74057
.69	.82	6¢	74058
.83	.96	7¢	74059
.97	1.10	8¢	74060
1.11	1.24	9¢	74061
1.25	1.37	10¢	74062
1.38	1.51	11¢	74063
1.52	1.65	12¢	74064
1.66	1.79	13¢	74065

1.80	1.93	14¢	74066
1.94	2.06	15¢	74067
2.07	2.20	16¢	74068
2.21	2.34	17¢	74069
2.35	2.48	18¢	74070
2.49	2.62	19¢	74071
2.63	2.75	20¢	74072
2.76	2.89	21¢	74073
2.90	3.03	22¢	74074
3.04	3.17	23¢	74075
3.18	3.31	24¢	74076
3.32	3.44	25¢	74077
3.45	3.58	26¢	74078
3.59	3.72	27¢	74079
3.73	3.86	28¢	74080
3.87	4.00	29¢	74081

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	74096
is at least	more than	of the tax is	74097

\$.01	\$.15	No tax	74098
.16	.26	2¢	74099
.27	.40	3¢	74100
.41	.53	4¢	74101
.54	.65	5¢	74102
.66	.80	6¢	74103
.81	.93	7¢	74104
.94	1.06	8¢	74105
1.07	1.20	9¢	74106
1.21	1.33	10¢	74107
1.34	1.46	11¢	74108
1.47	1.60	12¢	74109
1.61	1.73	13¢	74110
1.74	1.86	14¢	74111
1.87	2.00	15¢	74112

If the price exceeds two dollars, the tax is fifteen cents on 74113
each two dollars. If the price exceeds two dollars or a multiple 74114
thereof by not more than fifteen cents, the amount of tax is 74115
fifteen cents for each two dollars plus one cent. If the price 74116
exceeds two dollars or a multiple thereof by more than fifteen 74117
cents, the amount of tax is fifteen cents for each two dollars 74118
plus the amount of tax for prices sixteen cents through one dollar 74119
and ninety-nine cents in accordance with the schedule above. 74120

(11) When the combined rate of local tax is two and 74121
three-fourths per cent: 74122

If the price	But not	The amount	74123
is at least	more than	of the tax is	74124
\$.01	\$.15	No tax	74125
.16	.25	2¢	74126
.26	.38	3¢	74127
.39	.51	4¢	74128
.52	.64	5¢	74129

.65	.77	6¢	74130
.78	.90	7¢	74131
.91	1.03	8¢	74132
1.04	1.16	9¢	74133
1.17	1.29	10¢	74134
1.30	1.41	11¢	74135
1.42	1.54	12¢	74136
1.55	1.67	13¢	74137
1.68	1.80	14¢	74138
1.81	1.93	15¢	74139
1.94	2.06	16¢	74140
2.07	2.19	17¢	74141
2.20	2.32	18¢	74142
2.33	2.45	19¢	74143
2.46	2.58	20¢	74144
2.59	2.70	21¢	74145
2.71	2.83	22¢	74146
2.84	2.96	23¢	74147
2.97	3.09	24¢	74148
3.10	3.22	25¢	74149
3.23	3.35	26¢	74150
3.36	3.48	27¢	74151
3.49	3.61	28¢	74152
3.62	3.74	29¢	74153
3.75	3.87	30¢	74154
3.88	4.00	31¢	74155

If the price exceeds four dollars, the tax is thirty-one 74156
cents on each four dollars. If the price exceeds four dollars or a 74157
multiple thereof by not more than twelve cents, the amount of tax 74158
is thirty-one cents for each four dollars plus one cent. If the 74159
price exceeds four dollars or a multiple thereof by more than 74160
twelve cents but not more than twenty-five cents, the amount of 74161
tax is thirty-one cents for each four dollars plus two cents. If 74162

the price exceeds four dollars or a multiple thereof by more than 74163
twenty-five cents, the amount of tax is thirty-one cents for each 74164
four dollars plus the amount of tax for prices twenty-six cents 74165
through three dollars and ninety-nine cents in accordance with the 74166
schedule above. 74167

(12) When the combined rate of local tax is three per cent: 74168

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	74171
.16	.25	2¢	74172
.26	.37	3¢	74173
.38	.50	4¢	74174
.51	.62	5¢	74175
.63	.75	6¢	74176
.76	.87	7¢	74177
.88	1.00	8¢	74178

If the price exceeds one dollar, the tax is eight cents on 74179
each one dollar. If the price exceeds one dollar or a multiple 74180
thereof by not more than twelve cents, the amount of tax is eight 74181
cents for each one dollar plus one cent. If the price exceeds one 74182
dollar or a multiple thereof by more than twelve cents but not 74183
more than twenty-five cents, the amount of tax is eight cents for 74184
each one dollar plus two cents. If the price exceeds one dollar or 74185
a multiple thereof by more than twenty-five cents, the amount of 74186
tax is eight cents for each one dollar plus the amount of tax for 74187
prices twenty-six cents through ninety-nine cents in accordance 74188
with the schedule above. 74189

~~(C)~~(D) In lieu of collecting the tax pursuant to the 74190
schedules set forth in divisions (A) ~~and~~, (B), and (C) of this 74191
section, a vendor may compute the tax on each sale as follows: 74192

(1) On sales of fifteen cents or less, no tax shall apply. 74193

(2) On sales in excess of fifteen cents, multiply the price 74194
by the aggregate rate of taxes in effect under sections ~~5739.01~~ 74195
5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 74196
5741.021, 5741.022, and 5741.023 of the Revised Code. The 74197
computation shall be carried out to six decimal places. If the 74198
result is a fractional amount of a cent, the calculated tax shall 74199
be increased to the next highest cent and that amount shall be 74200
collected by the vendor. 74201

~~(D)~~(E) On and after January 1, 2006, a vendor shall compute 74202
the tax on each sale by multiplying the price by the aggregate 74203
rate of taxes in effect under sections 5739.02 and 5741.02, and 74204
sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 74205
5741.023 of the Revised Code. The computation shall be carried out 74206
to three decimal places. If the result is a fractional amount of a 74207
cent, the calculated tax shall be rounded to a whole cent using a 74208
method that rounds up to the next cent whenever the third decimal 74209
place is greater than four. A vendor may elect to compute the tax 74210
due on a transaction on an item or an invoice basis. 74211

(F) In auditing a vendor, the tax commissioner shall consider 74212
the method prescribed by this section that was used by the vendor 74213
in determining and collecting the tax due under this chapter on 74214
taxable transactions. If the vendor correctly collects and remits 74215
the tax due under this chapter in accordance with the schedules in 74216
divisions (A) ~~and~~, (B), and (C) of this section or in accordance 74217
with the computation prescribed in division ~~(C)~~(D) or (E) of this 74218
section, the commissioner shall not assess any additional tax on 74219
those transactions. 74220

(G)(1) With respect to a sale of a fractional ownership 74221
program aircraft used primarily in a fractional aircraft ownership 74222
program, including all accessories attached to such aircraft, the 74223
tax shall be calculated pursuant to divisions (A) to (E) of this 74224
section, provided that the tax commissioner shall modify those 74225

calculations so that the maximum tax on each program aircraft is 74226
eight hundred dollars. In the case of a sale of a fractional 74227
interest that is less than one hundred per cent of the program 74228
aircraft, the tax charged on the transaction shall be eight 74229
hundred dollars multiplied by a fraction, the numerator of which 74230
is the percentage of ownership or possession in the aircraft being 74231
purchased in the transaction, and the denominator of which is one 74232
hundred per cent. 74233

(2) Notwithstanding any other provision of law to the 74234
contrary, the tax calculated under division (G)(1) of this section 74235
and paid with respect to the sale of a fractional ownership 74236
program aircraft used primarily in a fractional aircraft ownership 74237
program shall be credited to the general revenue fund. 74238

Sec. 5739.026. (A) A board of county commissioners may levy a 74239
tax of one-fourth or one-half of one per cent on every retail sale 74240
in the county, except sales of watercraft and outboard motors 74241
required to be titled pursuant to Chapter 1548. of the Revised 74242
Code and sales of motor vehicles, and may increase an existing 74243
rate of one-fourth of one per cent to one-half of one per cent, to 74244
pay the expenses of administering the tax and, except as provided 74245
in division (A)(6) of this section, for any one or more of the 74246
following purposes provided that the aggregate levy for all such 74247
purposes does not exceed one-half of one per cent: 74248

(1) To provide additional revenues for the payment of bonds 74249
or notes issued in anticipation of bonds issued by a convention 74250
facilities authority established by the board of county 74251
commissioners under Chapter 351. of the Revised Code and to 74252
provide additional operating revenues for the convention 74253
facilities authority; 74254

(2) To provide additional revenues for a transit authority 74255
operating in the county; 74256

(3) To provide additional revenue for the county's general fund;	74257 74258
(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;	74259 74260 74261 74262 74263
(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;	74264 74265 74266 74267 74268 74269 74270 74271 74272 74273
(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.	74274 74275 74276 74277 74278 74279 74280 74281 74282 74283 74284 74285
If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also	74286 74287

shall levy the tax or increase the rate of the tax for one or more 74288
of the purposes described in divisions (A)(1) to (5) of this 74289
section and shall prescribe the method for allocating the revenues 74290
from the tax each year in the manner required by division (C) of 74291
this section. 74292

(7) To provide additional revenue for the operation or 74293
maintenance of a detention facility, as that term is defined under 74294
division (F) of section 2921.01 of the Revised Code; 74295

(8) To provide revenue to finance the construction or 74296
renovation of a sports facility, but only if the tax is levied for 74297
that purpose in the manner prescribed by section 5739.028 of the 74298
Revised Code. 74299

As used in division (A)(8) of this section: 74300

(a) "Sports facility" means a facility intended to house 74301
major league professional athletic teams. 74302

(b) "Constructing" or "construction" includes providing 74303
fixtures, furnishings, and equipment. 74304

(9) To provide additional revenue for the acquisition of 74305
agricultural easements, as defined in section 5301.67 of the 74306
Revised Code; to pay principal, interest, and premium on bonds 74307
issued under section 133.60 of the Revised Code; and for the 74308
supervision and enforcement of agricultural easements held by the 74309
county. 74310

Pursuant to section 755.171 of the Revised Code, a board of 74311
county commissioners may pledge and contribute revenue from a tax 74312
levied for the purpose of division (A)(5) of this section to the 74313
payment of debt charges on bonds issued under section 755.17 of 74314
the Revised Code. 74315

The rate of tax shall be a multiple of one-fourth of one per 74316
cent, unless a portion of the rate of an existing tax levied under 74317

section 5739.023 of the Revised Code has been reduced, and the 74318
rate of tax levied under this section has been increased, pursuant 74319
to section 5739.028 of the Revised Code, in which case the 74320
aggregate of the rates of tax levied under this section and 74321
section 5739.023 of the Revised Code shall be a multiple of 74322
one-fourth of one per cent. The tax shall be levied and the rate 74323
increased pursuant to a resolution adopted by a majority of the 74324
members of the board. The board shall deliver a certified copy of 74325
the resolution to the tax commissioner, not later than the 74326
sixty-fifth day prior to the date on which the tax is to become 74327
effective, which shall be the first day of a calendar quarter. 74328

Prior to the adoption of any resolution to levy the tax or to 74329
increase the rate of tax exclusively for the purpose set forth in 74330
division (A)(3) of this section, the board of county commissioners 74331
shall conduct two public hearings on the resolution, the second 74332
hearing to be no fewer than three nor more than ten days after the 74333
first. Notice of the date, time, and place of the hearings shall 74334
be given by publication in a newspaper of general circulation in 74335
the county once a week on the same day of the week for two 74336
consecutive weeks, the second publication being no fewer than ten 74337
nor more than thirty days prior to the first hearing. Except as 74338
provided in division (E) of this section, the resolution shall 74339
~~become effective on the first day of a calendar quarter following~~ 74340
~~the expiration of sixty days from the date of its adoption, be~~ 74341
subject to a referendum as provided in sections 305.31 to 305.41 74342
of the Revised Code. If the resolution is adopted as an emergency 74343
measure necessary for the immediate preservation of the public 74344
peace, health, or safety, it must receive an affirmative vote of 74345
all of the members of the board of county commissioners and shall 74346
state the reasons for the necessity. 74347

If the tax is for more than one of the purposes set forth in 74348
divisions (A)(1) to (7) and (9) of this section or is exclusively 74349

for one of the purposes set forth in division (A)(1), (2), (4), 74350
(5), (6), (7), or (9) of this section, the resolution shall not go 74351
into effect unless it is approved by a majority of the electors 74352
voting on the question of the tax. 74353

(B) The board of county commissioners shall adopt a 74354
resolution under section 351.02 of the Revised Code creating the 74355
convention facilities authority, or under section 307.283 of the 74356
Revised Code creating the community improvements board, before 74357
adopting a resolution levying a tax for the purpose of a 74358
convention facilities authority under division (A)(1) of this 74359
section or for the purpose of a community improvements board under 74360
division (A)(4) of this section. 74361

(C)(1) If the tax is to be used for more than one of the 74362
purposes set forth in divisions (A)(1) to (7) and (9) of this 74363
section, the board of county commissioners shall establish the 74364
method that will be used to determine the amount or proportion of 74365
the tax revenue received by the county during each year that will 74366
be distributed for each of those purposes, including, if 74367
applicable, provisions governing the reallocation of a convention 74368
facilities authority's allocation if the authority is dissolved 74369
while the tax is in effect. The allocation method may provide that 74370
different proportions or amounts of the tax shall be distributed 74371
among the purposes in different years, but it shall clearly 74372
describe the method that will be used for each year. Except as 74373
otherwise provided in division (C)(2) of this section, the 74374
allocation method established by the board is not subject to 74375
amendment during the life of the tax. 74376

(2) Subsequent to holding a public hearing on the proposed 74377
amendment, the board of county commissioners may amend the 74378
allocation method established under division (C)(1) of this 74379
section for any year, if the amendment is approved by the 74380
governing board of each entity whose allocation for the year would 74381

be reduced by the proposed amendment. In the case of a tax that is 74382
levied for a continuing period of time, the board may not so amend 74383
the allocation method for any year before the sixth year that the 74384
tax is in effect. 74385

(a) If the additional revenues provided to the convention 74386
facilities authority are pledged by the authority for the payment 74387
of convention facilities authority revenue bonds for as long as 74388
such bonds are outstanding, no reduction of the authority's 74389
allocation of the tax shall be made for any year except to the 74390
extent that the reduced authority allocation, when combined with 74391
the authority's other revenues pledged for that purpose, is 74392
sufficient to meet the debt service requirements for that year on 74393
such bonds. 74394

(b) If the additional revenues provided to the county are 74395
pledged by the county for the payment of bonds or notes described 74396
in division (A)(4) or (5) of this section, for as long as such 74397
bonds or notes are outstanding, no reduction of the county's or 74398
the community improvements board's allocation of the tax shall be 74399
made for any year, except to the extent that the reduced county or 74400
community improvements board allocation is sufficient to meet the 74401
debt service requirements for that year on such bonds or notes. 74402

(c) If the additional revenues provided to the transit 74403
authority are pledged by the authority for the payment of revenue 74404
bonds issued under section 306.37 of the Revised Code, for as long 74405
as such bonds are outstanding, no reduction of the authority's 74406
allocation of tax shall be made for any year, except to the extent 74407
that the authority's reduced allocation, when combined with the 74408
authority's other revenues pledged for that purpose, is sufficient 74409
to meet the debt service requirements for that year on such bonds. 74410

(d) If the additional revenues provided to the county are 74411
pledged by the county for the payment of bonds or notes issued 74412
under section 133.60 of the Revised Code, for so long as the bonds 74413

or notes are outstanding, no reduction of the county's allocation 74414
of the tax shall be made for any year, except to the extent that 74415
the reduced county allocation is sufficient to meet the debt 74416
service requirements for that year on the bonds or notes. 74417

(D)(1) The resolution levying the tax or increasing the rate 74418
of tax shall state the rate of the tax or the rate of the 74419
increase; the purpose or purposes for which it is to be levied; 74420
the number of years for which it is to be levied or that it is for 74421
a continuing period of time; the allocation method required by 74422
division (C) of this section; and if required to be submitted to 74423
the electors of the county under division (A) of this section, the 74424
date of the election at which the proposal shall be submitted to 74425
the electors of the county, which shall be not less than 74426
seventy-five days after the certification of a copy of the 74427
resolution to the board of elections and, if the tax is to be 74428
levied exclusively for the purpose set forth in division (A)(3) of 74429
this section, shall not occur in February or August of any year. 74430
Upon certification of the resolution to the board of elections, 74431
the board of county commissioners shall notify the tax 74432
commissioner in writing of the levy question to be submitted to 74433
the electors. If approved by a majority of the electors, the tax 74434
shall become effective on the first day of a calendar quarter next 74435
following the ~~sixtieth~~ sixty-fifth day following the ~~certification~~ 74436
~~of the results of the election to~~ date the board of county 74437
commissioners and ~~the~~ tax commissioner ~~by~~ receive from the board 74438
of elections the certification of the results of the election, 74439
except as provided in division (E) of this section. 74440

(2)(a) A resolution specifying that the tax is to be used 74441
exclusively for the purpose set forth in division (A)(3) of this 74442
section that is not adopted as an emergency measure may direct the 74443
board of elections to submit the question of levying the tax or 74444
increasing the rate of the tax to the electors of the county at a 74445

special election held on the date specified by the board of county 74446
commissioners in the resolution, provided that the election occurs 74447
not less than seventy-five days after the resolution is certified 74448
to the board of elections and the election is not held in February 74449
or August of any year. Upon certification of the resolution to the 74450
board of elections, the board of county commissioners shall notify 74451
the tax commissioner in writing of the levy question to be 74452
submitted to the electors. No resolution adopted under division 74453
(D)(2)(a) of this section shall go into effect unless approved by 74454
a majority of those voting upon it and, except as provided in 74455
division (E) of this section, not until the first day of a 74456
calendar quarter following the expiration of sixty-five days from 74457
the date ~~of the notice to~~ the tax commissioner by receives notice 74458
from the board of elections of the affirmative vote. 74459

(b) A resolution specifying that the tax is to be used 74460
exclusively for the purpose set forth in division (A)(3) of this 74461
section that is adopted as an emergency measure shall become 74462
effective as provided in division (A) of this section, but may 74463
direct the board of elections to submit the question of repealing 74464
the tax or increase in the rate of the tax to the electors of the 74465
county at the next general election in the county occurring not 74466
less than seventy-five days after the resolution is certified to 74467
the board of elections. Upon certification of the resolution to 74468
the board of elections, the board of county commissioners shall 74469
notify the tax commissioner in writing of the levy question to be 74470
submitted to the electors. The ballot question shall be the same 74471
as that prescribed in section 5739.022 of the Revised Code. The 74472
board of elections shall notify the board of county commissioners 74473
and the tax commissioner of the result of the election immediately 74474
after the result has been declared. If a majority of the qualified 74475
electors voting on the question of repealing the tax or increase 74476
in the rate of the tax vote for repeal of the tax or repeal of the 74477
increase, the board of county commissioners, on the first day of a 74478

calendar quarter following the expiration of ~~sixty-five~~ days after 74479
the date ~~it~~ the board and tax commissioner received notice of the 74480
result of the election, shall, in the case of a repeal of the tax, 74481
cease to levy the tax, or, in the case of a repeal of an increase 74482
in the rate of the tax, cease to levy the increased rate and levy 74483
the tax at the rate at which it was imposed immediately prior to 74484
the increase in rate. 74485

(c) A board of county commissioners, by resolution, may 74486
reduce the rate of a tax levied exclusively for the purpose set 74487
forth in division (A)(3) of this section to a lower rate 74488
authorized by this section. Any such reduction shall be made 74489
effective on the first day of the calendar quarter ~~specified in~~ 74490
~~the resolution, but not sooner than the first day of the month~~ 74491
next following the ~~sixtieth~~ sixty-fifth day after the ~~resolution~~ 74492
~~is certified to the tax commissioner~~ receives a certified copy of 74493
the resolution from the board. 74494

(E) If a vendor that is registered with the central 74495
electronic registration system provided for in section 5740.05 of 74496
the Revised Code makes a sale in this state by printed catalog and 74497
the consumer computed the tax on the sale based on local rates 74498
published in the catalog, any tax levied or repealed or rate 74499
changed under this section shall not apply to such a sale until 74500
the first day of a calendar quarter following the expiration of 74501
one hundred twenty days from the date of notice by the tax 74502
commissioner ~~to the vendor, or to the vendor's certified service~~ 74503
~~provider, if the vendor has selected one~~ pursuant to division (G) 74504
of this section. 74505

(F) The tax levied pursuant to this section shall be in 74506
addition to the tax levied by section 5739.02 of the Revised Code 74507
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74508
Revised Code. 74509

A county that levies a tax pursuant to this section shall 74510

levy a tax at the same rate pursuant to section 5741.023 of the Revised Code. 74511
74512

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. 74513
74514

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. 74515
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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. 74520
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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: 74530
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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 74537
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and at the same time as the price; 74542

(B) If the price is otherwise paid or to be paid, the vendor 74543
or the vendor's agent shall, at or prior to the provision of the 74544
service or the delivery of possession of the thing sold to the 74545
consumer, charge the tax imposed by or pursuant to section 74546
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74547
the account of the consumer, which amount shall be collected by 74548
the vendor from the consumer in addition to the price. Such sale 74549
shall be reported on and the amount of the tax applicable thereto 74550
shall be remitted with the return for the period in which the sale 74551
is made, and the amount of the tax shall become a legal charge in 74552
favor of the vendor and against the consumer. 74553

If any sale is claimed to be exempt under division (E) of 74554
section 5739.01 of the Revised Code or under section 5739.02 of 74555
the Revised Code, with the exception of divisions (B)(1) to (11) 74556
or (28) of section 5739.02 of the Revised Code, the consumer must 74557
furnish to the vendor, and the vendor must obtain from the 74558
consumer, a certificate specifying the reason that the sale is not 74559
legally subject to the tax. If the transaction is claimed to be 74560
exempt under division (B)(13) of section 5739.02 of the Revised 74561
Code, the exemption certificate shall be signed by both the 74562
contractor and the contractee and such contractee shall be deemed 74563
to be the consumer of all items purchased under such claim of 74564
exemption in the event it is subsequently determined that the 74565
exemption is not properly claimed. The certificate shall be in 74566
such form as the tax commissioner by regulation prescribes. If no 74567
certificate is furnished or obtained within the period for filing 74568
the return for the period in which such sale is consummated, it 74569
shall be presumed that the tax applies. ~~The~~ Failure to have so 74570
furnished, or to have so obtained, a certificate shall not prevent 74571
a vendor or consumer from establishing that the sale is not 74572
~~subject~~ subject to the tax within ~~sixty~~ one hundred twenty days of 74573

the giving of notice by the commissioner of intention to levy an ~~assassment~~ assessment, in which event the tax shall not apply. 74574
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Certificates need not be obtained nor furnished where the 74576
identity of the consumer is such that the transaction is never 74577
subject to the tax imposed or where the item of tangible personal 74578
property sold or the service provided is never subject to the tax 74579
imposed, regardless of use, or when the sale is in interstate 74580
commerce. 74581

(C) As used in this division, "contractee" means a person who 74582
seeks to enter or enters into a contract or agreement with a 74583
contractor or vendor for the construction of real property or for 74584
the sale and installation onto real property of tangible personal 74585
property. 74586

Any contractor or vendor may request from any contractee a 74587
certification of what portion of the property to be transferred 74588
under such contract or agreement is to be incorporated into the 74589
realty and what portion will retain its status as tangible 74590
personal property after installation is completed. The contractor 74591
or vendor shall request the certification by certified mail 74592
delivered to the contractee, return receipt requested. Upon 74593
receipt of such request and prior to entering into the contract or 74594
agreement, the contractee shall furnish to the contractor or 74595
vendor a certification sufficiently detailed to enable the 74596
contractor or vendor to ascertain the resulting classification of 74597
all materials purchased or fabricated by the contractor or vendor 74598
and transferred to the contractee. This requirement applies to a 74599
contractee regardless of whether the contractee holds a direct 74600
payment permit under section 5739.031 of the Revised Code or 74601
furnishes to the contractor or vendor an exemption certificate as 74602
provided under this section. 74603

For the purposes of the taxes levied by this chapter and 74604
Chapter 5741. of the Revised Code, the contractor or vendor may in 74605

good faith rely on the contractee's certification. Notwithstanding 74606
division (B) of section 5739.01 of the Revised Code, if the tax 74607
commissioner determines that certain property certified by the 74608
contractee as tangible personal property pursuant to this division 74609
is, in fact, real property, the contractee shall be considered to 74610
be the consumer of all materials so incorporated into that real 74611
property and shall be liable for the applicable tax, and the 74612
contractor or vendor shall be excused from any liability on those 74613
materials. 74614

If a contractee fails to provide such certification upon the 74615
request of the contractor or vendor, the contractor or vendor 74616
shall comply with the provisions of this chapter and Chapter 5741. 74617
of the Revised Code without the certification. If the tax 74618
commissioner determines that such compliance has been performed in 74619
good faith and that certain property treated as tangible personal 74620
property by the contractor or vendor is, in fact, real property, 74621
the contractee shall be considered to be the consumer of all 74622
materials so incorporated into that real property and shall be 74623
liable for the applicable tax and the construction contractor or 74624
vendor shall be excused from any liability on those materials. 74625

This division does not apply to any contract or agreement 74626
where the tax commissioner determines as a fact that a 74627
certification under this division was made solely on the decision 74628
or advice of the contractor or vendor. 74629

(D) Notwithstanding division (B) of section 5739.01 of the 74630
Revised Code, whenever the total rate of tax imposed under this 74631
chapter is increased after the date after a construction contract 74632
is entered into, the contractee shall reimburse the construction 74633
contractor for any additional tax paid on tangible property 74634
consumed or services received pursuant to the contract. 74635

(E) A vendor who files a petition for reassessment contesting 74636
the assessment of tax on sales for which the vendor obtained no 74637

valid exemption certificates and for which the vendor failed to 74638
establish that the sales were properly not subject to the tax 74639
during the one-hundred-twenty-day period allowed under division 74640
(B) of this section, may present to the tax commissioner 74641
additional evidence to prove that the sales were properly subject 74642
to a claim of exception or exemption. The vendor shall file such 74643
evidence within ninety days of the receipt by the vendor of the 74644
notice of assessment, except that, upon application and for 74645
reasonable cause, the period for submitting such evidence shall be 74646
extended thirty days. 74647

The commissioner shall consider such additional evidence in 74648
reaching the final determination on the assessment and petition 74649
for reassessment. 74650

(F) Whenever a vendor refunds to the consumer the full price 74651
of an item of tangible personal property on which the tax imposed 74652
under this chapter has been paid, the vendor shall also refund the 74653
full amount of the tax paid. 74654

Sec. 5739.032. (A) If the total amount of tax required to be 74655
paid by a permit holder under section 5739.031 of the Revised Code 74656
for any calendar year ~~indicated in the following schedule~~ equals 74657
or exceeds ~~the amounts prescribed for that year in the schedule~~ 74658
seventy-five thousand dollars, the permit holder shall remit each 74659
monthly tax payment in the second ensuing and each succeeding year 74660
by electronic funds transfer as prescribed by division (B) of this 74661
section. 74662

Year	1992	1993 through 1999	2000 and thereafter
Tax payment	\$1,200,000	\$600,000	\$60,000

If a permit holder's tax payment for each of two consecutive 74665
years ~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 74666
dollars, the permit holder is relieved of the requirement to remit 74667
taxes by electronic funds transfer for the year that next follows 74668

the second of the consecutive years in which the tax payment is 74669
less than ~~sixty thousand dollars~~ that amount, and is relieved of 74670
that requirement for each succeeding year, unless the tax payment 74671
in a subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 74672
dollars. 74673

The tax commissioner shall notify each permit holder required 74674
to remit taxes by electronic funds transfer of the permit holder's 74675
obligation to do so, shall maintain an updated list of those 74676
permit holders, and shall timely certify the list and any 74677
additions thereto or deletions therefrom to the treasurer of 74678
state. Failure by the tax commissioner to notify a permit holder 74679
subject to this section to remit taxes by electronic funds 74680
transfer does not relieve the permit holder of its obligation to 74681
remit taxes by electronic funds transfer. 74682

(B) Permit holders required by division (A) of this section 74683
to remit payments by electronic funds transfer shall remit such 74684
payments to the treasurer of state in the manner prescribed by 74685
this section and rules adopted by the treasurer of state under 74686
section 113.061 of the Revised Code, and on or before the 74687
following dates: 74688

(1) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 74689
and twenty-fifth days of each month, a permit holder shall remit 74690
an amount equal to ~~one-fourth~~ thirty-seven and one-half per cent 74691
of the permit holder's total tax liability for the same month in 74692
the preceding calendar year. 74693

(2) On or before the twenty-third day of each month, a permit 74694
holder shall report the taxes due for the previous month and shall 74695
remit that amount, less any amounts paid for that month as 74696
required by division (B)(1) of this section. 74697

The payment of taxes by electronic funds transfer does not 74698
affect a permit holder's obligation to file the monthly return as 74699

required under section 5739.031 of the Revised Code. 74700

(C) A permit holder required by this section to remit taxes 74701
by electronic funds transfer may apply to the treasurer of state 74702
in the manner prescribed by the treasurer of state to be excused 74703
from that requirement. The treasurer of state may excuse the 74704
permit holder from remittance by electronic funds transfer for 74705
good cause shown for the period of time requested by the permit 74706
holder or for a portion of that period. The treasurer of state 74707
shall notify the tax commissioner and the permit holder of the 74708
treasurer of state's decision as soon as is practicable. 74709

(D)(1) If a permit holder that is required to remit payments 74710
under division (B) of this section fails to make a payment, the 74711
commissioner may impose an additional charge not to exceed five 74712
per cent of that unpaid amount. 74713

(2) If a permit holder required by this section to remit 74714
taxes by electronic funds transfer remits those taxes by some 74715
means other than by electronic funds transfer as prescribed by 74716
this section and the rules adopted by the treasurer of state, and 74717
the tax commissioner determines that such failure was not due to 74718
reasonable cause or was due to willful neglect, the commissioner 74719
may impose an additional charge not to exceed the lesser of five 74720
per cent of the amount of the taxes required to be paid by 74721
electronic funds transfer or five thousand dollars. 74722

(3) Any additional charge imposed under division (D)(1) or 74723
(2) of this section is in addition to any other penalty or charge 74724
imposed under this chapter, and shall be considered as revenue 74725
arising from taxes imposed under this chapter. An additional 74726
charge may be collected by assessment in the manner prescribed by 74727
section 5739.13 of the Revised Code. The tax commissioner may 74728
waive all or a portion of such a charge and may adopt rules 74729
governing such waiver. 74730

No additional charge shall be imposed under division (D)(2) 74731
of this section against a permit holder that has been notified of 74732
its obligation to remit taxes under this section and that remits 74733
its first two tax payments after such notification by some means 74734
other than electronic funds transfer. The additional charge may be 74735
imposed upon the remittance of any subsequent tax payment that the 74736
permit holder remits by some means other than electronic funds 74737
transfer. 74738

Sec. 5739.033. The amount of tax due pursuant to sections 74739
5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is 74740
the sum of the taxes imposed pursuant to those sections at the 74741
situs of the sale as determined under this section or, if 74742
applicable, under division (C) of section 5739.031 of the Revised 74743
Code. 74744

(A) Except as otherwise provided in this section, division 74745
(C) of section 5739.031, and section 5739.034 of the Revised Code, 74746
the situs of all sales is the vendor's place of business. 74747

(1) If the consumer or the consumer's agent takes possession 74748
of the tangible personal property at a place of business of the 74749
vendor where the purchase contract or agreement was made, the 74750
situs of the sale is that place of business. 74751

(2) If the consumer or the consumer's agent takes possession 74752
of the tangible personal property other than at a place of 74753
business of the vendor, or takes possession at a warehouse or 74754
similar facility of the vendor, the situs of the sale is the 74755
vendor's place of business where the purchase contract or 74756
agreement was made or the purchase order was received. 74757

(3) If the vendor provides a service specified in division 74758
(B)(3)(a), (b), (c), (d), (n), ~~or~~ (o), (r), (s), or (t) of section 74759
5739.01 or makes a sale specified in division (B)(8) of section 74760

5739.01 of the Revised Code, the situs of the sale is the vendor's 74761
place of business where the service is performed or the contract 74762
or agreement for the service was made or the purchase order was 74763
received. 74764

(B) If the vendor is a transient vendor as specified in 74765
division (B) of section 5739.17 of the Revised Code, the situs of 74766
the sale is the vendor's temporary place of business or, if the 74767
transient vendor is the lessor of titled motor vehicles, titled 74768
watercraft, or titled outboard motors, at the location where the 74769
lessee keeps the leased property. 74770

(C) If the vendor makes sales of tangible personal property 74771
from a stock of goods carried in a motor vehicle, from which the 74772
purchaser makes selection and takes possession, or from which the 74773
vendor sells tangible personal property the quantity of which has 74774
not been determined prior to the time the purchaser takes 74775
possession, the situs of the sale is the location of the motor 74776
vehicle when the sale is made. 74777

(D) If the vendor is a delivery vendor as specified in 74778
division (D) of section 5739.17 of the Revised Code, the situs of 74779
the sale is the place where the tangible personal property is 74780
delivered, where the leased property is used, or where the service 74781
is performed or received. 74782

(E) If the vendor provides a service specified in division 74783
(B)(3)(e), (g), (h), (j), (k), (l), ~~or (m)~~, (q), or (u) of section 74784
5739.01 of the Revised Code, the situs of the sale is the location 74785
of the consumer where the service is performed or received. 74786

(F) ~~Except as provided in division (I) or (J) of this~~ 74787
~~section:~~ 74788

~~(1) If the vendor provides a service specified in division~~ 74789
~~(B)(3)(f) or (i) of section 5739.01 of the Revised Code, the situs~~ 74790
~~of the sale is the location of the telephone number or account as~~ 74791

~~reflected in the records of the vendor.~~ 74792

~~(2) In the case of a telecommunications service, if the telephone number or account is located outside this state, the situs of the sale is the location in this state from which the service originated.~~ 74793
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~~(G)~~ If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located. 74797
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~~(H)~~(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling. 74801
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~~(I) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address.~~ 74811
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Sec. 5739.034. (A) As used in this section: 74820

(1) "Air-to-ground radiotelephone service" means a radio 74821

service, as defined in 47 C.F.R. 22.99, in which common carriers 74822
are authorized to offer and provide radio telecommunications 74823
service for hire to subscribers in aircraft. 74824

(2) "Call-by-call basis" means any method of charging for 74825
telecommunications services where the price is measured by 74826
individual calls. 74827

(3) "Customer" means the person or entity that contracts with 74828
a seller of telecommunications service. If the end user of 74829
telecommunications service is not the contracting party, the end 74830
user of the telecommunications service is the customer of the 74831
telecommunications service. "Customer" does not include a reseller 74832
of telecommunications service or of mobile telecommunications 74833
service of a serving carrier under an agreement to serve the 74834
customer outside the home service provider's licensed service 74835
area. 74836

(4) "End user" means the person who utilizes the 74837
telecommunications service. In the case of a person other than an 74838
individual, "end user" means the individual who utilizes the 74839
service on behalf of the person. 74840

(5) "Home service provider" has the same meaning as in the 74841
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 74842
Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74843

(6) "Place of primary use" means the street address 74844
representative of where the customer's use of the 74845
telecommunications service primarily occurs, which must be the 74846
residential street address or the primary business street address 74847
of the customer. In the case of mobile telecommunications 74848
services, "place of primary use" must be within the licensed 74849
service area of the home service provider. 74850

(7) "Post-paid calling service" means the telecommunications 74851
service obtained by making a payment on a call-by-call basis 74852

either through the use of a credit card or payment mechanism such 74853
as a bank card, travel card, credit card, or debit card, or by 74854
charge made to a telephone number that is not associated with the 74855
origination or termination of the telecommunications service. 74856
"Post-paid calling service" includes a telecommunications service 74857
that would be a prepaid calling service, but for the fact that it 74858
is not exclusively a telecommunications service. 74859

(8) "Prepaid calling service" means the right to access 74860
exclusively a telecommunications service that must be paid for in 74861
advance, that enables the origination of calls using an access 74862
number or authorization code, whether manually or electronically 74863
dialed, and that is sold in predetermined units or dollars of 74864
which the number declines with use in a known amount. 74865

(9) "Service address" means: 74866

(a) The location of the telecommunications equipment to which 74867
a customer's call is charged and from which the call originates or 74868
terminates, regardless of where the call is billed or paid. 74869

(b) If the location in division (A)(9)(a) of this section is 74870
not known, "service address" means the origination point of the 74871
signal of the telecommunications service first identified by 74872
either the seller's telecommunications system or in information 74873
received by the seller from its service provider, where the system 74874
used to transport such signals is not that of the seller. 74875

(c) If the locations in divisions (A)(9)(a) and (b) of this 74876
section are not known, "service address" means the location of the 74877
customer's place of primary use. 74878

(B) The amount of tax due pursuant to sections 5739.02, 74879
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 74880
telecommunications service, information service, or mobile 74881
telecommunications service, is the sum of the taxes imposed 74882
pursuant to those sections at the sourcing location of the sale as 74883

determined under this section. 74884

(C) Except for the telecommunications services described in 74885
division (E) of this section, the sale of telecommunications 74886
service sold on a call-by-call basis shall be sourced to each 74887
level of taxing jurisdiction where the call originates and 74888
terminates in that jurisdiction, or each level of taxing 74889
jurisdiction where the call either originates or terminates and in 74890
which the service address also is located. 74891

(D) Except for the telecommunications services described in 74892
division (E) of this section, a sale of telecommunications 74893
services sold on a basis other than a call-by-call basis shall be 74894
sourced to the customer's place of primary use. 74895

(E) The sale of the following telecommunications services 74896
shall be sourced to each level of taxing jurisdiction, as follows: 74897

(1) A sale of mobile telecommunications service, other than 74898
air-to-ground radiotelephone service and prepaid calling service, 74899
shall be sourced to the customer's place of primary use as 74900
required by the Mobile Telecommunications Sourcing Act. 74901

(2) A sale of post-paid calling service shall be sourced to 74902
the origination point of the telecommunications signal as first 74903
identified by the service provider's telecommunications system, or 74904
information received by the seller from its service provider, 74905
where the system used to transport such signals is not that of the 74906
seller. 74907

(3) A sale of prepaid calling service shall be sourced under 74908
section 5739.033 of the Revised Code; but in the case of a sale of 74909
mobile telecommunications service that is a prepaid 74910
telecommunications service, in lieu of sourcing the service under 74911
division (A)(5) of section 5739.033 of the Revised Code, the 74912
service may be sourced to the location associated with the mobile 74913
telephone number. 74914

Sec. 5739.10. (A) In addition to the tax levied ~~in~~ by section 74915
5739.02 of the Revised Code and any tax levied pursuant to section 74916
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 74917
the same objectives specified in ~~said those~~ sections, there is 74918
hereby levied upon the privilege of engaging in the business of 74919
making retail sales, an excise tax of five per cent, or, in the 74920
case of retail sales subject to a tax levied pursuant to section 74921
5739.021, 5739.023, or 5739.026 of the Revised Code, a percentage 74922
equal to the aggregate rate of such taxes and the tax levied by 74923
section 5739.02 of the Revised Code of the receipts derived from 74924
all retail sales, ~~except retail sales under sixteen cents and~~ 74925
those to which the excise tax imposed by section 5739.02 of the 74926
Revised Code is made inapplicable by division (B) of ~~said that~~ 74927
section. 74928

(B) For the purpose of this section, ~~no~~ vendor shall be 74929
required to maintain records of ~~individual retail sales of~~ 74930
~~tangible personal property under sixteen cents or~~ sales of food 74931
for human consumption off the premises where sold, and no 74932
assessment shall be made against any vendor for ~~retail sales of~~ 74933
~~less than sixteen cents or for~~ sales of food for human consumption 74934
off the premises where sold, solely because the vendor has no 74935
records of, or has inadequate records of, ~~retail sales of less~~ 74936
~~than sixteen cents or such~~ sales of food for human consumption off 74937
~~the premises where sold;~~ provided that where a vendor does not 74938
have adequate records of receipts from ~~his retail sales in excess~~ 74939
~~of fifteen cents or the vendor's~~ sales of food for human 74940
consumption on the premises where sold, the tax commissioner may 74941
refuse to accept the vendor's return and, upon the basis of test 74942
checks of the vendor's business for a representative period, and 74943
other information relating to the sales made by such vendor, 74944
determine the proportion that taxable retail sales bear to all ~~his~~ 74945
of the vendor's retail sales. The tax imposed by this section 74946

shall be determined by deducting from the sum representing five 74947
per cent, or, in the case of retail sales subject to a tax levied 74948
pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised 74949
Code, a percentage equal to the aggregate rate of such taxes and 74950
the tax levied by section 5739.02 of the Revised Code of the 74951
receipts from such retail sales, the amount of tax paid to the 74952
state or to a clerk of a court of common pleas. The section does 74953
not affect any duty of the vendor under sections 5739.01 to 74954
5739.19 and 5739.26 to 5739.31 of the Revised Code, nor the 74955
liability of any consumer to pay any tax imposed by or pursuant to 74956
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 74957
Code. 74958

Sec. 5739.12. (A) Each person who has or is required to have 74959
a vendor's license, on or before the twenty-third day of each 74960
month, shall make and file a return for the preceding month, on 74961
forms prescribed by the tax commissioner, and shall pay the tax 74962
shown on the return to be due. The commissioner may require a 74963
vendor that operates from multiple locations or has multiple 74964
vendor's licenses to report all tax liabilities on one 74965
consolidated return. The return shall show the amount of tax due 74966
from the vendor to the state for the period covered by the return 74967
and such other information as the commissioner deems necessary for 74968
the proper administration of this chapter. The commissioner may 74969
extend the time for making and filing returns and paying the tax, 74970
and may require that the return for the last month of any annual 74971
or semiannual period, as determined by the commissioner, be a 74972
reconciliation return detailing the vendor's sales activity for 74973
the preceding annual or semiannual period. The reconciliation 74974
return shall be filed by the last day of the month following the 74975
last month of the annual or semiannual period. The commissioner 74976
may remit all or any part of amounts or penalties that may become 74977
due under this chapter and may adopt rules relating thereto. Such 74978

return shall be filed by mailing it to the tax commissioner, 74979
together with payment of the amount of tax shown to be due thereon 74980
after deduction of any discount provided for under this section. 74981
Remittance shall be made payable to the treasurer of state. The 74982
return shall be considered filed when received by the tax 74983
commissioner, and the payment shall be considered made when 74984
received by the tax commissioner or when credited to an account 74985
designated by the treasurer of state or the tax commissioner. 74986

(B) If the return is filed and the amount of tax shown 74987
thereon to be due is paid on or before the date such return is 74988
required to be filed, the vendor shall be entitled to a the 74989
following discount ~~of three-fourths~~: 74990

(1) On and after July 1, 2003, and on and before June 30, 74991
2005, one and one-tenth per cent of the amount shown to be due on 74992
the return; 74993

(2) On and after July 1, 2005, three-fourths of one per cent 74994
of the amount shown to be due on the return, ~~but a.~~ 74995

A vendor that has selected a certified service provider as 74996
its agent shall not be entitled to the discount. Amounts paid to 74997
the clerk of courts pursuant to section 4505.06 of the Revised 74998
Code shall be subject to the ~~three-fourths of one per cent~~ 74999
applicable discount. The discount shall be in consideration for 75000
prompt payment to the clerk of courts and for other services 75001
performed by the vendor in the collection of the tax. 75002

(C)(1) Upon application to the commissioner, a vendor who is 75003
required to file monthly returns may be relieved of the 75004
requirement to report and pay the actual tax due, provided that 75005
the vendor agrees to remit to the tax commissioner payment of not 75006
less than an amount determined by the commissioner to be the 75007
average monthly tax liability of the vendor, based upon a review 75008
of the returns or other information pertaining to such vendor for 75009

a period of not less than six months nor more than two years 75010
immediately preceding the filing of the application. Vendors who 75011
agree to the above conditions shall make and file an annual or 75012
semiannual reconciliation return, as prescribed by the 75013
commissioner. The reconciliation return shall be filed by mailing 75014
or delivering it to the tax commissioner, together with payment of 75015
the amount of tax shown to be due thereon after deduction of any 75016
discount provided in this section. Remittance shall be made 75017
payable to the treasurer of state. Failure of a vendor to comply 75018
with any of the above conditions may result in immediate 75019
reinstatement of the requirement of reporting and paying the 75020
actual tax liability on each monthly return, and the commissioner 75021
may at the commissioner's discretion deny the vendor the right to 75022
report and pay based upon the average monthly liability for a 75023
period not to exceed two years. The amount ascertained by the 75024
commissioner to be the average monthly tax liability of a vendor 75025
may be adjusted, based upon a review of the returns or other 75026
information pertaining to the vendor for a period of not less than 75027
six months nor more than two years preceding such adjustment. 75028

(2) The commissioner may authorize vendors whose tax 75029
liability is not such as to merit monthly returns, as ascertained 75030
by the commissioner upon the basis of administrative costs to the 75031
state, to make and file returns at less frequent intervals. When 75032
returns are filed at less frequent intervals in accordance with 75033
such authorization, the vendor shall be allowed the discount ~~of~~ 75034
~~three-fourths of one per cent~~ provided in this section in 75035
consideration for prompt payment with the return, provided the 75036
return is filed together with payment of the amount of tax shown 75037
to be due thereon, at the time specified by the commissioner, but 75038
a vendor that has selected a certified service provider as its 75039
agent shall not be entitled to the discount. 75040

(D) Any vendor who fails to file a return or pay the full 75041

amount of the tax shown on the return to be due under this section 75042
and the rules of the commissioner may, for each such return the 75043
vendor fails to file or each such tax the vendor fails to pay in 75044
full as shown on the return within the period prescribed by this 75045
section and the rules of the commissioner, be required to forfeit 75046
and pay into the state treasury an additional charge not exceeding 75047
fifty dollars or ten per cent of the tax required to be paid for 75048
the reporting period, whichever is greater, as revenue arising 75049
from the tax imposed by this chapter, and such sum may be 75050
collected by assessment in the manner provided in section 5739.13 75051
of the Revised Code. The commissioner may remit all or a portion 75052
of the additional charge and may adopt rules relating to the 75053
imposition and remission of the additional charge. 75054

(E) If the amount required to be collected by a vendor from 75055
consumers is in excess of ~~five per cent~~ the applicable percentage 75056
of the vendor's receipts from sales that are taxable under section 75057
5739.02 of the Revised Code, or in the case of sales subject to a 75058
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75059
the Revised Code, in excess of the percentage equal to the 75060
aggregate rate of such taxes and the tax levied by section 5739.02 75061
of the Revised Code, such excess shall be remitted along with the 75062
remittance of the amount of tax due under section 5739.10 of the 75063
Revised Code. 75064

(F) The commissioner, if the commissioner deems it necessary 75065
in order to insure the payment of the tax imposed by this chapter, 75066
may require returns and payments to be made for other than monthly 75067
periods. The returns shall be signed by the vendor or the vendor's 75068
authorized agent. 75069

(G) Any vendor required to file a return and pay the tax 75070
under this section, whose total payment ~~in any year indicated in~~ 75071
~~division (A) of section 5739.122 of the Revised Code~~ equals or 75072
exceeds the amount shown in ~~that~~ division (A) of section 5739.122 75073

of the Revised Code, shall make each payment required by this 75074
section in the second ensuing and each succeeding year by 75075
electronic funds transfer as prescribed by, and on or before the 75076
dates specified in, section 5739.122 of the Revised Code, except 75077
as otherwise prescribed by that section. For a vendor that 75078
operates from multiple locations or has multiple vendor's 75079
licenses, in determining whether the vendor's total payment equals 75080
or exceeds the amount shown in division (A) of that section, the 75081
vendor's total payment amount shall be the amount of the vendor's 75082
total tax liability for the previous calendar year for all of the 75083
vendor's locations or licenses. 75084

Sec. 5739.121. (A) As used in this section, "bad debt" means 75085
any debt that has become worthless or uncollectible in the time 75086
period between a vendor's preceding return and the present return, 75087
~~have~~ has been uncollected for at least six months, and that may be 75088
claimed as a deduction pursuant to the "Internal Revenue Code of 75089
1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations 75090
adopted pursuant thereto, or that could be claimed as such a 75091
deduction if the vendor kept accounts on an accrual basis. "Bad 75092
debt" does not include any interest or sales tax on the purchase 75093
price, uncollectible amounts on property that remains in the 75094
possession of the vendor until the full purchase price is paid, 75095
expenses incurred in attempting to collect any account receivable 75096
or for any portion of the debt recovered, ~~any accounts receivable~~ 75097
~~that have been sold to a third party for collection,~~ and 75098
repossessed property. 75099

(B) In computing taxable receipts for purposes of this 75100
chapter, a vendor may deduct the amount of bad debts, ~~as defined~~ 75101
~~in this section~~. The amount deducted must be charged off as 75102
uncollectible on the books of the vendor. A deduction may be 75103
claimed only with respect to bad debts on which the taxes pursuant 75104
to sections 5739.10 and 5739.12 of the Revised Code were paid in a 75105

preceding tax period. If the vendor's business consists of taxable 75106
and nontaxable transactions, the deduction shall equal the full 75107
amount of the debt if the debt is documented as a taxable 75108
transaction in the vendor's records. If no such documentation is 75109
available, the maximum deduction on any bad debt shall equal the 75110
amount of the bad debt multiplied by the quotient obtained by 75111
dividing the sales taxed pursuant to this chapter during the 75112
preceding calendar year by all sales during the preceding calendar 75113
year, whether taxed or not. If a consumer or other person pays all 75114
or part of a bad debt with respect to which a vendor claimed a 75115
deduction under this section, the vendor shall be liable for the 75116
amount of taxes deducted in connection with that portion of the 75117
debt for which payment is received and shall remit such taxes in 75118
the vendor's next payment to the tax commissioner. 75119

(C) Any claim for a bad debt deduction under this section 75120
shall be supported by such evidence as the tax commissioner by 75121
rule requires. The commissioner shall review any change in the 75122
rate of taxation applicable to any taxable sales by a vendor 75123
claiming a deduction pursuant to this section and adopt rules for 75124
altering the deduction in the event of such a change in order to 75125
ensure that the deduction on any bad debt does not result in the 75126
vendor claiming the deduction recovering any more or less than the 75127
taxes imposed on the sale that constitutes the bad debt. 75128

(D) In any reporting period in which the amount of bad debt 75129
exceeds the amount of taxable sales for the period, the vendor may 75130
file a refund claim for any tax collected on the bad debt in 75131
excess of the tax reported on the return. The refund claim shall 75132
be filed in the manner provided in section 5739.07 of the Revised 75133
Code, except that the claim may be filed within four years of the 75134
due date of the return on which the bad debt first could have been 75135
claimed. 75136

(E) When the filing responsibilities of a vendor have been 75137

assumed by a certified service provider, the certified service 75138
provider shall claim the bad debt allowance provided by this 75139
section on behalf of the vendor. The certified service provider 75140
shall credit or refund to the vendor the full amount of any bad 75141
debt allowance or refund. 75142

(F) No person other than the vendor in the transaction that 75143
generated the bad debt or, as provided in division (E) of this 75144
section, a certified service provider, may claim the bad debt 75145
allowance provided by this section. 75146

Sec. 5739.122. (A) If the total amount of tax required to be 75147
paid by a vendor under section 5739.12 of the Revised Code for any 75148
calendar year ~~indicated in the following schedule~~ equals or 75149
exceeds ~~the amounts prescribed for that year in the schedule~~ 75150
seventy-five thousand dollars, the vendor shall remit each monthly 75151
tax payment in the second ensuing and each succeeding tax year by 75152
electronic funds transfer as prescribed by divisions (B) and (C) 75153
of this section. 75154

Year	1992	1993 through 1999	2000 and thereafter	75155
Tax payment	\$1,200,000	\$600,000	\$60,000	75156

If a vendor's tax payment for each of two consecutive years 75157
~~beginning with 2000~~ is less than ~~sixty~~ seventy-five thousand 75158
dollars, the vendor is relieved of the requirement to remit taxes 75159
by electronic funds transfer for the year that next follows the 75160
second of the consecutive years in which the tax payment is less 75161
than ~~sixty thousand dollars~~ that amount, and is relieved of that 75162
requirement for each succeeding year, unless the tax payment in a 75163
subsequent year equals or exceeds ~~sixty~~ seventy-five thousand 75164
dollars. 75165

The tax commissioner shall notify each vendor required to 75166
remit taxes by electronic funds transfer of the vendor's 75167
obligation to do so, shall maintain an updated list of those 75168

vendors, and shall timely certify the list and any additions 75169
thereto or deletions therefrom to the treasurer of state. Failure 75170
by the tax commissioner to notify a vendor subject to this section 75171
to remit taxes by electronic funds transfer does not relieve the 75172
vendor of its obligation to remit taxes by electronic funds 75173
transfer. 75174

(B) Vendors required by division (A) of this section to remit 75175
payments by electronic funds transfer shall remit such payments to 75176
the treasurer of state in the manner prescribed by this section 75177
and rules adopted by the treasurer of state under section 113.061 75178
of the Revised Code, and on or before the following dates: 75179

(1) On or before the ~~eleventh~~ fifteenth day of each month, a 75180
vendor shall remit an amount equal to the taxes collected during 75181
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 75182
~~eighteenth day of each month, a vendor shall remit an amount equal~~ 75183
~~to the taxes collected on the eighth through the fourteenth day of~~ 75184
~~the month.~~ On or before the twenty-fifth day of each month, a 75185
vendor shall remit an amount equal to the taxes collected on the 75186
~~fifteenth~~ twelfth through the twenty-first day of the month. 75187

(2) In lieu of remitting the actual amounts collected for the 75188
periods specified in division (B)(1) of this section, a vendor 75189
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 75190
twenty-fifth days of each month, remit an amount equal to 75191
~~one-fourth~~ thirty-seven and one-half per cent of the vendor's 75192
total tax liability for the same month in the preceding calendar 75193
year. 75194

(3) On or before the twenty-third day of each month, a vendor 75195
shall report the taxes collected for the previous month and shall 75196
remit that amount, less any amounts paid for that month as 75197
required by division (B)(1) or (2) of this section. 75198

The payment of taxes by electronic funds transfer does not 75199

affect a vendor's obligation to file the monthly return as 75200
required under section 5739.12 of the Revised Code. 75201

(C) A vendor required by this section to remit taxes by 75202
electronic funds transfer may apply to the treasurer of state in 75203
the manner prescribed by the treasurer of state to be excused from 75204
that requirement. The treasurer of state may excuse the vendor 75205
from remittance by electronic funds transfer for good cause shown 75206
for the period of time requested by the vendor or for a portion of 75207
that period. The treasurer of state shall notify the tax 75208
commissioner and the vendor of the treasurer of state's decision 75209
as soon as is practicable. 75210

(D)(1) If a vendor that is required to remit payments under 75211
division (B) of this section fails to make a payment, the 75212
commissioner may impose an additional charge not to exceed five 75213
per cent of that unpaid amount. 75214

(2) If a vendor required by this section to remit taxes by 75215
electronic funds transfer remits those taxes by some means other 75216
than by electronic funds transfer as prescribed by this section 75217
and the rules adopted by the treasurer of state, and the treasurer 75218
of state determines that such failure was not due to reasonable 75219
cause or was due to willful neglect, the treasurer of state shall 75220
notify the tax commissioner of the failure to remit by electronic 75221
funds transfer and shall provide the commissioner with any 75222
information used in making that determination. The tax 75223
commissioner may impose an additional charge not to exceed the 75224
lesser of five per cent of the amount of the taxes required to be 75225
paid by electronic funds transfer or five thousand dollars. 75226

(3) Any additional charge imposed under division (D)(1) or 75227
(2) of this section is in addition to any other penalty or charge 75228
imposed under this chapter, and shall be considered as revenue 75229
arising from taxes imposed under this chapter. An additional 75230
charge may be collected by assessment in the manner prescribed by 75231

section 5739.13 of the Revised Code. The tax commissioner may 75232
waive all or a portion of such a charge and may adopt rules 75233
governing such waiver. 75234

No additional charge shall be imposed under division (D)(2) 75235
of this section against a vendor that has been notified of its 75236
obligation to remit taxes under this section and that remits its 75237
first two tax payments after such notification by some means other 75238
than electronic funds transfer. The additional charge may be 75239
imposed upon the remittance of any subsequent tax payment that the 75240
vendor remits by some means other than electronic funds transfer. 75241

Sec. 5739.17. (A) No person shall engage in making retail 75242
sales subject to a tax imposed by or pursuant to section 5739.02, 75243
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75244
without having a license therefor, except as otherwise provided in 75245
divisions (A)(1), (2), and (3) of this section. 75246

(1) In the dissolution of a partnership by death, the 75247
surviving partner may operate under the license of the partnership 75248
for a period of sixty days. 75249

(2) The heirs or legal representatives of deceased persons, 75250
and receivers and trustees in bankruptcy, appointed by any 75251
competent authority, may operate under the license of the person 75252
so succeeded in possession. 75253

(3) Two or more persons who are not partners may operate a 75254
single place of business under one license. In such case neither 75255
the retirement of any such person from business at that place of 75256
business, nor the entrance of any person, under an existing 75257
arrangement, shall affect the license or require the issuance of a 75258
new license, unless the person retiring from the business is the 75259
individual named on the vendor's license. 75260

Except as otherwise provided in this section, each applicant 75261

for a license shall make out and deliver to the county auditor of 75262
each county in which the applicant desires to engage in business, 75263
upon a blank to be furnished by such auditor for that purpose, a 75264
statement showing the name of the applicant, each place of 75265
business in the county where the applicant will make retail sales, 75266
the nature of the business, and any other information the tax 75267
commissioner reasonably prescribes in the form of a statement 75268
prescribed by the commissioner. 75269

At the time of making the application, the applicant shall 75270
pay into the county treasury a license fee in the sum of 75271
twenty-five dollars for each fixed place of business in the county 75272
that will be the situs of retail sales. Upon receipt of the 75273
application and exhibition of the county treasurer's receipt, 75274
showing the payment of the license fee, the county auditor shall 75275
issue to the applicant a license for each fixed place of business 75276
designated in the application, authorizing the applicant to engage 75277
in business at that location. If a vendor's identity changes, the 75278
vendor shall apply for a new license. If a vendor wishes to move 75279
an existing fixed place of business to a new location within the 75280
same county, the vendor shall obtain a new vendor's license or 75281
submit a request to the tax commissioner to transfer the existing 75282
vendor's license to the new location. When the new location has 75283
been verified as being within the same county, the commissioner 75284
shall authorize the transfer and notify the county auditor of the 75285
change of location. If a vendor wishes to move an existing fixed 75286
place of business to another county, the vendor's license shall 75287
not transfer and the vendor shall obtain a new vendor's license 75288
from the county in which the business is to be located. The form 75289
of the license shall be prescribed by the commissioner. The fees 75290
collected shall be credited to the general fund of the county. 75291

A vendor that makes retail sales subject to tax under Chapter 75292
5739. of the Revised Code pursuant to a permit issued by the 75293

division of liquor control shall obtain a vendor's license in the 75294
identical name and for the identical address as shown on the 75295
permit. 75296

Except as otherwise provided in this section, if a vendor has 75297
no fixed place of business and sells from a vehicle, each vehicle 75298
intended to be used within a county constitutes a place of 75299
business for the purpose of this section. 75300

(B) As used in this division, "transient vendor" means any 75301
person who makes sales of tangible personal property from vending 75302
machines located on land owned by others, who leases titled motor 75303
vehicles, titled watercraft, or titled outboard motors, who 75304
effectuates leases that are taxed according to division 75305
~~(H)(4)(A)(2)~~ of section ~~5739.01~~ 5739.02 of the Revised Code, or 75306
who, in the usual course of the person's business, transports 75307
inventory, stock of goods, or similar tangible personal property 75308
to a temporary place of business or temporary exhibition, show, 75309
fair, flea market, or similar event in a county in which the 75310
person has no fixed place of business, for the purpose of making 75311
retail sales of such property. A "temporary place of business" 75312
means any public or quasi-public place including, but not limited 75313
to, a hotel, rooming house, storeroom, building, part of a 75314
building, tent, vacant lot, railroad car, or motor vehicle that is 75315
temporarily occupied for the purpose of making retail sales of 75316
goods to the public. A place of business is not temporary if the 75317
same person conducted business at the place continuously for more 75318
than six months or occupied the premises as the person's permanent 75319
residence for more than six months, or if the person intends it to 75320
be a fixed place of business. 75321

Any transient vendor, in lieu of obtaining a vendor's license 75322
under division (A) of this section for counties in which the 75323
transient vendor has no fixed place of business, may apply to the 75324
tax commissioner, on a form prescribed by the commissioner, for a 75325

transient vendor's license. The transient vendor's license 75326
authorizes the transient vendor to make retail sales in any county 75327
in which the transient vendor does not maintain a fixed place of 75328
business. Any holder of a transient vendor's license shall not be 75329
required to obtain a separate vendor's license from the county 75330
auditor in that county. Upon the commissioner's determination that 75331
an applicant is a transient vendor, the applicant shall pay a 75332
license fee in the amount of twenty-five dollars, at which time 75333
the tax commissioner shall issue the license. The tax commissioner 75334
may require a vendor to be licensed as a transient vendor if, in 75335
the opinion of the commissioner, such licensing is necessary for 75336
the efficient administration of the tax. 75337

Any holder of a valid transient vendor's license may make 75338
retail sales at a temporary place of business or temporary 75339
exhibition, show, fair, flea market, or similar event, held 75340
anywhere in the state without complying with any provision of 75341
section 311.37 of the Revised Code. Any holder of a valid vendor's 75342
license may make retail sales as a transient vendor at a temporary 75343
place of business or temporary exhibition, show, fair, flea 75344
market, or similar event held in any county in which the vendor 75345
maintains a fixed place of business for which the vendor holds a 75346
vendor's license without obtaining a transient vendor's license. 75347

(C) As used in this division, "service vendor" means any 75348
person who, in the usual course of the person's business, sells 75349
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75350
(k), (l), ~~or~~ (m), (q), or (u) of section 5739.01 of the Revised 75351
Code. 75352

Every service vendor shall make application to the tax 75353
commissioner for a service vendor's license. Each applicant shall 75354
pay a license fee in the amount of twenty-five dollars. Upon the 75355
commissioner's determination that an applicant is a service vendor 75356
and payment of the fee, the commissioner shall issue the applicant 75357

a service vendor's license. 75358

Only sales described in division (B)(3)(e), (f), (g), (h), 75359
(i), (j), (k), (l), ~~or (m)~~, (g), or (u) of section 5739.01 of the 75360
Revised Code may be made under authority of a service vendor's 75361
license, and that license authorizes sales to be made at any place 75362
in this state. Any service vendor who makes sales of other 75363
services or tangible personal property subject to the sales tax 75364
also shall be licensed under division (A), (B), or (D) of this 75365
section. 75366

(D) As used in this division, "delivery vendor" means any 75367
vendor who engages in one or more of the activities described in 75368
divisions (D)(1) to (4) of this section, and who maintains no 75369
store, showroom, or similar fixed place of business or other 75370
location where merchandise regularly is offered for sale or 75371
displayed or shown in catalogs for selection or pick-up by 75372
consumers, or where consumers bring goods for repair or other 75373
service. 75374

(1) The vendor makes retail sales of tangible personal 75375
property; 75376

(2) The vendor rents or leases, at retail, tangible personal 75377
property, except titled motor vehicles, titled watercraft, or 75378
titled outboard motors; 75379

(3) The vendor provides a service, at retail, described in 75380
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the 75381
Revised Code; or 75382

(4) The vendor makes retail sales of warranty, maintenance or 75383
service contracts, or similar agreements as described in division 75384
(B)(7) of section 5739.01 of the Revised Code. 75385

A transient vendor or a seller registered pursuant to section 75386
5741.17 of the Revised Code is not a delivery vendor. 75387

Delivery vendors shall apply to the tax commissioner, on a 75388
form prescribed by the commissioner, for a delivery vendor's 75389
license. Each applicant shall pay a license fee of twenty-five 75390
dollars for each delivery vendor's license, to be credited to the 75391
general revenue fund. Upon the commissioner's determination that 75392
the applicant is a delivery vendor, the commissioner shall issue 75393
the license. A delivery vendor's license authorizes retail sales 75394
to be made throughout the state. All sales of the vendor must be 75395
reported under the delivery license. The commissioner may require 75396
a vendor to be licensed as a delivery vendor if, in the opinion of 75397
the commissioner, such licensing is necessary for the efficient 75398
administration of the tax. The commissioner shall not issue a 75399
delivery vendor license to a vendor who holds a license issued 75400
under division (A) of this section. 75401

(E) Any transient vendor who is issued a license pursuant to 75402
this section shall display the license or a copy of it 75403
prominently, in plain view, at every place of business of the 75404
transient vendor. Every owner, organizer, or promoter who operates 75405
a fair, flea market, show, exhibition, convention, or similar 75406
event at which transient vendors are present shall keep a 75407
comprehensive record of all such vendors, listing the vendor's 75408
name, permanent address, vendor's license number, and the type of 75409
goods sold. Such records shall be kept for four years and shall be 75410
open to inspection by the tax commissioner. 75411

Sec. 5739.21. (A) Four and two-tenths per cent of all money 75412
deposited into the state treasury under sections 5739.01 to 75413
5739.31 of the Revised Code and not required to be distributed as 75414
provided in section 5739.102 of the Revised Code or division (B) 75415
of this section shall be credited to the local government fund for 75416
distribution in accordance with section 5747.50 of the Revised 75417
Code, six-tenths of one per cent shall be credited to the local 75418

government revenue assistance fund for distribution in accordance 75419
with section 5747.61 of the Revised Code, and ninety-five and 75420
two-tenths per cent shall be credited to the general revenue fund. 75421

(B)(1) In any case where any county or transit authority has 75422
levied a tax or taxes pursuant to section 5739.021, 5739.023, or 75423
5739.026 of the Revised Code, the tax commissioner shall, within 75424
forty-five days after the end of each month, determine and certify 75425
to the director of budget and management the amount of the 75426
proceeds of such tax or taxes received during that month from 75427
billings and assessments ~~received during that month~~, or ~~shown on~~ 75428
associated with tax returns or reports filed during that month, to 75429
be returned to the county or transit authority levying the tax or 75430
taxes. The amount to be returned to each county and transit 75431
authority shall be a fraction of the aggregate amount of money 75432
collected with respect to each area in which one or more of such 75433
taxes are concurrently in effect with the tax levied by section 75434
5739.02 of the Revised Code, ~~the~~. The numerator of which the 75435
fraction is the rate of the tax levied by the county or transit 75436
authority and the denominator of ~~which the fraction~~ is the 75437
aggregate rate of such taxes applicable to such area; ~~provided,~~ 75438
~~that the~~. The amount to be returned to each county or transit 75439
authority shall be reduced by the amount of any refunds of county 75440
or transit authority tax paid pursuant to section 5739.07 of the 75441
Revised Code during the same month, or transfers made pursuant to 75442
division (B)(2) of section 5703.052 of the Revised Code. 75443

(2) On a periodic basis, using the best information 75444
available, the tax commissioner shall distribute any amount of a 75445
county or transit authority tax that cannot be distributed under 75446
division (B)(1) of this section. Through audit or other means, the 75447
commissioner shall attempt to obtain the information necessary to 75448
make the distribution as provided under that division and, on 75449
receipt of that information, shall make adjustments to 75450

distributions previously made under this division. 75451

(C) The aggregate amount to be returned to any county or 75452
transit authority shall be reduced by one per cent, which shall be 75453
certified directly to the credit of the local sales tax 75454
administrative fund, which is hereby created in the state 75455
treasury. For the purpose of determining the amount to be returned 75456
to a county and transit authority in which the rate of tax imposed 75457
by the transit authority has been reduced under section 5739.028 75458
of the Revised Code, the tax commissioner shall use the respective 75459
rates of tax imposed by the county or transit authority that 75460
results from the change in the rates authorized under that 75461
section. ~~The~~ 75462

(D) The director of budget and management shall transfer, 75463
from the same funds and in the same proportions specified in 75464
division (A) of this section, to the permissive tax distribution 75465
fund created by division (B)(1) of section 4301.423 of the Revised 75466
Code and to the local sales tax administrative fund, the amounts 75467
certified by the tax commissioner. The tax commissioner shall 75468
then, on or before the twentieth day of the month in which such 75469
certification is made, provide for payment of such respective 75470
amounts to the county treasurer and to the fiscal officer of the 75471
transit authority levying the tax or taxes. The amount transferred 75472
to the local sales tax administrative fund is for use by the tax 75473
commissioner in defraying costs incurred in administering such 75474
taxes levied by a county or transit authority. 75475

Sec. 5739.33. If any corporation, limited liability company, 75476
or business trust required to file returns and to remit tax due to 75477
the state under this chapter, including a holder of a direct 75478
payment permit under section 5739.031 of the Revised Code, fails 75479
for any reason to make the filing or payment, any of its employees 75480
having control or supervision of or charged with the 75481

responsibility of filing returns and making payments, or any of 75482
its officers, members, managers, or trustees who are responsible 75483
for the execution of the corporation's, limited liability 75484
company's, or business trust's fiscal responsibilities, shall be 75485
personally liable for the failure. The dissolution, termination, 75486
or bankruptcy of a corporation, limited liability company, or 75487
business trust shall not discharge a responsible officer's, 75488
member's, manager's, employee's, or trustee's liability for a 75489
failure of the corporation, limited liability company, or business 75490
trust to file returns or remit tax due. The sum due for the 75491
liability may be collected by assessment in the manner provided in 75492
section 5739.13 of the Revised Code. 75493

Sec. 5741.01. As used in this chapter: 75494

(A) "Person" includes individuals, receivers, assignees, 75495
trustees in bankruptcy, estates, firms, partnerships, 75496
associations, joint-stock companies, joint ventures, clubs, 75497
societies, corporations, business trusts, governments, and 75498
combinations of individuals of any form. 75499

(B) "Storage" means and includes any keeping or retention in 75500
this state for use or other consumption in this state. 75501

(C) "Use" means and includes the exercise of any right or 75502
power incidental to the ownership of the thing used. A thing is 75503
also "used" in this state if its consumer gives or otherwise 75504
distributes it, without charge, to recipients in this state. 75505

(D) "Purchase" means acquired or received for a 75506
consideration, whether such acquisition or receipt was effected by 75507
a transfer of title, or of possession, or of both, or a license to 75508
use or consume; whether such transfer was absolute or conditional, 75509
and by whatever means the transfer was effected; and whether the 75510
consideration was money, credit, barter, or exchange. Purchase 75511
includes production, even though the article produced was used, 75512

stored, or consumed by the producer. The transfer of copyrighted 75513
motion picture films for exhibition purposes is not a purchase, 75514
except such films as are used solely for advertising purposes. 75515

(E) "Seller" means the person from whom a purchase is made, 75516
and includes every person engaged in this state or elsewhere in 75517
the business of selling tangible personal property or providing a 75518
service for storage, use, or other consumption or benefit in this 75519
state; and when, in the opinion of the tax commissioner, it is 75520
necessary for the efficient administration of this chapter, to 75521
regard any salesman, representative, peddler, or canvasser as the 75522
agent of a dealer, distributor, supervisor, or employer under whom 75523
the person operates, or from whom the person obtains tangible 75524
personal property, sold by the person for storage, use, or other 75525
consumption in this state, irrespective of whether or not the 75526
person is making such sales on the person's own behalf, or on 75527
behalf of such dealer, distributor, supervisor, or employer, the 75528
commissioner may regard the person as such agent, and may regard 75529
such dealer, distributor, supervisor, or employer as the seller. 75530
"Seller" does not include any person to the extent the person 75531
provides a communications medium, such as, but not limited to, 75532
newspapers, magazines, radio, television, or cable television, by 75533
means of which sellers solicit purchases of their goods or 75534
services. 75535

(F) "Consumer" means any person who has purchased tangible 75536
personal property or has been provided a service for storage, use, 75537
or other consumption or benefit in this state. "Consumer" does not 75538
include a person who receives, without charge, tangible personal 75539
property or a service. 75540

A person who performs a facility management or similar 75541
service contract for a contractee is a consumer of all tangible 75542
personal property and services purchased for use in connection 75543
with the performance of such contract, regardless of whether title 75544

to any such property vests in the contractee. The purchase of such 75545
property and services is not subject to the exception for resale 75546
under division (E)~~(1)~~ of section 5739.01 of the Revised Code. 75547

(G)~~(1)~~ "Price," except as provided in the case of watercraft, 75548
~~outboard motors, or new motor vehicles, means the aggregate value~~ 75549
~~in money of anything paid or delivered, or promised to be paid or~~ 75550
~~delivered, by a consumer to a seller in the complete performance~~ 75551
~~of the transaction by which tangible personal property has been~~ 75552
~~purchased or a service has been provided for storage, use, or~~ 75553
~~other consumption or benefit in this state, without any deduction~~ 75554
~~or exclusion on account of the cost of the property sold, cost of~~ 75555
~~materials used, labor or service cost, interest, discount paid or~~ 75556
~~allowed after the sale is consummated, or any other expense. If~~ 75557
~~the transaction consists of the rental or lease of tangible~~ 75558
~~personal property, "price" means the aggregate value in money of~~ 75559
~~anything paid or delivered, or promised to be paid or delivered by~~ 75560
~~the lessee to the lessor, in the complete performance of the~~ 75561
~~rental or lease, without any deduction or exclusion of tax,~~ 75562
~~interest, labor or service charge, damage liability waiver,~~ 75563
~~termination or damage charge, discount paid or allowed after the~~ 75564
~~lease is consummated, or any other expense. Except as provided in~~ 75565
~~division (C)(6) of this section, the tax shall be calculated and~~ 75566
~~collected by the lessor on each payment made by the lessee. If a~~ 75567
~~consumer produces the tangible personal property used by the~~ 75568
~~consumer, the price is the produced cost of such tangible personal~~ 75569
~~property. "Price" does not include delivery charges that are~~ 75570
~~separately stated on the initial invoice or initial billing~~ 75571
~~rendered by the seller.~~ 75572

~~The tax collected by the seller from the consumer under this~~ 75573
~~chapter is not a part of the price, but is a tax collection for~~ 75574
~~the benefit of the state, and of counties levying an additional~~ 75575
~~use tax pursuant to section 5741.021 or 5741.023 of the Revised~~ 75576

~~Code and of transit authorities levying an additional use tax 75577
pursuant to section 5741.022 of the Revised Code and, except for 75578
the discount authorized under section 5741.12 of the Revised Code 75579
and the effects of any rounding pursuant to section 5703.055 of 75580
the Revised Code, no person other than the state or such a county 75581
or transit authority shall derive any benefit from the collection 75582
or payment of such tax. 75583~~

~~As used in division divisions (G)(1)(2) to (6) of this 75584
section, "delivery charges" means charges by the seller for 75585
preparation and delivery to a location designated by the consumer 75586
of tangible personal property or a service, including 75587
transportation, shipping, postage, handling, crating, and packing 75588
has the same meaning as in division (H)(1) of section 5739.01 of 75589
the Revised Code. 75590~~

~~(2) In the case of watercraft, outboard motors, or new motor 75591
vehicles, "price" has the same meaning as in division divisions 75592
(H)(2) and (3) of section 5739.01 of the Revised Code. 75593~~

~~(3) In the case of a nonresident business consumer that 75594
purchases and uses tangible personal property outside this state 75595
and subsequently temporarily stores, uses, or otherwise consumes 75596
such tangible personal property in the conduct of business in this 75597
state, the consumer or the tax commissioner may determine the 75598
price based on the value of the temporary storage, use, or other 75599
consumption, in lieu of determining the price pursuant to division 75600
(G)(1) of this section. A price determination made by the consumer 75601
is subject to review and redetermination by the commissioner. 75602~~

~~(4) In the case of tangible personal property held in this 75603
state as inventory for sale or lease, and that is temporarily 75604
stored, used, or otherwise consumed in a taxable manner, the price 75605
is the value of the temporary use. A price determination made by 75606
the consumer is subject to review and redetermination by the 75607
commissioner. 75608~~

(5) In the case of tangible personal property originally 75609
purchased and used by the consumer outside this state, and that 75610
becomes permanently stored, used, or otherwise consumed in this 75611
state more than six months after its acquisition by the consumer, 75612
the consumer or the commissioner may determine the price based on 75613
the current value of such tangible personal property, in lieu of 75614
determining the price pursuant to division (G)(1) of this section. 75615
A price determination made by the consumer is subject to review 75616
and redetermination by the commissioner. 75617

~~(6) In the case of the purchase or lease of any motor vehicle 75618
designed by the manufacturer to carry a load of not more than one 75619
ton, watercraft, outboard motor, or aircraft, or the lease of any 75620
tangible personal property, other than motor vehicles designed by 75621
the manufacturer to carry a load of more than one ton, to be used 75622
by the lessee primarily for business purposes, the tax shall be 75623
collected by the vendor at the time the lease is consummated and 75624
calculated by the vendor on the basis of the total amount to be 75625
paid by the lessee under the lease agreement. If the total amount 75626
of the consideration for the lease includes amounts that are not 75627
calculated at the time the lease is executed, the tax shall be 75628
calculated and collected by the vendor at the time such amounts 75629
are billed to the lessee. In the case of an open end lease, the 75630
tax shall be calculated by the vendor on the basis of the total 75631
amount to be paid during the initial fixed term of the lease, and 75632
then for each subsequent renewal period as it comes due. As used 75633
in division (G)(6) of this section only, "motor vehicle" has the 75634
same meaning as in section 4501.01 of the Revised Code If a 75635
consumer produces tangible personal property for sale and removes 75636
that property from inventory for the consumer's own use, the price 75637
is the produced cost of that tangible personal property. 75638~~

(H) "Nexus with this state" means that the seller engages in 75639
continuous and widespread solicitation of purchases from residents 75640

of this state or otherwise purposefully directs its business 75641
activities at residents of this state. 75642

(I) "Substantial nexus with this state" means that the seller 75643
has sufficient contact with this state, in accordance with Section 75644
8 of Article I of the Constitution of the United States, to allow 75645
the state to require the seller to collect and remit use tax on 75646
sales of tangible personal property or services made to consumers 75647
in this state. "Substantial nexus with this state" exists when the 75648
seller does any of the following: 75649

(1) Maintains a place of business within this state, whether 75650
operated by employees or agents of the seller, by a member of an 75651
affiliated group, as ~~described~~ defined in division (B)(3)(e) of 75652
section 5739.01 of the Revised Code, of which the seller is a 75653
member, or by a franchisee using a trade name of the seller; 75654

(2) Regularly has employees, agents, representatives, 75655
solicitors, installers, repairmen, salesmen, or other individuals 75656
in this state for the purpose of conducting the business of the 75657
seller; 75658

(3) Uses a person in this state for the purpose of receiving 75659
or processing orders of the seller's goods or services; 75660

(4) Makes regular deliveries of tangible personal property 75661
into this state by means other than common carrier; 75662

(5) Has membership in an affiliated group, as described in 75663
division (B)(3)(e) of section 5739.01 of the Revised Code, at 75664
least one other member of which has substantial nexus with this 75665
state; 75666

(6) Owns tangible personal property that is rented or leased 75667
to a consumer in this state, or offers tangible personal property, 75668
on approval, to consumers in this state; 75669

(7) Except as provided in section 5703.65 of the Revised 75670

Code, is registered with the secretary of state to do business in 75671
this state or is registered or licensed by any state agency, 75672
board, or commission to transact business in this state or to make 75673
sales to persons in this state; 75674

(8) Has any other contact with this state that would allow 75675
this state to require the seller to collect and remit use tax 75676
under Section 8 of Article I of the Constitution of the United 75677
States. 75678

(J) "Fiscal officer" means, with respect to a regional 75679
transit authority, the secretary-treasurer thereof, and with 75680
respect to a county which is a transit authority, the fiscal 75681
officer of the county transit board appointed pursuant to section 75682
306.03 of the Revised Code or, if the board of county 75683
commissioners operates the county transit system, the county 75684
auditor. 75685

(K) "Territory of the transit authority" means all of the 75686
area included within the territorial boundaries of a transit 75687
authority as they from time to time exist. Such territorial 75688
boundaries must at all times include all the area of a single 75689
county or all the area of the most populous county which is a part 75690
of such transit authority. County population shall be measured by 75691
the most recent census taken by the United States census bureau. 75692

(L) "Transit authority" means a regional transit authority 75693
created pursuant to section 306.31 of the Revised Code or a county 75694
in which a county transit system is created pursuant to section 75695
306.01 of the Revised Code. For the purposes of this chapter, a 75696
transit authority must extend to at least the entire area of a 75697
single county. A transit authority which includes territory in 75698
more than one county must include all the area of the most 75699
populous county which is a part of such transit authority. County 75700
population shall be measured by the most recent census taken by 75701
the United States census bureau. 75702

(M) "Providing a service" has the same meaning as in division 75703
(X) of section 5739.01 of the Revised Code. 75704

(N) "Other consumption" includes receiving the benefits of a 75705
service. 75706

(O) "~~Lease~~" ~~means any transfer for a consideration of the~~ 75707
~~possession of and right to use, but not title to, tangible~~ 75708
~~personal property for a fixed period of time greater than thirty~~ 75709
~~days or for an open ended period of time with a minimum fixed~~ 75710
~~period of more than thirty days or "rental" has the same meaning~~ 75711
~~as in division (UU) of section 5739.01 of the Revised Code.~~ 75712

(P) "Certified service provider" has the same meaning as in 75713
section 5740.01 of the Revised Code. 75714

Sec. 5741.02. (A)(1) For the use of the general revenue fund 75715
of the state, an excise tax is hereby levied on the storage, use, 75716
or other consumption in this state of tangible personal property 75717
or the benefit realized in this state of any service provided. The 75718
tax shall be collected ~~pursuant to the schedules as provided~~ in 75719
section 5739.025 of the Revised Code, provided that on and after 75720
July 1, 2003, and on or before June 30, 2005, the rate of the tax 75721
shall be six per cent. On and after July 1, 2005, the rate of the 75722
tax shall be five per cent. 75723

(2) In the case of the lease or rental, with a fixed term of 75724
more than thirty days or an indefinite term with a minimum period 75725
of more than thirty days, of any motor vehicles designed by the 75726
manufacturer to carry a load of not more than one ton, watercraft, 75727
outboard motor, or aircraft, or of any tangible personal property, 75728
other than motor vehicles designed by the manufacturer to carry a 75729
load of more than one ton, to be used by the lessee or renter 75730
primarily for business purposes, the tax shall be collected by the 75731
seller at the time the lease or rental is consummated and shall be 75732

calculated by the seller on the basis of the total amount to be 75733
paid by the lessee or renter under the lease or rental agreement. 75734
If the total amount of the consideration for the lease or rental 75735
includes amounts that are not calculated at the time the lease or 75736
rental is executed, the tax shall be calculated and collected by 75737
the seller at the time such amounts are billed to the lessee or 75738
renter. In the case of an open-end lease or rental, the tax shall 75739
be calculated by the seller on the basis of the total amount to be 75740
paid during the initial fixed term of the lease or rental, and for 75741
each subsequent renewal period as it comes due. As used in this 75742
division, "motor vehicle" has the same meaning as in section 75743
4501.01 of the Revised Code, and "watercraft" includes an outdrive 75744
unit attached to the watercraft. 75745

(3) Except as provided in division (A)(2) of this section, in 75746
the case of a transaction, the price of which consists in whole or 75747
part of the lease or rental of tangible personal property, the tax 75748
shall be measured by the installments of those leases or rentals. 75749

(B) Each consumer, storing, using, or otherwise consuming in 75750
this state tangible personal property or realizing in this state 75751
the benefit of any service provided, shall be liable for the tax, 75752
and such liability shall not be extinguished until the tax has 75753
been paid to this state; provided, that the consumer shall be 75754
relieved from further liability for the tax if the tax has been 75755
paid to a seller in accordance with section 5741.04 of the Revised 75756
Code or prepaid by the seller in accordance with section 5741.06 75757
of the Revised Code. 75758

(C) The tax does not apply to the storage, use, or 75759
consumption in this state of the following described tangible 75760
personal property or services, nor to the storage, use, or 75761
consumption or benefit in this state of tangible personal property 75762
or services purchased under the following described circumstances: 75763

(1) When the sale of property or service in this state is 75764

subject to the excise tax imposed by sections 5739.01 to 5739.31 75765
of the Revised Code, provided said tax has been paid; 75766

(2) Except as provided in division (D) of this section, 75767
tangible personal property or services, the acquisition of which, 75768
if made in Ohio, would be a sale not subject to the tax imposed by 75769
sections 5739.01 to 5739.31 of the Revised Code; 75770

(3) Property or services, the storage, use, or other 75771
consumption of or benefit from which this state is prohibited from 75772
taxing by the Constitution of the United States, laws of the 75773
United States, or the Constitution of this state. This exemption 75774
shall not exempt from the application of the tax imposed by this 75775
section the storage, use, or consumption of tangible personal 75776
property that was purchased in interstate commerce, but that has 75777
come to rest in this state, provided that fuel to be used or 75778
transported in carrying on interstate commerce that is stopped 75779
within this state pending transfer from one conveyance to another 75780
is exempt from the excise tax imposed by this section and section 75781
5739.02 of the Revised Code; 75782

(4) Transient use of tangible personal property in this state 75783
by a nonresident tourist or vacationer, or a non-business use 75784
within this state by a nonresident of this state, if the property 75785
so used was purchased outside this state for use outside this 75786
state and is not required to be registered or licensed under the 75787
laws of this state; 75788

(5) Tangible personal property or services rendered, upon 75789
which taxes have been paid to another jurisdiction to the extent 75790
of the amount of the tax paid to such other jurisdiction. Where 75791
the amount of the tax imposed by this section and imposed pursuant 75792
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 75793
exceeds the amount paid to another jurisdiction, the difference 75794
shall be allocated between the tax imposed by this section and any 75795
tax imposed by a county or a transit authority pursuant to section 75796

5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 75797
to the respective rates of such taxes. 75798

As used in this subdivision, "taxes paid to another 75799
jurisdiction" means the total amount of retail sales or use tax or 75800
similar tax based upon the sale, purchase, or use of tangible 75801
personal property or services rendered legally, levied by and paid 75802
to another state or political subdivision thereof, or to the 75803
District of Columbia, where the payment of such tax does not 75804
entitle the taxpayer to any refund or credit for such payment. 75805

(6) The transfer of a used manufactured home or used mobile 75806
home, as defined by section 5739.0210 of the Revised Code, made on 75807
or after January 1, 2000; 75808

(7) Drugs that are or are intended to be distributed free of 75809
charge to a practitioner licensed to prescribe, dispense, and 75810
administer drugs to a human being in the course of a professional 75811
practice and that by law may be dispensed only by or upon the 75812
order of such a practitioner. 75813

(D) The tax applies to the storage, use, or other consumption 75814
in this state of tangible personal property or services, the 75815
acquisition of which at the time of sale was excepted under 75816
division (E)~~(1)~~ of section 5739.01 of the Revised Code from the 75817
tax imposed by section 5739.02 of the Revised Code, but which has 75818
subsequently been temporarily or permanently stored, used, or 75819
otherwise consumed in a taxable manner. 75820

(E)(1) If any transaction is claimed to be exempt under 75821
division (E) of section 5739.01 of the Revised Code or under 75822
section 5739.02 of the Revised Code, with the exception of 75823
divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised 75824
Code, the consumer shall provide to the seller, and the seller 75825
shall obtain from the consumer, a certificate specifying the 75826
reason that the transaction is not subject to the tax. The 75827

certificate shall be provided either in a hard copy form or 75828
electronic form, as prescribed by the tax commissioner. If the 75829
transaction is claimed to be exempt under division (B)(13) of 75830
section 5739.02 of the Revised Code, the exemption certificate 75831
shall be provided by both the contractor and contractee. Such 75832
contractee shall be deemed to be the consumer of all items 75833
purchased under the claim of exemption if it is subsequently 75834
determined that the exemption is not properly claimed. The 75835
certificate shall be in such form as the tax commissioner by rule 75836
prescribes. The seller shall maintain records, including exemption 75837
certificates, of all sales on which a consumer has claimed an 75838
exemption, and provide them to the tax commissioner on request. 75839

(2) If no certificate is provided or obtained within the 75840
period for filing the return for the period in which the 75841
transaction is consummated, it shall be presumed that the tax 75842
applies. The failure to have so provided or obtained a certificate 75843
shall not preclude a seller or consumer from establishing, within 75844
one hundred twenty days of the giving of notice by the 75845
commissioner of intention to levy an assessment, that the 75846
transaction is not subject to the tax. 75847

(F) A seller who files a petition for reassessment contesting 75848
the assessment of tax on transactions for which the seller 75849
obtained no valid exemption certificates, and for which the seller 75850
failed to establish that the transactions were not subject to the 75851
tax during the one-hundred-twenty-day period allowed under 75852
division (E) of this section, may present to the tax commissioner 75853
additional evidence to prove that the transactions were exempt. 75854
The seller shall file such evidence within ninety days of the 75855
receipt by the seller of the notice of assessment, except that, 75856
upon application and for reasonable cause, the tax commissioner 75857
may extend the period for submitting such evidence thirty days. 75858

(G) For the purpose of the proper administration of sections 75859

5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 75860
of the tax hereby levied, it shall be presumed that any use, 75861
storage, or other consumption of tangible personal property in 75862
this state is subject to the tax until the contrary is 75863
established. 75864

(H) The tax collected by the seller from the consumer under 75865
this chapter is not part of the price, but is a tax collection for 75866
the benefit of the state, and of counties levying an additional 75867
use tax pursuant to section 5741.021 or 5741.023 of the Revised 75868
Code and of transit authorities levying an additional use tax 75869
pursuant to section 5741.022 of the Revised Code. Except for the 75870
discount authorized under section 5741.12 of the Revised Code and 75871
the effects of any rounding pursuant to section 5703.055 of the 75872
Revised Code, no person other than the state or such a county or 75873
transit authority shall derive any benefit from the collection of 75874
such tax. 75875

Sec. 5741.021. (A) For the purpose of providing additional 75876
general revenues for the county or supporting criminal and 75877
administrative justice services in the county, or both, and to pay 75878
the expenses of administering such levy, any county which levies a 75879
tax pursuant to section 5739.021 of the Revised Code shall levy a 75880
tax at the same rate levied pursuant to section 5739.021 of the 75881
Revised Code on the storage, use, or other consumption in the 75882
county of the following: 75883

(1) Motor vehicles ~~acquired on or after May 1, 1970,~~ and 75884
watercraft and outboard motors required to be titled in the county 75885
pursuant to Chapter 1548. of the Revised Code and ~~acquired on or~~ 75886
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75887
by section 5739.02 of the Revised Code; 75888

(2) In addition to the tax imposed by section 5741.02 of the 75889
Revised Code, tangible personal property and services subject to 75890

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 75923
taxes paid pursuant to those sections is equal to or greater than 75924
the sum of the taxes due under this section and sections 5741.022 75925
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75926
less than the sum of the taxes due under this section and sections 75927
5741.022 and 5741.023 of the Revised Code, the amount of tax paid 75928
shall be credited against the amount of tax due. 75929

(E) As used in this section, "criminal and administrative 75930
justice services" has the same meaning as in section 5739.021 of 75931
the Revised Code. 75932

Sec. 5741.022. (A) For the purpose of providing additional 75933
general revenues for the transit authority and paying the expenses 75934
of administering such levy, any transit authority as defined in 75935
section 5741.01 of the Revised Code that levies a tax pursuant to 75936
section 5739.023 of the Revised Code shall levy a tax at the same 75937
rate levied pursuant to such section on the storage, use, or other 75938
consumption in the territory of the transit authority of the 75939
following: 75940

(1) Motor vehicles ~~acquired on or after June 29, 1974,~~ and 75941
watercraft and outboard motors required to be titled in the county 75942
pursuant to Chapter 1548. of the Revised Code and acquired ~~on or~~ 75943
~~after April 1, 1990,~~ by a transaction subject to the tax imposed 75944
by section 5739.02 of the Revised Code; 75945

(2) In addition to the tax imposed by section 5741.02 of the 75946
Revised Code, tangible personal property and services subject to 75947
the tax levied by this state as provided in section 5741.02 of the 75948
Revised Code, and tangible personal property and services 75949
purchased in another county within this state by a transaction 75950
subject to the tax imposed by section 5739.02 of the Revised Code. 75951

The tax shall be in effect at the same time and at the same 75952
rate and shall be levied pursuant to the resolution of the 75953

legislative authority of the transit authority levying a sales tax 75954
pursuant to section 5739.023 of the Revised Code. 75955

(B) The tax levied pursuant to this section on the storage, 75956
use, or other consumption of tangible personal property and on the 75957
benefit of a service realized shall be in addition to the tax 75958
levied by section 5741.02 of the Revised Code and, except as 75959
provided in division (D) of this section, any tax levied pursuant 75960
to sections 5741.021 and 5741.023 of the Revised Code. 75961

(C) The additional tax levied by the authority shall be 75962
collected pursuant to ~~the schedules in~~ section 5739.025 of the 75963
Revised Code. 75964

(D) The tax levied pursuant to this section shall not be 75965
applicable to any benefit of a service realized or to any storage, 75966
use, or consumption of property not within the taxing power of a 75967
transit authority under the constitution of the United States or 75968
the constitution of this state, or to property or services on 75969
which a tax levied by a county or transit authority pursuant to 75970
this section or section 5739.021, 5739.023, 5739.026, 5741.021, or 75971
5741.023 of the Revised Code has been paid, if the sum of the 75972
taxes paid pursuant to those sections is equal to or greater than 75973
the sum of the taxes due under this section and sections 5741.021 75974
and 5741.023 of the Revised Code. If the sum of the taxes paid is 75975
less than the sum of the taxes due under this section and sections 75976
5741.021 and 5741.023 of the Revised Code, the amount of tax paid 75977
shall be credited against the amount of tax due. 75978

(E) The rate of a tax levied under this section is subject to 75979
reduction under section 5739.028 of the Revised Code if a ballot 75980
question is approved by voters pursuant to that section. 75981

Sec. 5741.023. (A) For the same purposes for which it has 75982
imposed a tax under section 5739.026 of the Revised Code, any 75983
county ~~which~~ that levies a tax pursuant to such section shall levy 75984

a tax at the same rate levied pursuant to such section on the 75985
storage, use, or other consumption in the county of the following: 75986

(1) Motor vehicles, and watercraft and outboard motors 75987
required to be titled in the county pursuant to Chapter 1548. of 75988
the Revised Code, acquired by a transaction subject to the tax 75989
imposed by section 5739.02 of the Revised Code; 75990

(2) In addition to the tax imposed by section 5741.02 of the 75991
Revised Code, tangible personal property and services subject to 75992
the tax levied by this state as provided in section 5741.02 of the 75993
Revised Code, and tangible personal property and services 75994
purchased in another county within this state by a transaction 75995
subject to the tax imposed by section 5739.02 of the Revised Code. 75996

The tax shall be levied pursuant to a resolution of the board 75997
of county commissioners, which shall be adopted in the same manner 75998
as provided in section 5739.026 of the Revised Code. Such 75999
resolution shall be adopted and shall become effective on the same 76000
day as the resolution adopted by the board of county commissioners 76001
levying a sales tax pursuant to such section and shall remain in 76002
effect until such sales tax is repealed or expires. 76003

(B) The tax levied pursuant to this section shall be in 76004
addition to the tax levied by section 5741.02 of the Revised Code 76005
and, except as provided in division (D) of this section, any tax 76006
levied pursuant to sections 5741.021 and 5741.022 of the Revised 76007
Code. 76008

(C) The additional tax levied by the county shall be 76009
collected pursuant to ~~the schedules in~~ section 5739.025 of the 76010
Revised Code. 76011

(D) The tax levied pursuant to this section shall not be 76012
applicable to any benefit of a service realized or to any storage, 76013
use, or consumption of property not within the taxing power of a 76014
county under the constitution of the United States or the 76015

constitution of this state, or to property or services on which 76016
tax levied by a county or transit authority pursuant to this 76017
section or section 5739.021, 5739.023, 5739.026, 5741.021, or 76018
5741.022 of the Revised Code has been paid, if the sum of the 76019
taxes paid pursuant to those sections is equal to or greater than 76020
the sum of the taxes due under this section and sections 5741.021 76021
and 5741.022 of the Revised Code. If the sum of the taxes paid is 76022
less than the sum of the taxes due under this section and sections 76023
5741.021 and 5741.022 of the Revised Code, the amount of tax paid 76024
shall be credited against the amount of tax due. 76025

Sec. 5741.121. (A) If the total amount of tax required to be 76026
paid by a seller or consumer under section 5741.12 of the Revised 76027
Code for any year ~~indicated in the following schedule~~ equals or 76028
~~exceeds the amount prescribed for that year in the schedule~~ 76029
seventy-five thousand dollars, the seller or consumer shall remit 76030
each monthly tax payment in the second ensuing and each succeeding 76031
year by electronic funds transfer as prescribed by division (B) of 76032
this section. 76033

Year	1992	1993 through 1999	2000 and thereafter	
Tax payment	\$1,200,000	\$600,000	\$60,000	76035

If a seller's or consumer's tax payment for each of two 76036
consecutive years ~~beginning with 2000~~ is less than ~~sixty~~ 76037
seventy-five thousand dollars, the seller or consumer is relieved 76038
of the requirement to remit taxes by electronic funds transfer for 76039
the year that next follows the second of the consecutive years in 76040
which the tax payment is less than ~~sixty thousand dollars~~ that 76041
amount, and is relieved of that requirement for each succeeding 76042
year, unless the tax payment in a subsequent year equals or 76043
exceeds ~~sixty~~ seventy-five thousand dollars. 76044

The tax commissioner shall notify each seller or consumer 76045
required to remit taxes by electronic funds transfer of the 76046

seller's or consumer's obligation to do so, shall maintain an 76047
updated list of those sellers and consumers, and shall timely 76048
certify the list and any additions thereto or deletions therefrom 76049
to the treasurer of state. Failure by the tax commissioner to 76050
notify a seller or consumer subject to this section to remit taxes 76051
by electronic funds transfer does not relieve the seller or 76052
consumer of the obligation to remit taxes by electronic funds 76053
transfer. 76054

(B) Sellers and consumers required by division (A) of this 76055
section to remit payments by electronic funds transfer shall remit 76056
such payments to the treasurer of state in the manner prescribed 76057
by this section and rules adopted by the treasurer of state under 76058
section 113.061 of the Revised Code, and on or before the 76059
following dates: 76060

(1)(a) On or before the ~~eleventh~~ fifteenth day of each month, 76061
a seller shall remit an amount equal to the taxes collected during 76062
the first ~~seven~~ eleven days of the month. ~~On or before the~~ 76063
~~eighteenth day of each month, a seller shall remit an amount equal~~ 76064
~~to the taxes collected on the eighth through the fourteenth day of~~ 76065
~~the month.~~ On or before the twenty-fifth day of each month, a 76066
seller shall remit an amount equal to the taxes collected on the 76067
~~fifteenth~~ twelfth through the twenty-first day of the month. 76068

(b) In lieu of remitting the actual amounts collected for the 76069
periods specified in division (B)(1)(a) of this section, a seller 76070
may, on or before each of the ~~eleventh, eighteenth,~~ fifteenth and 76071
twenty-fifth days of each month, remit an amount equal to 76072
~~one-fourth~~ thirty-seven and one-half per cent of the seller's 76073
total tax liability for the same month in the preceding calendar 76074
year. 76075

(2) On or before each of the ~~eleventh, eighteenth,~~ fifteenth 76076
and twenty-fifth days of each month, a consumer shall remit an 76077
amount equal to ~~one-fourth~~ thirty-seven and one-half per cent of 76078

the consumer's total tax liability for the same month in the 76079
preceding calendar year. 76080

(3) On or before the twenty-third day of each month, a seller 76081
shall report the taxes collected and a consumer shall report the 76082
taxes due for the previous month and shall remit that amount, less 76083
any amounts paid for that month as required by division (B)(1)(a) 76084
or (b) or (B)(2) of this section. 76085

The payment of taxes by electronic funds transfer does not 76086
affect a seller's or consumer's obligation to file the monthly 76087
return as required under section 5741.12 of the Revised Code. 76088

(C) A seller or consumer required by this section to remit 76089
taxes by electronic funds transfer may apply to the treasurer of 76090
state in the manner prescribed by the treasurer of state to be 76091
excused from that requirement. The treasurer of state may excuse 76092
the seller or consumer from remittance by electronic funds 76093
transfer for good cause shown for the period of time requested by 76094
the seller or consumer or for a portion of that period. The 76095
treasurer of state shall notify the tax commissioner and the 76096
seller or consumer of the treasurer of state's decision as soon as 76097
is practicable. 76098

(D)(1) If a seller or consumer that is required to remit 76099
payments under division (B) of this section fails to make a 76100
payment, the commissioner may impose an additional charge not to 76101
exceed five per cent of that unpaid amount. 76102

(2) If a seller or consumer required by this section to remit 76103
taxes by electronic funds transfer remits those taxes by some 76104
means other than by electronic funds transfer as prescribed by the 76105
rules adopted by the treasurer of state, and the treasurer of 76106
state determines that such failure was not due to reasonable cause 76107
or was due to willful neglect, the treasurer of state shall notify 76108
the tax commissioner of the failure to remit by electronic funds 76109

transfer and shall provide the commissioner with any information 76110
used in making that determination. The tax commissioner may impose 76111
an additional charge not to exceed the lesser of five per cent of 76112
the amount of the taxes required to be paid by electronic funds 76113
transfer or five thousand dollars. 76114

(3) Any additional charge imposed under this section is in 76115
addition to any other penalty or charge imposed under this 76116
chapter, and shall be considered as revenue arising from taxes 76117
imposed under this chapter. An additional charge may be collected 76118
by assessment in the manner prescribed by section 5741.13 of the 76119
Revised Code. The tax commissioner may waive all or a portion of 76120
such a charge and may adopt rules governing such waiver. 76121

No additional charge shall be imposed under division (D)(2) 76122
of this section against a seller or consumer that has been 76123
notified of the obligation to remit taxes under this section and 76124
that remits its first two tax payments after such notification by 76125
some means other than electronic funds transfer. The additional 76126
charge may be imposed upon the remittance of any subsequent tax 76127
payment that the seller or consumer remits by some means other 76128
than electronic funds transfer. 76129

Sec. 5741.25. If any corporation, limited liability company, 76130
or business trust registered or required to be registered under 76131
section 5741.17 of the Revised Code and required to file returns 76132
and remit tax due to the state under this chapter fails for any 76133
reason to make the filing or payment, any of its employees having 76134
control or supervision of or charged with the responsibility of 76135
filing returns and making payments, or any of its officers, 76136
members, managers, or trustees who are responsible for the 76137
execution of the corporation's, limited liability company's, or 76138
business trust's fiscal responsibilities, shall be personally 76139
liable for the failure. The dissolution, termination, or 76140

bankruptcy of a corporation, limited liability company, or 76141
business trust shall not discharge a responsible officer's, 76142
member's, manager's, employee's, or trustee's liability for a 76143
failure of the corporation, limited liability company, or business 76144
trust to file returns or remit tax due. The sum due for the 76145
liability may be collected by assessment in the manner provided in 76146
section 5741.11 or 5741.13 of the Revised Code. 76147

Sec. 5743.05. All stamps provided for by section 5743.03 of 76148
the Revised Code, when procured by the tax commissioner, shall be 76149
immediately delivered to the treasurer of state, who shall execute 76150
a receipt therefor showing the number and aggregate face value of 76151
each denomination received by the treasurer of state and any other 76152
information that the commissioner requires to enforce the 76153
collection and distribution of all taxes imposed under section 76154
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76155
to the commissioner. The treasurer of state shall sell the stamps 76156
and, on the fifth day of each month, make a report showing all 76157
sales made during the preceding month, with the names of 76158
purchasers, the number of each denomination, the aggregate face 76159
value purchased by each, and any other information as the 76160
commissioner requires to enforce the collection and distribution 76161
of all taxes imposed under section 5743.024 of the Revised Code, 76162
and deliver it to the commissioner. The treasurer of state shall 76163
be accountable for all stamps received and unsold. The stamps 76164
shall be sold and accounted for at their face value, except the 76165
commissioner shall, by rule certified to the treasurer of state, 76166
authorize the sale of stamps and meter impressions to wholesale or 76167
retail dealers in this state, or to wholesale dealers outside this 76168
state, at a discount of not less than one and eight-tenths per 76169
cent or more than ten per cent of their face value, as a 76170
commission for affixing and canceling the stamps or meter 76171
impressions. 76172

The commissioner, by rule certified to the treasurer of 76173
state, shall authorize the delivery of stamps and meter 76174
impressions to wholesale and retail dealers in this state and to 76175
wholesale dealers outside this state on credit ~~when the purchaser~~ 76176
~~files.~~ If such a dealer has not been in good credit standing with 76177
this state for five consecutive years preceding the purchase, the 76178
tax commissioner shall require the dealer to file with the 76179
commissioner a bond to the state in the amount and in the form 76180
prescribed by the commissioner, ~~and~~ with surety to the 76181
satisfaction of the ~~treasurer of state~~ commissioner, conditioned 76182
on payment to the treasurer of state within thirty days for stamps 76183
or meter impressions delivered within that time. If such a dealer 76184
has been in good credit standing with this state for five 76185
consecutive years preceding the purchase, the tax commissioner 76186
shall not require that the dealer file such a bond but shall 76187
require payment for the stamps and meter impressions within thirty 76188
days after purchase of the stamps and meter impressions. Stamps 76189
and meter impressions sold to a dealer not required to file a bond 76190
shall be sold at face value. The maximum amount that may be sold 76191
on credit to a dealer not required to file a bond shall equal one 76192
hundred ten per cent of the dealer's average monthly purchases 76193
over the preceding calendar year. The maximum amount shall be 76194
adjusted to reflect any changes in the tax rate and may be 76195
adjusted, upon application to the tax commissioner by the dealer, 76196
to reflect changes in the business operations of the dealer. The 76197
maximum amount shall be applicable to the period of July through 76198
April. Payment by a dealer not required to file a bond shall be 76199
remitted by electronic funds transfer as prescribed by section 76200
5743.051 of the Revised Code. If a dealer not required to file a 76201
bond fails to make the payment in full within the thirty-day 76202
period, the treasurer of state shall not thereafter sell stamps or 76203
meter impressions to that dealer until the dealer pays the 76204
outstanding amount, including penalty and interest on that amount 76205

as prescribed in this chapter, and the commissioner thereafter may 76206
require the dealer to file a bond until the dealer is restored to 76207
good standing. The commissioner shall limit delivery of stamps and 76208
meter impressions on credit to the period running from the first 76209
day of July of the fiscal year until the first day of the 76210
following May. Any discount allowed as a commission for affixing 76211
and canceling stamps or meter impressions shall be allowed with 76212
respect to sales of stamps and meter impressions on credit. 76213

The treasurer of state shall redeem and pay for any 76214
destroyed, unused, or spoiled tax stamps and any unused meter 76215
impressions at their net value, and shall refund to wholesale 76216
dealers the net amount of state and county taxes paid erroneously 76217
or paid on cigarettes that have been sold in interstate or foreign 76218
commerce or that have become unsalable, and the net amount of 76219
county taxes that were paid on cigarettes that have been sold at 76220
retail or for retail sale outside a taxing county. 76221

An application for a refund of tax shall be filed with the 76222
tax commissioner, on the form prescribed by the commissioner for 76223
that purpose, within three years from the date the tax stamps are 76224
destroyed or spoiled, from the date of the erroneous payment, or 76225
from the date that cigarettes on which taxes have been paid have 76226
been sold in interstate or foreign commerce or have become 76227
unsalable. 76228

On the filing of the application, the commissioner shall 76229
determine the amount of refund to which the applicant is entitled, 76230
payable from receipts of the state tax, and, if applicable, 76231
payable from receipts of a county tax . If the amount is less than 76232
that claimed, the ~~commission~~ commissioner shall certify the amount 76233
to the director of budget and management and treasurer of state 76234
for payment from the tax refund fund created by section 5703.052 76235
of the Revised Code. If the amount is less than that claimed, the 76236
commissioner shall proceed in accordance with section 5703.70 of 76237

the Revised Code. 76238

If a refund is granted for payment of an illegal or erroneous 76239
assessment issued by the department, the refund shall include 76240
interest on the amount of the refund from the date of the 76241
overpayment. The interest shall be computed at the rate per annum 76242
prescribed by section 5703.47 of the Revised Code. 76243

Sec. 5743.051. This section applies to any wholesale or 76244
retail cigarette dealer required by section 5743.05 of the Revised 76245
Code to remit payment for tax stamps and meter impressions by 76246
electronic funds transfer. The tax commissioner shall notify each 76247
dealer of the dealer's obligation to do so and shall maintain an 76248
updated list of those dealers. Failure by the tax commissioner to 76249
notify a dealer subject to this section to remit taxes by 76250
electronic funds transfer does not relieve the dealer of its 76251
obligation to remit taxes by electronic funds transfer. 76252

A dealer required to remit payments by electronic funds 76253
transfer shall remit such payments to the treasurer of state in 76254
the manner prescribed by rules adopted by the treasurer of state 76255
under section 113.061 of the Revised Code and within the time 76256
prescribed for such a dealer by section 5743.05 of the Revised 76257
Code. 76258

A dealer required to remit taxes by electronic funds transfer 76259
may apply to the tax commissioner in the manner prescribed by the 76260
tax commissioner to be excused from that requirement. The tax 76261
commissioner may excuse the dealer from remittance by electronic 76262
funds transfer for good cause shown for the period of time 76263
requested by the dealer or for a portion of that period. 76264

If a dealer required to remit taxes by electronic funds 76265
transfer remits those taxes by some other means, the treasurer of 76266
state shall notify the tax commissioner of the failure to remit by 76267
electronic funds transfer. If the tax commissioner determines that 76268

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 76300
placement of a sticker to cover information on or add information 76301
to the package; 76302

(4) Has been imported or brought into the United States after 76303
January 1, 2000, in violation of section 5754 of the "Internal 76304
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 5754, or 76305
regulations adopted under that section; 76306

(5) Is produced by a tobacco product manufacturer or is part 76307
of a brand family that is not included in the directory 76308
established under section 1346.05 of the Revised Code. 76309

(B) No person shall sell or offer to sell any roll-your-own 76310
tobacco to any person in this state if the roll-your-own tobacco 76311
is not included in the directory established under section 1346.05 76312
of the Revised Code. Any roll-your-own tobacco in the possession 76313
of a retail dealer in this state shall be prima facie evidence of 76314
offering to sell to a person in this state. 76315

(C) Whenever the tax commissioner discovers any packages to 76316
which stamps have been affixed in violation of this section, or 76317
any roll-your-own tobacco sold or offered for sale in violation of 76318
this section, the tax commissioner may seize the packages or 76319
roll-your-own tobacco, which shall ~~thereupon~~ be forfeited to the 76320
state, and shall order ~~their~~ the destruction of the packages or 76321
roll-your-own tobacco, provided that the seizure and destruction 76322
shall not exempt any person from prosecution or from the fine or 76323
imprisonment provided for the violation of this section. 76324

(D) As used in this section, "roll-your-own" has the same 76325
meaning as in section 1346.01 of the Revised Code, and "tobacco 76326
product manufacturer" and "brand family" have the same meanings as 76327
in section 1346.04 of the Revised Code. 76328

Sec. 5743.45. (A) As used in this section, "felony" has the 76329

same meaning as in section 109.511 of the Revised Code. 76330

(B) For purposes of enforcing this chapter and Chapters 76331
5728., 5735., 5739., 5741., and 5747. of the Revised Code and 76332
subject to division (C) of this section, the tax commissioner, by 76333
journal entry, may delegate any investigation powers of the 76334
commissioner to an employee of the department of taxation who has 76335
been certified by the Ohio peace officer training commission and 76336
who is engaged in the enforcement of those chapters. A separate 76337
journal entry shall be entered for each employee to whom that 76338
power is delegated. Each journal entry shall be a matter of public 76339
record and shall be maintained in an administrative portion of the 76340
journal as provided for in division (L) of section 5703.05 of the 76341
Revised Code. When that journal entry is completed, the employee 76342
to whom it pertains, while engaged within the scope of the 76343
employee's duties in enforcing the provisions of this chapter or 76344
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76345
has the power of a police officer to carry concealed weapons, make 76346
arrests, and obtain warrants for violations of any provision in 76347
those chapters. The commissioner, at any time, may suspend or 76348
revoke ~~that~~ the commissioner's delegation by journal entry. No 76349
employee of the department shall divulge any information acquired 76350
as a result of an investigation pursuant to this chapter or 76351
Chapter 5728., 5735., 5739., 5741., or 5747. of the Revised Code, 76352
except as may be required by the commissioner or a court. 76353

(C)(1) The tax commissioner shall not delegate any 76354
investigation powers to an employee of the department of taxation 76355
pursuant to division (B) of this section on a permanent basis, on 76356
a temporary basis, for a probationary term, or on other than a 76357
permanent basis if the employee previously has been convicted of 76358
or has pleaded guilty to a felony. 76359

(2)(a) The tax commissioner shall revoke the delegation of 76360
investigation powers to an employee to whom the delegation was 76361

made pursuant to division (B) of this section if that employee 76362
does either of the following: 76363

(i) Pleads guilty to a felony; 76364

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 76365
plea agreement as provided in division (D) of section 2929.29 of 76366
the Revised Code in which the employee agrees to surrender the 76367
certificate awarded to that employee under section 109.77 of the 76368
Revised Code. 76369

(b) The tax commissioner shall suspend the delegation of 76370
investigation powers to an employee to whom the delegation was 76371
made pursuant to division (B) of this section if that employee is 76372
convicted, after trial, of a felony. If the employee files an 76373
appeal from that conviction and the conviction is upheld by the 76374
highest court to which the appeal is taken or if the employee does 76375
not file a timely appeal, the commissioner shall revoke the 76376
delegation of investigation powers to that employee. If the 76377
employee files an appeal that results in that employee's acquittal 76378
of the felony or conviction of a misdemeanor, or in the dismissal 76379
of the felony charge against that employee, the commissioner shall 76380
reinstate the delegation of investigation powers to that employee. 76381
The suspension, revocation, and reinstatement of the delegation of 76382
investigation powers to an employee under division (C)(2) of this 76383
section shall be made by journal entry pursuant to division (B) of 76384
this section. An employee to whom the delegation of investigation 76385
powers is reinstated under division (C)(2)(b) of this section 76386
shall not receive any back pay for the exercise of those 76387
investigation powers unless that employee's conviction of the 76388
felony was reversed on appeal, or the felony charge was dismissed, 76389
because the court found insufficient evidence to convict the 76390
employee of the felony. 76391

(3) Division (C) of this section does not apply regarding an 76392
offense that was committed prior to January 1, 1997. 76393

(4) The suspension or revocation of the delegation of investigation powers to an employee under division (C)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5745.01. As used in this chapter:

(A) "Electric company," ~~and~~ "combined company," and "telephone company," have the same meanings as in section 5727.01 of the Revised Code, except "telephone company" does not include a non profit corporation.

(B) "Electric light company" has the same meaning as in section 4928.01 of the Revised Code, and includes the activities of a combined company as an electric company, but excludes nonprofit companies and municipal corporations.

(C) "Taxpayer" means ~~an~~ either of the following:

(1) An electric light company subject to taxation by a municipal corporation in this state for a taxable year, excluding an electric light company that is not an electric company or a combined company and for which an election made under section 5745.031 of the Revised Code is not in effect with respect to the taxable year. If such a company is a qualified subchapter S subsidiary as defined in section 1361 of the Internal Revenue Code or a disregarded entity, the company's parent S corporation or owner is the taxpayer for the purposes of this chapter and is hereby deemed to have nexus with this state under the Constitution of the United States for the purposes of this chapter.

(2) A telephone company subject to taxation by a municipal corporation in this state for a taxable year. A telephone company is subject to taxation under this chapter for any taxable year that begins on or after January 1, 2004. A telephone company with a taxable year ending in 2004 shall compute the tax imposed under

this chapter, or shall compute its net operating loss carried 76424
forward for that taxable year, by multiplying the tax owed, or the 76425
loss for the taxable year, by fifty per cent. 76426

(D) "Disregarded entity" means an entity that, for its 76427
taxable year, is by default, or has elected to be, disregarded as 76428
an entity separate from its owner pursuant to 26 C.F.R. 76429
301.7701-3. 76430

(E) "Taxable year" of a taxpayer is the taxpayer's taxable 76431
year for federal income tax purposes. 76432

(F) "Federal taxable income" means taxable income, before 76433
operating loss deduction and special deductions, as required to be 76434
reported for the taxpayer's taxable year under the Internal 76435
Revenue Code. 76436

(G) "Adjusted federal taxable income" means federal taxable 76437
income adjusted as follows: 76438

(1) Deduct intangible income as defined in section 718.01 of 76439
the Revised Code to the extent included in federal taxable income; 76440

(2) Add expenses incurred in the production of such 76441
intangible income; 76442

(3) If, with respect to a qualifying taxpayer and a 76443
qualifying asset there occurs a qualifying taxable event, the 76444
qualifying taxpayer shall reduce its federal taxable income, as 76445
defined in division (F) of this section, by the amount of the 76446
book-tax ~~differential~~ difference for that qualifying asset if the 76447
book-tax ~~differential~~ difference is greater than zero, and shall 76448
increase its federal taxable income by the absolute value of the 76449
amount of the book-tax ~~differential~~ difference for that qualifying 76450
asset if the book-tax ~~differential~~ difference is less than zero. 76451
The adjustments provided in division (G)(3) of this section are 76452
subject to divisions (B)(3), (4), and (5) of section 5733.0510 of 76453
the Revised Code to the extent those divisions apply to the 76454

adjustments in that section for the taxable year. A taxpayer shall 76455
not deduct or add any amount under division (G)(3) of this section 76456
with respect to a qualifying asset the sale, exchange, or other 76457
disposition of which resulted in the recognition of a gain or loss 76458
that the taxpayer deducted or added, respectively, under division 76459
(G)(1) or (2) of this section. 76460

For the purposes of division (G)(3) of this section, ~~"net~~ 76461
~~income"~~ has the same meaning as in section 5733.04 of the Revised 76462
Code, and "book-tax differential difference," "qualifying 76463
taxpayer," "qualifying asset," and "qualifying taxable event" have 76464
the same meanings as in section 5733.0510 of the Revised Code. 76465

(4) If the taxpayer is not a C corporation and is not an 76466
individual, the taxpayer shall compute "adjusted federal taxable 76467
income" as if the taxpayer were a C corporation, except: 76468

(a) Guaranteed payments and other similar amounts paid or 76469
accrued to a partner, former partner, or member or former member 76470
shall not be allowed as a deductible expense; and 76471

(b) With respect to each owner or owner-employee of the 76472
taxpayer, amounts paid or accrued to a qualified self-employed 76473
retirement plan and amounts paid or accrued to or for health 76474
insurance or life insurance shall not be allowed as a deduction. 76475

Nothing in this division shall be construed as allowing the 76476
taxpayer to deduct any amount more than once. 76477

(5) Add or deduct the amounts described in section 5733.0511 76478
of the Revised Code for qualifying telephone company taxpayers. 76479

(H) "Internal Revenue Code" means the "Internal Revenue Code 76480
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as ~~amended~~ it existed on 76481
December 31, 2001. 76482

(I) "Ohio net income" means the amount determined under 76483
division (B) of section 5745.02 of the Revised Code. 76484

Sec. 5745.02. (A) The annual report filed under section 76485
5745.03 of the Revised Code determines a taxpayer's Ohio net 76486
income and the portion of Ohio net income to be apportioned to a 76487
municipal corporation. 76488

(B) A taxpayer's Ohio net income is determined by multiplying 76489
the taxpayer's adjusted federal taxable income by the sum of the 76490
property factor multiplied by one-third, the payroll factor 76491
multiplied by one-third, and the sales factor multiplied by 76492
one-third. If the denominator of one of the factors is zero, the 76493
remaining two factors each shall be multiplied by one-half instead 76494
of one-third; if the denominator of two of the factors is zero, 76495
the remaining factor shall be multiplied by one. The property, 76496
payroll, and sales factors shall be determined in the manner 76497
prescribed by divisions (B)(1), (2), and (3) of this section. 76498

(1) The property factor is a fraction, the numerator of which 76499
is the average value of the taxpayer's real and tangible personal 76500
property owned or rented, and used in business in this state 76501
during the taxable year, and the denominator of which is the 76502
average value of all the taxpayer's real and tangible personal 76503
property owned or rented, and used in business everywhere during 76504
such year. Property owned by the taxpayer is valued at its 76505
original cost. Property rented by the taxpayer is valued at eight 76506
times the net annual rental rate. "Net annual rental rate" means 76507
the annual rental rate paid by the taxpayer less any annual rental 76508
rate received by the taxpayer from subrentals. The average value 76509
of property shall be determined by averaging the values at the 76510
beginning and the end of the taxable year, but the tax 76511
commissioner may require the averaging of monthly values during 76512
the taxable year, if reasonably required to reflect properly the 76513
average value of the taxpayer's property. 76514

(2) The payroll factor is a fraction, the numerator of which 76515

is the total amount paid in this state during the taxable year by 76516
the taxpayer for compensation, and the denominator of which is the 76517
total compensation paid everywhere by the taxpayer during such 76518
year. Compensation means any form of remuneration paid to an 76519
employee for personal services. Compensation is paid in this state 76520
if: (a) the recipient's service is performed entirely within this 76521
state, (b) the recipient's service is performed both within and 76522
without this state, but the service performed without this state 76523
is incidental to the recipient's service within this state, or (c) 76524
some of the service is performed within this state and either the 76525
base of operations, or if there is no base of operations, the 76526
place from which the service is directed or controlled is within 76527
this state, or the base of operations or the place from which the 76528
service is directed or controlled is not in any state in which 76529
some part of the service is performed, but the recipient's 76530
residence is in this state. 76531

(3) The sales factor is a fraction, the numerator of which is 76532
the total sales in this state by the taxpayer during the taxable 76533
year, and the denominator of which is the total sales by the 76534
taxpayer everywhere during such year. Sales of electricity shall 76535
be situated to this state in the manner provided under section 76536
5733.059 of the Revised Code. In determining the numerator and 76537
denominator of the sales factor, receipts from the sale or other 76538
disposal of a capital asset or an asset described in section 1231 76539
of the Internal Revenue Code shall be eliminated. Also, in 76540
determining the numerator and denominator of the sales factor, in 76541
the case of a reporting taxpayer owning at least eighty per cent 76542
of the issued and outstanding common stock of one or more 76543
insurance companies or public utilities, except an electric 76544
company, a combined company, or a telephone company, or owning at 76545
least twenty-five per cent of the issued and outstanding common 76546
stock of one or more financial institutions, receipts received by 76547
the reporting taxpayer from such utilities, insurance companies, 76548

and financial institutions shall be eliminated. 76549

For the purpose of division (B)(3) of this section, sales of 76550
tangible personal property are in this state where such property 76551
is received in this state by the purchaser. In the case of 76552
delivery of tangible personal property by common carrier or by 76553
other means of transportation, the place at which such property is 76554
ultimately received after all transportation has been completed 76555
shall be considered as the place at which such property is 76556
received by the purchaser. Direct delivery in this state, other 76557
than for purposes of transportation, to a person or firm 76558
designated by a purchaser constitutes delivery to the purchaser in 76559
this state, and direct delivery outside this state to a person or 76560
firm designated by a purchaser does not constitute delivery to the 76561
purchaser in this state, regardless of where title passes or other 76562
conditions of sale. 76563

Sales, other than sales of electricity or tangible personal 76564
property, are in this state if either the income-producing 76565
activity is performed solely in this state, or the 76566
income-producing activity is performed both within and without 76567
this state and a greater proportion of the income-producing 76568
activity is performed within this state than in any other state, 76569
based on costs of performance. 76570

For the purposes of division (B)(3) of this section, the tax 76571
commissioner may adopt rules to apportion sales within this state. 76572

(C) The portion of a taxpayer's Ohio net income taxable by 76573
each municipal corporation imposing an income tax shall be 76574
determined by multiplying the taxpayer's Ohio net income by the 76575
sum of the municipal property factor multiplied by one-third, the 76576
municipal payroll factor multiplied by one-third, and the 76577
municipal sales factor multiplied by one-third, and subtracting 76578
from the product so obtained any "municipal net operating loss 76579
carryforward from prior taxable years." If the denominator of one 76580

of the factors is zero, the remaining two factors each shall be 76581
multiplied by one-half instead of one-third; if the denominator of 76582
two of the factors is zero, the remaining factor shall be 76583
multiplied by one. In calculating the "municipal net operating 76584
loss carryforward from prior taxable years" for each municipal 76585
corporation, net operating losses are apportioned in and out of a 76586
municipal corporation for the taxable year in which the net 76587
operating loss occurs in the same manner that positive net income 76588
would have been so apportioned. Any net operating loss for a 76589
municipal corporation may be applied to subsequent net income in 76590
that municipal corporation to reduce that income to zero or until 76591
the net operating loss has been fully used as a deduction. The 76592
unused portion of net operating losses for each taxable year 76593
apportioned to a municipal corporation may only be applied against 76594
the income apportioned to that municipal corporation for five 76595
subsequent taxable years. Net operating losses occurring in 76596
taxable years ending before 2002 may not be subtracted under this 76597
section. 76598

A taxpayer's municipal property, municipal payroll, and 76599
municipal sales factors for a municipal corporation shall be 76600
determined as provided in divisions (C)(1), (2), and (3) of this 76601
section. 76602

(1) The municipal property factor is the quotient obtained by 76603
dividing (a) the average value of real and tangible personal 76604
property owned or rented by the taxpayer and used in business in 76605
the municipal corporation during the taxable year by (b) the 76606
average value of all of the taxpayer's real and tangible personal 76607
property owned or rented and used in business during that taxable 76608
year in this state. The value and average value of such property 76609
shall be determined in the same manner provided in division (B)(1) 76610
of this section. 76611

(2) The municipal payroll factor is the quotient obtained by 76612

dividing (a) the total amount of compensation earned in the 76613
municipal corporation by the taxpayer's employees during the 76614
taxable year for services performed for the taxpayer and that is 76615
subject to income tax withholding by the municipal corporation by 76616
(b) the total amount of compensation paid by the taxpayer to its 76617
employees in this state during the taxable year. Compensation has 76618
the same meaning as in division (B)(2) of this section. 76619

(3) The municipal sales factor is a fraction, the numerator 76620
of which is the taxpayer's total sales in a municipal corporation 76621
during the taxable year, and the denominator of which is the 76622
taxpayer's total sales in this state during such year. 76623

For the purpose of division (C)(3) of this section, sales of 76624
tangible personal property are in the municipal corporation where 76625
such property is received in the municipal corporation by the 76626
purchaser. Sales of electricity directly to the consumer, as 76627
defined in section 5733.059 of the Revised Code, shall be 76628
considered sales of tangible personal property. In the case of the 76629
delivery of tangible personal property by common carrier or by 76630
other means of transportation, the place at which such property 76631
ultimately is received after all transportation has been completed 76632
shall be considered as the place at which the property is received 76633
by the purchaser. Direct delivery in the municipal corporation, 76634
other than for purposes of transportation, to a person or firm 76635
designated by a purchaser constitutes delivery to the purchaser in 76636
that municipal corporation, and direct delivery outside the 76637
municipal corporation to a person or firm designated by a 76638
purchaser does not constitute delivery to the purchaser in that 76639
municipal corporation, regardless of where title passes or other 76640
conditions of sale. Sales, other than sales of tangible personal 76641
property, are in the municipal corporation if either: 76642

(a) The income-producing activity is performed solely in the 76643
municipal corporation; 76644

(b) The income-producing activity is performed both within 76645
and without the municipal corporation and a greater proportion of 76646
the income-producing activity is performed within that municipal 76647
corporation than any other location in this state, based on costs 76648
of performance. 76649

For the purposes of division (C)(3) of this section, the tax 76650
commissioner may adopt rules to apportion sales within each 76651
municipal corporation. 76652

(D) If a taxpayer is a combined company as defined in section 76653
5727.01 of the Revised Code, the municipal property, payroll, and 76654
sales factors under division (C) of this section shall be adjusted 76655
as follows: 76656

(1) The numerator of the municipal property factor shall 76657
include only the value, as determined under division (C)(1) of 76658
this section, of the company's real and tangible property in the 76659
municipal corporation attributed to the company's activity as an 76660
electric company using the same methodology prescribed under 76661
section 5727.03 of the Revised Code for taxable tangible personal 76662
property. 76663

(2) The numerator of the municipal payroll factor shall 76664
include only compensation paid in the municipal corporation by the 76665
company to its employees for personal services rendered in the 76666
company's activity as an electric company. 76667

(3) The numerator of the municipal sales factor shall include 76668
only the sales of tangible personal property and services, as 76669
determined under division (C)(3) of this section, made in the 76670
municipal corporation in the course of the company's activity as 76671
an electric company. 76672

(E)(1) If the provisions for apportioning adjusted federal 76673
taxable income or Ohio net income under ~~division~~ divisions (B), 76674
(C), and (D) of this section do not fairly represent business 76675

activity in this state or among municipal corporations, the tax 76676
commissioner may adopt rules for apportioning such income by an 76677
alternative method that fairly represents business activity in 76678
this state or among municipal corporations. 76679

(2) If any of the factors determined under division (B), (C), 76680
or (D) of this section does not fairly represent the extent of a 76681
taxpayer's business activity in this state or among municipal 76682
corporations, the taxpayer may request, or the tax commissioner 76683
may require, that the taxpayer's adjusted federal taxable income 76684
or Ohio net income be determined by an alternative method, 76685
including any of the alternative methods enumerated in division 76686
(B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer 76687
requesting an alternative method shall make the request in writing 76688
to the tax commissioner either with the annual report, a timely 76689
filed amended report, or a timely filed petition for reassessment. 76690
When the tax commissioner requires or permits an alternative 76691
method under division (E)(2) of this section, the tax commissioner 76692
shall cause a written notice to that effect to be delivered to any 76693
municipal corporation that would be affected by application of the 76694
alternative method. Nothing in this division shall be construed to 76695
extend any statute of limitations under this chapter. 76696

(F)(1) The tax commissioner may adopt rules providing for the 76697
combination of adjusted federal taxable incomes of taxpayers 76698
satisfying the ownership or control requirements of section 76699
5733.052 of the Revised Code if the tax commissioner finds that 76700
such combinations are necessary to properly reflect adjusted 76701
federal taxable income, Ohio net income, or the portion of Ohio 76702
net income to be taxable by municipal corporations. 76703

(2) A taxpayer satisfying the ownership or control 76704
requirements of section 5733.052 of the Revised Code with respect 76705
to one or more other taxpayers may not combine their adjusted 76706
federal taxable incomes for the purposes of this section unless 76707

rules are adopted under division (F)(1) of this section allowing 76708
such a combination or the tax commissioner finds that such a 76709
combination is necessary to properly reflect the taxpayers' 76710
adjusted federal taxable incomes, Ohio net incomes, or the portion 76711
of Ohio net incomes to be subject to taxation within a municipal 76712
corporation. 76713

(G) The tax commissioner may adopt rules providing for 76714
alternative apportionment methods for a telephone company. 76715

Sec. 5745.04. (A) As used in this section, "combined tax 76716
liability" means the total of a taxpayer's income tax liabilities 76717
to all municipal corporations in this state for a taxable year. 76718

(B) Beginning with its taxable year beginning in 2003, each 76719
taxpayer shall file a declaration of estimated tax report with, 76720
and remit estimated taxes to, the tax commissioner, payable to the 76721
treasurer of state, at the times and in the amounts prescribed in 76722
divisions (B)(1) to (4) of this section. This division also 76723
applies to a taxpayer having a taxable year consisting of fewer 76724
than twelve months, at least one of which is in 2002, that ends 76725
before January 1, 2003. The first taxable year a taxpayer is 76726
subject to this chapter, the estimated taxes the taxpayer is 76727
required to remit under this section shall be based solely on the 76728
current taxable year and not on the liability for the preceding 76729
taxable year. 76730

(1) Not less than twenty-five per cent of the combined tax 76731
liability for the preceding taxable year or twenty per cent of the 76732
combined tax liability for the current taxable year shall have 76733
been remitted not later than the fifteenth day of the fourth month 76734
after the end of the preceding taxable year. 76735

(2) Not less than fifty per cent of the combined tax 76736
liability for the preceding taxable year or forty per cent of the 76737
combined tax liability for the current taxable year shall have 76738

been remitted not later than the fifteenth day of the sixth month 76739
after the end of the preceding taxable year. 76740

(3) Not less than seventy-five per cent of the combined tax 76741
liability for the preceding taxable year or sixty per cent of the 76742
combined tax liability for the current taxable year shall have 76743
been remitted not later than the fifteenth day of the ninth month 76744
after the end of the preceding taxable year. 76745

(4) Not less than one hundred per cent of the combined tax 76746
liability for the preceding taxable year or eighty per cent of the 76747
combined tax liability for the current taxable year shall have 76748
been remitted not later than the fifteenth day of the twelfth 76749
month after the end of the preceding taxable year. 76750

(C) Each taxpayer shall report on the declaration of 76751
estimated tax report the portion of the remittance that the 76752
taxpayer estimates that it owes to each municipal corporation for 76753
the taxable year. 76754

(D) Upon receiving a declaration of estimated tax report and 76755
remittance of estimated taxes under this section, the tax 76756
commissioner shall immediately forward to the treasurer of state 76757
such remittance. The treasurer of state shall credit ninety-eight 76758
and one-half per cent of the remittance to the municipal income 76759
tax fund and credit the remainder to the municipal income tax 76760
administrative fund. 76761

(E) If any remittance of estimated taxes is for one thousand 76762
dollars or more, the taxpayer shall make the remittance by 76763
electronic funds transfer as prescribed by section 5745.04 of the 76764
Revised Code. 76765

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised 76766
Code, no penalty or interest shall be imposed on a taxpayer if the 76767
declaration of estimated tax report is properly filed, and the 76768
estimated tax is paid, within the time prescribed by division (B) 76769

of this section. 76770

Sec. 5747.02. (A) For the purpose of providing revenue for 76771
the support of schools and local government functions, to provide 76772
relief to property taxpayers, to provide revenue for the general 76773
revenue fund, and to meet the expenses of administering the tax 76774
levied by this chapter, there is hereby levied on every 76775
individual, trust, and estate residing in or earning or receiving 76776
income in this state, on every individual, trust, and estate 76777
earning or receiving lottery winnings, prizes, or awards pursuant 76778
to Chapter 3770. of the Revised Code, and on every individual, 76779
trust, and estate otherwise having nexus with or in this state 76780
under the Constitution of the United States, an annual tax 76781
measured in the case of individuals by Ohio adjusted gross income 76782
less an exemption for the taxpayer, the taxpayer's spouse, and 76783
each dependent as provided in section 5747.025 of the Revised 76784
Code; measured in the case of trusts by modified Ohio taxable 76785
income under division (D) of this section; and measured in the 76786
case of estates by Ohio taxable income. The tax imposed by this 76787
section on the balance thus obtained is hereby levied as follows: 76788

OHIO ADJUSTED GROSS INCOME LESS		76789
EXEMPTIONS (INDIVIDUALS)		
OR		76790
MODIFIED OHIO		76791
TAXABLE INCOME (TRUSTS)		76792
OR		76793
OHIO TAXABLE INCOME (ESTATES)	TAX	76794
\$5,000 or less	.743%	76795
More than \$5,000 but not more than \$10,000	\$37.15 plus 1.486% of the amount in excess of \$5,000	76796
More than \$10,000 but not more than \$15,000	\$111.45 plus 2.972% of the amount in excess of \$10,000	76797
More than \$15,000 but not more	\$260.05 plus 3.715% of the	76798

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	76799
More than \$40,000 but not more than \$80,000	\$1,337.20 plus 5.201% of the amount in excess of \$40,000	76800
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	76801
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	76802
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	76803

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 76825
beginning in the calendar year in which that certification is 76826
made. 76827

(C) The levy of this tax on income does not prevent a 76828
municipal corporation, a joint economic development zone created 76829
under section 715.691, or a joint economic development district 76830
created under section 715.70 or 715.71 or sections 715.72 to 76831
715.81 of the Revised Code from levying a tax on income. 76832

(D) This division applies only to taxable years of a trust 76833
beginning in 2002, 2003, or 2004. 76834

(1) The tax imposed by this section on a trust shall be 76835
computed by multiplying the Ohio modified taxable income of the 76836
trust by the rates prescribed by division (A) of this section. 76837

(2) A credit is allowed against the tax computed under 76838
division (D) of this section equal to the lesser of (1) the tax 76839
paid to another state or the District of Columbia on the trust's 76840
modified nonbusiness income, other than the portion of the trust's 76841
nonbusiness income that is qualifying investment income as defined 76842
in section 5747.012 of the Revised Code, or (2) the effective tax 76843
rate, based on modified Ohio taxable income, multiplied by the 76844
trust's modified nonbusiness income other than the portion of 76845
trust's nonbusiness income that is qualifying investment income. 76846
The credit applies before any other applicable credits. 76847

(3) The credits enumerated in divisions (A)(1) to (13) of 76848
section 5747.98 of the Revised Code do not apply to a trust 76849
subject to this division. Any credits enumerated in other 76850
divisions of section 5747.98 of the Revised Code apply to a trust 76851
subject to this division. To the extent that the trust distributes 76852
income for the taxable year for which a credit is available to the 76853
trust, the credit shall be shared by the trust and its 76854
beneficiaries. The tax commissioner and the trust shall be guided 76855

by applicable regulations of the United States treasury regarding 76856
the sharing of credits. 76857

(E) For the purposes of this section, "trust" means any trust 76858
described in Subchapter J of Chapter 1 of the Internal Revenue 76859
Code, excluding trusts that are not irrevocable as defined in 76860
division (I)(3)(b) of section 5747.01 of the Revised Code and that 76861
have no modified Ohio taxable income for the taxable year, 76862
charitable remainder trusts, qualified funeral trusts and preneed 76863
funeral contract trusts established pursuant to section 1111.19 of 76864
the Revised Code that are not qualified funeral trusts, endowment 76865
and perpetual care trusts, qualified settlement trusts and funds, 76866
designated settlement trusts and funds, and trusts exempted from 76867
taxation under section 501(a) of the Internal Revenue Code. 76868

Sec. 5747.026. (A) For taxable years beginning on or after 76869
January 1, 2002, a member of the national guard or a member of a 76870
reserve component of the armed forces of the United States called 76871
to active or other duty under operation Iraqi freedom may apply to 76872
the tax commissioner for an extension for filing of the return and 76873
payment of taxes required under Chapter 5747. of the Revised Code 76874
during the period of the member's duty service and for sixty days 76875
thereafter. The application shall be filed on or before the 76876
sixtieth day after the member's duty terminates. An applicant 76877
shall provide such evidence as the commissioner considers 76878
necessary to demonstrate eligibility for the extension. 76879

(B)(1) If the commissioner determines that an applicant is 76880
qualified for an extension under this section, the commissioner 76881
shall enter into a contract with the applicant for the payment of 76882
the tax in installments that begin on the sixty-first day after 76883
the applicant's duty under operation Iraqi freedom terminates. 76884
Except as provided in division (B)(3) of this section, the 76885
commissioner may prescribe such contract terms as the commissioner 76886

considers appropriate. 76887

(2) If the commissioner determines that an applicant is 76888
qualified for an extension under this section, the applicant shall 76889
not be required to file any return, report, or other tax document 76890
before the sixty-first day after the applicant's duty under 76891
operation Iraqi freedom terminates. 76892

(3) Taxes paid pursuant to a contract entered into under 76893
division (B)(1) of this section are not delinquent. The tax 76894
commissioner shall not require any payments of penalties or 76895
interest in connection with such taxes. 76896

(C) The tax commissioner shall adopt rules necessary to 76897
administer this section, including rules establishing the 76898
following: 76899

(1) Forms and procedures by which applicants may apply for 76900
extensions; 76901

(2) Criteria for eligibility; 76902

(3) A schedule for repayment of deferred taxes. 76903

Sec. 5747.12. If a person entitled to a refund under section 76904
5747.11 or 5747.13 of the Revised Code is indebted to this state 76905
for any tax, workers' compensation premium due under section 76906
4123.35 of the Revised Code, unemployment compensation 76907
contribution due under section 4141.25 of the Revised Code, or fee 76908
administered by the tax commissioner that is paid to the state or 76909
to the clerk of courts pursuant to section 4505.06 of the Revised 76910
Code, or any charge, penalty, or interest arising from such a tax, 76911
workers' compensation premium, unemployment compensation 76912
contribution, or fee, the amount refundable may be applied in 76913
satisfaction of the debt. If the amount refundable is less than 76914
the amount of the debt, it may be applied in partial satisfaction 76915
of the debt. If the amount refundable is greater than the amount 76916

of the debt, the amount remaining after satisfaction of the debt 76917
shall be refunded. If the person has more than one such debt, any 76918
debt subject to section 5739.33 or division (G) of section 5747.07 76919
of the Revised Code shall be satisfied first. This section applies 76920
only to debts that have become final. 76921

The tax commissioner may, with the consent of the taxpayer, 76922
provide for the crediting, against tax imposed under this chapter 76923
or Chapter 5748. of the Revised Code and due for any taxable year, 76924
of the amount of any refund due the taxpayer under this chapter or 76925
Chapter 5748. of the Revised Code, as appropriate, for a preceding 76926
taxable year. 76927

Sec. 5747.31. (A) This section applies to an individual or 76928
estate that is a proprietor or a pass-through entity investor. 76929

(B) A taxpayer described in division (A) of this section is 76930
allowed a credit that shall be computed and claimed in the same 76931
manner as the credit allowed to corporations in section 5733.33 of 76932
the Revised Code. The taxpayer shall claim one-seventh of the 76933
credit amount for the calendar year in which the new manufacturing 76934
machinery and equipment is purchased for use in the county by the 76935
taxpayer or partnership. One-seventh of the taxpayer credit amount 76936
is allowed for each of the six ensuing taxable years. The taxpayer 76937
shall claim the credit in the order required under section 5747.98 76938
of the Revised Code. 76939

The taxpayer shall file with the department of development a 76940
notice of intent to claim the credit in accordance with division 76941
(E) of section 5733.33 of the Revised Code. 76942

(C)(1) A taxpayer described in division (A) of this section 76943
is allowed a credit that shall be computed in the same manner as 76944
the credit allowed to a corporation in section 5733.39 of the 76945
Revised Code, with the following adjustments: 76946

(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code; 76947
76948

(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code; 76949
76950

(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code; 76951
76952

(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. 76953
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(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. 76957
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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. 76963
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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~~ 76968
76969
76970

(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 76971
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commission from the county general fund in the current fiscal year 76977
by more than ten per cent of that appropriation, the board of 76978
county commissioners, by resolution, may create not more than six 76979
memberships on the veterans service commission in addition to the 76980
memberships provided for by section 5901.02 of the Revised Code. 76981
The board shall prescribe the number of years ~~such~~ the additional 76982
memberships shall exist, which shall not exceed five years. Once a 76983
board of county commissioners creates ~~such~~ any additional 76984
memberships, it may not create further additional memberships 76985
under this section if the total number of such memberships would 76986
exceed six. The board shall appoint persons who are residents of 76987
the county and who are honorably discharged or honorably separated 76988
veterans to each of the additional memberships, for terms 76989
prescribed by the board and commencing on a date fixed by the 76990
board. Each person appointed to an additional membership shall 76991
file, within sixty days after the date of the appointment, the 76992
person's form DD214 with the governor's office of veterans affairs 76993
in accordance with guidelines established by the director of that 76994
office. 76995

(2) If the board of county commissioners appoints ~~such~~ 76996
additional members as described in division (B)(1) of this 76997
section, the board may permit the commission to submit an original 76998
or revised budget request for the ensuing fiscal year later than 76999
the last Monday in May, as otherwise required under section 77000
5901.11 of the Revised Code. 77001

(C) The board of county commissioners may remove, for cause, 77002
any member appointed under this section~~†~~. The board shall provide 77003
~~for~~ determine whether ~~such~~ the additional members may be 77004
reappointed upon the expiration of their terms~~†~~, and shall fill 77005
any vacancy in ~~a~~ an additional membership ~~appointed under this~~ 77006
~~section~~ for the unexpired term in the manner provided for the 77007
original appointment. 77008

Sec. 6101.09. Within thirty days after the conservancy 77009
district has been declared a corporation by the court, the clerk 77010
of such court shall transmit to the secretary of state, to the 77011
director of the department of natural resources, and to the county 77012
recorder in each of the counties having lands in the district, 77013
copies of the findings and the decree of the court incorporating 77014
the district. The same shall be filed and recorded in the office 77015
of the secretary of state in the same manner as articles of 77016
incorporation are required to be filed and recorded under the 77017
general law concerning corporations. Copies shall also be filed 77018
and become permanent records in the office of the recorder of each 77019
county in which a part of the district lies. Each recorder shall 77020
receive a base fee of one dollar for filing and preserving such 77021
copies and a housing trust fund fee of one dollar pursuant to 77022
section 317.36 of the Revised Code, and the secretary of state 77023
shall receive for filing and for recording the copies a fee of 77024
twenty-five dollars. 77025

Sec. 6103.02. (A) For the purpose of preserving and promoting 77026
the public health and welfare, a board of county commissioners may 77027
acquire, construct, maintain, and operate any public water supply 77028
facilities within its county for one or more sewer districts and 77029
may provide for their protection and prevent their pollution and 77030
unnecessary waste. The board may negotiate and enter into a 77031
contract with any public agency or any person for the management, 77032
maintenance, operation, and repair of the facilities on behalf of 77033
the county, upon the terms and conditions as may be agreed upon 77034
with the agency or person and as may be determined by the board to 77035
be in the interests of the county. By contract with any public 77036
agency or any person operating public water supply facilities 77037
within or without its county, the board also may provide a supply 77038
of water to a sewer district from the facilities of the public 77039

agency or person. 77040

(B) The county sanitary engineer or sanitary engineering 77041
department, in addition to other assigned duties, shall assist the 77042
board in the performance of its duties under this chapter and 77043
shall be charged with other duties and services in relation to the 77044
board's duties as the board prescribes. 77045

(C) The board may adopt, publish, administer, and enforce 77046
rules for the construction, maintenance, protection, and use of 77047
county-owned or county-operated public water supply facilities 77048
outside municipal corporations and of public water supply 77049
facilities within municipal corporations that are owned or 77050
operated by the county or that are supplied with water from water 77051
supply facilities owned or operated by the county, including, but 77052
not limited to, rules for the establishment and use of any 77053
connections, the termination in accordance with reasonable 77054
procedures of water service for nonpayment of county water rates 77055
and charges, and the establishment and use of security deposits to 77056
the extent considered necessary to ensure the payment of county 77057
water rates and charges. The rules shall not be inconsistent with 77058
the laws of the state or any applicable rules of the director of 77059
environmental protection. 77060

(D) No public water supply facilities shall be constructed in 77061
any county outside municipal corporations by any person, except 77062
for the purpose of supplying water to those municipal 77063
corporations, until the plans and specifications for the 77064
facilities have been approved by the board. Construction shall be 77065
done under the supervision of the county sanitary engineer. Any 77066
person constructing public water supply facilities shall pay to 77067
the county all expenses incurred by the board in connection with 77068
the construction. 77069

(E) The county sanitary engineer or the county sanitary 77070
engineer's authorized assistants or agents, when properly 77071

identified in writing or otherwise and after written notice is 77072
delivered to the owner at least five days in advance or mailed at 77073
least five days in advance by first class or certified mail to the 77074
owner's tax mailing address, may enter upon any public or private 77075
property for the purpose of making, and may make, surveys or 77076
inspections necessary for the design or evaluation of county 77077
public water supply facilities. This entry is not a trespass and 77078
is not to be considered an entry in connection with any 77079
appropriation of property proceedings under sections 163.01 to 77080
163.22 of the Revised Code that may be pending. No person or 77081
public agency shall forbid the county sanitary engineer or the 77082
county sanitary engineer's authorized assistants or agents to 77083
enter, or interfere with their entry, upon the property for the 77084
purpose of making the surveys or inspections. If actual damage is 77085
done to property by the making of the surveys or inspections, the 77086
board shall pay the reasonable value of the damage to the property 77087
owner, and the cost shall be included in the cost of the 77088
facilities and may be included in any special assessments levied 77089
and collected to pay that cost. 77090

(F) The board shall fix reasonable rates, including penalties 77091
for late payments, for water supplied to public agencies and 77092
persons when the source of supply or the facilities for its 77093
distribution are owned or operated by the county and may change 77094
the rates from time to time as it considers advisable. When the 77095
source of the water supply to be used by the county is owned by 77096
another public agency or person, the schedule of rates to be 77097
charged by the public agency or person shall be approved by the 77098
board at the time it enters into a contract for the use of water 77099
from the public agency or person. When the distribution facilities 77100
are owned by the county, the board also may fix reasonable charges 77101
to be collected for the privilege of connecting to the 77102
distribution facilities and may require that, prior to the 77103
connection, the charges be paid in full or, if determined by the 77104

board to be equitable in a resolution relating to the payment of 77105
the charges, may require their payment in installments, as 77106
considered adequate by the board, at the times, in the amounts, 77107
and with the security, carrying charges, and penalties as may be 77108
determined by the board in that resolution to be fair and 77109
appropriate. No public agency or person shall be permitted to 77110
connect to those facilities until the charges have been paid in 77111
full or provision for their payment in installments has been made. 77112
If the connection charges are to be paid in installments, the 77113
board shall certify, to the county auditor, information sufficient 77114
to identify each parcel of property served by a connection and, 77115
with respect to each parcel, the total of the charges to be paid 77116
in installments, the amount of each installment, and the total 77117
number of installments to be paid. The county auditor shall record 77118
and maintain the information so supplied in the waterworks record 77119
provided for in section 6103.16 of the Revised Code until the 77120
connection charges are paid in full. The board may include amounts 77121
attributable to connection charges being paid in installments in 77122
its billings of rates and other charges for water supplied. In 77123
addition, the board may consider payments made to a school 77124
district under section 6103.25 of the Revised Code when the board 77125
establishes rates and other charges for water supplied. 77126

(G) When any rates or charges are not paid when due, the 77127
board may do any or all of the following: 77128

(1) Certify the unpaid rates or charges, together with any 77129
penalties, to the county auditor. The county auditor shall place 77130
the certified amount upon the real property tax list and duplicate 77131
against the property served by the connection. The certified 77132
amount shall be a lien on the property from the date placed on the 77133
real property tax list and duplicate and shall be collected in the 77134
same manner as taxes, except that, notwithstanding section 323.15 77135
of the Revised Code, a county treasurer shall accept a payment in 77136

that amount when separately tendered as payment for the full 77137
amount of the unpaid rates or charges and associated penalties. 77138
The lien shall be released immediately upon payment in full of the 77139
certified amount. 77140

(2) Collect the unpaid rates or charges, together with any 77141
penalties, by actions at law in the name of the county from an 77142
owner, tenant, or other person or public agency that is liable for 77143
the payment of the rates or charges; 77144

(3) Terminate, in accordance with established rules, the 77145
water service to the particular property unless and until the 77146
unpaid rates or charges, together with any penalties, are paid in 77147
full; 77148

(4) Apply, to the extent required, any security deposit made 77149
in accordance with established rules to the payment of the unpaid 77150
rates and charges, together with any penalties, for water service 77151
to the particular property. 77152

All moneys collected as rates, charges, or penalties fixed or 77153
established in accordance with division (F) of this section for 77154
water supply purposes in or for any sewer district shall be paid 77155
to the county treasurer and kept in a separate and distinct water 77156
fund established by the board to the credit of the district. 77157

Each board that fixes water rates or charges may render 77158
estimated bills periodically, provided that at least quarterly it 77159
shall schedule an actual reading of each customer's meter so as to 77160
render a bill for the actual amount shown by the meter reading to 77161
be due, with credit for prior payments of any estimated bills 77162
submitted for any part of the billing period, except that 77163
estimated bills may be rendered if a customer's meter is not 77164
accessible for a timely reading or if the circumstances preclude a 77165
scheduled reading. Each board also shall establish procedures 77166
providing a fair and reasonable opportunity for the resolution of 77167

billing disputes. 77168

When property to which water service is provided is about to 77169
be sold, any party to the sale or an agent of a party may request 77170
the board to have the meter at that property read and to render, 77171
within ten days following the date on which the request is made, a 77172
final bill for all outstanding rates and charges for water 77173
service. The request shall be made at least fourteen days prior to 77174
the transfer of the title of the property. 77175

At any time prior to a certification under division (G)(1) of 77176
this section, the board shall accept any partial payment of unpaid 77177
water rates or charges in the amount of ten dollars or more. 77178

Except as otherwise provided in any proceedings authorizing 77179
or providing for the security for and payment of any public 77180
obligations, or in any indenture or trust or other agreement 77181
securing public obligations, moneys in the water fund shall be 77182
applied first to the payment of the cost of the management, 77183
maintenance, and operation of the water supply facilities of, or 77184
used or operated for, the sewer district, which cost may include 77185
the county's share of management, maintenance, and operation costs 77186
under cooperative contracts for the acquisition, construction, or 77187
use of water supply facilities and, in accordance with a cost 77188
allocation plan adopted under division (H) of this section, 77189
payment of all allowable direct and indirect costs of the 77190
district, the county sanitary engineer or sanitary engineering 77191
department, or a federal or state grant program, incurred for the 77192
purposes of this chapter, and shall be applied second to the 77193
payment of debt charges payable on any outstanding public 77194
obligations issued or incurred for the acquisition or construction 77195
of water supply facilities for or serving the district, or for the 77196
funding of a bond retirement or other fund established for the 77197
payment of or security for the obligations. Any surplus remaining 77198
may be applied to the acquisition or construction of those 77199

facilities or for the payment of contributions to be made, or 77200
costs incurred, for the acquisition or construction of those 77201
facilities under cooperative contracts. Moneys in the water fund 77202
shall not be expended other than for the use and benefit of the 77203
district. 77204

(H) A board of county commissioners may adopt a cost 77205
allocation plan that identifies, accumulates, and distributes 77206
allowable direct and indirect costs that may be paid from the 77207
water fund of the sewer district created pursuant to division (G) 77208
of this section, and that prescribes methods for allocating those 77209
costs. The plan shall authorize payment from the fund of only 77210
those costs incurred by the district, the county sanitary engineer 77211
or sanitary engineering department, or a federal or state grant 77212
program, and those costs incurred by the general and other funds 77213
of the county for a common or joint purpose, that are necessary 77214
and reasonable for the proper and efficient administration of the 77215
district under this chapter. The plan shall not authorize payment 77216
from the fund of any general government expense required to carry 77217
out the overall governmental responsibilities of a county. The 77218
plan shall conform to United States office of management and 77219
budget Circular A-87, "Cost Principles for State, Local, and 77220
Indian Tribal Governments," published May 17, 1995. 77221

(I) A board of county commissioners shall not construct a 77222
public water supply facility that is within the boundaries of a 77223
regional water and sewer district established under Chapter 6119. 77224
of the Revised Code and that is within one thousand feet of a 77225
water resource project that is owned or operated by the district 77226
if the project is financed in whole or in part by obligations 77227
issued under Chapter 133., 6119., or 6121. of the Revised Code or 77228
by obligations issued by the state unless the facility is for the 77229
sole purpose of increasing water pressure in water transmission 77230
lines owned or operated by the board and will not be used to sell 77231

or otherwise provide water to customers to which the district 77232
supplies or may supply water from an existing water resource 77233
project or unless the district gives consent to the construction 77234
by adopting a resolution. 77235

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 77236
of this section, on and after January 1, 1994, no person shall 77237
operate or maintain a public water system in this state without a 77238
license issued by the director of environmental protection. A 77239
person who operates or maintains a public water system on January 77240
1, 1994, shall obtain an initial license under this section in 77241
accordance with the following schedule: 77242

(1) If the public water system is a community water system, 77243
not later than January 31, 1994; 77244

(2) If the public water system is not a community water 77245
system and serves a nontransient population, not later than 77246
January 31, 1994; 77247

(3) If the public water system is not a community water 77248
system and serves a transient population, not later than January 77249
31, 1995. 77250

A person proposing to operate or maintain a new public water 77251
system after January 1, 1994, in addition to complying with 77252
section 6109.07 of the Revised Code and rules adopted under it, 77253
shall submit an application for an initial license under this 77254
section to the director prior to commencing operation of the 77255
system. 77256

A license or license renewal issued under this section shall 77257
be renewed annually. Such a license or license renewal shall 77258
expire on the thirtieth day of January in the year following its 77259
issuance. A license holder that proposes to continue operating the 77260
public water system for which the license or license renewal was 77261

issued shall apply for a license renewal at least thirty days 77262
prior to that expiration date. 77263

The director shall adopt, and may amend and rescind, rules in 77264
accordance with Chapter 119. of the Revised Code establishing 77265
procedures governing and information to be included on 77266
applications for licenses and license renewals under this section. 77267
Through June 30, ~~2004~~ 2006, each application shall be accompanied 77268
by the appropriate fee established under division (M) of section 77269
3745.11 of the Revised Code, provided that an applicant for an 77270
initial license who is proposing to operate or maintain a new 77271
public water system after January 1, 1994, shall submit a fee that 77272
equals a prorated amount of the appropriate fee established under 77273
that division for the remainder of the licensing year. 77274

(B) Not later than thirty days after receiving a completed 77275
application and the appropriate license fee for an initial license 77276
under division (A) of this section, the director shall issue the 77277
license for the public water system. Not later than thirty days 77278
after receiving a completed application and the appropriate 77279
license fee for a license renewal under division (A) of this 77280
section, the director shall do one of the following: 77281

(1) Issue the license renewal for the public water system; 77282

(2) Issue the license renewal subject to terms and conditions 77283
that the director determines are necessary to ensure compliance 77284
with this chapter and rules adopted under it; 77285

(3) Deny the license renewal if the director finds that the 77286
public water system was not operated in substantial compliance 77287
with this chapter and rules adopted under it. 77288

(C) The director may suspend or revoke a license or license 77289
renewal issued under this section if the director finds that the 77290
public water system was not operated in substantial compliance 77291
with this chapter and rules adopted under it. The director shall 77292

adopt, and may amend and rescind, rules in accordance with Chapter 77293
119. of the Revised Code governing such suspensions and 77294
revocations. 77295

(D)(1) As used in division (D) of this section, "church" 77296
means a fellowship of believers, congregation, society, 77297
corporation, convention, or association that is formed primarily 77298
or exclusively for religious purposes and that is not formed or 77299
operated for the private profit of any person. 77300

(2) This section does not apply to a church that operates or 77301
maintains a public water system solely to provide water for that 77302
church or for a campground that is owned by the church and 77303
operated primarily or exclusively for members of the church and 77304
their families. A church that, on or before March 5, 1996, has 77305
obtained a license under this section for such a public water 77306
system need not obtain a license renewal under this section. 77307

(E) This section does not apply to any public or nonpublic 77308
school that meets minimum standards of the state board of 77309
education that operates or maintains a public water system solely 77310
to provide water for that school. 77311

Sec. 6111.06. (A) All proceedings of the director of 77312
environmental protection, ~~or his~~ of the director's officers or 77313
agents, under sections 6111.01 to 6111.08 ~~and sections 6111.31 to~~ 77314
~~6111.38~~ of the Revised Code, including the adoption, issuance, 77315
modification, rescission, or revocation of rules and regulations, 77316
permits, orders, and notices, and the conduct of hearings, except 77317
standards of water quality adopted pursuant to section 6111.041 of 77318
the Revised Code, shall be subject to and governed by sections 77319
119.01 to 119.13, and Chapter 3745. of the Revised Code. 77320

(B) The director shall not refuse to issue a permit, nor 77321
modify or revoke a permit already issued, unless the applicant or 77322
permit holder has been afforded an opportunity for a hearing prior 77323

to the refusal to issue the permit or prior to the modification or 77324
revocation of the permit. 77325

(C) Whenever the director officially determines that an 77326
emergency exists requiring immediate action to protect the public 77327
health or welfare, ~~he~~ the director may, without notice or hearing, 77328
issue an order reciting the existence of the emergency and 77329
requiring that such action be taken as is necessary to meet the 77330
emergency. Notwithstanding division (A) of this section, such 77331
order shall be effective immediately. Any person to whom such 77332
order is directed shall comply therewith immediately, but on 77333
application to the director shall be afforded a hearing as soon as 77334
possible, and not later than twenty days after such application. 77335
On the basis of such hearing, the director shall continue such 77336
order in effect, revoke it, or modify it. No such emergency order 77337
shall remain in effect for more than sixty days after its 77338
issuance. 77339

Sec. 6115.09. Within thirty days after the sanitary district 77340
has been declared a corporation by the court, the clerk of such 77341
court shall transmit to the secretary of state, and to the county 77342
recorder in each of the counties having lands in said district, 77343
copies of the findings and the decree of the court incorporating 77344
said district. The same shall be filed and recorded in the office 77345
of the secretary of state in the same manner as articles of 77346
incorporation are required to be filed and recorded under the 77347
general law concerning corporations. Copies shall also be filed 77348
and become permanent records in the office of the recorder of each 77349
county in which a part of the district lies. Each recorder shall 77350
receive a base fee of one dollar for filing and preserving such 77351
copies and a housing trust fund fee of one dollar pursuant to 77352
section 317.36 of the Revised Code, and the secretary of state 77353
shall receive for filing and for recording said copies such fees 77354
as are provided by law for like services in similar cases. 77355

Sec. 6117.02. (A) The board of county commissioners shall fix 77356
reasonable rates, including penalties for late payments, for the 77357
use, or the availability for use, of the sanitary facilities of a 77358
sewer district to be paid by every person and public agency whose 77359
premises are served, or capable of being served, by a connection 77360
directly or indirectly to those facilities when those facilities 77361
are owned or operated by the county and may change the rates from 77362
time to time as it considers advisable. When the sanitary 77363
facilities to be used by the county are owned by another public 77364
agency or person, the schedule of rates to be charged by the 77365
public agency or person for the use of the facilities by the 77366
county, or the formula or other procedure for their determination, 77367
shall be approved by the board at the time it enters into a 77368
contract for that use. 77369

(B) The board also shall establish reasonable charges to be 77370
collected for the privilege of connecting to the sanitary 77371
facilities of the district, with the requirement that, prior to 77372
the connection, the charges shall be paid in full, or, if 77373
determined by the board to be equitable in a resolution relating 77374
to the payment of the charges, provision considered adequate by 77375
the board shall be made for their payment in installments at the 77376
times, in the amounts, and with the security, carrying charges, 77377
and penalties as may be found by the board in that resolution to 77378
be fair and appropriate. No public agency or person shall be 77379
permitted to connect to those facilities until the charges have 77380
been paid in full or provision for their payment in installments 77381
has been made. If the connection charges are to be paid in 77382
installments, the board shall certify to the county auditor 77383
information sufficient to identify each parcel of property served 77384
by a connection and, with respect to each parcel, the total of the 77385
charges to be paid in installments, the amount of each 77386
installment, and the total number of installments to be paid. The 77387

auditor shall record and maintain the information supplied in the 77388
sewer improvement record provided for in section 6117.33 of the 77389
Revised Code until the connection charges are paid in full. The 77390
board may include amounts attributable to connection charges being 77391
paid in installments in its billings of rates and charges for the 77392
use of sanitary facilities. 77393

(C) When any of the sanitary rates or charges are not paid 77394
when due, the board may do any or all of the following as it 77395
considers appropriate: 77396

(1) Certify the unpaid rates or charges, together with any 77397
penalties, to the county auditor, who shall place them upon the 77398
real property tax list and duplicate against the property served 77399
by the connection. The certified amount shall be a lien on the 77400
property from the date placed on the real property tax list and 77401
duplicate and shall be collected in the same manner as taxes, 77402
except that, notwithstanding section 323.15 of the Revised Code, a 77403
county treasurer shall accept a payment in that amount when 77404
separately tendered as payment for the full amount of the unpaid 77405
sanitary rates or charges and associated penalties. The lien shall 77406
be released immediately upon payment in full of the certified 77407
amount. 77408

(2) Collect the unpaid rates or charges, together with any 77409
penalties, by actions at law in the name of the county from an 77410
owner, tenant, or other person or public agency that is liable for 77411
the payment of the rates or charges; 77412

(3) Terminate, in accordance with established rules, the 77413
sanitary service to the particular property and, if so determined, 77414
any county water service to that property, unless and until the 77415
unpaid sanitary rates or charges, together with any penalties, are 77416
paid in full; 77417

(4) Apply, to the extent required, any security deposit made 77418

in accordance with established rules to the payment of sanitary 77419
rates and charges for service to the particular property. 77420

All moneys collected as sanitary rates, charges, or penalties 77421
fixed or established in accordance with divisions (A) and (B) of 77422
this section for any sewer district shall be paid to the county 77423
treasurer and kept in a separate and distinct sanitary fund 77424
established by the board to the credit of the district. Except as 77425
otherwise provided in any proceedings authorizing or providing for 77426
the security for and payment of any public obligations, or in any 77427
indenture or trust or other agreement securing public obligations, 77428
moneys in the sanitary fund shall be applied first to the payment 77429
of the cost of the management, maintenance, and operation of the 77430
sanitary facilities of, or used or operated for, the district, 77431
which cost may include the county's share of management, 77432
maintenance, and operation costs under cooperative contracts for 77433
the acquisition, construction, or use of sanitary facilities and, 77434
in accordance with a cost allocation plan adopted under division 77435
(E) of this section, payment of all allowable direct and indirect 77436
costs of the district, the county sanitary engineer or sanitary 77437
engineering department, or a federal or state grant program, 77438
incurred for sanitary purposes under this chapter, and shall be 77439
applied second to the payment of debt charges payable on any 77440
outstanding public obligations issued or incurred for the 77441
acquisition or construction of sanitary facilities for or serving 77442
the district, or for the funding of a bond retirement or other 77443
fund established for the payment of or security for the 77444
obligations. Any surplus remaining may be applied to the 77445
acquisition or construction of those facilities or for the payment 77446
of contributions to be made, or costs incurred, for the 77447
acquisition or construction of those facilities under cooperative 77448
contracts. Moneys in the sanitary fund shall not be expended other 77449
than for the use and benefit of the district. 77450

(D) The board may fix reasonable rates and charges, including 77451
connection charges and penalties for late payments, to be paid by 77452
any person or public agency owning or having possession or control 77453
of any properties that are connected with, capable of being served 77454
by, or otherwise served directly or indirectly by, drainage 77455
facilities owned or operated by or under the jurisdiction of the 77456
county, including, but not limited to, properties requiring, or 77457
lying within an area of the district requiring, in the judgment of 77458
the board, the collection, control, or abatement of waters 77459
originating or accumulating in, or flowing in, into, or through, 77460
the district, and may change those rates and charges from time to 77461
time as it considers advisable. The In addition, the board may fix 77462
the rates and charges in order to pay the costs of complying with 77463
the requirements of phase II of the storm water program of the 77464
national pollutant discharge elimination system established in 40 77465
C.F.R. part 122. 77466

The rates and charges shall be payable periodically as 77467
determined by the board, except that any connection charges shall 77468
be paid in full in one payment, or, if determined by the board to 77469
be equitable in a resolution relating to the payment of those 77470
charges, provision considered adequate by the board shall be made 77471
for their payment in installments at the times, in the amounts, 77472
and with the security, carrying charges, and penalties as may be 77473
found by the board in that resolution to be fair and appropriate. 77474
The board may include amounts attributable to connection charges 77475
being paid in installments in its billings of rates and charges 77476
for the services provided by the drainage facilities. In the case 77477
of rates and charges that are fixed in order to pay the costs of 77478
complying with the requirements of phase II of the storm water 77479
program of the national pollutant discharge elimination system 77480
established in 40 C.F.R. part 122, the rates and charges may be 77481
paid annually or semiannually with real property taxes, provided 77482

that the board certifies to the county auditor information that is 77483
sufficient for the auditor to identify each parcel of property for 77484
which a rate or charge is levied and the amount of the rate or 77485
charge. 77486

When any of the drainage rates or charges are not paid when 77487
due, the board may do any or all of the following as it considers 77488
appropriate: 77489

(1) Certify the unpaid rates or charges, together with any 77490
penalties, to the county auditor, who shall place them upon the 77491
real property tax list and duplicate against the property to which 77492
the rates or charges apply. The certified amount shall be a lien 77493
on the property from the date placed on the real property tax list 77494
and duplicate and shall be collected in the same manner as taxes, 77495
except that notwithstanding section 323.15 of the Revised Code, a 77496
county treasurer shall accept a payment in that amount when 77497
separately tendered as payment for the full amount of the unpaid 77498
drainage rates or charges and associated penalties. The lien shall 77499
be released immediately upon payment in full of the certified 77500
amount. 77501

(2) Collect the unpaid rates or charges, together with any 77502
penalties, by actions at law in the name of the county from an 77503
owner, tenant, or other person or public agency that is liable for 77504
the payment of the rates or charges; 77505

(3) Terminate, in accordance with established rules, the 77506
drainage service for the particular property until the unpaid 77507
rates or charges, together with any penalties, are paid in full; 77508

(4) Apply, to the extent required, any security deposit made 77509
in accordance with established rules to the payment of drainage 77510
rates and charges applicable to the particular property. 77511

All moneys collected as drainage rates, charges, or penalties 77512
in or for any sewer district shall be paid to the county treasurer 77513