

As Reported by the Committee of Conference

128th General Assembly

Regular Session

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Am. Sub. S. B. No. 181

Senator Stewart

Cosponsors: Senators Goodman, Schaffer, Seitz, Niehaus, Faber, Gibbs,

Gillmor, Harris, Hughes, Patton, Wagoner, Wilson, Carey

Representatives Weddington, Boyd, DeBose, Domenick, Driehaus, Evans,

Garland, Hagan, Letson, Luckie, Mallory, Reece, Sayre, Williams, B.,

Williams, S., Winburn, Yuko

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A B I L L

To amend sections 122.12, 135.143, 148.06, 926.31, 1
1501.04, 1517.23, 3302.03, 3313.44, 4928.01, 2
5709.62, 5709.63, 5709.632, 5739.02, 5751.08, 3
5751.09, 6109.22, and 6111.036, to enact sections 4
1513.372, 1517.03, 1517.04, and 5709.084 of the 5
Revised Code, to amend Sections 265.30.40 and 6
265.40.60 of Am. Sub. H.B. 1 of the 128th General 7
Assembly, to amend Section 265.10 of Am. Sub. H.B. 8
1 of the 128th General Assembly, as subsequently 9
amended, and to repeal Sections 6 and 7 of Sub. 10
H.B. 318 of the 128th General Assembly to provide 11
immunity from liability for eligible landowners 12
who provide access to abandoned mine land located 13
on their land for purposes of acid mine drainage 14
abatement and to provide immunity from liability 15
for nonprofit organizations that provide funding 16
or services for such acid mine drainage abatement, 17
to designate that methane gas emitted from an 18
abandoned coal mine constitutes a renewable energy 19

resource rather than an advanced energy resource 20
for purposes of the law governing the promotion of 21
renewable energy usage, electricity supplied from 22
renewable energy sources, and renewable energy 23
credits, to reestablish the Ohio Natural Areas 24
Council, and to expand the purposes for which the 25
Water Supply Revolving Loan Account in the 26
Drinking Water Assistance Fund and the Water 27
Pollution Control Loan Fund may be used; to revise 28
the performance ratings for school districts and 29
buildings; to require the Director of Budget and 30
Management, upon the request of the Director of 31
Natural Resources and beginning July 1, 2010, and 32
ending January 1, 2012, to transfer an amount not 33
to exceed \$1.2 million from the Natural Areas and 34
Preserves Fund to the Departmental Projects Fund 35
for the purpose of supporting permanent employees 36
of the Division of Natural Areas and Preserves 37
through January 1, 2012; to require the 38
Administrator of the Bureau of Workers' 39
Compensation, beginning July 1, 2010, and ending 40
December 31, 2010, to transfer a portion of the 41
investment earnings of the Coal-Workers 42
Pneumoconiosis Fund to the Strip Mining 43
Administration Fund; to include NASCAR races, 44
certain Olympic-style boxing competitions, and the 45
Air New Zealand Golden Oldies World Rugby Festival 46
as sporting events for which state grants may be 47
awarded to a county or municipal corporation; to 48
alter the authority of the Treasurer of State to 49
invest in single-issuer debt; to authorize 50
regional water and sewer districts and regional 51
transit authorities to offer additional deferred 52

compensation plans; to modify the law governing 53
which entities are subject to testing of 54
agricultural commodities; to exempt from taxation 55
property leased by a school district for a term of 56
at least fifty years; to exempt convention centers 57
in large-population counties from property 58
taxation and to exempt, for one year, construction 59
materials incorporated into such convention 60
centers from sales and use taxation; to extend 61
enterprise zone authority for one year; to 62
permanently authorize the Tax Commissioner to 63
refund erroneously made commercial activity tax 64
payments made by persons not required to pay the 65
tax; to expressly permit consensual extensions of 66
the four-year time limit on assessments and refund 67
requests for the commercial activity tax; to 68
reauthorize and make appropriations for the 69
Department of Development's Job Ready Sites 70
Program for fiscal years 2011 and 2012; to 71
reauthorize and make appropriations for the 72
Department of Development's Clean Ohio 73
Revitalization Program for fiscal years 2011 and 74
2012; to require the Chancellor of the Board of 75
Regents to develop a work force development pilot 76
program for areas of the state with high 77
unemployment; and to provide for adjustments to 78
payments to schools, to provide for adjustments to 79
payments to nonpublic schools, and to make an 80
appropriation. 81

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

Section 1. That sections 122.12, 135.143, 148.06, 926.31, 82

1501.04, 1517.23, 3302.03, 3313.44, 4928.01, 5709.62, 5709.63, 83
5709.632, 5739.02, 5751.08, 5751.09, 6109.22, and 6111.036 be 84
amended and sections 1513.372, 1517.03, 1517.04, and 5709.084 of 85
the Revised Code be enacted to read as follows: 86

Sec. 122.12. As used in this section and in section 122.121 87
of the Revised Code: 88

(A) "Endorsing county" means a county that contains a site 89
selected by a site selection organization for one or more games. 90

(B) "Endorsing municipality" means a municipal corporation 91
that contains a site selected by a site selection organization for 92
one or more games. 93

(C) "Game support contract" means a joinder undertaking, 94
joinder agreement, or similar contract executed by an endorsing 95
municipality or endorsing county and a site selection 96
organization. 97

(D) "Game" means a national football league "super bowl," a 98
national collegiate athletic association championship game or 99
match, the national basketball association all-star game, the 100
national hockey league all-star game, the major league baseball 101
all-star game, a national collegiate athletic association bowl 102
championship series game, a world cup soccer game, a national 103
association for stock car auto racing race, the ~~nation~~ national 104
senior games, the air New Zealand golden oldies world rugby 105
festival, the golden gloves of America, inc., national golden 106
gloves tournament, the USA boxing association national 107
championships, the international boxing association world cup or 108
world championships, or the olympic games. 109

(E) "Joinder agreement" means an agreement entered into by an 110
endorsing municipality or endorsing county, or more than one 111
endorsing municipality or county acting collectively and a site 112

selection organization setting out representations and assurances 113
by each endorsing municipality or endorsing county in connection 114
with the selection of a site in this state for the location of a 115
game. 116

(F) "Joinder undertaking" means an agreement entered into by 117
an endorsing municipality or endorsing county, or more than one 118
endorsing municipality or county acting collectively and a site 119
selection organization that each endorsing municipality or 120
endorsing county will execute a joinder agreement in the event 121
that the site selection organization selects a site in this state 122
for a game. 123

(G) "Local organizing committee" means a nonprofit 124
corporation or its successor in interest that: 125

(1) Has been authorized by an endorsing municipality, 126
endorsing county, or more than one endorsing municipality or 127
county acting collectively to pursue an application and bid on the 128
applicant's behalf to a site selection organization for selection 129
as the site of one or more games; or 130

(2) With the authorization of an endorsing municipality, 131
endorsing county, or more than one endorsing municipality or 132
county acting collectively, has executed an agreement with a site 133
selection organization regarding a bid to host one or more games. 134

(H) "Site selection organization" means the national football 135
league, the national collegiate athletic association, the national 136
basketball association, the national hockey league, major league 137
baseball, the federation internationale de football association, 138
the international world games association, the United States 139
olympic committee, the national association for stock car auto 140
racinq, the national senior games association, the air New Zealand 141
golden oldies world rugby secretariat, golden gloves of America, 142
inc., the USA boxing association, the international boxing 143

association, or the national governing body of a sport that is 144
recognized as such by the United States olympic committee. 145

Sec. 135.143. (A) The treasurer of state may invest or 146
execute transactions for any part or all of the interim funds of 147
the state in the following classifications of obligations: 148

(1) United States treasury bills, notes, bonds, or any other 149
obligations or securities issued by the United States treasury or 150
any other obligation guaranteed as to principal and interest by 151
the United States; 152

(2) Bonds, notes, debentures, or any other obligations or 153
securities issued by any federal government agency or 154
instrumentality; 155

(3) Bonds and other direct obligations of the state of Ohio 156
issued by the treasurer of state and of the Ohio public facilities 157
commission, the Ohio building authority, and the Ohio housing 158
finance agency; 159

(4)(a) Written repurchase agreements with any eligible Ohio 160
financial institution that is a member of the federal reserve 161
system or federal home loan bank or any recognized United States 162
government securities dealer, under the terms of which agreement 163
the treasurer of state purchases and the eligible financial 164
institution or dealer agrees unconditionally to repurchase any of 165
the securities that are listed in division (A)(1), (2), or (6) of 166
this section and that will mature or are redeemable within ten 167
years from the date of purchase. The market value of securities 168
subject to these transactions must exceed the principal value of 169
the repurchase agreement by an amount specified by the treasurer 170
of state, and the securities must be delivered into the custody of 171
the treasurer of state or the qualified trustee or agent 172
designated by the treasurer of state. The agreement shall contain 173
the requirement that for each transaction pursuant to the 174

agreement, the participating institution or dealer shall provide	175
all of the following information:	176
(i) The par value of the securities;	177
(ii) The type, rate, and maturity date of the securities;	178
(iii) A numerical identifier generally accepted in the securities industry that designates the securities.	179 180
(b) The treasurer of state also may sell any securities, listed in division (A)(1), (2), or (6) of this section, regardless of maturity or time of redemption of the securities, under the same terms and conditions for repurchase, provided that the securities have been fully paid for and are owned by the treasurer of state at the time of the sale.	181 182 183 184 185 186
(5) Securities lending agreements with any eligible financial institution that is a member of the federal reserve system or federal home loan bank or any recognized United States government securities dealer, under the terms of which agreements the treasurer of state lends securities and the eligible financial institution or dealer agrees to simultaneously exchange similar securities or cash, equal value for equal value.	187 188 189 190 191 192 193
Securities and cash received as collateral for a securities lending agreement are not interim funds of the state. The investment of cash collateral received pursuant to a securities lending agreement may be invested only in such instruments specified by the treasurer of state in accordance with a written investment policy.	194 195 196 197 198 199
(6) Various forms of commercial paper issued by any corporation that is incorporated under the laws of the United States or a state, which notes are rated at the time of purchase in the two highest categories by two nationally recognized rating agencies, provided that the total amount invested under this section in any commercial paper at any time shall not exceed	200 201 202 203 204 205

twenty-five per cent of the state's total average portfolio, as 206
determined and calculated by the treasurer of state; 207

(7) Bankers acceptances, maturing in two hundred seventy days 208
or less, which are eligible for purchase by the federal reserve 209
system, provided that the total amount invested in bankers 210
acceptances at any time shall not exceed ten per cent of the 211
state's total average portfolio, as determined and calculated by 212
the treasurer of state; 213

(8) Certificates of deposit in eligible institutions applying 214
for interim moneys as provided in section 135.08 of the Revised 215
Code, including linked deposits as provided in sections 135.61 to 216
135.67 of the Revised Code, agricultural linked deposits as 217
provided in sections 135.71 to 135.76 of the Revised Code, and 218
housing linked deposits as provided in sections 135.81 to 135.87 219
of the Revised Code; 220

(9) The state treasurer's investment pool authorized under 221
section 135.45 of the Revised Code; 222

(10) Debt interests, other than commercial paper described in 223
division (A)(6) of this section, rated at the time of purchase in 224
the three highest categories by two nationally recognized rating 225
agencies and issued by corporations that are incorporated under 226
the laws of the United States or a state, or issued by foreign 227
nations diplomatically recognized by the United States government, 228
or any instrument based on, derived from, or related to such 229
interests. ~~All interest and principal shall be denominated and~~ 230
~~payable in United States funds. The,~~ provided that: 231

(a) The investments made under division (A)(10) of this 232
section in debt interests shall not exceed in the aggregate 233
twenty-five per cent of the state's ~~total average portfolio, as~~ 234
~~determined and calculated by the treasurer of state. The;~~ 235

(b) The investments made under division (A)(10) of this 236

~~section~~ in debt interests issued by foreign nations shall not 237
exceed in the aggregate one per cent of the state's ~~total average~~ 238
~~portfolio, as determined and calculated by the treasurer of state.~~ 239
The 240

(c) The investments made under division (A)(10) of this 241
~~section~~ in the debt interests of a single issuer shall not exceed 242
in the aggregate one-half of one per cent of the state's ~~total~~ 243
~~average portfolio, as determined and calculated by the treasurer~~ 244
~~of state~~ except that debt interests of a single issuer that is a 245
foreign nation shall not exceed in the aggregate one per cent of 246
the state's portfolio. 247

The treasurer of state shall invest under division (A)(10) of 248
this section in a debt interest issued by a foreign nation only if 249
the debt interest is backed by the full faith and credit of that 250
foreign nation, and provided that all interest and principal shall 251
be denominated and payable in United States funds. ~~For~~ 252

For purposes of division (A)(10) of this section, a debt 253
interest is rated in the three highest categories by two 254
nationally recognized rating agencies if either the debt interest 255
itself or the issuer of the debt interest is rated, or is 256
implicitly rated, at the time of purchase in the three highest 257
categories by two nationally recognized rating agencies. 258

For purposes of division (A)(10) of this section, the 259
"state's portfolio" means the state's total average portfolio, as 260
determined and calculated by the treasurer of state. 261

(11) No-load money market mutual funds consisting exclusively 262
of obligations described in division (A)(1), (2), or (6) of this 263
section and repurchase agreements secured by such obligations. 264

(12) Obligations of a board of education issued under 265
authority of section 133.10 or 133.301 of the Revised Code. 266

(B) Whenever, during a period of designation, the treasurer 267

of state classifies public moneys as interim moneys, the treasurer 268
of state shall notify the state board of deposit of such action. 269
The notification shall be given within thirty days after such 270
classification and, in the event the state board of deposit does 271
not concur in such classification or in the investments or 272
deposits made under this section, the board may order the 273
treasurer of state to sell or liquidate any of the investments or 274
deposits, and any such order shall specifically describe the 275
investments or deposits and fix the date upon which they are to be 276
sold or liquidated. Investments or deposits so ordered to be sold 277
or liquidated shall be sold or liquidated for cash by the 278
treasurer of state on the date fixed in such order at the then 279
current market price. Neither the treasurer of state nor the 280
members of the state board of deposit shall be held accountable 281
for any loss occasioned by sales or liquidations of investments or 282
deposits at prices lower than their cost. Any loss or expense 283
incurred in making these sales or liquidations is payable as other 284
expenses of the treasurer's office. 285

(C) If any securities or obligations invested in by the 286
treasurer of state pursuant to this section are registrable either 287
as to principal or interest, or both, such securities or 288
obligations shall be registered in the name of the treasurer of 289
state. 290

(D) The treasurer of state is responsible for the safekeeping 291
of all securities or obligations under this section. Any such 292
securities or obligations may be deposited for safekeeping as 293
provided in section 113.05 of the Revised Code. 294

(E) Interest earned on any investments or deposits authorized 295
by this section shall be collected by the treasurer of state and 296
credited by the treasurer of state to the proper fund of the 297
state. 298

(F) Whenever investments or deposits acquired under this 299

section mature and become due and payable, the treasurer of state 300
shall present them for payment according to their tenor, and shall 301
collect the moneys payable thereon. The moneys so collected shall 302
be treated as public moneys subject to sections 135.01 to 135.21 303
of the Revised Code. 304

(G) The treasurer of state and any board of education issuing 305
obligations referred to in division (A)(12) of this section may 306
enter into an agreement providing for: 307

(1) The purchase of those obligations by the treasurer of 308
state on terms and subject to conditions set forth in the 309
agreement; 310

(2) The payment by the board of education to the treasurer of 311
state of a reasonable fee as consideration for the agreement of 312
the treasurer of state to purchase those obligations; provided, 313
however, that the treasurer of state shall not be authorized to 314
enter into any such agreement with the board of education of a 315
school district that has an outstanding obligation with respect to 316
a loan received under authority of section 3313.483 of the Revised 317
Code. 318

(H) For purposes of division (G) of this section, a fee shall 319
not be considered reasonable unless it is set to recover only the 320
direct costs and a reasonable estimate of the indirect costs 321
associated with the purchasing of obligations of a school board 322
under division (G) of this section and any reselling of the 323
obligations or any interest in the obligations, including 324
interests in a fund comprised of the obligations. No money from 325
the general revenue fund shall be used to subsidize the purchase 326
or resale of these obligations. 327

(I) All money collected by the treasurer of state from the 328
fee imposed by division (G) of this section shall be deposited to 329
the credit of the state school board obligations fund, which is 330

hereby created in the state treasury. Money credited to the fund 331
shall be used solely to pay the treasurer of state's direct and 332
indirect costs associated with purchasing and reselling 333
obligations of a board of education under division (G) of this 334
section. 335

Sec. 148.06. As used in this section: 336

(A) "Government unit" means a county, park district of any 337
kind, conservancy district, sanitary district, regional water and 338
sewer district, regional transit authority, health district, 339
public library district, or county law library. 340

(B) "Governing board" means, in the case of the county, the 341
board of county commissioners; in the case of a park district, the 342
board of park commissioners; in the case of a conservancy 343
district, the district's board of directors; in the case of a 344
sanitary district, the district's board of directors; in the case 345
of a regional water and sewer district, the district's board of 346
trustees; in the case of a regional transit authority, the 347
authority's board of trustees; in the case of a health district, 348
the board of health; in the case of a public library district, the 349
board of library trustees; and in the case of a county law 350
library, the board of trustees of the law library association. 351

In addition to the program of deferred compensation that may 352
be offered under this chapter, a governing board may offer to all 353
of the officers and employees of the government unit not to exceed 354
two additional programs for deferral of compensation designed for 355
favorable tax treatment of the compensation so deferred. Any such 356
program shall include a reasonable number of options to the 357
officer or employee for the investment of the deferred funds, 358
including annuities, variable annuities, regulated investment 359
trusts, or other forms of investment approved by the governing 360
board, that will assure the desired tax treatment of the funds. 361

Any income deferred under such a plan shall continue to be 362
included as regular compensation for the purpose of computing the 363
contributions to and benefits from the officer's or employee's 364
retirement system but shall not be included in the computation of 365
any federal and state income taxes withheld on behalf of any such 366
employee. 367

Sec. 926.31. (A) Upon receipt of any shipment of an 368
agricultural commodity from a ~~producer~~ depositor or ~~his~~ a 369
depositor's agent, either for sale or for storage under a bailment 370
agreement, the licensed handler shall cause a representative 371
sample to be drawn for testing by an agricultural commodity tester 372
to determine the quality of the commodity. At the request of the 373
~~producer~~ depositor or ~~his~~ the depositor's agent, the tester shall 374
immediately test the sample and shall notify the ~~producer~~ 375
depositor or ~~his~~ the depositor's agent of the results of the test 376
and of any price discount, premium, or conditioning charge that is 377
applicable to the value of the commodity. Upon notification of the 378
test and the value adjustment to be applied, the ~~producer~~ 379
depositor or ~~his~~ the depositor's agent shall do one of the 380
following: 381

(1) Refuse to sell or store the commodity unless ~~he~~ the 382
depositor or agent has unloaded the commodity prior to testing; 383

(2) Agree to sell or store the commodity and accept the 384
agricultural commodity tester's results of the testing of the 385
shipment and the applicable value adjustment; 386

(3) Agree to sell or store the commodity but reject the 387
agricultural commodity tester's results of the testing of the 388
shipment and order the handler to forward the sample to a 389
federally licensed grain inspector immediately for a final testing 390
of the shipment. The ~~producer~~ depositor, ~~his~~ the depositor's 391
agent, or the handler may specify in writing which testing factor 392

or factors ~~he~~ the depositor, depositor's agent, or handler wishes 393
the federal inspector to test. 394

(B) If, either prior to or during the unloading of the 395
shipment, the licensed handler believes that the original sample 396
drawn is not representative of the shipment, or if the ~~producer~~ 397
depositor or ~~his~~ the depositor's agent requests a second sample to 398
be drawn, the handler shall cause a second sample to be drawn and 399
used for the testing of the shipment. 400

(C) Any determination of a federally licensed grain inspector 401
under this section shall be binding on both the licensed handler 402
and the ~~producer~~ depositor or ~~his~~ the depositor's agent as the 403
basis for determining the premium or discount and settlement 404
price, if the shipment was delivered for sale, or the conditioning 405
charge, if the shipment was received for storage under a bailment 406
agreement. The cost of the federal inspection and the actual cost 407
of forwarding the sample for such inspection shall be borne by the 408
handler, if the test increases the value of the agricultural 409
commodity as originally determined by the agricultural commodity 410
tester, or by the ~~producer~~ depositor, if the test does not change 411
or lowers the value of the commodity. 412

(D) Any licensed handler and any ~~producer~~ depositor or ~~his~~ 413
the agent of a depositor may enter into an agreement whereby 414
representative samples of each of several shipments of the same 415
agricultural commodity that arrive at the handler's warehouse or 416
facility during any one business day shall be combined to obtain a 417
single result of the testing of the combined shipments of the 418
commodity. 419

(E) No person shall offer for sale or storage any 420
agricultural commodity that is: 421

(1) Treated with any poisonous material or that contains 422
rodent excreta or any other material in such amounts as to render 423

the commodity unfit for animal or human consumption; 424

(2) Knowingly or purposely loaded unevenly so as to conceal 425
amounts of the commodity that are inferior. 426

(F) Nothing in this section shall be construed to relieve any 427
contractual obligations in effect between the licensed handler or 428
the ~~producer~~ depositor. 429

Sec. 1501.04. There is hereby created in the department of 430
natural resources a recreation and resources commission composed 431
of the chairperson of the wildlife council created under section 432
1531.03 of the Revised Code, the chairperson of the parks and 433
recreation council created under section 1541.40 of the Revised 434
Code, the chairperson of the waterways safety council created 435
under section 1547.73 of the Revised Code, the chairperson of the 436
technical advisory council on oil and gas created under section 437
1509.38 of the Revised Code, the chairperson of the forestry 438
advisory council created under section 1503.40 of the Revised 439
Code, the chairperson of the Ohio soil and water conservation 440
commission created under section 1515.02 of the Revised Code, the 441
chairperson of the Ohio natural areas council created under 442
section 1517.03 of the Revised Code, the chairperson of the Ohio 443
water advisory council created under section 1521.031 of the 444
Revised Code, the chairperson of the recycling and litter 445
prevention advisory council created under section 1502.04 of the 446
Revised Code, the chairperson of the Ohio geology advisory council 447
created under section 1505.11 of the Revised Code, and five 448
members appointed by the governor with the advice and consent of 449
the senate, not more than three of whom shall belong to the same 450
political party. The director of natural resources shall be an ex 451
officio member of the commission, with a voice in its 452
deliberations, but without the power to vote. 453

Terms of office of members of the commission appointed by the 454

governor shall be for five years, commencing on the second day of 455
February and ending on the first day of February. Each member 456
shall hold office from the date of appointment until the end of 457
the term for which the member was appointed. 458

In the event of the death, removal, resignation, or 459
incapacity of a member of the commission, the governor, with the 460
advice and consent of the senate, shall appoint a successor who 461
shall hold office for the remainder of the term for which the 462
member's predecessor was appointed. Any member shall continue in 463
office subsequent to the expiration date of the member's term 464
until the member's successor takes office, or until a period of 465
sixty days has elapsed, whichever occurs first. 466

The governor may remove any appointed member of the 467
commission for misfeasance, nonfeasance, or malfeasance in office. 468

The commission shall exercise no administrative function, but 469
may do any of the following: 470

(A) Advise with and recommend to the director as to plans and 471
programs for the management, development, utilization, and 472
conservation of the natural resources of the state; 473

(B) Advise with and recommend to the director as to methods 474
of coordinating the work of the divisions of the department; 475

(C) Consider and make recommendations upon any matter that 476
the director may submit to it; 477

(D) Submit to the governor biennially recommendations for 478
amendments to the conservation laws of the state. 479

Each member of the commission, before entering upon the 480
discharge of the member's duties, shall take and subscribe to an 481
oath of office, which oath, in writing, shall be filed in the 482
office of the secretary of state. 483

The members of the commission shall serve without 484

compensation, but shall be entitled to receive their actual and 485
necessary expenses incurred in the performance of their official 486
duties. 487

The commission, by a majority vote of all its members, shall 488
adopt and amend bylaws. 489

To be eligible for appointment, a person shall be a citizen 490
of the United States and an elector of the state and shall possess 491
a knowledge of and have an interest in the natural resources of 492
this state. 493

The commission shall hold at least four regular quarterly 494
meetings each year. Special meetings shall be held at such times 495
as the bylaws of the commission provide. Notices of all meetings 496
shall be given in such manner as the bylaws provide. The 497
commission shall choose annually from among its members a 498
chairperson to preside over its meetings and a secretary to keep a 499
record of its proceedings. A majority of the members of the 500
commission constitutes a quorum. No advice shall be given or 501
recommendation made without a majority of the members of the 502
commission concurring in it. 503

Sec. 1513.372. (A) As used in this section: 504

(1) "Abandoned mine land" means land or water resources 505
adversely affected by coal mining practices to which one of the 506
following applies: 507

(a) The coal mining practices occurred prior to August 3, 508
1977, and there is no continuing reclamation responsibility under 509
state or federal law. 510

(b) The coal mining practices occurred prior to April 10, 511
1972. 512

(c) The coal mining practices were conducted pursuant to a 513
license that was issued prior to April 10, 1972. 514

(2) "Eligible landowner" means a landowner who provides 515
access without charge or other consideration to abandoned mine 516
land that is located on the landowner's property for the purpose 517
of allowing the implementation of a reclamation project on the 518
abandoned mine land. "Eligible landowner" does not include a 519
person that is responsible under state or federal law to reclaim 520
the land or address acid mine drainage existing or emanating from 521
the abandoned mine land. 522

(3) "Landowner" means a person who holds a fee interest in 523
real property. 524

(4) "Nonprofit organization" means a corporation, 525
association, group, institution, society, or other organization 526
that is exempt from federal income taxation under section 527
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 528
26 U.S.C. 501(c)(3), as amended, that provides funding or services 529
at no cost or at cost for a reclamation project. 530

(5) "Reclamation project" means an acid mine drainage 531
abatement project that is conducted in compliance with this 532
chapter and rules adopted under it on abandoned mine land that is 533
located on property owned by an eligible landowner. 534

(6) "Reclamation project work area" means the portion of a 535
parcel of real property on which a reclamation project is 536
conducted and the roads providing ingress to and egress from the 537
reclamation project. 538

(B) Except as provided in divisions (C) and (D) of this 539
section, an eligible landowner or nonprofit organization is immune 540
from liability as follows: 541

(1) For any injury to or damage suffered by a person working 542
under the direct supervision of the division of mineral resources 543
management while the person is within the reclamation project work 544
area; 545

(2) For any injury to or damage suffered by a third party 546
that arises out of or occurs as a result of an act or omission of 547
the division during the construction, operation, and maintenance 548
of the reclamation project; 549

(3) For any failure of an acid mine drainage abatement 550
facility constructed or installed during a reclamation project 551
that is supervised by the division; 552

(4) For the operation, maintenance, or repair of any acid 553
mine drainage abatement facility constructed or installed during a 554
reclamation project unless the eligible landowner negligently 555
damages or destroys the acid mine drainage abatement facility or 556
denies access to the division of mineral resources management that 557
is responsible for the operation, maintenance, or repair of the 558
acid mine drainage abatement facility. 559

(C) The eligible landowner shall notify the division of a 560
known, latent, dangerous condition located at a reclamation 561
project work area that is not the subject of the reclamation 562
project. The immunity established in division (B) of this section 563
does not apply to any injury, damage, or pollution resulting from 564
the eligible landowner's failure to notify the division of such a 565
known, latent, dangerous condition. 566

(D) The immunity established in division (B) of this section 567
does not apply in both of the following circumstances: 568

(1) An injury to a person within the reclamation project work 569
area that results from an eligible landowner's or nonprofit 570
organization's acts or omissions that are reckless or constitute 571
gross negligence or willful or wanton misconduct; 572

(2) An eligible landowner or nonprofit organization who 573
engages in any unlawful activities with respect to a reclamation 574
project. 575

(E) The chief of the division of mineral resources management 576

shall adopt rules in accordance with Chapter 119. of the Revised 577
Code that are necessary to implement this section. 578

Sec. 1517.03. There is hereby created the Ohio natural areas 579
council to advise the chief of the division of natural areas and 580
preserves on the administration of nature preserves and the 581
preservation of natural areas. 582

The council shall have no fewer than five members as 583
determined by the director of natural resources. The members shall 584
be appointed by the director. 585

Not later than thirty days after the effective date of this 586
section, the director shall make initial appointments to the 587
council. The director shall establish the terms of office of the 588
members of the council. 589

The council annually shall select from among its members a 590
chairperson and a secretary. Members of the council shall receive 591
no compensation and shall not be reimbursed for expenses incurred 592
as members of the council. 593

The council shall hold at least one regular meeting in each 594
calendar year. Special meetings may be called by the chairperson 595
and shall be called by the chairperson upon written request by two 596
or more members of the council. A written notice of the time and 597
place of each meeting shall be sent to each member and to the 598
director. A majority of the members of the council constitutes a 599
quorum. The council shall keep a record of its proceedings at each 600
meeting and shall send a copy of the record to the director. The 601
record shall be open to the public for inspection. 602

Sec. 1517.04. The Ohio natural areas council shall do all of 603
the following: 604

(A) Review and make recommendations regarding criteria used 605
by the department of natural resources for acquisition and 606

<u>dedication of nature preserves;</u>	607
<u>(B) Review and make recommendations regarding inventories and registries of natural areas and preserves;</u>	608 609
<u>(C) Review and make recommendations regarding departmental plans for the selection of particular natural areas for state acquisition;</u>	610 611 612
<u>(D) Advise the chief of the division of natural areas and preserves on policies and rules governing the management, protection, and use of nature preserves;</u>	613 614 615
<u>(E) Recommend the extent and type of visitation and use to be permitted within each nature preserve;</u>	616 617
<u>(F) Advise and consult with the chief and with employees of the division of natural areas and preserves on preservation matters;</u>	618 619 620
<u>(G) Advise the chief on the program to identify and protect the state's cave resources that is established under this chapter.</u>	621 622
Sec. 1517.23. <u>The With the advice of the Ohio natural areas council created in section 1517.03 of the Revised Code, the chief of the division of natural areas and preserves shall do both of the following:</u>	623 624 625 626
<u>(A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program;</u>	627 628 629 630 631
<u>(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.</u>	632 633 634
Sec. 3302.03. (A) Annually the department of education shall	635

report for each school district and each school building in a district all of the following:

(1) The extent to which the school district or building meets each of the applicable performance indicators created by the state board of education under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B) Except as otherwise provided in ~~divisions~~ division (B)(6) and ~~(7)~~ of this section:

(1) A school district or building shall be declared excellent if it ~~fulfills one of the following requirements:~~

~~(a) It makes adequate yearly progress and either meets at least ninety four per cent of the applicable state performance indicators or has a performance index score established by the department.~~

~~(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for two or more of the same subgroups for three or more consecutive years, it shall be declared effective.~~

(2) A school district or building shall be declared effective

if it ~~fulfills one of the following requirements:~~ 666

~~(a) It makes adequate yearly progress and either meets at 667
least seventy-five per cent but less than ninety-four per cent of 668
the applicable state performance indicators or has a performance 669
index score established by the department. 670~~

~~(b) It does not make adequate yearly progress and either 671
meets at least seventy-five per cent of the applicable state 672
performance indicators or has a performance index score 673
established by the department, except that if it does not make 674
adequate yearly progress for two or more of the same subgroups for 675
three or more consecutive years, it shall be declared in need of 676
continuous improvement. 677~~

(3) A school district or building shall be declared to be in 678
need of continuous improvement if it fulfills one of the following 679
requirements: 680

(a) It makes adequate yearly progress, meets less than 681
seventy-five per cent of the applicable state performance 682
indicators, and has a performance index score established by the 683
department. 684

(b) It does not make adequate yearly progress and either 685
meets at least fifty per cent but less than seventy-five per cent 686
of the applicable state performance indicators or has a 687
performance index score established by the department. 688

(4) A school district or building shall be declared to be 689
under an academic watch if it does not make adequate yearly 690
progress and either meets at least thirty-one per cent but less 691
than fifty per cent of the applicable state performance indicators 692
or has a performance index score established by the department. 693

(5) A school district or building shall be declared to be in 694
a state of academic emergency if it does not make adequate yearly 695
progress, does not meet at least thirty-one per cent of the 696

applicable state performance indicators, and has a performance 697
index score established by the department. 698

~~(6) When designating performance ratings for school districts 699
and buildings under divisions (B)(1) to (5) of this section, the 700
department shall not assign a school district or building a lower 701
designation from its previous year's designation based solely on 702
one subgroup not making adequate yearly progress. 703~~

~~(7) Division (B)(7)(6) of this section does not apply to any 704
community school established under Chapter 3314. of the Revised 705
Code in which a majority of the students are enrolled in a dropout 706
prevention and recovery program. 707~~

A school district or building shall not be assigned a higher 708
performance rating than in need of continuous improvement if at 709
least ten per cent but not more than fifteen per cent of the 710
enrolled students do not take all achievement assessments 711
prescribed for their grade level under division (A)(1) or (B)(1) 712
of section 3301.0710 of the Revised Code from which they are not 713
excused pursuant to division (C)(1) or (3) of section 3301.0711 of 714
the Revised Code. A school district or building shall not be 715
assigned a higher performance rating than under an academic watch 716
if more than fifteen per cent but not more than twenty per cent of 717
the enrolled students do not take all achievement assessments 718
prescribed for their grade level under division (A)(1) or (B)(1) 719
of section 3301.0710 of the Revised Code from which they are not 720
excused pursuant to division (C)(1) or (3) of section 3301.0711 of 721
the Revised Code. A school district or building shall not be 722
assigned a higher performance rating than in a state of academic 723
emergency if more than twenty per cent of the enrolled students do 724
not take all achievement assessments prescribed for their grade 725
level under division (A)(1) or (B)(1) of section 3301.0710 of the 726
Revised Code from which they are not excused pursuant to division 727
(C)(1) or (3) of section 3301.0711 of the Revised Code. 728

(C)(1) The department shall issue annual report cards for 729
each school district, each building within each district, and for 730
the state as a whole reflecting performance on the indicators 731
created by the state board under section 3302.02 of the Revised 732
Code, the performance index score, and adequate yearly progress. 733

(2) The department shall include on the report card for each 734
district information pertaining to any change from the previous 735
year made by the school district or school buildings within the 736
district on any performance indicator. 737

(3) When reporting data on student performance, the 738
department shall disaggregate that data according to the following 739
categories: 740

(a) Performance of students by age group; 741

(b) Performance of students by race and ethnic group; 742

(c) Performance of students by gender; 743

(d) Performance of students grouped by those who have been 744
enrolled in a district or school for three or more years; 745

(e) Performance of students grouped by those who have been 746
enrolled in a district or school for more than one year and less 747
than three years; 748

(f) Performance of students grouped by those who have been 749
enrolled in a district or school for one year or less; 750

(g) Performance of students grouped by those who are 751
economically disadvantaged; 752

(h) Performance of students grouped by those who are enrolled 753
in a conversion community school established under Chapter 3314. 754
of the Revised Code; 755

(i) Performance of students grouped by those who are 756
classified as limited English proficient; 757

(j) Performance of students grouped by those who have disabilities; 758
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(k) Performance of students grouped by those who are classified as migrants; 760
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(l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code. 762
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The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant. 765
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In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students. 771
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(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable. 778
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(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code. 781
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The department shall maintain a site on the world wide web. 788

The report card shall include the address of the site and shall 789
specify that such additional information is available to the 790
public at that site. The department shall also provide a copy of 791
each item on the list to the superintendent of each school 792
district. The district superintendent shall provide a copy of any 793
item on the list to anyone who requests it. 794

(6)(a) This division does not apply to conversion community 795
schools that primarily enroll students between sixteen and 796
twenty-two years of age who dropped out of high school or are at 797
risk of dropping out of high school due to poor attendance, 798
disciplinary problems, or suspensions. 799

For any district that sponsors a conversion community school 800
under Chapter 3314. of the Revised Code, the department shall 801
combine data regarding the academic performance of students 802
enrolled in the community school with comparable data from the 803
schools of the district for the purpose of calculating the 804
performance of the district as a whole on the report card issued 805
for the district. 806

(b) Any district that leases a building to a community school 807
located in the district or that enters into an agreement with a 808
community school located in the district whereby the district and 809
the school endorse each other's programs may elect to have data 810
regarding the academic performance of students enrolled in the 811
community school combined with comparable data from the schools of 812
the district for the purpose of calculating the performance of the 813
district as a whole on the district report card. Any district that 814
so elects shall annually file a copy of the lease or agreement 815
with the department. 816

(7) The department shall include on each report card the 817
percentage of teachers in the district or building who are highly 818
qualified, as defined by the "No Child Left Behind Act of 2001," 819
and a comparison of that percentage with the percentages of such 820

teachers in similar districts and buildings. 821

(8) The department shall include on the report card the 822
number of lead teachers employed by each district and each 823
building once the data is available from the education management 824
information system established under section 3301.0714 of the 825
Revised Code. 826

(D)(1) In calculating English language arts, mathematics, 827
social studies, or science assessment passage rates used to 828
determine school district or building performance under this 829
section, the department shall include all students taking an 830
assessment with accommodation or to whom an alternate assessment 831
is administered pursuant to division (C)(1) or (3) of section 832
3301.0711 of the Revised Code. 833

(2) In calculating performance index scores, rates of 834
achievement on the performance indicators established by the state 835
board under section 3302.02 of the Revised Code, and adequate 836
yearly progress for school districts and buildings under this 837
section, the department shall do all of the following: 838

(a) Include for each district or building only those students 839
who are included in the ADM certified for the first full school 840
week of October and are continuously enrolled in the district or 841
building through the time of the spring administration of any 842
assessment prescribed by division (A)(1) or (B)(1) of section 843
3301.0710 of the Revised Code that is administered to the 844
student's grade level; 845

(b) Include cumulative totals from both the fall and spring 846
administrations of the third grade English language arts 847
achievement assessment; 848

(c) Except as required by the "No Child Left Behind Act of 849
2001" for the calculation of adequate yearly progress, exclude for 850
each district or building any limited English proficient student 851

who has been enrolled in United States schools for less than one 852
full school year. 853

Sec. 3313.44. Real or personal property ~~vested in~~ owned by or 854
leased to any board of education for a lease term of at least 855
fifty years shall be exempt from taxation ~~and from sale on~~ 856
~~execution or other writ or order in the nature of an execution.~~ 857

Sec. 4928.01. (A) As used in this chapter: 858

(1) "Ancillary service" means any function necessary to the 859
provision of electric transmission or distribution service to a 860
retail customer and includes, but is not limited to, scheduling, 861
system control, and dispatch services; reactive supply from 862
generation resources and voltage control service; reactive supply 863
from transmission resources service; regulation service; frequency 864
response service; energy imbalance service; operating 865
reserve-spinning reserve service; operating reserve-supplemental 866
reserve service; load following; back-up supply service; 867
real-power loss replacement service; dynamic scheduling; system 868
black start capability; and network stability service. 869

(2) "Billing and collection agent" means a fully independent 870
agent, not affiliated with or otherwise controlled by an electric 871
utility, electric services company, electric cooperative, or 872
governmental aggregator subject to certification under section 873
4928.08 of the Revised Code, to the extent that the agent is under 874
contract with such utility, company, cooperative, or aggregator 875
solely to provide billing and collection for retail electric 876
service on behalf of the utility company, cooperative, or 877
aggregator. 878

(3) "Certified territory" means the certified territory 879
established for an electric supplier under sections 4933.81 to 880
4933.90 of the Revised Code. 881

(4) "Competitive retail electric service" means a component 882
of retail electric service that is competitive as provided under 883
division (B) of this section. 884

(5) "Electric cooperative" means a not-for-profit electric 885
light company that both is or has been financed in whole or in 886
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 887
7 U.S.C. 901, and owns or operates facilities in this state to 888
generate, transmit, or distribute electricity, or a not-for-profit 889
successor of such company. 890

(6) "Electric distribution utility" means an electric utility 891
that supplies at least retail electric distribution service. 892

(7) "Electric light company" has the same meaning as in 893
section 4905.03 of the Revised Code and includes an electric 894
services company, but excludes any self-generator to the extent 895
that it consumes electricity it so produces, sells that 896
electricity for resale, or obtains electricity from a generating 897
facility it hosts on its premises. 898

(8) "Electric load center" has the same meaning as in section 899
4933.81 of the Revised Code. 900

(9) "Electric services company" means an electric light 901
company that is engaged on a for-profit or not-for-profit basis in 902
the business of supplying or arranging for the supply of only a 903
competitive retail electric service in this state. "Electric 904
services company" includes a power marketer, power broker, 905
aggregator, or independent power producer but excludes an electric 906
cooperative, municipal electric utility, governmental aggregator, 907
or billing and collection agent. 908

(10) "Electric supplier" has the same meaning as in section 909
4933.81 of the Revised Code. 910

(11) "Electric utility" means an electric light company that 911
has a certified territory and is engaged on a for-profit basis 912

either in the business of supplying a noncompetitive retail 913
electric service in this state or in the businesses of supplying 914
both a noncompetitive and a competitive retail electric service in 915
this state. "Electric utility" excludes a municipal electric 916
utility or a billing and collection agent. 917

(12) "Firm electric service" means electric service other 918
than nonfirm electric service. 919

(13) "Governmental aggregator" means a legislative authority 920
of a municipal corporation, a board of township trustees, or a 921
board of county commissioners acting as an aggregator for the 922
provision of a competitive retail electric service under authority 923
conferred under section 4928.20 of the Revised Code. 924

(14) A person acts "knowingly," regardless of the person's 925
purpose, when the person is aware that the person's conduct will 926
probably cause a certain result or will probably be of a certain 927
nature. A person has knowledge of circumstances when the person is 928
aware that such circumstances probably exist. 929

(15) "Level of funding for low-income customer energy 930
efficiency programs provided through electric utility rates" means 931
the level of funds specifically included in an electric utility's 932
rates on October 5, 1999, pursuant to an order of the public 933
utilities commission issued under Chapter 4905. or 4909. of the 934
Revised Code and in effect on October 4, 1999, for the purpose of 935
improving the energy efficiency of housing for the utility's 936
low-income customers. The term excludes the level of any such 937
funds committed to a specific nonprofit organization or 938
organizations pursuant to a stipulation or contract. 939

(16) "Low-income customer assistance programs" means the 940
percentage of income payment plan program, the home energy 941
assistance program, the home weatherization assistance program, 942
and the targeted energy efficiency and weatherization program. 943

(17) "Market development period" for an electric utility 944
means the period of time beginning on the starting date of 945
competitive retail electric service and ending on the applicable 946
date for that utility as specified in section 4928.40 of the 947
Revised Code, irrespective of whether the utility applies to 948
receive transition revenues under this chapter. 949

(18) "Market power" means the ability to impose on customers 950
a sustained price for a product or service above the price that 951
would prevail in a competitive market. 952

(19) "Mercantile customer" means a commercial or industrial 953
customer if the electricity consumed is for nonresidential use and 954
the customer consumes more than seven hundred thousand kilowatt 955
hours per year or is part of a national account involving multiple 956
facilities in one or more states. 957

(20) "Municipal electric utility" means a municipal 958
corporation that owns or operates facilities to generate, 959
transmit, or distribute electricity. 960

(21) "Noncompetitive retail electric service" means a 961
component of retail electric service that is noncompetitive as 962
provided under division (B) of this section. 963

(22) "Nonfirm electric service" means electric service 964
provided pursuant to a schedule filed under section 4905.30 of the 965
Revised Code or pursuant to an arrangement under section 4905.31 966
of the Revised Code, which schedule or arrangement includes 967
conditions that may require the customer to curtail or interrupt 968
electric usage during nonemergency circumstances upon notification 969
by an electric utility. 970

(23) "Percentage of income payment plan arrears" means funds 971
eligible for collection through the percentage of income payment 972
plan rider, but uncollected as of July 1, 2000. 973

(24) "Person" has the same meaning as in section 1.59 of the 974

Revised Code.	975
(25) "Advanced energy project" means any technologies,	976
products, activities, or management practices or strategies that	977
facilitate the generation or use of electricity or energy and that	978
reduce or support the reduction of energy consumption or support	979
the production of clean, renewable energy for industrial,	980
distribution, commercial, institutional, governmental, research,	981
not-for-profit, or residential energy users, including, but not	982
limited to, advanced energy resources and renewable energy	983
resources. "Advanced energy project" also includes any project	984
described in division (A), (B), or (C) of section 4928.621 of the	985
Revised Code.	986
(26) "Regulatory assets" means the unamortized net regulatory	987
assets that are capitalized or deferred on the regulatory books of	988
the electric utility, pursuant to an order or practice of the	989
public utilities commission or pursuant to generally accepted	990
accounting principles as a result of a prior commission	991
rate-making decision, and that would otherwise have been charged	992
to expense as incurred or would not have been capitalized or	993
otherwise deferred for future regulatory consideration absent	994
commission action. "Regulatory assets" includes, but is not	995
limited to, all deferred demand-side management costs; all	996
deferred percentage of income payment plan arrears;	997
post-in-service capitalized charges and assets recognized in	998
connection with statement of financial accounting standards no.	999
109 (receivables from customers for income taxes); future nuclear	1000
decommissioning costs and fuel disposal costs as those costs have	1001
been determined by the commission in the electric utility's most	1002
recent rate or accounting application proceeding addressing such	1003
costs; the undepreciated costs of safety and radiation control	1004
equipment on nuclear generating plants owned or leased by an	1005
electric utility; and fuel costs currently deferred pursuant to	1006

the terms of one or more settlement agreements approved by the 1007
commission. 1008

(27) "Retail electric service" means any service involved in 1009
supplying or arranging for the supply of electricity to ultimate 1010
consumers in this state, from the point of generation to the point 1011
of consumption. For the purposes of this chapter, retail electric 1012
service includes one or more of the following "service 1013
components": generation service, aggregation service, power 1014
marketing service, power brokerage service, transmission service, 1015
distribution service, ancillary service, metering service, and 1016
billing and collection service. 1017

(28) "Starting date of competitive retail electric service" 1018
means January 1, 2001. 1019

(29) "Customer-generator" means a user of a net metering 1020
system. 1021

(30) "Net metering" means measuring the difference in an 1022
applicable billing period between the electricity supplied by an 1023
electric service provider and the electricity generated by a 1024
customer-generator that is fed back to the electric service 1025
provider. 1026

(31) "Net metering system" means a facility for the 1027
production of electrical energy that does all of the following: 1028

(a) Uses as its fuel either solar, wind, biomass, landfill 1029
gas, or hydropower, or uses a microturbine or a fuel cell; 1030

(b) Is located on a customer-generator's premises; 1031

(c) Operates in parallel with the electric utility's 1032
transmission and distribution facilities; 1033

(d) Is intended primarily to offset part or all of the 1034
customer-generator's requirements for electricity. 1035

(32) "Self-generator" means an entity in this state that owns 1036

or hosts on its premises an electric generation facility that 1037
produces electricity primarily for the owner's consumption and 1038
that may provide any such excess electricity to another entity, 1039
whether the facility is installed or operated by the owner or by 1040
an agent under a contract. 1041

(33) "Rate plan" means the standard service offer in effect 1042
on the effective date of the amendment of this section by S.B. 221 1043
of the 127th general assembly, July 31, 2008. 1044

(34) "Advanced energy resource" means any of the following: 1045

(a) Any method or any modification or replacement of any 1046
property, process, device, structure, or equipment that increases 1047
the generation output of an electric generating facility to the 1048
extent such efficiency is achieved without additional carbon 1049
dioxide emissions by that facility; 1050

(b) Any distributed generation system consisting of customer 1051
cogeneration of electricity and thermal output simultaneously, 1052
primarily to meet the energy needs of the customer's facilities; 1053

(c) Clean coal technology that includes a carbon-based 1054
product that is chemically altered before combustion to 1055
demonstrate a reduction, as expressed as ash, in emissions of 1056
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1057
sulfur trioxide in accordance with the American society of testing 1058
and materials standard D1757A or a reduction of metal oxide 1059
emissions in accordance with standard D5142 of that society, or 1060
clean coal technology that includes the design capability to 1061
control or prevent the emission of carbon dioxide, which design 1062
capability the commission shall adopt by rule and shall be based 1063
on economically feasible best available technology or, in the 1064
absence of a determined best available technology, shall be of the 1065
highest level of economically feasible design capability for which 1066
there exists generally accepted scientific opinion; 1067

(d) Advanced nuclear energy technology consisting of	1068
generation III technology as defined by the nuclear regulatory	1069
commission; other, later technology; or significant improvements	1070
to existing facilities;	1071
(e) Any fuel cell used in the generation of electricity,	1072
including, but not limited to, a proton exchange membrane fuel	1073
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or	1074
solid oxide fuel cell;	1075
(f) Advanced solid waste or construction and demolition	1076
debris conversion technology, including, but not limited to,	1077
advanced stoker technology, and advanced fluidized bed	1078
gasification technology, that results in measurable greenhouse gas	1079
emissions reductions as calculated pursuant to the United States	1080
environmental protection agency's waste reduction model (WARM).	1081
(g) Demand-side management and any energy efficiency	1082
improvement;	1083
(h) Methane gas emitted from an operating or abandoned coal	1084
mine.	1085
(35) "Renewable energy resource" means solar photovoltaic or	1086
solar thermal energy, wind energy, power produced by a	1087
hydroelectric facility, geothermal energy, fuel derived from solid	1088
wastes, as defined in section 3734.01 of the Revised Code, through	1089
fractionation, biological decomposition, or other process that	1090
does not principally involve combustion, biomass energy,	1091
biologically derived methane gas, or energy derived from	1092
nontreated by-products of the pulping process or wood	1093
manufacturing process, including bark, wood chips, sawdust, and	1094
lignin in spent pulping liquors. "Renewable energy resource"	1095
includes, but is not limited to, any fuel cell used in the	1096
generation of electricity, including, but not limited to, a proton	1097
exchange membrane fuel cell, phosphoric acid fuel cell, molten	1098

carbonate fuel cell, or solid oxide fuel cell; wind turbine 1099
located in the state's territorial waters of Lake Erie; methane 1100
gas emitted from an abandoned coal mine; storage facility that 1101
will promote the better utilization of a renewable energy resource 1102
that primarily generates off peak; or distributed generation 1103
system used by a customer to generate electricity from any such 1104
energy. As used in division (A)(35) of this section, 1105
"hydroelectric facility" means a hydroelectric generating facility 1106
that is located at a dam on a river, or on any water discharged to 1107
a river, that is within or bordering this state or within or 1108
bordering an adjoining state and meets all of the following 1109
standards: 1110

(a) The facility provides for river flows that are not 1111
detrimental for fish, wildlife, and water quality, including 1112
seasonal flow fluctuations as defined by the applicable licensing 1113
agency for the facility. 1114

(b) The facility demonstrates that it complies with the water 1115
quality standards of this state, which compliance may consist of 1116
certification under Section 401 of the "Clean Water Act of 1977," 1117
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 1118
not contributed to a finding by this state that the river has 1119
impaired water quality under Section 303(d) of the "Clean Water 1120
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 1121

(c) The facility complies with mandatory prescriptions 1122
regarding fish passage as required by the federal energy 1123
regulatory commission license issued for the project, regarding 1124
fish protection for riverine, anadromous, and ~~catadromous~~ 1125
catadromous fish. 1126

(d) The facility complies with the recommendations of the 1127
Ohio environmental protection agency and with the terms of its 1128
federal energy regulatory commission license regarding watershed 1129
protection, mitigation, or enhancement, to the extent of each 1130

agency's respective jurisdiction over the facility. 1131

(e) The facility complies with provisions of the "Endangered 1132
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 1133
amended. 1134

(f) The facility does not harm cultural resources of the 1135
area. This can be shown through compliance with the terms of its 1136
federal energy regulatory commission license or, if the facility 1137
is not regulated by that commission, through development of a plan 1138
approved by the Ohio historic preservation office, to the extent 1139
it has jurisdiction over the facility. 1140

(g) The facility complies with the terms of its federal 1141
energy regulatory commission license or exemption that are related 1142
to recreational access, accommodation, and facilities or, if the 1143
facility is not regulated by that commission, the facility 1144
complies with similar requirements as are recommended by resource 1145
agencies, to the extent they have jurisdiction over the facility; 1146
and the facility provides access to water to the public without 1147
fee or charge. 1148

(h) The facility is not recommended for removal by any 1149
federal agency or agency of any state, to the extent the 1150
particular agency has jurisdiction over the facility. 1151

(B) For the purposes of this chapter, a retail electric 1152
service component shall be deemed a competitive retail electric 1153
service if the service component is competitive pursuant to a 1154
declaration by a provision of the Revised Code or pursuant to an 1155
order of the public utilities commission authorized under division 1156
(A) of section 4928.04 of the Revised Code. Otherwise, the service 1157
component shall be deemed a noncompetitive retail electric 1158
service. 1159

Sec. 5709.084. Real and personal property comprising a 1160

convention center that is constructed or, in the case of personal 1161
property, acquired after January 1, 2010, are exempt from taxation 1162
if the convention center is located in a county having a 1163
population, when construction of the convention center commences, 1164
of more than one million two hundred thousand according to the 1165
most recent federal decennial census, and if the convention 1166
center, or the land upon which the convention center is situated, 1167
is owned or leased by the county. For the purposes of this 1168
section, construction of the convention center commences upon the 1169
earlier of issuance of debt to finance all or a portion of the 1170
convention center, demolition of existing structures on the site, 1171
or grading of the site in preparation for construction. 1172

As used in this section, "convention center" has the same 1173
meaning as in section 307.695 of the Revised Code. 1174

Sec. 5709.62. (A) In any municipal corporation that is 1175
defined by the United States office of management and budget as a 1176
principal city of a metropolitan statistical area, the legislative 1177
authority of the municipal corporation may designate one or more 1178
areas within its municipal corporation as proposed enterprise 1179
zones. Upon designating an area, the legislative authority shall 1180
petition the director of development for certification of the area 1181
as having the characteristics set forth in division (A)(1) of 1182
section 5709.61 of the Revised Code as amended by Substitute 1183
Senate Bill No. 19 of the 120th general assembly. Except as 1184
otherwise provided in division (E) of this section, on and after 1185
July 1, 1994, legislative authorities shall not enter into 1186
agreements under this section unless the legislative authority has 1187
petitioned the director and the director has certified the zone 1188
under this section as amended by that act; however, all agreements 1189
entered into under this section as it existed prior to July 1, 1190
1994, and the incentives granted under those agreements shall 1191
remain in effect for the period agreed to under those agreements. 1192

Within sixty days after receiving such a petition, the director 1193
shall determine whether the area has the characteristics set forth 1194
in division (A)(1) of section 5709.61 of the Revised Code, and 1195
shall forward the findings to the legislative authority of the 1196
municipal corporation. If the director certifies the area as 1197
having those characteristics, and thereby certifies it as a zone, 1198
the legislative authority may enter into an agreement with an 1199
enterprise under division (C) of this section. 1200

(B) Any enterprise that wishes to enter into an agreement 1201
with a municipal corporation under division (C) of this section 1202
shall submit a proposal to the legislative authority of the 1203
municipal corporation on a form prescribed by the director of 1204
development, together with the application fee established under 1205
section 5709.68 of the Revised Code. The form shall require the 1206
following information: 1207

(1) An estimate of the number of new employees whom the 1208
enterprise intends to hire, or of the number of employees whom the 1209
enterprise intends to retain, within the zone at a facility that 1210
is a project site, and an estimate of the amount of payroll of the 1211
enterprise attributable to these employees; 1212

(2) An estimate of the amount to be invested by the 1213
enterprise to establish, expand, renovate, or occupy a facility, 1214
including investment in new buildings, additions or improvements 1215
to existing buildings, machinery, equipment, furniture, fixtures, 1216
and inventory; 1217

(3) A listing of the enterprise's current investment, if any, 1218
in a facility as of the date of the proposal's submission. 1219

The enterprise shall review and update the listings required 1220
under this division to reflect material changes, and any agreement 1221
entered into under division (C) of this section shall set forth 1222
final estimates and listings as of the time the agreement is 1223

entered into. The legislative authority may, on a separate form 1224
and at any time, require any additional information necessary to 1225
determine whether an enterprise is in compliance with an agreement 1226
and to collect the information required to be reported under 1227
section 5709.68 of the Revised Code. 1228

(C) Upon receipt and investigation of a proposal under 1229
division (B) of this section, if the legislative authority finds 1230
that the enterprise submitting the proposal is qualified by 1231
financial responsibility and business experience to create and 1232
preserve employment opportunities in the zone and improve the 1233
economic climate of the municipal corporation, the legislative 1234
authority, on or before October 15, ~~2010~~ 2011, may do one of the 1235
following: 1236

(1) Enter into an agreement with the enterprise under which 1237
the enterprise agrees to establish, expand, renovate, or occupy a 1238
facility and hire new employees, or preserve employment 1239
opportunities for existing employees, in return for one or more of 1240
the following incentives: 1241

(a) Exemption for a specified number of years, not to exceed 1242
fifteen, of a specified portion, up to seventy-five per cent, of 1243
the assessed value of tangible personal property first used in 1244
business at the project site as a result of the agreement. If an 1245
exemption for inventory is specifically granted in the agreement 1246
pursuant to this division, the exemption applies to inventory 1247
required to be listed pursuant to sections 5711.15 and 5711.16 of 1248
the Revised Code, except that, in the instance of an expansion or 1249
other situations in which an enterprise was in business at the 1250
facility prior to the establishment of the zone, the inventory 1251
that is exempt is that amount or value of inventory in excess of 1252
the amount or value of inventory required to be listed in the 1253
personal property tax return of the enterprise in the return for 1254
the tax year in which the agreement is entered into. 1255

(b) Exemption for a specified number of years, not to exceed 1256
fifteen, of a specified portion, up to seventy-five per cent, of 1257
the increase in the assessed valuation of real property 1258
constituting the project site subsequent to formal approval of the 1259
agreement by the legislative authority; 1260

(c) Provision for a specified number of years, not to exceed 1261
fifteen, of any optional services or assistance that the municipal 1262
corporation is authorized to provide with regard to the project 1263
site. 1264

(2) Enter into an agreement under which the enterprise agrees 1265
to remediate an environmentally contaminated facility, to spend an 1266
amount equal to at least two hundred fifty per cent of the true 1267
value in money of the real property of the facility prior to 1268
remediation as determined for the purposes of property taxation to 1269
establish, expand, renovate, or occupy the remediated facility, 1270
and to hire new employees or preserve employment opportunities for 1271
existing employees at the remediated facility, in return for one 1272
or more of the following incentives: 1273

(a) Exemption for a specified number of years, not to exceed 1274
fifteen, of a specified portion, not to exceed fifty per cent, of 1275
the assessed valuation of the real property of the facility prior 1276
to remediation; 1277

(b) Exemption for a specified number of years, not to exceed 1278
fifteen, of a specified portion, not to exceed one hundred per 1279
cent, of the increase in the assessed valuation of the real 1280
property of the facility during or after remediation; 1281

(c) The incentive under division (C)(1)(a) of this section, 1282
except that the percentage of the assessed value of such property 1283
exempted from taxation shall not exceed one hundred per cent; 1284

(d) The incentive under division (C)(1)(c) of this section. 1285

(3) Enter into an agreement with an enterprise that plans to 1286

purchase and operate a large manufacturing facility that has 1287
ceased operation or announced its intention to cease operation, in 1288
return for exemption for a specified number of years, not to 1289
exceed fifteen, of a specified portion, up to one hundred per 1290
cent, of the assessed value of tangible personal property used in 1291
business at the project site as a result of the agreement, or of 1292
the assessed valuation of real property constituting the project 1293
site, or both. 1294

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 1295
section, the portion of the assessed value of tangible personal 1296
property or of the increase in the assessed valuation of real 1297
property exempted from taxation under those divisions may exceed 1298
seventy-five per cent in any year for which that portion is 1299
exempted if the average percentage exempted for all years in which 1300
the agreement is in effect does not exceed sixty per cent, or if 1301
the board of education of the city, local, or exempted village 1302
school district within the territory of which the property is or 1303
will be located approves a percentage in excess of seventy-five 1304
per cent. 1305

(2) Notwithstanding any provision of the Revised Code to the 1306
contrary, the exemptions described in divisions (C)(1)(a), (b), 1307
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 1308
be for up to fifteen years if the board of education of the city, 1309
local, or exempted village school district within the territory of 1310
which the property is or will be located approves a number of 1311
years in excess of ten. 1312

(3) For the purpose of obtaining the approval of a city, 1313
local, or exempted village school district under division (D)(1) 1314
or (2) of this section, the legislative authority shall deliver to 1315
the board of education a notice not later than forty-five days 1316
prior to approving the agreement, excluding Saturdays, Sundays, 1317
and legal holidays as defined in section 1.14 of the Revised Code. 1318

The notice shall state the percentage to be exempted, an estimate 1319
of the true value of the property to be exempted, and the number 1320
of years the property is to be exempted. The board of education, 1321
by resolution adopted by a majority of the board, shall approve or 1322
disapprove the agreement and certify a copy of the resolution to 1323
the legislative authority not later than fourteen days prior to 1324
the date stipulated by the legislative authority as the date upon 1325
which approval of the agreement is to be formally considered by 1326
the legislative authority. The board of education may include in 1327
the resolution conditions under which the board would approve the 1328
agreement, including the execution of an agreement to compensate 1329
the school district under division (B) of section 5709.82 of the 1330
Revised Code. The legislative authority may approve the agreement 1331
at any time after the board of education certifies its resolution 1332
approving the agreement to the legislative authority, or, if the 1333
board approves the agreement conditionally, at any time after the 1334
conditions are agreed to by the board and the legislative 1335
authority. 1336

If a board of education has adopted a resolution waiving its 1337
right to approve agreements and the resolution remains in effect, 1338
approval of an agreement by the board is not required under this 1339
division. If a board of education has adopted a resolution 1340
allowing a legislative authority to deliver the notice required 1341
under this division fewer than forty-five business days prior to 1342
the legislative authority's approval of the agreement, the 1343
legislative authority shall deliver the notice to the board not 1344
later than the number of days prior to such approval as prescribed 1345
by the board in its resolution. If a board of education adopts a 1346
resolution waiving its right to approve agreements or shortening 1347
the notification period, the board shall certify a copy of the 1348
resolution to the legislative authority. If the board of education 1349
rescinds such a resolution, it shall certify notice of the 1350
rescission to the legislative authority. 1351

(4) The legislative authority shall comply with section 1352
5709.83 of the Revised Code unless the board of education has 1353
adopted a resolution under that section waiving its right to 1354
receive such notice. 1355

(E) This division applies to zones certified by the director 1356
of development under this section prior to July 22, 1994. 1357

On or before October 15, ~~2010~~ 2011, the legislative authority 1358
that designated a zone to which this division applies may enter 1359
into an agreement with an enterprise if the legislative authority 1360
finds that the enterprise satisfies one of the criteria described 1361
in divisions (E)(1) to (5) of this section: 1362

(1) The enterprise currently has no operations in this state 1363
and, subject to approval of the agreement, intends to establish 1364
operations in the zone; 1365

(2) The enterprise currently has operations in this state 1366
and, subject to approval of the agreement, intends to establish 1367
operations at a new location in the zone that would not result in 1368
a reduction in the number of employee positions at any of the 1369
enterprise's other locations in this state; 1370

(3) The enterprise, subject to approval of the agreement, 1371
intends to relocate operations, currently located in another 1372
state, to the zone; 1373

(4) The enterprise, subject to approval of the agreement, 1374
intends to expand operations at an existing site in the zone that 1375
the enterprise currently operates; 1376

(5) The enterprise, subject to approval of the agreement, 1377
intends to relocate operations, currently located in this state, 1378
to the zone, and the director of development has issued a waiver 1379
for the enterprise under division (B) of section 5709.633 of the 1380
Revised Code. 1381

The agreement shall require the enterprise to agree to 1382
establish, expand, renovate, or occupy a facility in the zone and 1383
hire new employees, or preserve employment opportunities for 1384
existing employees, in return for one or more of the incentives 1385
described in division (C) of this section. 1386

(F) All agreements entered into under this section shall be 1387
in the form prescribed under section 5709.631 of the Revised Code. 1388
After an agreement is entered into under this section, if the 1389
legislative authority revokes its designation of a zone, or if the 1390
director of development revokes a zone's certification, any 1391
entitlements granted under the agreement shall continue for the 1392
number of years specified in the agreement. 1393

(G) Except as otherwise provided in this division, an 1394
agreement entered into under this section shall require that the 1395
enterprise pay an annual fee equal to the greater of one per cent 1396
of the dollar value of incentives offered under the agreement or 1397
five hundred dollars; provided, however, that if the value of the 1398
incentives exceeds two hundred fifty thousand dollars, the fee 1399
shall not exceed two thousand five hundred dollars. The fee shall 1400
be payable to the legislative authority once per year for each 1401
year the agreement is effective on the days and in the form 1402
specified in the agreement. Fees paid shall be deposited in a 1403
special fund created for such purpose by the legislative authority 1404
and shall be used by the legislative authority exclusively for the 1405
purpose of complying with section 5709.68 of the Revised Code and 1406
by the tax incentive review council created under section 5709.85 1407
of the Revised Code exclusively for the purposes of performing the 1408
duties prescribed under that section. The legislative authority 1409
may waive or reduce the amount of the fee charged against an 1410
enterprise, but such a waiver or reduction does not affect the 1411
obligations of the legislative authority or the tax incentive 1412
review council to comply with section 5709.68 or 5709.85 of the 1413

Revised Code. 1414

(H) When an agreement is entered into pursuant to this 1415
section, the legislative authority authorizing the agreement shall 1416
forward a copy of the agreement to the director of development and 1417
to the tax commissioner within fifteen days after the agreement is 1418
entered into. If any agreement includes terms not provided for in 1419
section 5709.631 of the Revised Code affecting the revenue of a 1420
city, local, or exempted village school district or causing 1421
revenue to be ~~foregone~~ forgone by the district, including any 1422
compensation to be paid to the school district pursuant to section 1423
5709.82 of the Revised Code, those terms also shall be forwarded 1424
in writing to the director of development along with the copy of 1425
the agreement forwarded under this division. 1426

(I) After an agreement is entered into, the enterprise shall 1427
file with each personal property tax return required to be filed, 1428
or annual report required to be filed under section 5727.08 of the 1429
Revised Code, while the agreement is in effect, an informational 1430
return, on a form prescribed by the tax commissioner for that 1431
purpose, setting forth separately the property, and related costs 1432
and values, exempted from taxation under the agreement. 1433

(J) Enterprises may agree to give preference to residents of 1434
the zone within which the agreement applies relative to residents 1435
of this state who do not reside in the zone when hiring new 1436
employees under the agreement. 1437

(K) An agreement entered into under this section may include 1438
a provision requiring the enterprise to create one or more 1439
temporary internship positions for students enrolled in a course 1440
of study at a school or other educational institution in the 1441
vicinity, and to create a scholarship or provide another form of 1442
educational financial assistance for students holding such a 1443
position in exchange for the student's commitment to work for the 1444
enterprise at the completion of the internship. 1445

(L) The tax commissioner's authority in determining the 1446
accuracy of any exemption granted by an agreement entered into 1447
under this section is limited to divisions (C)(1)(a) and (b), 1448
(C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and 1449
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 1450
and, as authorized by law, to enforcing any modification to, or 1451
revocation of, that agreement by the legislative authority of a 1452
municipal corporation or the director of development. 1453

Sec. 5709.63. (A) With the consent of the legislative 1454
authority of each affected municipal corporation or of a board of 1455
township trustees, a board of county commissioners may, in the 1456
manner set forth in section 5709.62 of the Revised Code, designate 1457
one or more areas in one or more municipal corporations or in 1458
unincorporated areas of the county as proposed enterprise zones. A 1459
board of county commissioners may designate no more than one area 1460
within a township, or within adjacent townships, as a proposed 1461
enterprise zone. The board shall petition the director of 1462
development for certification of the area as having the 1463
characteristics set forth in division (A)(1) or (2) of section 1464
5709.61 of the Revised Code as amended by Substitute Senate Bill 1465
No. 19 of the 120th general assembly. Except as otherwise provided 1466
in division (D) of this section, on and after July 1, 1994, boards 1467
of county commissioners shall not enter into agreements under this 1468
section unless the board has petitioned the director and the 1469
director has certified the zone under this section as amended by 1470
that act; however, all agreements entered into under this section 1471
as it existed prior to July 1, 1994, and the incentives granted 1472
under those agreements shall remain in effect for the period 1473
agreed to under those agreements. The director shall make the 1474
determination in the manner provided under section 5709.62 of the 1475
Revised Code. 1476

Any enterprise wishing to enter into an agreement with the 1477

board under division (B) or (D) of this section shall submit a 1478
proposal to the board on the form and accompanied by the 1479
application fee prescribed under division (B) of section 5709.62 1480
of the Revised Code. The enterprise shall review and update the 1481
estimates and listings required by the form in the manner required 1482
under that division. The board may, on a separate form and at any 1483
time, require any additional information necessary to determine 1484
whether an enterprise is in compliance with an agreement and to 1485
collect the information required to be reported under section 1486
5709.68 of the Revised Code. 1487

(B) If the board of county commissioners finds that an 1488
enterprise submitting a proposal is qualified by financial 1489
responsibility and business experience to create and preserve 1490
employment opportunities in the zone and to improve the economic 1491
climate of the municipal corporation or municipal corporations or 1492
the unincorporated areas in which the zone is located and to which 1493
the proposal applies, the board, on or before October 15, ~~2010~~ 1494
2011, and with the consent of the legislative authority of each 1495
affected municipal corporation or of the board of township 1496
trustees may do either of the following: 1497

(1) Enter into an agreement with the enterprise under which 1498
the enterprise agrees to establish, expand, renovate, or occupy a 1499
facility in the zone and hire new employees, or preserve 1500
employment opportunities for existing employees, in return for the 1501
following incentives: 1502

(a) When the facility is located in a municipal corporation, 1503
the board may enter into an agreement for one or more of the 1504
incentives provided in division (C) of section 5709.62 of the 1505
Revised Code, subject to division (D) of that section; 1506

(b) When the facility is located in an unincorporated area, 1507
the board may enter into an agreement for one or more of the 1508
following incentives: 1509

(i) Exemption for a specified number of years, not to exceed 1510
fifteen, of a specified portion, up to sixty per cent, of the 1511
assessed value of tangible personal property first used in 1512
business at a project site as a result of the agreement. If an 1513
exemption for inventory is specifically granted in the agreement 1514
pursuant to this division, the exemption applies to inventory 1515
required to be listed pursuant to sections 5711.15 and 5711.16 of 1516
the Revised Code, except, in the instance of an expansion or other 1517
situations in which an enterprise was in business at the facility 1518
prior to the establishment of the zone, the inventory that is 1519
exempt is that amount or value of inventory in excess of the 1520
amount or value of inventory required to be listed in the personal 1521
property tax return of the enterprise in the return for the tax 1522
year in which the agreement is entered into. 1523

(ii) Exemption for a specified number of years, not to exceed 1524
fifteen, of a specified portion, up to sixty per cent, of the 1525
increase in the assessed valuation of real property constituting 1526
the project site subsequent to formal approval of the agreement by 1527
the board; 1528

(iii) Provision for a specified number of years, not to 1529
exceed fifteen, of any optional services or assistance the board 1530
is authorized to provide with regard to the project site; 1531

(iv) The incentive described in division (C)(2) of section 1532
5709.62 of the Revised Code. 1533

(2) Enter into an agreement with an enterprise that plans to 1534
purchase and operate a large manufacturing facility that has 1535
ceased operation or has announced its intention to cease 1536
operation, in return for exemption for a specified number of 1537
years, not to exceed fifteen, of a specified portion, up to one 1538
hundred per cent, of tangible personal property used in business 1539
at the project site as a result of the agreement, or of real 1540
property constituting the project site, or both. 1541

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 1542
this section, the portion of the assessed value of tangible 1543
personal property or of the increase in the assessed valuation of 1544
real property exempted from taxation under those divisions may 1545
exceed sixty per cent in any year for which that portion is 1546
exempted if the average percentage exempted for all years in which 1547
the agreement is in effect does not exceed fifty per cent, or if 1548
the board of education of the city, local, or exempted village 1549
school district within the territory of which the property is or 1550
will be located approves a percentage in excess of sixty per cent. 1551

(b) Notwithstanding any provision of the Revised Code to the 1552
contrary, the exemptions described in divisions (B)(1)(b)(i), 1553
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 1554
fifteen years if the board of education of the city, local, or 1555
exempted village school district within the territory of which the 1556
property is or will be located approves a number of years in 1557
excess of ten. 1558

(c) For the purpose of obtaining the approval of a city, 1559
local, or exempted village school district under division 1560
(C)(1)(a) or (b) of this section, the board of county 1561
commissioners shall deliver to the board of education a notice not 1562
later than forty-five days prior to approving the agreement, 1563
excluding Saturdays, Sundays, and legal holidays as defined in 1564
section 1.14 of the Revised Code. The notice shall state the 1565
percentage to be exempted, an estimate of the true value of the 1566
property to be exempted, and the number of years the property is 1567
to be exempted. The board of education, by resolution adopted by a 1568
majority of the board, shall approve or disapprove the agreement 1569
and certify a copy of the resolution to the board of county 1570
commissioners not later than fourteen days prior to the date 1571
stipulated by the board of county commissioners as the date upon 1572
which approval of the agreement is to be formally considered by 1573

the board of county commissioners. The board of education may 1574
include in the resolution conditions under which the board would 1575
approve the agreement, including the execution of an agreement to 1576
compensate the school district under division (B) of section 1577
5709.82 of the Revised Code. The board of county commissioners may 1578
approve the agreement at any time after the board of education 1579
certifies its resolution approving the agreement to the board of 1580
county commissioners, or, if the board of education approves the 1581
agreement conditionally, at any time after the conditions are 1582
agreed to by the board of education and the board of county 1583
commissioners. 1584

If a board of education has adopted a resolution waiving its 1585
right to approve agreements and the resolution remains in effect, 1586
approval of an agreement by the board of education is not required 1587
under division (C) of this section. If a board of education has 1588
adopted a resolution allowing a board of county commissioners to 1589
deliver the notice required under this division fewer than 1590
forty-five business days prior to approval of the agreement by the 1591
board of county commissioners, the board of county commissioners 1592
shall deliver the notice to the board of education not later than 1593
the number of days prior to such approval as prescribed by the 1594
board of education in its resolution. If a board of education 1595
adopts a resolution waiving its right to approve agreements or 1596
shortening the notification period, the board of education shall 1597
certify a copy of the resolution to the board of county 1598
commissioners. If the board of education rescinds such a 1599
resolution, it shall certify notice of the rescission to the board 1600
of county commissioners. 1601

(2) The board of county commissioners shall comply with 1602
section 5709.83 of the Revised Code unless the board of education 1603
has adopted a resolution under that section waiving its right to 1604
receive such notice. 1605

(D) This division applies to zones certified by the director 1606
of development under this section prior to July 22, 1994. 1607

On or before October 15, ~~2010~~ 2011, and with the consent of 1608
the legislative authority of each affected municipal corporation 1609
or board of township trustees of each affected township, the board 1610
of county commissioners that designated a zone to which this 1611
division applies may enter into an agreement with an enterprise if 1612
the board finds that the enterprise satisfies one of the criteria 1613
described in divisions (D)(1) to (5) of this section: 1614

(1) The enterprise currently has no operations in this state 1615
and, subject to approval of the agreement, intends to establish 1616
operations in the zone; 1617

(2) The enterprise currently has operations in this state 1618
and, subject to approval of the agreement, intends to establish 1619
operations at a new location in the zone that would not result in 1620
a reduction in the number of employee positions at any of the 1621
enterprise's other locations in this state; 1622

(3) The enterprise, subject to approval of the agreement, 1623
intends to relocate operations, currently located in another 1624
state, to the zone; 1625

(4) The enterprise, subject to approval of the agreement, 1626
intends to expand operations at an existing site in the zone that 1627
the enterprise currently operates; 1628

(5) The enterprise, subject to approval of the agreement, 1629
intends to relocate operations, currently located in this state, 1630
to the zone, and the director of development has issued a waiver 1631
for the enterprise under division (B) of section 5709.633 of the 1632
Revised Code. 1633

The agreement shall require the enterprise to agree to 1634
establish, expand, renovate, or occupy a facility in the zone and 1635
hire new employees, or preserve employment opportunities for 1636

existing employees, in return for one or more of the incentives 1637
described in division (B) of this section. 1638

(E) All agreements entered into under this section shall be 1639
in the form prescribed under section 5709.631 of the Revised Code. 1640
After an agreement under this section is entered into, if the 1641
board of county commissioners revokes its designation of a zone, 1642
or if the director of development revokes a zone's certification, 1643
any entitlements granted under the agreement shall continue for 1644
the number of years specified in the agreement. 1645

(F) Except as otherwise provided in this division, an 1646
agreement entered into under this section shall require that the 1647
enterprise pay an annual fee equal to the greater of one per cent 1648
of the dollar value of incentives offered under the agreement or 1649
five hundred dollars; provided, however, that if the value of the 1650
incentives exceeds two hundred fifty thousand dollars, the fee 1651
shall not exceed two thousand five hundred dollars. The fee shall 1652
be payable to the board of county commissioners once per year for 1653
each year the agreement is effective on the days and in the form 1654
specified in the agreement. Fees paid shall be deposited in a 1655
special fund created for such purpose by the board and shall be 1656
used by the board exclusively for the purpose of complying with 1657
section 5709.68 of the Revised Code and by the tax incentive 1658
review council created under section 5709.85 of the Revised Code 1659
exclusively for the purposes of performing the duties prescribed 1660
under that section. The board may waive or reduce the amount of 1661
the fee charged against an enterprise, but such waiver or 1662
reduction does not affect the obligations of the board or the tax 1663
incentive review council to comply with section 5709.68 or 5709.85 1664
of the Revised Code, respectively. 1665

(G) With the approval of the legislative authority of a 1666
municipal corporation or the board of township trustees of a 1667
township in which a zone is designated under division (A) of this 1668

section, the board of county commissioners may delegate to that 1669
legislative authority or board any powers and duties of the board 1670
of county commissioners to negotiate and administer agreements 1671
with regard to that zone under this section. 1672

(H) When an agreement is entered into pursuant to this 1673
section, the board of county commissioners authorizing the 1674
agreement or the legislative authority or board of township 1675
trustees that negotiates and administers the agreement shall 1676
forward a copy of the agreement to the director of development and 1677
to the tax commissioner within fifteen days after the agreement is 1678
entered into. If any agreement includes terms not provided for in 1679
section 5709.631 of the Revised Code affecting the revenue of a 1680
city, local, or exempted village school district or causing 1681
revenue to be foregone by the district, including any compensation 1682
to be paid to the school district pursuant to section 5709.82 of 1683
the Revised Code, those terms also shall be forwarded in writing 1684
to the director of development along with the copy of the 1685
agreement forwarded under this division. 1686

(I) After an agreement is entered into, the enterprise shall 1687
file with each personal property tax return required to be filed, 1688
or annual report that is required to be filed under section 1689
5727.08 of the Revised Code, while the agreement is in effect, an 1690
informational return, on a form prescribed by the tax commissioner 1691
for that purpose, setting forth separately the property, and 1692
related costs and values, exempted from taxation under the 1693
agreement. 1694

(J) Enterprises may agree to give preference to residents of 1695
the zone within which the agreement applies relative to residents 1696
of this state who do not reside in the zone when hiring new 1697
employees under the agreement. 1698

(K) An agreement entered into under this section may include 1699
a provision requiring the enterprise to create one or more 1700

temporary internship positions for students enrolled in a course 1701
of study at a school or other educational institution in the 1702
vicinity, and to create a scholarship or provide another form of 1703
educational financial assistance for students holding such a 1704
position in exchange for the student's commitment to work for the 1705
enterprise at the completion of the internship. 1706

(L) The tax commissioner's authority in determining the 1707
accuracy of any exemption granted by an agreement entered into 1708
under this section is limited to divisions (B)(1)(b)(i) and (ii), 1709
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 1710
this section as it pertains to divisions (C)(2)(a), (b), and (c) 1711
of section 5709.62 of the Revised Code, and divisions (B)(1) to 1712
(10) of section 5709.631 of the Revised Code and, as authorized by 1713
law, to enforcing any modification to, or revocation of, that 1714
agreement by the board of county commissioners or the director of 1715
development or, if the board's powers and duties are delegated 1716
under division (G) of this section, by the legislative authority 1717
of a municipal corporation or board of township trustees. 1718

Sec. 5709.632. (A)(1) The legislative authority of a 1719
municipal corporation defined by the United States office of 1720
management and budget as a principal city of a metropolitan 1721
statistical area may, in the manner set forth in section 5709.62 1722
of the Revised Code, designate one or more areas in the municipal 1723
corporation as a proposed enterprise zone. 1724

(2) With the consent of the legislative authority of each 1725
affected municipal corporation or of a board of township trustees, 1726
a board of county commissioners may, in the manner set forth in 1727
section 5709.62 of the Revised Code, designate one or more areas 1728
in one or more municipal corporations or in unincorporated areas 1729
of the county as proposed urban jobs and enterprise zones, except 1730
that a board of county commissioners may designate no more than 1731

one area within a township, or within adjacent townships, as a 1732
proposed urban jobs and enterprise zone. 1733

(3) The legislative authority or board of county 1734
commissioners may petition the director of development for 1735
certification of the area as having the characteristics set forth 1736
in division (A)(3) of section 5709.61 of the Revised Code. Within 1737
sixty days after receiving such a petition, the director shall 1738
determine whether the area has the characteristics set forth in 1739
that division and forward the findings to the legislative 1740
authority or board of county commissioners. If the director 1741
certifies the area as having those characteristics and thereby 1742
certifies it as a zone, the legislative authority or board may 1743
enter into agreements with enterprises under division (B) of this 1744
section. Any enterprise wishing to enter into an agreement with a 1745
legislative authority or board of county commissioners under this 1746
section and satisfying one of the criteria described in divisions 1747
(B)(1) to (5) of this section shall submit a proposal to the 1748
legislative authority or board on the form prescribed under 1749
division (B) of section 5709.62 of the Revised Code and shall 1750
review and update the estimates and listings required by the form 1751
in the manner required under that division. The legislative 1752
authority or board may, on a separate form and at any time, 1753
require any additional information necessary to determine whether 1754
an enterprise is in compliance with an agreement and to collect 1755
the information required to be reported under section 5709.68 of 1756
the Revised Code. 1757

(B) Prior to entering into an agreement with an enterprise, 1758
the legislative authority or board of county commissioners shall 1759
determine whether the enterprise submitting the proposal is 1760
qualified by financial responsibility and business experience to 1761
create and preserve employment opportunities in the zone and to 1762
improve the economic climate of the municipal corporation or 1763

municipal corporations or the unincorporated areas in which the 1764
zone is located and to which the proposal applies, and whether the 1765
enterprise satisfies one of the following criteria: 1766

(1) The enterprise currently has no operations in this state 1767
and, subject to approval of the agreement, intends to establish 1768
operations in the zone; 1769

(2) The enterprise currently has operations in this state 1770
and, subject to approval of the agreement, intends to establish 1771
operations at a new location in the zone that would not result in 1772
a reduction in the number of employee positions at any of the 1773
enterprise's other locations in this state; 1774

(3) The enterprise, subject to approval of the agreement, 1775
intends to relocate operations, currently located in another 1776
state, to the zone; 1777

(4) The enterprise, subject to approval of the agreement, 1778
intends to expand operations at an existing site in the zone that 1779
the enterprise currently operates; 1780

(5) The enterprise, subject to approval of the agreement, 1781
intends to relocate operations, currently located in this state, 1782
to the zone, and the director of development has issued a waiver 1783
for the enterprise under division (B) of section 5709.633 of the 1784
Revised Code. 1785

(C) If the legislative authority or board determines that the 1786
enterprise is so qualified and satisfies one of the criteria 1787
described in divisions (B)(1) to (5) of this section, the 1788
legislative authority or board may, after complying with section 1789
5709.83 of the Revised Code and on or before October 15, ~~2010~~ 1790
2011, and, in the case of a board of commissioners, with the 1791
consent of the legislative authority of each affected municipal 1792
corporation or of the board of township trustees, enter into an 1793
agreement with the enterprise under which the enterprise agrees to 1794

establish, expand, renovate, or occupy a facility in the zone and 1795
hire new employees, or preserve employment opportunities for 1796
existing employees, in return for the following incentives: 1797

(1) When the facility is located in a municipal corporation, 1798
a legislative authority or board of commissioners may enter into 1799
an agreement for one or more of the incentives provided in 1800
division (C) of section 5709.62 of the Revised Code, subject to 1801
division (D) of that section; 1802

(2) When the facility is located in an unincorporated area, a 1803
board of commissioners may enter into an agreement for one or more 1804
of the incentives provided in divisions (B)(1)(b), (B)(2), and 1805
(B)(3) of section 5709.63 of the Revised Code, subject to division 1806
(C) of that section. 1807

(D) All agreements entered into under this section shall be 1808
in the form prescribed under section 5709.631 of the Revised Code. 1809
After an agreement under this section is entered into, if the 1810
legislative authority or board of county commissioners revokes its 1811
designation of the zone, or if the director of development revokes 1812
the zone's certification, any entitlements granted under the 1813
agreement shall continue for the number of years specified in the 1814
agreement. 1815

(E) Except as otherwise provided in this division, an 1816
agreement entered into under this section shall require that the 1817
enterprise pay an annual fee equal to the greater of one per cent 1818
of the dollar value of incentives offered under the agreement or 1819
five hundred dollars; provided, however, that if the value of the 1820
incentives exceeds two hundred fifty thousand dollars, the fee 1821
shall not exceed two thousand five hundred dollars. The fee shall 1822
be payable to the legislative authority or board of commissioners 1823
once per year for each year the agreement is effective on the days 1824
and in the form specified in the agreement. Fees paid shall be 1825
deposited in a special fund created for such purpose by the 1826

legislative authority or board and shall be used by the 1827
legislative authority or board exclusively for the purpose of 1828
complying with section 5709.68 of the Revised Code and by the tax 1829
incentive review council created under section 5709.85 of the 1830
Revised Code exclusively for the purposes of performing the duties 1831
prescribed under that section. The legislative authority or board 1832
may waive or reduce the amount of the fee charged against an 1833
enterprise, but such waiver or reduction does not affect the 1834
obligations of the legislative authority or board or the tax 1835
incentive review council to comply with section 5709.68 or 5709.85 1836
of the Revised Code, respectively. 1837

(F) With the approval of the legislative authority of a 1838
municipal corporation or the board of township trustees of a 1839
township in which a zone is designated under division (A)(2) of 1840
this section, the board of county commissioners may delegate to 1841
that legislative authority or board any powers and duties of the 1842
board to negotiate and administer agreements with regard to that 1843
zone under this section. 1844

(G) When an agreement is entered into pursuant to this 1845
section, the legislative authority or board of commissioners 1846
authorizing the agreement shall forward a copy of the agreement to 1847
the director of development and to the tax commissioner within 1848
fifteen days after the agreement is entered into. If any agreement 1849
includes terms not provided for in section 5709.631 of the Revised 1850
Code affecting the revenue of a city, local, or exempted village 1851
school district or causing revenue to be ~~foregone~~ forgone by the 1852
district, including any compensation to be paid to the school 1853
district pursuant to section 5709.82 of the Revised Code, those 1854
terms also shall be forwarded in writing to the director of 1855
development along with the copy of the agreement forwarded under 1856
this division. 1857

(H) After an agreement is entered into, the enterprise shall 1858

file with each personal property tax return required to be filed 1859
while the agreement is in effect, an informational return, on a 1860
form prescribed by the tax commissioner for that purpose, setting 1861
forth separately the property, and related costs and values, 1862
exempted from taxation under the agreement. 1863

(I) An agreement entered into under this section may include 1864
a provision requiring the enterprise to create one or more 1865
temporary internship positions for students enrolled in a course 1866
of study at a school or other educational institution in the 1867
vicinity, and to create a scholarship or provide another form of 1868
educational financial assistance for students holding such a 1869
position in exchange for the student's commitment to work for the 1870
enterprise at the completion of the internship. 1871

Sec. 5739.02. For the purpose of providing revenue with which 1872
to meet the needs of the state, for the use of the general revenue 1873
fund of the state, for the purpose of securing a thorough and 1874
efficient system of common schools throughout the state, for the 1875
purpose of affording revenues, in addition to those from general 1876
property taxes, permitted under constitutional limitations, and 1877
from other sources, for the support of local governmental 1878
functions, and for the purpose of reimbursing the state for the 1879
expense of administering this chapter, an excise tax is hereby 1880
levied on each retail sale made in this state. 1881

(A)(1) The tax shall be collected as provided in section 1882
5739.025 of the Revised Code. The rate of the tax shall be five 1883
and one-half per cent. The tax applies and is collectible when the 1884
sale is made, regardless of the time when the price is paid or 1885
delivered. 1886

(2) In the case of the lease or rental, with a fixed term of 1887
more than thirty days or an indefinite term with a minimum period 1888
of more than thirty days, of any motor vehicles designed by the 1889

manufacturer to carry a load of not more than one ton, watercraft, 1890
outboard motor, or aircraft, or of any tangible personal property, 1891
other than motor vehicles designed by the manufacturer to carry a 1892
load of more than one ton, to be used by the lessee or renter 1893
primarily for business purposes, the tax shall be collected by the 1894
vendor at the time the lease or rental is consummated and shall be 1895
calculated by the vendor on the basis of the total amount to be 1896
paid by the lessee or renter under the lease agreement. If the 1897
total amount of the consideration for the lease or rental includes 1898
amounts that are not calculated at the time the lease or rental is 1899
executed, the tax shall be calculated and collected by the vendor 1900
at the time such amounts are billed to the lessee or renter. In 1901
the case of an open-end lease or rental, the tax shall be 1902
calculated by the vendor on the basis of the total amount to be 1903
paid during the initial fixed term of the lease or rental, and for 1904
each subsequent renewal period as it comes due. As used in this 1905
division, "motor vehicle" has the same meaning as in section 1906
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1907
unit attached to the watercraft. 1908

A lease with a renewal clause and a termination penalty or 1909
similar provision that applies if the renewal clause is not 1910
exercised is presumed to be a sham transaction. In such a case, 1911
the tax shall be calculated and paid on the basis of the entire 1912
length of the lease period, including any renewal periods, until 1913
the termination penalty or similar provision no longer applies. 1914
The taxpayer shall bear the burden, by a preponderance of the 1915
evidence, that the transaction or series of transactions is not a 1916
sham transaction. 1917

(3) Except as provided in division (A)(2) of this section, in 1918
the case of a sale, the price of which consists in whole or in 1919
part of the lease or rental of tangible personal property, the tax 1920
shall be measured by the installments of that lease or rental. 1921

(4) In the case of a sale of a physical fitness facility 1922
service or recreation and sports club service, the price of which 1923
consists in whole or in part of a membership for the receipt of 1924
the benefit of the service, the tax applicable to the sale shall 1925
be measured by the installments thereof. 1926

(B) The tax does not apply to the following: 1927

(1) Sales to the state or any of its political subdivisions, 1928
or to any other state or its political subdivisions if the laws of 1929
that state exempt from taxation sales made to this state and its 1930
political subdivisions; 1931

(2) Sales of food for human consumption off the premises 1932
where sold; 1933

(3) Sales of food sold to students only in a cafeteria, 1934
dormitory, fraternity, or sorority maintained in a private, 1935
public, or parochial school, college, or university; 1936

(4) Sales of newspapers and of magazine subscriptions and 1937
sales or transfers of magazines distributed as controlled 1938
circulation publications; 1939

(5) The furnishing, preparing, or serving of meals without 1940
charge by an employer to an employee provided the employer records 1941
the meals as part compensation for services performed or work 1942
done; 1943

(6) Sales of motor fuel upon receipt, use, distribution, or 1944
sale of which in this state a tax is imposed by the law of this 1945
state, but this exemption shall not apply to the sale of motor 1946
fuel on which a refund of the tax is allowable under division (A) 1947
of section 5735.14 of the Revised Code; and the tax commissioner 1948
may deduct the amount of tax levied by this section applicable to 1949
the price of motor fuel when granting a refund of motor fuel tax 1950
pursuant to division (A) of section 5735.14 of the Revised Code 1951
and shall cause the amount deducted to be paid into the general 1952

revenue fund of this state; 1953

(7) Sales of natural gas by a natural gas company, of water 1954
by a water-works company, or of steam by a heating company, if in 1955
each case the thing sold is delivered to consumers through pipes 1956
or conduits, and all sales of communications services by a 1957
telegraph company, all terms as defined in section 5727.01 of the 1958
Revised Code, and sales of electricity delivered through wires; 1959

(8) Casual sales by a person, or auctioneer employed directly 1960
by the person to conduct such sales, except as to such sales of 1961
motor vehicles, watercraft or outboard motors required to be 1962
titled under section 1548.06 of the Revised Code, watercraft 1963
documented with the United States coast guard, snowmobiles, and 1964
all-purpose vehicles as defined in section 4519.01 of the Revised 1965
Code; 1966

(9)(a) Sales of services or tangible personal property, other 1967
than motor vehicles, mobile homes, and manufactured homes, by 1968
churches, organizations exempt from taxation under section 1969
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1970
organizations operated exclusively for charitable purposes as 1971
defined in division (B)(12) of this section, provided that the 1972
number of days on which such tangible personal property or 1973
services, other than items never subject to the tax, are sold does 1974
not exceed six in any calendar year, except as otherwise provided 1975
in division (B)(9)(b) of this section. If the number of days on 1976
which such sales are made exceeds six in any calendar year, the 1977
church or organization shall be considered to be engaged in 1978
business and all subsequent sales by it shall be subject to the 1979
tax. In counting the number of days, all sales by groups within a 1980
church or within an organization shall be considered to be sales 1981
of that church or organization. 1982

(b) The limitation on the number of days on which tax-exempt 1983
sales may be made by a church or organization under division 1984

(B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

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

(10) Sales not within the taxing power of this state under the Constitution of the United States;

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

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of

a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

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

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to

real property that are accepted for ownership by this state or any 2048
of its political subdivisions, or by the United States government 2049
or any of its agencies at the time of completion of the structures 2050
or improvements; building and construction materials sold to 2051
construction contractors for incorporation into a horticulture 2052
structure or livestock structure for a person engaged in the 2053
business of horticulture or producing livestock; building 2054
materials and services sold to a construction contractor for 2055
incorporation into a house of public worship or religious 2056
education, or a building used exclusively for charitable purposes 2057
under a construction contract with an organization whose purpose 2058
is as described in division (B)(12) of this section; building 2059
materials and services sold to a construction contractor for 2060
incorporation into a building under a construction contract with 2061
an organization exempt from taxation under section 501(c)(3) of 2062
the Internal Revenue Code of 1986 when the building is to be used 2063
exclusively for the organization's exempt purposes; building and 2064
construction materials sold for incorporation into the original 2065
construction of a sports facility under section 307.696 of the 2066
Revised Code; ~~and~~ building and construction materials and services 2067
sold to a construction contractor for incorporation into real 2068
property outside this state if such materials and services, when 2069
sold to a construction contractor in the state in which the real 2070
property is located for incorporation into real property in that 2071
state, would be exempt from a tax on sales levied by that state; 2072
and, until one calendar year after the construction of a 2073
convention center that qualifies for property tax exemption under 2074
section 5709.084 of the Revised Code is completed, building and 2075
construction materials and services sold to a construction 2076
contractor for incorporation into the real property comprising 2077
that convention center; 2078

(14) Sales of ships or vessels or rail rolling stock used or 2079
to be used principally in interstate or foreign commerce, and 2080

repairs, alterations, fuel, and lubricants for such ships or 2081
vessels or rail rolling stock; 2082

(15) Sales to persons primarily engaged in any of the 2083
activities mentioned in division (B)(42)(a) or (g) of this 2084
section, to persons engaged in making retail sales, or to persons 2085
who purchase for sale from a manufacturer tangible personal 2086
property that was produced by the manufacturer in accordance with 2087
specific designs provided by the purchaser, of packages, including 2088
material, labels, and parts for packages, and of machinery, 2089
equipment, and material for use primarily in packaging tangible 2090
personal property produced for sale, including any machinery, 2091
equipment, and supplies used to make labels or packages, to 2092
prepare packages or products for labeling, or to label packages or 2093
products, by or on the order of the person doing the packaging, or 2094
sold at retail. "Packages" includes bags, baskets, cartons, 2095
crates, boxes, cans, bottles, bindings, wrappings, and other 2096
similar devices and containers, but does not include motor 2097
vehicles or bulk tanks, trailers, or similar devices attached to 2098
motor vehicles. "Packaging" means placing in a package. Division 2099
(B)(15) of this section does not apply to persons engaged in 2100
highway transportation for hire. 2101

(16) Sales of food to persons using supplemental nutrition 2102
assistance program benefits to purchase the food. As used in this 2103
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2104
federal regulations adopted pursuant to the Food and Nutrition Act 2105
of 2008. 2106

(17) Sales to persons engaged in farming, agriculture, 2107
horticulture, or floriculture, of tangible personal property for 2108
use or consumption directly in the production by farming, 2109
agriculture, horticulture, or floriculture of other tangible 2110
personal property for use or consumption directly in the 2111
production of tangible personal property for sale by farming, 2112

agriculture, horticulture, or floriculture; or material and parts 2113
for incorporation into any such tangible personal property for use 2114
or consumption in production; and of tangible personal property 2115
for such use or consumption in the conditioning or holding of 2116
products produced by and for such use, consumption, or sale by 2117
persons engaged in farming, agriculture, horticulture, or 2118
floriculture, except where such property is incorporated into real 2119
property; 2120

(18) Sales of drugs for a human being that may be dispensed 2121
only pursuant to a prescription; insulin as recognized in the 2122
official United States pharmacopoeia; urine and blood testing 2123
materials when used by diabetics or persons with hypoglycemia to 2124
test for glucose or acetone; hypodermic syringes and needles when 2125
used by diabetics for insulin injections; epoetin alfa when 2126
purchased for use in the treatment of persons with medical 2127
disease; hospital beds when purchased by hospitals, nursing homes, 2128
or other medical facilities; and medical oxygen and medical 2129
oxygen-dispensing equipment when purchased by hospitals, nursing 2130
homes, or other medical facilities; 2131

(19) Sales of prosthetic devices, durable medical equipment 2132
for home use, or mobility enhancing equipment, when made pursuant 2133
to a prescription and when such devices or equipment are for use 2134
by a human being. 2135

(20) Sales of emergency and fire protection vehicles and 2136
equipment to nonprofit organizations for use solely in providing 2137
fire protection and emergency services, including trauma care and 2138
emergency medical services, for political subdivisions of the 2139
state; 2140

(21) Sales of tangible personal property manufactured in this 2141
state, if sold by the manufacturer in this state to a retailer for 2142
use in the retail business of the retailer outside of this state 2143
and if possession is taken from the manufacturer by the purchaser 2144

within this state for the sole purpose of immediately removing the 2145
same from this state in a vehicle owned by the purchaser; 2146

(22) Sales of services provided by the state or any of its 2147
political subdivisions, agencies, instrumentalities, institutions, 2148
or authorities, or by governmental entities of the state or any of 2149
its political subdivisions, agencies, instrumentalities, 2150
institutions, or authorities; 2151

(23) Sales of motor vehicles to nonresidents of this state 2152
under the circumstances described in division (B) of section 2153
5739.029 of the Revised Code; 2154

(24) Sales to persons engaged in the preparation of eggs for 2155
sale of tangible personal property used or consumed directly in 2156
such preparation, including such tangible personal property used 2157
for cleaning, sanitizing, preserving, grading, sorting, and 2158
classifying by size; packages, including material and parts for 2159
packages, and machinery, equipment, and material for use in 2160
packaging eggs for sale; and handling and transportation equipment 2161
and parts therefor, except motor vehicles licensed to operate on 2162
public highways, used in intraplant or interplant transfers or 2163
shipment of eggs in the process of preparation for sale, when the 2164
plant or plants within or between which such transfers or 2165
shipments occur are operated by the same person. "Packages" 2166
includes containers, cases, baskets, flats, fillers, filler flats, 2167
cartons, closure materials, labels, and labeling materials, and 2168
"packaging" means placing therein. 2169

(25)(a) Sales of water to a consumer for residential use, 2170
except the sale of bottled water, distilled water, mineral water, 2171
carbonated water, or ice; 2172

(b) Sales of water by a nonprofit corporation engaged 2173
exclusively in the treatment, distribution, and sale of water to 2174
consumers, if such water is delivered to consumers through pipes 2175

or tubing.	2176
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2177 2178
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	2179 2180 2181 2182
(a) To prepare food for human consumption for sale;	2183
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2184 2185 2186 2187
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2188 2189
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2190 2191
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2192 2193 2194 2195
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2196 2197 2198
(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;	2199 2200 2201
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation	2202 2203 2204 2205

for hire, except for packages and packaging used for the 2206
transportation of tangible personal property; 2207

(33) Sales to the state headquarters of any veterans' 2208
organization in this state that is either incorporated and issued 2209
a charter by the congress of the United States or is recognized by 2210
the United States veterans administration, for use by the 2211
headquarters; 2212

(34) Sales to a telecommunications service vendor, mobile 2213
telecommunications service vendor, or satellite broadcasting 2214
service vendor of tangible personal property and services used 2215
directly and primarily in transmitting, receiving, switching, or 2216
recording any interactive, one- or two-way electromagnetic 2217
communications, including voice, image, data, and information, 2218
through the use of any medium, including, but not limited to, 2219
poles, wires, cables, switching equipment, computers, and record 2220
storage devices and media, and component parts for the tangible 2221
personal property. The exemption provided in this division shall 2222
be in lieu of all other exemptions under division (B)(42)(a) of 2223
this section to which the vendor may otherwise be entitled, based 2224
upon the use of the thing purchased in providing the 2225
telecommunications, mobile telecommunications, or satellite 2226
broadcasting service. 2227

(35)(a) Sales where the purpose of the consumer is to use or 2228
consume the things transferred in making retail sales and 2229
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2230
certificates, or other advertising material that prices and 2231
describes tangible personal property offered for retail sale. 2232

(b) Sales to direct marketing vendors of preliminary 2233
materials such as photographs, artwork, and typesetting that will 2234
be used in printing advertising material; of printed matter that 2235
offers free merchandise or chances to win sweepstake prizes and 2236
that is mailed to potential customers with advertising material 2237

described in division (B)(35)(a) of this section; and of equipment 2238
such as telephones, computers, facsimile machines, and similar 2239
tangible personal property primarily used to accept orders for 2240
direct marketing retail sales. 2241

(c) Sales of automatic food vending machines that preserve 2242
food with a shelf life of forty-five days or less by refrigeration 2243
and dispense it to the consumer. 2244

For purposes of division (B)(35) of this section, "direct 2245
marketing" means the method of selling where consumers order 2246
tangible personal property by United States mail, delivery 2247
service, or telecommunication and the vendor delivers or ships the 2248
tangible personal property sold to the consumer from a warehouse, 2249
catalogue distribution center, or similar fulfillment facility by 2250
means of the United States mail, delivery service, or common 2251
carrier. 2252

(36) Sales to a person engaged in the business of 2253
horticulture or producing livestock of materials to be 2254
incorporated into a horticulture structure or livestock structure; 2255

(37) Sales of personal computers, computer monitors, computer 2256
keyboards, modems, and other peripheral computer equipment to an 2257
individual who is licensed or certified to teach in an elementary 2258
or a secondary school in this state for use by that individual in 2259
preparation for teaching elementary or secondary school students; 2260

(38) Sales to a professional racing team of any of the 2261
following: 2262

(a) Motor racing vehicles; 2263

(b) Repair services for motor racing vehicles; 2264

(c) Items of property that are attached to or incorporated in 2265
motor racing vehicles, including engines, chassis, and all other 2266
components of the vehicles, and all spare, replacement, and 2267

rebuilt parts or components of the vehicles; except not including 2268
tires, consumable fluids, paint, and accessories consisting of 2269
instrumentation sensors and related items added to the vehicle to 2270
collect and transmit data by means of telemetry and other forms of 2271
communication. 2272

(39) Sales of used manufactured homes and used mobile homes, 2273
as defined in section 5739.0210 of the Revised Code, made on or 2274
after January 1, 2000; 2275

(40) Sales of tangible personal property and services to a 2276
provider of electricity used or consumed directly and primarily in 2277
generating, transmitting, or distributing electricity for use by 2278
others, including property that is or is to be incorporated into 2279
and will become a part of the consumer's production, transmission, 2280
or distribution system and that retains its classification as 2281
tangible personal property after incorporation; fuel or power used 2282
in the production, transmission, or distribution of electricity; 2283
and tangible personal property and services used in the repair and 2284
maintenance of the production, transmission, or distribution 2285
system, including only those motor vehicles as are specially 2286
designed and equipped for such use. The exemption provided in this 2287
division shall be in lieu of all other exemptions in division 2288
(B)(42)(a) of this section to which a provider of electricity may 2289
otherwise be entitled based on the use of the tangible personal 2290
property or service purchased in generating, transmitting, or 2291
distributing electricity. 2292

(41) Sales to a person providing services under division 2293
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 2294
personal property and services used directly and primarily in 2295
providing taxable services under that section. 2296

(42) Sales where the purpose of the purchaser is to do any of 2297
the following: 2298

(a) To incorporate the thing transferred as a material or a	2299
part into tangible personal property to be produced for sale by	2300
manufacturing, assembling, processing, or refining; or to use or	2301
consume the thing transferred directly in producing tangible	2302
personal property for sale by mining, including, without	2303
limitation, the extraction from the earth of all substances that	2304
are classed geologically as minerals, production of crude oil and	2305
natural gas, farming, agriculture, horticulture, or floriculture,	2306
or directly in the rendition of a public utility service, except	2307
that the sales tax levied by this section shall be collected upon	2308
all meals, drinks, and food for human consumption sold when	2309
transporting persons. Persons engaged in rendering farming,	2310
agricultural, horticultural, or floricultural services, and	2311
services in the exploration for, and production of, crude oil and	2312
natural gas, for others are deemed engaged directly in farming,	2313
agriculture, horticulture, and floriculture, or exploration for,	2314
and production of, crude oil and natural gas. This paragraph does	2315
not exempt from "retail sale" or "sales at retail" the sale of	2316
tangible personal property that is to be incorporated into a	2317
structure or improvement to real property.	2318
(b) To hold the thing transferred as security for the	2319
performance of an obligation of the vendor;	2320
(c) To resell, hold, use, or consume the thing transferred as	2321
evidence of a contract of insurance;	2322
(d) To use or consume the thing directly in commercial	2323
fishing;	2324
(e) To incorporate the thing transferred as a material or a	2325
part into, or to use or consume the thing transferred directly in	2326
the production of, magazines distributed as controlled circulation	2327
publications;	2328
(f) To use or consume the thing transferred in the production	2329

and preparation in suitable condition for market and sale of 2330
printed, imprinted, overprinted, lithographic, multilithic, 2331
blueprinted, photostatic, or other productions or reproductions of 2332
written or graphic matter; 2333

(g) To use the thing transferred, as described in section 2334
5739.011 of the Revised Code, primarily in a manufacturing 2335
operation to produce tangible personal property for sale; 2336

(h) To use the benefit of a warranty, maintenance or service 2337
contract, or similar agreement, as described in division (B)(7) of 2338
section 5739.01 of the Revised Code, to repair or maintain 2339
tangible personal property, if all of the property that is the 2340
subject of the warranty, contract, or agreement would not be 2341
subject to the tax imposed by this section; 2342

(i) To use the thing transferred as qualified research and 2343
development equipment; 2344

(j) To use or consume the thing transferred primarily in 2345
storing, transporting, mailing, or otherwise handling purchased 2346
sales inventory in a warehouse, distribution center, or similar 2347
facility when the inventory is primarily distributed outside this 2348
state to retail stores of the person who owns or controls the 2349
warehouse, distribution center, or similar facility, to retail 2350
stores of an affiliated group of which that person is a member, or 2351
by means of direct marketing. This division does not apply to 2352
motor vehicles registered for operation on the public highways. As 2353
used in this division, "affiliated group" has the same meaning as 2354
in division (B)(3)(e) of section 5739.01 of the Revised Code and 2355
"direct marketing" has the same meaning as in division (B)(35) of 2356
this section. 2357

(k) To use or consume the thing transferred to fulfill a 2358
contractual obligation incurred by a warrantor pursuant to a 2359
warranty provided as a part of the price of the tangible personal 2360

property sold or by a vendor of a warranty, maintenance or service 2361
contract, or similar agreement the provision of which is defined 2362
as a sale under division (B)(7) of section 5739.01 of the Revised 2363
Code; 2364

(l) To use or consume the thing transferred in the production 2365
of a newspaper for distribution to the public; 2366

(m) To use tangible personal property to perform a service 2367
listed in division (B)(3) of section 5739.01 of the Revised Code, 2368
if the property is or is to be permanently transferred to the 2369
consumer of the service as an integral part of the performance of 2370
the service; 2371

(n) To use or consume the thing transferred in acquiring, 2372
formatting, editing, storing, and disseminating data or 2373
information by electronic publishing. 2374

As used in division (B)(42) of this section, "thing" includes 2375
all transactions included in divisions (B)(3)(a), (b), and (e) of 2376
section 5739.01 of the Revised Code. 2377

(43) Sales conducted through a coin operated device that 2378
activates vacuum equipment or equipment that dispenses water, 2379
whether or not in combination with soap or other cleaning agents 2380
or wax, to the consumer for the consumer's use on the premises in 2381
washing, cleaning, or waxing a motor vehicle, provided no other 2382
personal property or personal service is provided as part of the 2383
transaction. 2384

(44) Sales of replacement and modification parts for engines, 2385
airframes, instruments, and interiors in, and paint for, aircraft 2386
used primarily in a fractional aircraft ownership program, and 2387
sales of services for the repair, modification, and maintenance of 2388
such aircraft, and machinery, equipment, and supplies primarily 2389
used to provide those services. 2390

(45) Sales of telecommunications service that is used 2391

directly and primarily to perform the functions of a call center. 2392
As used in this division, "call center" means any physical 2393
location where telephone calls are placed or received in high 2394
volume for the purpose of making sales, marketing, customer 2395
service, technical support, or other specialized business 2396
activity, and that employs at least fifty individuals that engage 2397
in call center activities on a full-time basis, or sufficient 2398
individuals to fill fifty full-time equivalent positions. 2399

(46) Sales by a telecommunications service vendor of 900 2400
service to a subscriber. This division does not apply to 2401
information services, as defined in division (FF) of section 2402
5739.01 of the Revised Code. 2403

(47) Sales of value-added non-voice data service. This 2404
division does not apply to any similar service that is not 2405
otherwise a telecommunications service. 2406

(48)(a) Sales of machinery, equipment, and software to a 2407
qualified direct selling entity for use in a warehouse or 2408
distribution center primarily for storing, transporting, or 2409
otherwise handling inventory that is held for sale to independent 2410
salespersons who operate as direct sellers and that is held 2411
primarily for distribution outside this state; 2412

(b) As used in division (B)(48)(a) of this section: 2413

(i) "Direct seller" means a person selling consumer products 2414
to individuals for personal or household use and not from a fixed 2415
retail location, including selling such product at in-home product 2416
demonstrations, parties, and other one-on-one selling. 2417

(ii) "Qualified direct selling entity" means an entity 2418
selling to direct sellers at the time the entity enters into a tax 2419
credit agreement with the tax credit authority pursuant to section 2420
122.17 of the Revised Code, provided that the agreement was 2421
entered into on or after January 1, 2007. Neither contingencies 2422

relevant to the granting of, nor later developments with respect 2423
to, the tax credit shall impair the status of the qualified direct 2424
selling entity under division (B)(48) of this section after 2425
execution of the tax credit agreement by the tax credit authority. 2426

(c) Division (B)(48) of this section is limited to machinery, 2427
equipment, and software first stored, used, or consumed in this 2428
state within the period commencing June 24, 2008, and ending on 2429
the date that is five years after that date. 2430

(49) Sales of materials, parts, equipment, or engines used in 2431
the repair or maintenance of aircraft or avionics systems of such 2432
aircraft, and sales of repair, remodeling, replacement, or 2433
maintenance services in this state performed on aircraft or on an 2434
aircraft's avionics, engine, or component materials or parts. As 2435
used in division (B)(49) of this section, "aircraft" means 2436
aircraft of more than six thousand pounds maximum certified 2437
takeoff weight or used exclusively in general aviation. 2438

(50) Sales of full flight simulators that are used for pilot 2439
or flight-crew training, sales of repair or replacement parts or 2440
components, and sales of repair or maintenance services for such 2441
full flight simulators. "Full flight simulator" means a replica of 2442
a specific type, or make, model, and series of aircraft cockpit. 2443
It includes the assemblage of equipment and computer programs 2444
necessary to represent aircraft operations in ground and flight 2445
conditions, a visual system providing an out-of-the-cockpit view, 2446
and a system that provides cues at least equivalent to those of a 2447
three-degree-of-freedom motion system, and has the full range of 2448
capabilities of the systems installed in the device as described 2449
in appendices A and B of part 60 of chapter 1 of title 14 of the 2450
Code of Federal Regulations. 2451

(C) For the purpose of the proper administration of this 2452
chapter, and to prevent the evasion of the tax, it is presumed 2453
that all sales made in this state are subject to the tax until the 2454

contrary is established. 2455

(D) The levy of this tax on retail sales of recreation and 2456
sports club service shall not prevent a municipal corporation from 2457
levying any tax on recreation and sports club dues or on any 2458
income generated by recreation and sports club dues. 2459

(E) The tax collected by the vendor from the consumer under 2460
this chapter is not part of the price, but is a tax collection for 2461
the benefit of the state, and of counties levying an additional 2462
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2463
Code and of transit authorities levying an additional sales tax 2464
pursuant to section 5739.023 of the Revised Code. Except for the 2465
discount authorized under section 5739.12 of the Revised Code and 2466
the effects of any rounding pursuant to section 5703.055 of the 2467
Revised Code, no person other than the state or such a county or 2468
transit authority shall derive any benefit from the collection or 2469
payment of the tax levied by this section or section 5739.021, 2470
5739.023, or 5739.026 of the Revised Code. 2471

Sec. 5751.08. (A) An application for refund to the taxpayer 2472
of the amount of taxes imposed under this chapter that are 2473
overpaid, paid illegally or erroneously, or paid on any illegal or 2474
erroneous assessment shall be filed by the reporting person with 2475
the tax commissioner, on the form prescribed by the commissioner, 2476
within four years after the date of the illegal or erroneous 2477
payment of the tax, or within any additional period allowed under 2478
division (F) of section 5751.09 of the Revised Code. The applicant 2479
shall provide the amount of the requested refund along with the 2480
claimed reasons for, and documentation to support, the issuance of 2481
a refund. 2482

(B) On the filing of the refund application, the tax 2483
commissioner shall determine the amount of refund to which the 2484
applicant is entitled. If the amount is not less than that 2485

claimed, the commissioner shall certify the amount to the director 2486
of budget and management and treasurer of state for payment from 2487
the tax refund fund created under section 5703.052 of the Revised 2488
Code. If the amount is less than that claimed, the commissioner 2489
shall proceed in accordance with section 5703.70 of the Revised 2490
Code. 2491

(C) Interest on a refund applied for under this section, 2492
computed at the rate provided for in section 5703.47 of the 2493
Revised Code, shall be allowed from the later of the date the tax 2494
was paid or when the tax payment was due. 2495

(D) A calendar quarter taxpayer with more than one million 2496
dollars in taxable gross receipts in a calendar year other than 2497
calendar year 2005 and that is not able to exclude one million 2498
dollars in taxable gross receipts because of the operation of the 2499
taxpayer's business in that calendar year may file for a refund 2500
under this section to obtain the full exclusion of one million 2501
dollars in taxable gross receipts for that calendar year. 2502

~~(E) No person with an active registration as a taxpayer under 2503
this chapter may claim a refund under this section for the tax 2504
imposed under division (B) of section 5751.03 of the Revised Code 2505
unless the person cancelled the registration before the tenth day 2506
of May of the current calendar year pursuant to division (D) of 2507
section 5751.04 of the Revised Code. 2508~~

~~(F)~~ Except as provided in section ~~5751.091~~ 5751.081 of the 2509
Revised Code, the tax commissioner may, with the consent of the 2510
taxpayer, provide for the crediting against tax due for a tax year 2511
the amount of any refund due the taxpayer under this chapter for a 2512
preceding tax year. 2513

Sec. 5751.09. (A) The tax commissioner may make an 2514
assessment, based on any information in the commissioner's 2515
possession, against any person that fails to file a return or pay 2516

any tax as required by this chapter. The commissioner shall give 2517
the person assessed written notice of the assessment as provided 2518
in section 5703.37 of the Revised Code. With the notice, the 2519
commissioner shall provide instructions on the manner in which to 2520
petition for reassessment and request a hearing with respect to 2521
the petition. The commissioner shall send any assessments against 2522
consolidated elected taxpayer and combined taxpayer groups under 2523
section 5751.011 or 5751.012 of the Revised Code to the taxpayer's 2524
"reporting person" as defined under division (R) of section 2525
5751.01 of the Revised Code. The reporting person shall notify all 2526
members of the group of the assessment and all outstanding taxes, 2527
interest, and penalties for which the assessment is issued. 2528

(B) Unless the person assessed, within sixty days after 2529
service of the notice of assessment, files with the tax 2530
commissioner, either personally or by certified mail, a written 2531
petition signed by the person or the person's authorized agent 2532
having knowledge of the facts, the assessment becomes final, and 2533
the amount of the assessment is due and payable from the person 2534
assessed to the treasurer of state. The petition shall indicate 2535
the objections of the person assessed, but additional objections 2536
may be raised in writing if received by the commissioner prior to 2537
the date shown on the final determination. 2538

If a petition for reassessment has been properly filed, the 2539
commissioner shall proceed under section 5703.60 of the Revised 2540
Code. 2541

(C)(1) After an assessment becomes final, if any portion of 2542
the assessment, including accrued interest, remains unpaid, a 2543
certified copy of the tax commissioner's entry making the 2544
assessment final may be filed in the office of the clerk of the 2545
court of common pleas in the county in which the person resides or 2546
has its principal place of business in this state, or in the 2547

office of the clerk of court of common pleas of Franklin county. 2548

(2) Immediately upon the filing of the entry, the clerk shall 2549
enter judgment for the state against the person assessed in the 2550
amount shown on the entry. The judgment may be filed by the clerk 2551
in a loose-leaf book entitled, "special judgments for the 2552
commercial activity tax" and shall have the same effect as other 2553
judgments. Execution shall issue upon the judgment at the request 2554
of the tax commissioner, and all laws applicable to sales on 2555
execution shall apply to sales made under the judgment. 2556

(3) The portion of the assessment not paid within sixty days 2557
after the day the assessment was issued shall bear interest at the 2558
rate per annum prescribed by section 5703.47 of the Revised Code 2559
from the day the tax commissioner issues the assessment until it 2560
is paid. Interest shall be paid in the same manner as the tax and 2561
may be collected by the issuance of an assessment under this 2562
section. 2563

(D) If the tax commissioner believes that collection of the 2564
tax will be jeopardized unless proceedings to collect or secure 2565
collection of the tax are instituted without delay, the 2566
commissioner may issue a jeopardy assessment against the person 2567
liable for the tax. Immediately upon the issuance of the jeopardy 2568
assessment, the commissioner shall file an entry with the clerk of 2569
the court of common pleas in the manner prescribed by division (C) 2570
of this section. Notice of the jeopardy assessment shall be served 2571
on the person assessed or the person's authorized agent in the 2572
manner provided in section 5703.37 of the Revised Code within five 2573
days of the filing of the entry with the clerk. The total amount 2574
assessed is immediately due and payable, unless the person 2575
assessed files a petition for reassessment in accordance with 2576
division (B) of this section and provides security in a form 2577
satisfactory to the commissioner and in an amount sufficient to 2578
satisfy the unpaid balance of the assessment. Full or partial 2579

payment of the assessment does not prejudice the commissioner's 2580
consideration of the petition for reassessment. 2581

(E) The tax commissioner shall immediately forward to the 2582
treasurer of state all amounts the commissioner receives under 2583
this section, and such amounts shall be considered as revenue 2584
arising from the tax imposed under this chapter. 2585

(F) Except as otherwise provided in this division, no 2586
assessment shall be made or issued against a taxpayer for the tax 2587
imposed under this chapter more than four years after the due date 2588
for the filing of the return for the tax period for which the tax 2589
was reported, or more than four years after the return for the tax 2590
period was filed, whichever is later. The time limit may be 2591
extended if both the taxpayer and the commissioner consent in 2592
writing to the extension or enter into an agreement waiving or 2593
extending the time limit. Any such extension shall extend the 2594
four-year time limit in division (B) of section 5751.08 of the 2595
Revised Code for the same period of time. Nothing in this division 2596
bars an assessment against a taxpayer that fails to file a return 2597
required by this chapter or that files a fraudulent return. 2598

(G) If the tax commissioner possesses information that 2599
indicates that the amount of tax a taxpayer is required to pay 2600
under this chapter exceeds the amount the taxpayer paid, the tax 2601
commissioner may audit a sample of the taxpayer's gross receipts 2602
over a representative period of time to ascertain the amount of 2603
tax due, and may issue an assessment based on the audit. The tax 2604
commissioner shall make a good faith effort to reach agreement 2605
with the taxpayer in selecting a representative sample. The tax 2606
commissioner may apply a sampling method only if the commissioner 2607
has prescribed the method by rule. 2608

(H) If the whereabouts of a person subject to this chapter is 2609
not known to the tax commissioner, the commissioner shall follow 2610
the procedures under section 5703.37 of the Revised Code. 2611

Sec. 6109.22. (A) There is hereby created the drinking water 2612
assistance fund to provide financial and technical assistance for 2613
the purposes of protecting public health and achieving and 2614
maintaining compliance with the Safe Drinking Water Act and this 2615
chapter. In addition to the accounts created under divisions (G) 2616
and (H) of this section, the drinking water assistance fund may 2617
include any other accounts established by the director of 2618
environmental protection. The fund shall be administered by the 2619
director consistent with the Safe Drinking Water Act, this 2620
section, and rules adopted under division (M) of this section. 2621

(B) The drinking water assistance fund shall consist of the 2622
moneys credited to it from all capitalization grants received 2623
under the Safe Drinking Water Act except for moneys reserved by 2624
the governor pursuant to ~~title~~ Title III, section 302 of that act, 2625
all moneys credited to the fund from nonfederal sources, 2626
including, without limitation, the proceeds of state bonds or 2627
notes issued for the benefit of the fund, all payments of 2628
principal and interest on loans made from the fund, and all 2629
investment earnings on moneys held in the fund. On or before the 2630
date that a capitalization grant payment made under the authority 2631
of the Safe Drinking Water Act is credited to the fund, required 2632
matching moneys shall be credited to the fund. Any moneys 2633
transferred to or reserved from the drinking water assistance fund 2634
pursuant to ~~title~~ Title III, section 302 of the Safe Drinking 2635
Water Act shall be accounted for separately. 2636

(C) In a manner consistent with the Safe Drinking Water Act 2637
and the applicable drinking water assistance management plan 2638
prepared in accordance with this section, the director may reserve 2639
and award for assistance moneys allotted to the state under 2640
section 1452 of the Safe Drinking Water Act, provided that the 2641
director makes a determination that the use of the moneys will 2642
accomplish the state's objectives and the objectives established 2643

for capitalization grants under the Safe Drinking Water Act. The 2644
director may use a portion of the reserved moneys to enter into 2645
contracts with qualified organizations, including private 2646
nonprofit organizations, to provide statewide on-site technical 2647
assistance to small public water systems. 2648

(D) Subject to the terms of the agreements provided for in 2649
division (E) of this section, moneys in the drinking water 2650
assistance fund shall be held in trust by the Ohio water 2651
development authority for the purposes of this section, shall be 2652
kept in the same manner that funds of the authority are kept under 2653
section 6121.11 of the Revised Code, and may be invested in the 2654
same manner that funds of the authority are invested under section 2655
6121.12 of the Revised Code. Moneys in the drinking water 2656
assistance fund shall be separate and apart from and not a part of 2657
the state treasury or of the other funds of the authority. No 2658
withdrawals or disbursements shall be made from the drinking water 2659
assistance fund without the written authorization of the director. 2660

(E) The director shall adopt written criteria to ensure that 2661
fiscal controls are established for prudent administration of the 2662
drinking water assistance fund. For that purpose, the director and 2663
the authority shall enter into any necessary and appropriate 2664
agreements under which the authority may perform or provide any of 2665
the following: 2666

(1) Fiscal controls and accounting procedures governing fund 2667
balances, receipts, and disbursements; 2668

(2) Administration of loan accounts; 2669

(3) Maintenance, management, and investment of moneys in the 2670
fund. 2671

Any agreement entered into under division (E) of this section 2672
shall provide for the payment of reasonable fees to the authority 2673
for any services it performs under the agreement and may provide 2674

for reasonable fees for the assistance of financial or accounting 2675
advisors. Payment of any of the fees to the authority may be made 2676
from the drinking water assistance administrative account 2677
established under division (G) of this section. 2678

(F) The authority may make moneys available to the director 2679
for the purpose of providing matching moneys required to be 2680
credited to the drinking water assistance fund under division (B) 2681
of this section, subject to any terms that the director and the 2682
authority consider appropriate, and may pledge moneys that are 2683
held by the authority to secure the payment of bonds or notes 2684
issued by the authority to provide those matching moneys. 2685

The director and the authority may enter into trust 2686
agreements to enable the authority to issue and refund bonds or 2687
notes for the sole benefit of the drinking water assistance fund, 2688
including, without limitation, the raising of matching moneys 2689
required to be credited to the fund in accordance with division 2690
(B) of this section. The agreements may authorize the pledge of 2691
moneys accruing to the fund from payments of principal or interest 2692
or both on loans made from the fund to secure bonds or notes, the 2693
proceeds of which bonds or notes shall be for the sole benefit of 2694
the drinking water assistance fund. The agreements may contain any 2695
terms that the director and the authority consider reasonable and 2696
proper for the payment and security of the bondholders or 2697
noteholders. 2698

(G) There is hereby established within the drinking water 2699
assistance fund the drinking water assistance administrative 2700
account. No state matching moneys deposited into the fund under 2701
this section shall be used for the purpose of paying for or 2702
defraying the costs of administering this section. The director 2703
may establish and collect fees from applicants for assistance 2704
provided under this section. The total fees charged to an 2705
applicant under this division for assistance under this section 2706

shall not exceed the following: 2707

(1) For the environmental protection agency, one per cent of 2708
the principal amount of the assistance awarded to the applicant; 2709

(2) For the authority, thirty-five one-hundredths of one per 2710
cent of the principal amount of the assistance awarded to the 2711
applicant. 2712

All moneys from the fees shall be credited to the drinking 2713
water assistance administrative account in the fund. The moneys 2714
shall be used solely to defray the costs of administrating this 2715
section. 2716

(H) There is hereby established within the drinking water 2717
assistance fund the water supply revolving loan account. The 2718
director may provide financial assistance from the water supply 2719
revolving loan account for improvements to community water systems 2720
and to nonprofit noncommunity public water systems. 2721

(I) All moneys from the fund credited to the water supply 2722
revolving loan account, all interest earned on moneys credited to 2723
the account, and all payments of principal and interest on loans 2724
made from the account shall be dedicated in perpetuity and used 2725
and reused solely for the following purposes, except as otherwise 2726
provided in this section: 2727

(1) To make loans to community water systems and nonprofit 2728
noncommunity public water systems, subject to all of the following 2729
conditions: 2730

(a) The loans are made at or below market rates of interest, 2731
including, without limitation, interest-free loans; 2732

(b) Each recipient of a loan shall establish a dedicated 2733
source of security or revenue for repayment of the loan; 2734

(c) All payments of principal and interest on the loans shall 2735
be credited to the water supply revolving loan account. 2736

(2) To purchase or refinance at or below market rates	2737
interest debt obligations incurred after July 1, 1993, by	2738
municipal corporations, other political subdivisions, and	2739
interstate agencies having territory in the state;	2740
(3) To guarantee or purchase insurance for debt obligations	2741
when the guarantee or insurance would improve the borrower's	2742
access to credit markets or would reduce the interest paid on	2743
those obligations;	2744
(4) As a source of revenue or security for the payment of	2745
principal and interest on general obligation or revenue bonds or	2746
notes issued by this state if the proceeds of the sale of the	2747
bonds or notes are or will be deposited into the account;	2748
(5) To provide subsidies in addition to any other financial	2749
assistance afforded disadvantaged communities under this section;	2750
(6) To earn interest on moneys credited to the account;	2751
(7) To provide any other assistance authorized by the Safe	2752
Drinking Water Act <u>or any other federal law related to the use of</u>	2753
<u>federal funds administered under the Safe Drinking Water Act.</u>	2754
(J) The director may provide financial assistance from the	2755
water supply revolving loan account after determining all of the	2756
following:	2757
(1) The applicant for financial assistance has the legal,	2758
institutional, managerial, and financial capability to construct,	2759
operate, and maintain its public water system and the proposed	2760
improvements to it;	2761
(2) The applicant will implement a financial management plan	2762
that includes, without limitation, provisions for satisfactory	2763
repayment of the financial assistance;	2764
(3) The public water system of which the project for which	2765
assistance is proposed is a part is economically and nonmonetarily	2766

cost-effective, based on an evaluation of feasible alternatives 2767
that meet the drinking water treatment needs of the planning area 2768
in which the proposed project is located; 2769

(4) Based on a comprehensive environmental review approved by 2770
the director, there are no significant adverse environmental 2771
effects resulting from all necessary improvements to the public 2772
water system of which the project proposed for assistance is a 2773
part; 2774

(5) Public participation has occurred during the process of 2775
planning the project in compliance with applicable requirements 2776
under the Safe Drinking Water Act; 2777

(6) The application meets the requirements of this section 2778
and rules adopted under division (M) of this section and is 2779
consistent with section 1452 of the Safe Drinking Water Act and 2780
regulations adopted under it; 2781

(7) If the applicant for assistance is a water district 2782
formed under Chapter 6119. of the Revised Code that operates a 2783
public water system and that water district seeks to extend the 2784
distribution facilities, increase the number of service 2785
connections to its system, or provide for any other expansion of 2786
its system, the water district has consulted with the board of 2787
county commissioners from each county in which is located the 2788
proposed extension of distribution facilities, increase in the 2789
number of service connections, or other expansion of the public 2790
water system; 2791

(8) The application meets any other requirements that the 2792
director considers necessary or appropriate to protect public 2793
health and the environment and to ensure the financial integrity 2794
of the water supply revolving loan account. 2795

Upon approval by the director of an application for financial 2796
assistance, the Ohio water development authority shall disburse 2797

the appropriate financial assistance from the water supply 2798
revolving loan account. If the proposed financial assistance is a 2799
loan, and if the payments of the principal or interest on the loan 2800
are or are expected to be pledged to secure payment of bonds 2801
issued or expected to be issued by the authority, the director 2802
shall submit the application for the loan to the authority for 2803
review and approval with respect to any matters pertaining to 2804
security for and the marketability of authority bonds. Review and 2805
approval by the authority shall be required prior to the making of 2806
such a loan. 2807

(K) In accordance with rules adopted under division (M) of 2808
this section, the director periodically shall prepare a drinking 2809
water assistance management plan establishing the short-term and 2810
long-term goals for the assistance provided under this section, 2811
the allocation of available resources for the purposes of this 2812
section, the environmental, financial, and administrative terms, 2813
conditions, and criteria for the award of financial and technical 2814
assistance under this section, and the intended uses of 2815
capitalization grants and available moneys from the drinking water 2816
assistance fund. Criteria for awarding financial or technical 2817
assistance under this section shall not favor or disfavor any 2818
otherwise qualified nonprofit noncommunity public water system 2819
because it is owned by, operated by, or services a religious 2820
organization or a facility used for religious purposes. Prior to 2821
its adoption, the director shall make the drinking water 2822
assistance management plan available for public review and comment 2823
at a minimum of two public meetings and shall take adequate steps 2824
to ensure that reasonable public notice of each public meeting is 2825
given at least thirty days prior to the meeting. 2826

The plan shall include, without limitation, a system that 2827
prioritizes projects funded by the water supply revolving loan 2828
account based on the relative risk to human health being 2829

addressed, their necessity for ensuring compliance with 2830
requirements of the Safe Drinking Water Act, and their 2831
affordability to the applicants, as determined by the director. 2832
Financial assistance for projects from the water supply revolving 2833
loan account shall be limited to projects that are included in 2834
that prioritization and shall be awarded based upon their priority 2835
position and the applicants' readiness to proceed with their 2836
proposed activities as determined by the director. The drinking 2837
water assistance management plan shall include terms, conditions, 2838
amounts of moneys, and qualifying criteria, in addition to any 2839
other criteria established under this section, governing the 2840
financial assistance to be awarded to applicants from the water 2841
supply revolving loan account. The director shall determine the 2842
most effective use of the moneys in that account to achieve the 2843
state's drinking water assistance goals and objectives. 2844

(L) The director, consistent with this section and applicable 2845
rules adopted under division (M) of this section, may enter into 2846
an agreement with an applicant for assistance from the drinking 2847
water assistance fund. Based on the director's review and approval 2848
of the project plans submitted under section 6109.07 of the 2849
Revised Code, any determinations made under division (J) of this 2850
section if an applicant seeks funding from the water supply 2851
revolving loan account, and any other requirements of this section 2852
and rules adopted under it, the director may establish in the 2853
agreement environmental and financial terms and conditions of the 2854
financial assistance to be offered to the applicant. If the 2855
recipient of financial assistance under this section defaults on 2856
any payment required in the agreement for financial assistance or 2857
otherwise violates a term or condition of the agreement or of the 2858
plan approval for the project under section 6109.07 of the Revised 2859
Code, the director, in addition to any other available remedies, 2860
may terminate, suspend, or require immediate repayment of the 2861
financial assistance. The director also may take any enforcement 2862

action available under this chapter. 2863

(M) The director may adopt rules in accordance with Chapter 2864
119. of the Revised Code for the implementation and administration 2865
of this section. The rules shall be consistent with section 1452 2866
of the Safe Drinking Water Act. 2867

(N)(1) For the purposes of this section, appealable actions 2868
of the director pursuant to section 3745.04 of the Revised Code 2869
are limited to the following: 2870

(a) Adoption of the drinking water assistance management plan 2871
prepared under division (K) of this section; 2872

(b) Approval of priority systems, priority lists, and written 2873
program administration policies; 2874

(c) Approval or disapproval under this section of applicants' 2875
project plans submitted under section 6109.07 of the Revised Code; 2876

(d) Approval or disapproval of an application for assistance. 2877

(2) Notwithstanding section 119.06 of the Revised Code, the 2878
director may take the final actions described in divisions 2879
(N)(1)(a) to (d) of this section without holding an adjudication 2880
hearing in connection with the action and without first issuing a 2881
proposed action under section 3745.07 of the Revised Code. 2882

(3) Each action described in divisions (N)(1)(a) to (d) of 2883
this section and each approval of a plan under section 6109.07 of 2884
the Revised Code is a separate and discrete action of the 2885
director. Appeals are limited to the issues concerning the 2886
specific action appealed. Any appeal shall not include issues 2887
determined under the scope of any prior action. 2888

(O) The failure or inability of a public water system to 2889
obtain assistance under this section does not alter the obligation 2890
of the public water system to comply with all applicable 2891
requirements of this chapter and rules adopted under it. 2892

Sec. 6111.036. (A) There is hereby created the water 2893
pollution control loan fund to provide financial, technical, and 2894
administrative assistance for the following purposes: 2895

(1) Construction of publicly owned wastewater treatment 2896
works, as "construction" and "treatment works" are defined in 2897
section 212 of the "Federal Water Pollution Control Act," by 2898
municipal corporations, other political subdivisions, and 2899
interstate agencies having territory in this state; 2900

(2) Implementation of nonpoint source pollution management 2901
programs under section 319 of that act; 2902

(3) Development and implementation of estuary conservation 2903
and management programs under section 320 of that act. 2904

To the extent they are otherwise allowable as determined by 2905
the director of environmental protection, the purposes identified 2906
under division (A) of this section are intended to include 2907
activities benefiting the waters of the state that are authorized 2908
under Chapter 3746. of the Revised Code. 2909

The fund shall be administered by the director consistent 2910
with the "Federal Water Pollution Control Act"; regulations 2911
adopted under it, including, without limitation, regulations 2912
establishing public participation requirements applicable to the 2913
providing of financial assistance; this section; and rules adopted 2914
under division (O) of this section. 2915

Moneys in the water pollution control loan fund shall be 2916
separate and apart from and not a part of the state treasury or of 2917
the other funds of the Ohio water development authority. Subject 2918
to the terms of the agreements provided for in divisions (B), (C), 2919
(D), and (F) of this section, moneys in the fund shall be held in 2920
trust by the Ohio water development authority for the purposes of 2921
this section, shall be kept in the same manner that funds of the 2922

authority are kept under section 6121.11 of the Revised Code, and 2923
may be invested in the same manner that funds of the authority are 2924
invested under section 6121.12 of the Revised Code. No withdrawals 2925
or disbursements shall be made from the water pollution control 2926
loan fund without the written authorization of the director or ~~his~~ 2927
the director's designated representative. The manner of 2928
authorization for any withdrawals or disbursements from the fund 2929
to be made by the authority shall be established in the agreements 2930
authorized under division (C) of this section. 2931

(B) The director may enter into agreements to receive and 2932
assign moneys credited or to be credited to the water pollution 2933
control loan fund. The director may reserve capitalization grant 2934
moneys allotted to the state under sections 601 and 604(c)(2) of 2935
the "Federal Water Pollution Control Act" for the other purposes 2936
authorized for the use of capitalization grant moneys under 2937
sections 603(d)(7) and 604(b) of that act. 2938

(C) The director shall ensure that fiscal controls are 2939
established for prudent administration of the water pollution 2940
control loan fund. For that purpose, the director and the Ohio 2941
water development authority shall enter into any necessary and 2942
appropriate agreements under which the authority may perform or 2943
provide any of the following: 2944

(1) Fiscal controls and accounting procedures governing fund 2945
balances, receipts, and disbursements; 2946

(2) Administration of loan accounts; 2947

(3) Maintaining, managing, and investing moneys in the fund. 2948

Any agreement entered into under this division shall provide 2949
for the payment of reasonable fees to the Ohio water development 2950
authority for any services it performs under the agreement and may 2951
provide for reasonable fees for the assistance of financial or 2952
accounting advisors. Payments of any such fees to the authority 2953

may be made from the water pollution control loan fund to the 2954
extent authorized by division (H)(7) of this section or from the 2955
water pollution control loan administrative fund created in 2956
division (E) of this section. The authority may enter into loan 2957
agreements with the director and recipients of financial 2958
assistance from the fund as provided in this section. 2959

(D) The water pollution control loan fund shall consist of 2960
the moneys credited to it from all capitalization grants received 2961
under sections 601 and 604(c)(2) of the "Federal Water Pollution 2962
Control Act," all moneys received as capitalization grants under 2963
section 205(m) of that act, all matching moneys credited to the 2964
fund arising from nonfederal sources, all payments of principal 2965
and interest for loans made from the fund, and all investment 2966
earnings on moneys held in the fund. On or before the date on 2967
which a quarterly capitalization grant payment will be received 2968
under that act, matching moneys equal to at least twenty per cent 2969
of the quarterly capitalization grant payment shall be credited to 2970
the fund. The Ohio water development authority may make moneys 2971
available to the director for the purpose of providing the 2972
matching moneys required by this division, subject to such terms 2973
as the director and the authority consider appropriate, and may 2974
pledge moneys that are held by the authority to secure the payment 2975
of bonds or notes issued by the authority to provide those 2976
matching moneys. The authority may make moneys available to the 2977
director for that purpose from any funds now or hereafter 2978
available to the authority from any source, including, without 2979
limitation, the proceeds of bonds or notes heretofore or hereafter 2980
issued by the authority under Chapter 6121. of the Revised Code. 2981
Matching moneys made available to the director by the authority 2982
from the proceeds of any such bonds or notes shall be made 2983
available subject to the terms of the trust agreements relating to 2984
the bonds or notes. Any such matching moneys shall be made 2985
available to the director pursuant to a written agreement between 2986

the director and the authority that contains such terms as the 2987
director and the authority consider appropriate, including, 2988
without limitation, a provision providing for repayment to the 2989
authority of those matching moneys from moneys deposited in the 2990
water pollution control loan fund, including, without limitation, 2991
the proceeds of bonds or notes issued by the authority for the 2992
benefit of the fund and payments of principal and interest on 2993
loans made from the fund, or from any other sources now or 2994
hereafter available to the director for the repayment of those 2995
matching moneys. 2996

(E) All moneys credited to the water pollution control loan 2997
fund, all interest earned on moneys in the fund, and all payments 2998
of principal and interest for loans made from the fund shall be 2999
dedicated in perpetuity and used and reused solely for the 3000
purposes set forth in division (A) of this section, except as 3001
otherwise provided in division (D) or (F) of this section. The 3002
director may establish and collect fees to be paid by recipients 3003
of financial assistance under this section, and all moneys arising 3004
from the fees shall be credited to the water pollution control 3005
loan administrative fund, which is hereby created in the state 3006
treasury, and shall be used to defray the costs of administering 3007
this section. 3008

(F) The director and the Ohio water development authority 3009
shall enter into trust agreements to enable the authority to issue 3010
and refund bonds or notes for the sole benefit of the water 3011
pollution control loan fund, including, without limitation, the 3012
raising of the matching moneys required by division (D) of this 3013
section. These agreements may authorize the pledge of moneys 3014
accruing to the fund from payments of principal and interest on 3015
loans made from the fund adequate to secure bonds or notes, the 3016
proceeds of which bonds or notes shall be for the sole benefit of 3017
the water pollution control loan fund. The agreements may contain 3018

such terms as the director and the authority consider reasonable 3019
and proper for the security of the bondholders or noteholders. 3020

(G) The director shall enter into binding commitments to 3021
provide financial assistance from the water pollution control loan 3022
fund in an amount equal to one hundred twenty per cent of the 3023
amount of each capitalization grant payment received, within one 3024
year after receiving each such grant payment. The director shall 3025
provide the financial assistance in compliance with this section 3026
and rules adopted under division (O) of this section. The director 3027
shall ensure that all moneys credited to the fund are disbursed in 3028
an expeditious and timely manner. During the second year of 3029
operation of the water pollution control loan program, the 3030
director also shall ensure that not less than twenty-five per cent 3031
of the financial assistance provided under this section during 3032
that year is provided for the purpose of division (H)(2) of this 3033
section for the purchase or refinancing of debt obligations 3034
incurred after March 7, 1985, but not later than July 1, 1988, 3035
except that if the amount of money reserved during the second year 3036
of operation of the program for the purchase or refinancing of 3037
those debt obligations exceeds the amount required for the 3038
projects that are eligible to receive financial assistance for 3039
that purpose, the director shall distribute the excess moneys in 3040
accordance with the current priority system and list prepared 3041
under division (I) of this section to provide financial assistance 3042
for projects that otherwise would not receive assistance in that 3043
year. 3044

(H) Moneys credited to the water pollution control loan fund 3045
shall be used only for the following purposes: 3046

(1) To make loans, subject to all of the following 3047
conditions: 3048

(a) The loans are made at or below market rates of interest, 3049
including, without limitation, interest free loans; 3050

(b) Periodic payments of principal and interest shall 3051
commence not later than one year after completion of the project, 3052
and all loans shall be fully amortized not later than twenty years 3053
after project completion; 3054

(c) Each recipient of a loan shall establish a dedicated 3055
source of revenue for repayment of the loan; 3056

(d) All payments of principal and interest on the loans shall 3057
be credited to the fund, except as otherwise provided in division 3058
(D) or (F) of this section. 3059

(2) To purchase or refinance at or below market rates of 3060
interest debt obligations incurred after March 7, 1985, by 3061
municipal corporations, other political subdivisions, and 3062
interstate agencies having territory in the state; 3063

(3) To guarantee or purchase insurance for debt obligations 3064
of municipal corporations, other political subdivisions, and 3065
interstate agencies having territory within the state when the 3066
guarantee or insurance would improve the borrower's access to 3067
credit markets or would reduce the interest rate paid on those 3068
obligations; 3069

(4) As a source of revenue or security for the payment of 3070
principal and interest on general obligation or revenue bonds or 3071
notes issued by this state if the proceeds of the sale of the 3072
bonds or notes will be deposited in the fund; 3073

(5) To provide loan guarantees for revolving loan funds 3074
established by municipal corporations and other political 3075
subdivisions that are similar to the water pollution control loan 3076
fund; 3077

(6) To earn interest on moneys credited to the fund; 3078

(7) To pay the reasonable costs of administering the fund and 3079
this section, except that cumulative expenditures from the fund 3080

for administrative costs shall not at any time exceed four per cent of the total amount of the capitalization grants received;

(8) To provide assistance in any manner or for any purpose that is consistent with Title VI of the Federal Water Pollution Control Act or with any other federal law related to the use of federal funds administered under Title VI of the Federal Water Pollution Control Act.

(I) The director periodically shall prepare in accordance with rules adopted under division (O) of this section a state priority system and list ranking assistance proposals principally on the basis of their relative water quality and public health benefits and the financial need of the applicants for assistance. Assistance for proposed activities from the water pollution control loan fund shall be limited to those activities appearing on that priority list and shall be awarded based upon their priority sequence on the list and the applicants' readiness to proceed with their proposed activities. The director annually shall prepare and circulate for public review and comment a plan that defines the goals and intended uses of the fund, as required by section 606(c) of the "Federal Water Pollution Control Act."

(J) Financial assistance from the water pollution control loan fund first shall be used to ensure maintenance of progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and requirements under the "Federal Water Pollution Control Act" that are pertinent to the purposes of the fund set forth in divisions (A)(1) to (3) of this section, including, without limitation, the municipal compliance deadline under that act.

(K) The director may provide financial assistance from the water pollution control loan fund for a publicly owned treatment works project only after determining that:

- (1) Sewerage systems tributary to the treatment works are not 3112
subject to excessive infiltration and inflow; 3113
- (2) The applicant for financial assistance has the legal, 3114
institutional, managerial, and financial capability to construct, 3115
operate, and maintain its publicly owned treatment works; 3116
- (3) The applicant will implement a financial management plan 3117
that includes, without limitation, provisions for satisfactory 3118
repayment of the financial assistance, a proportional user charge 3119
system to pay the operation, maintenance, and replacement expenses 3120
of the project, and, if appropriate in the director's judgment, an 3121
adequate capital improvements fund; 3122
- (4) The proposed disposal system of which the project is a 3123
part is economically and nonmonetarily cost-effective, based upon 3124
an evaluation of feasible alternatives that meet the waste water 3125
treatment needs of the planning area in which the proposed project 3126
is located; 3127
- (5) Based upon the environmental review conducted by the 3128
director under division (L) of this section, there are no 3129
significant adverse environmental effects resulting from the 3130
proposed disposal system and the system has been selected from 3131
among environmentally sound alternatives; 3132
- (6) Public participation has occurred during the process of 3133
planning the project in compliance with applicable requirements 3134
under the "Federal Water Pollution Control Act"; 3135
- (7) The applicant has submitted a facilities plan for the 3136
project that meets the applicable program requirements and that 3137
has been approved by the director; 3138
- (8) The application meets the requirements of this section 3139
and rules adopted under division (O) of this section and is 3140
consistent with the intent of Title VI of the "Federal Water 3141
Pollution Control Act" and regulations adopted under it; 3142

(9) The application meets such other requirements as the 3143
director considers necessary or appropriate to protect the 3144
environment or ensure the financial integrity of the fund while 3145
implementing this section. 3146

(L) The director shall perform and document for public review 3147
an independent, comprehensive environmental review of the 3148
assistance proposal for each activity receiving financial 3149
assistance under this section. The review shall serve as the basis 3150
for the determinations to be made under division (K)(5) or (Q)(4) 3151
of this section, as applicable, and may include, without 3152
limitation, an environmental assessment, any necessary 3153
supplemental studies, and an enforceable mitigation plan. The 3154
director may establish environmental impact mitigation terms or 3155
conditions for the implementation of an assistance proposal, 3156
including, without limitation, the installation or modification of 3157
a disposal system, in ~~his~~ the director's approval of the plans for 3158
the installation or modification as authorized by section 6111.44 3159
of the Revised Code or through other legally enforceable means. 3160
The review shall be conducted in accordance with applicable rules 3161
adopted under division (O) of this section. 3162

(M) The director, consistent with this section and applicable 3163
rules adopted under division (O) of this section, may enter into 3164
any agreement with an applicant that is necessary or appropriate 3165
to provide assistance from the water pollution control loan fund. 3166
Based upon ~~his~~ the director's review of an assistance proposal, 3167
including, without limitation, approval for the project under 3168
section 6111.44 of the Revised Code, the environmental review 3169
conducted under division (L) of this section, and the other 3170
requirements of this section and rules adopted under it, the 3171
director may establish in the agreement terms and conditions of 3172
the assistance to be offered to an applicant. In addition to any 3173
other available remedies, the director may terminate, suspend, or 3174

require immediate repayment of financial assistance provided under 3175
this section to, or take any other enforcement action available 3176
under this chapter against, a recipient of financial assistance 3177
under this section who defaults on any payment required in the 3178
agreement for financial assistance or otherwise violates a term or 3179
condition of the agreement or of the plan approval for the project 3180
under section 6111.44 of the Revised Code. 3181

(N) Based upon the director's judgment as to the financial 3182
need of the applicant and as to what constitutes the most 3183
effective allocation of funds to achieve statewide water pollution 3184
control objectives, the director may establish the terms, 3185
conditions, and amount of financial assistance to be offered to an 3186
applicant from the water pollution control loan fund. The 3187
director, to the extent consistent with the water quality 3188
improvement priorities reflected in the current priority system 3189
and list prepared under division (I) of this section and with the 3190
long-term financial integrity of the fund, shall ensure each year 3191
that financial assistance in an amount equal to the cost of the 3192
assistance proposals of applicants having a high level of economic 3193
need that are on the current priority list and for which funding 3194
is available in that year is made available from the fund to those 3195
applicants at an interest rate that is lower than that offered to 3196
other applicants for financial assistance from the fund for 3197
assistance proposals that are on the current priority list and for 3198
which funding is available in that year. 3199

The director shall determine the economic need of applicants 3200
for financial assistance in accordance with uniform criteria 3201
established in rules adopted under division (O) of this section. 3202

(O) The director may adopt rules in accordance with Chapter 3203
119. of the Revised Code for the implementation and administration 3204
of this section and section 6111.037 of the Revised Code. Any such 3205
rules governing the planning, design, and construction of water 3206

pollution control projects, establishing an environmental review 3207
process, establishing requirements for the preparation of 3208
environmental impact reports and mitigation plans, governing the 3209
establishment of priority systems for providing financial 3210
assistance under this section and section 6111.037 of the Revised 3211
Code, and governing the terms and conditions of assistance, shall 3212
be consistent with the intent of Titles II and VI and sections 319 3213
and 320 of the "Federal Water Pollution Control Act." The rules 3214
governing the establishment of priority systems for financial 3215
assistance and governing terms and conditions of assistance shall 3216
provide for the most effective allocation of moneys from the water 3217
pollution control loan fund to achieve water quality and public 3218
health objectives throughout the state as determined by the 3219
director. 3220

(P)(1) For the purpose of this section, appealable actions of 3221
the director pursuant to section 3745.04 of the Revised Code are 3222
limited to the following: 3223

(a) Approval of draft priority systems, draft priority lists, 3224
and draft written program administration policies; 3225

(b) Approval or disapproval of project facility plans under 3226
division (K)(7) of this section; 3227

(c) Approval or disapproval of plans and specifications for a 3228
project under section 6111.44 of the Revised Code and issuance of 3229
a permit to install in connection with a project pursuant to rules 3230
adopted under section 6111.03 of the Revised Code; 3231

(d) Approval or disapproval of an application for assistance. 3232

(2) Notwithstanding section 119.06 of the Revised Code, the 3233
director may take final action described in division (P)(1)(a), 3234
(b), (c), or (d) of this section without holding an adjudication 3235
hearing in connection with the action and without first issuing a 3236
proposed action under section 3745.07 of the Revised Code. 3237

(3) Each action described in divisions (P)(1)(a), (b), (c), 3238
and (d) of this section is a separate and discrete action of the 3239
director. Appeals of any such action are limited to the issues 3240
concerning the specific action appealed, and the appeal shall not 3241
include issues determined under the scope of any prior action. 3242

(Q) The director may provide financial assistance for the 3243
implementation of a nonpoint source management program activity 3244
only after determining all of the following: 3245

(1) The activity is consistent with the state's nonpoint 3246
source management program; 3247

(2) The applicant has the legal, institutional, managerial, 3248
and financial capability to implement, operate, and maintain the 3249
activity; 3250

(3) The cost of the activity is reasonable considering 3251
monetary and nonmonetary factors; 3252

(4) Based on the environmental review conducted by the 3253
director under division (L) of this section, the activity will not 3254
result in significant adverse environmental impacts; 3255

(5) The application meets the requirements of this section 3256
and rules adopted under division (O) of this section and is 3257
consistent with the intent of Title VI of the "Federal Water 3258
Pollution Control Act" and regulations adopted under it; 3259

(6) The applicant will implement a financial management plan, 3260
including, without limitation, provisions for satisfactory 3261
repayment of the financial assistance; 3262

(7) The application meets such other requirements as the 3263
director considers necessary or appropriate to protect the 3264
environment and ensure the financial integrity of the fund while 3265
implementing this section. 3266

(R) As used in this section, "Federal Water Pollution Control 3267

Act" means the "Federal Water Pollution Control Act Amendments of 3268
1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean 3269
Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of 3270
October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal 3271
Wastewater Treatment Construction Grant Amendments of 1981," 95 3272
Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 3273
101 Stat. 7, 33 U.S.C.A. 1251. 3274

Section 2. That existing sections 122.12, 135.143, 148.06, 3275
926.31, 1501.04, 1517.23, 3302.03, 3313.44, 4928.01, 5709.62, 3276
5709.63, 5709.632, 5739.02, 5751.08, 5751.09, 6109.22, and 3277
6111.036 of the Revised Code are hereby repealed. 3278

Section 3. Beginning July 1, 2010, and ending January 1, 3279
2012, the Director of Budget and Management, upon the request of 3280
the Director of Natural Resources, shall transfer an amount not to 3281
exceed \$1.2 million from the Natural Areas and Preserves Fund 3282
created in section 1517.11 of the Revised Code (Fund 5220) to the 3283
Departmental Projects Fund (Fund 1550) for the purpose of paying 3284
the salaries of permanent employees of the Division of Natural 3285
Areas and Preserves through January 1, 2012. If such an amount is 3286
so transferred, the Director of Natural Resources, not later than 3287
March 1, 2011, shall submit to the Speaker of the House of 3288
Representatives and the President of the Senate a detailed report 3289
of expenditures from the Departmental Projects Fund (Fund 1550) 3290
for payment of salaries of permanent employees of the Division of 3291
Natural Areas and Preserves. 3292

Section 4. Beginning July 1, 2010, and ending December 31, 3293
2010, the Administrator of the Bureau of Workers' Compensation 3294
shall transfer a portion of the investment earnings credited to 3295
the Coal-Workers Pneumoconiosis Fund created in section 4131.03 of 3296
the Revised Code in an amount not to exceed \$2.28 million to the 3297

Strip Mining Administration Fund (Fund 5260) for the purposes 3298
specified in section 1513.181 of the Revised Code. Transfers from 3299
the Coal-Workers Pneumoconiosis Fund to the Strip Mining 3300
Administration Fund (Fund 5260) are prohibited after December 31, 3301
2010. 3302

Section 5. That section 3313.44 of the Revised Code, as 3303
amended by this act, is remedial in nature and applies to tax 3304
years at issue in any application for exemption from taxation 3305
pending before the Tax Commissioner, Ohio Board of Tax Appeals, 3306
any Court of Appeals, or the Supreme Court on the effective date 3307
of this act and to the property that is the subject of the 3308
application. 3309

Section 6. A person may request a refund of the annual 3310
minimum commercial activity tax paid for calendar year 2007, 2008, 3311
or 2009 under Chapter 5751. of the Revised Code if the person 3312
satisfies both of the following: 3313

(A) The person was not subject to the tax for 2007, 2008, or 3314
2009 because the person was an excluded person under division 3315
(E)(1) of section 5751.01 of the Revised Code. 3316

(B) The person erroneously registered for the tax and failed 3317
to cancel the registration before the tenth day of February of the 3318
calendar year for which the tax was paid. 3319

Section 7. The items set forth in this section are hereby 3320
appropriated for fiscal years 2011 and 2012 out of any moneys in 3321
the state treasury to the credit of the Job Ready Site Development 3322
Fund (Fund 7012) that are not otherwise appropriated: 3323

Appropriations

DEV DEPARTMENT OF DEVELOPMENT 3324

C19502 Job Ready Sites \$ 30,000,000 3325

Total Department of Development	\$	30,000,000	3326
TOTAL Job Ready Site Development Fund	\$	30,000,000	3327

Section 8. JOB READY SITE DEVELOPMENT 3329

The Ohio Public Facilities Commission, upon request of the 3330
Department of Development, is hereby authorized to issue and sell, 3331
in accordance with Section 2p of Article VIII, Ohio Constitution, 3332
and pursuant to sections 151.01 and 151.11 of the Revised Code, 3333
original obligations of the State of Ohio in an aggregate amount 3334
not to exceed \$30,000,000 in addition to the original issuance of 3335
obligations heretofore authorized by prior acts of the General 3336
Assembly. These authorized obligations shall be issued and sold 3337
from time to time, subject to applicable constitutional and 3338
statutory limitations, as needed to ensure sufficient moneys to 3339
the credit of the Job Ready Site Development Fund (Fund 7012) to 3340
pay costs of sites and facilities. 3341

Section 9. The items set forth in this section are hereby 3342
appropriated for fiscal years 2011 and 2012 out of any moneys in 3343
the state treasury to the credit of the Clean Ohio Revitalization 3344
Fund (Fund 7003) that are not otherwise appropriated: 3345

Appropriations

DEV DEPARTMENT OF DEVELOPMENT			3346
C19500 Clean Ohio Revitalization	\$	80,000,000	3347
C19501 Clean Ohio Assistance	\$	20,000,000	3348
Total Department of Development	\$	100,000,000	3349
TOTAL Clean Ohio Assistance Fund	\$	100,000,000	3350

Section 10. CLEAN OHIO REVITALIZATION 3352

The Treasurer of State is hereby authorized to issue and 3353
sell, in accordance with Section 2o and 2q of Article VIII, Ohio 3354
Constitution, and pursuant to sections 151.01 and 151.40 of the 3355
Revised Code, original obligations in an aggregate principal 3356

amount not to exceed \$100,000,000 in addition to the original 3357
issuance of obligations heretofore authorized by prior acts of the 3358
General Assembly. These authorized obligations shall be issued and 3359
sold from time to time, subject to applicable constitutional and 3360
statutory limitations, as needed to ensure sufficient moneys to 3361
the credit of the Clean Ohio Revitalization Fund (Fund 7003) to 3362
pay costs of revitalization projects. 3363

CLEAN OHIO PROJECT SAVINGS REALLOCATION 3364

Notwithstanding division (A) of section 122.658 of the 3365
Revised Code, the Director of Development may reallocate moneys 3366
for the purposes of section 122.653 or 122.656 of the Revised Code 3367
if the Department of Development realizes Clean Ohio Fund project 3368
savings attributable to any of the following instances: 3369

(A) The completion of any project for less than the amount of 3370
grant funds awarded, subject to the local matching funds 3371
participation requirement; 3372

(B) The cancellation of grant awards in which Clean Ohio Fund 3373
moneys have been encumbered for a project but not disbursed, 3374
including those for which a grantee has decided not to proceed 3375
with a project or for which the project term has expired without 3376
substantial project progress; or 3377

(C) Any recapture of Clean Ohio Fund moneys due to a 3378
grantee's default or failure to perform the conditions of the 3379
grant agreement. 3380

Section 11. (A) The ARRA Compliance Fund (Fund 5JA0) is 3381
hereby created in the state treasury. The fund shall be used by 3382
the Department of Education to make adjustments to state support 3383
for local education agencies to meet State Fiscal Stabilization 3384
Fund requirements under the American Recovery and Reinvestment 3385
Act. These requirements are that the state maintain support for 3386

elementary and secondary education to at least the level supported 3387
for fiscal year 2006, and that state payments under the primary 3388
funding formula to local education agencies for fiscal year 2010 3389
and fiscal year 2011 be not less than payments under the primary 3390
funding formula for fiscal year 2009. However, if payments under 3391
the primary funding formula for fiscal year 2010 or fiscal year 3392
2011 are lower than payments under the primary funding formula for 3393
fiscal year 2009, the shortfall in payments must be proportional 3394
to the corresponding shortfall in state aid to public institutions 3395
of higher education. The adjustments under division (B) of this 3396
section shall be made only for the purpose of meeting State Fiscal 3397
Stabilization Fund requirements for fiscal year 2010 under the 3398
American Recovery and Reinvestment Act. 3399

(B) If state payments for elementary and secondary education 3400
provided under the primary funding formula for fiscal year 2010 3401
are less than required, as described in division (A) of this 3402
section, on or before June 1, 2010, or as soon as possible 3403
thereafter, the Superintendent of Public Instruction shall certify 3404
to the Director of Budget and Management the amount by which 3405
funding levels are lower than required as the "ARRA compliance 3406
difference." The Superintendent of Public Instruction, in 3407
consultation with the Director of Budget and Management, shall 3408
identify encumbrances that are no longer needed for fiscal year 3409
2010 and prior years against General Revenue Fund appropriations 3410
in the Department of Education's budget equal to the ARRA 3411
compliance difference. The Director of Budget and Management shall 3412
transfer cash in the amount of the identified fiscal year 2010 3413
encumbered balances no longer needed in appropriation item 200502, 3414
Pupil Transportation, and appropriation item 200550, Foundation 3415
Funding, and up to \$20,000,000 of identified encumbered balances 3416
no longer needed in other General Revenue Fund appropriation items 3417
in the Department of Education's budget, from the General Revenue 3418

Fund to the ARRA Compliance Fund (Fund 5JA0). The amount of 3419
transferred encumbered balances from appropriation items other 3420
than 200502 and 200550 shall not total more than \$20,000,000. The 3421
Department of Education shall seek Controlling Board approval if 3422
the needed cash transfer into the ARRA Compliance Fund (Fund 5JA0) 3423
exceeds \$25,000,000. The transferred cash shall be used by the 3424
Department of Education to provide additional subsidy, on a per 3425
pupil basis, to city, local, and exempted village school 3426
districts, community schools, and STEM schools. 3427

Section 12. That Sections 265.30.40 and 265.40.60 of Am. Sub. 3428
H.B. 1 of the 128th General Assembly be amended to read as 3429
follows: 3430

Sec. 265.30.40. FOUNDATION FUNDING 3431

The foregoing appropriation item 200550, Foundation Funding, 3432
includes \$92,300,000 in fiscal year 2010 and \$92,700,000 in fiscal 3433
year 2011 for the state education aid offset due to the change in 3434
public utility valuation as a result of Am. Sub. S.B. 3 and Am. 3435
Sub. S.B. 287, both of the 123rd General Assembly. For each fiscal 3436
year, this amount represents the greater of the total state 3437
education aid offset calculated for that fiscal year or for fiscal 3438
year 2009 due to the valuation change for school districts and the 3439
total state education aid offset calculated for fiscal year 2009 3440
for joint vocational school districts from all relevant 3441
appropriation line item sources. Upon certification by the 3442
Department of Education, in consultation with the Department of 3443
Taxation, to the Director of Budget and Management of the actual 3444
state aid offsets, the cash transfer from the School District 3445
Property Tax Replacement - Utility Fund (Fund 7053) to the General 3446
Revenue Fund shall be decreased or increased by the Director of 3447
Budget and Management to match the certification in accordance 3448
with section 5727.84 of the Revised Code. 3449

The foregoing appropriation item 200550, Foundation Funding, 3450
includes \$127,700,000 in fiscal year 2010 and \$126,600,000 in 3451
fiscal year 2011 for the state education aid offset because of the 3452
changes in tangible personal property valuation as a result of Am. 3453
Sub. H.B. 66 of the 126th General Assembly. For each fiscal year, 3454
this amount represents the greater of the total state education 3455
aid offset calculated for that fiscal year or for fiscal year 2009 3456
because of the valuation change for school districts and the total 3457
state education aid offset calculated for fiscal year 2009 for 3458
joint vocational school districts from all relevant appropriation 3459
item sources. Upon certification by the Department of Education of 3460
the actual state education aid offsets to the Director of Budget 3461
and Management, the cash transfer from the School District 3462
Tangible Property Tax Replacement - Business Fund (Fund 7047) to 3463
the General Revenue Fund shall be decreased or increased by the 3464
Director of Budget and Management to match the certification in 3465
accordance with section 5751.21 of the Revised Code. 3466

Of the foregoing appropriation item 200550, Foundation 3467
Funding, up to \$425,000 shall be expended in each fiscal year for 3468
court payments under section 2151.362 of the Revised Code. 3469

Of the foregoing appropriation item 200550, Foundation 3470
Funding, up to \$15,000,000 in each fiscal year shall be reserved 3471
for payments under sections 3317.026, 3317.027, and 3317.028 of 3472
the Revised Code except that the Controlling Board may increase 3473
the \$15,000,000 amount if presented with such a request from the 3474
Department of Education. 3475

Of the foregoing appropriation item 200550, Foundation 3476
Funding, up to \$8,100,000 in each fiscal year shall be used to 3477
fund gifted education units at educational service centers under 3478
division (L) of section 3317.024 of the Revised Code, 3479
notwithstanding divisions (D)(3) and (6) of section 3317.018 of 3480
the Revised Code. 3481

Of the foregoing appropriation item 200550, Foundation 3482
Funding, an amount shall be available in each fiscal year to be 3483
used by the Department of Education for transitional aid for 3484
school districts under section 3306.19 of the Revised Code. 3485

Of the foregoing appropriation item 200550, Foundation 3486
Funding, up to \$10,000,000 in each fiscal year shall be used to 3487
provide additional state aid to school districts for special 3488
education students under division (C)(3) of section 3317.022 of 3489
the Revised Code, except that the Controlling Board may increase 3490
these amounts if presented with such a request from the Department 3491
of Education at the final meeting of the fiscal year; up to 3492
\$2,000,000 in each fiscal year shall be reserved for Youth 3493
Services tuition payments under section 3317.024 of the Revised 3494
Code; and up to \$46,400,000 in each fiscal year shall be reserved 3495
to fund the state reimbursement of educational service centers 3496
under section 3317.11 of the Revised Code and the section of ~~this~~ 3497
~~act~~ Am. Sub. H.B. 1 of the 128th General Assembly entitled 3498
"EDUCATIONAL SERVICE CENTERS FUNDING." 3499

Of the foregoing appropriation item 200550, Foundation 3500
Funding, up to \$1,000,000 in each fiscal year shall be used by the 3501
Department of Education for a program to pay for educational 3502
services for youth who have been assigned by a juvenile court or 3503
other authorized agency to any of the facilities described in 3504
division (A) of the section of ~~this act~~ Am. Sub. H.B. 1 of the 3505
128th General Assembly entitled "PRIVATE TREATMENT FACILITY 3506
PROJECT." 3507

Of the foregoing appropriation item 200550, Foundation 3508
Funding, up to \$8,686,000 in fiscal year 2010 and up to \$8,722,860 3509
in fiscal year 2011 shall be used to operate school choice 3510
programs. 3511

Of the portion of the funds distributed to the Cleveland 3512
Municipal School District under this section, up to \$11,901,887 in 3513

each fiscal year shall be used to operate the school choice 3514
program in the Cleveland Municipal School District under sections 3515
3313.974 to 3313.979 of the Revised Code. Notwithstanding 3516
divisions (B) and (C) of section 3313.978 and division (C) of 3517
section 3313.979 of the Revised Code, up to \$1,000,000 in each 3518
fiscal year of this amount shall be used by the Cleveland 3519
Municipal School District to provide tutorial assistance as 3520
provided in division (H) of section 3313.974 of the Revised Code. 3521
The Cleveland Municipal School District shall report the use of 3522
these funds in the district's three-year continuous improvement 3523
plan as described in section 3302.04 of the Revised Code in a 3524
manner approved by the Department of Education. 3525

Of the foregoing appropriation item 200550, Foundation 3526
Funding, an amount shall be available in each fiscal year to be 3527
paid to joint vocational school districts in accordance with the 3528
section of ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly 3529
entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 3530

Of the foregoing appropriation item 200550, Foundation 3531
Funding, \$10,500,000 in fiscal year 2010 shall be transferred to 3532
appropriation item 200511, Auxiliary Services, for the purpose of 3533
implementing section 3317.06 of the Revised Code. 3534

Of the foregoing appropriation item 200550, Foundation 3535
Funding, \$4,500,000 in fiscal year 2010 shall be transferred to 3536
appropriation item 200532, Nonpublic Administrative Cost 3537
Reimbursement, for the purpose of implementing section 3317.063 of 3538
the Revised Code. 3539

Appropriation items 200502, Pupil Transportation, 200540, 3540
Special Education Enhancements, 200550, Foundation Funding, and 3541
200551, Foundation Funding - Federal Stimulus, other than specific 3542
set-asides, are collectively used in each fiscal year to pay state 3543
formula aid obligations for school districts, community schools, 3544
and joint vocational school districts under ~~this act~~ Am. Sub. H.B. 3545

1 of the 128th General Assembly. The first priority of these 3546
appropriation items, with the exception of specific set-asides, is 3547
to fund state formula aid obligations. It may be necessary to 3548
reallocate funds among these appropriation items or use excess 3549
funds from other general revenue fund appropriation items in the 3550
Department of Education's budget in each fiscal year, in order to 3551
meet state formula aid obligations. If it is determined that it is 3552
necessary to transfer funds among these appropriation items or to 3553
transfer funds from other General Revenue Fund appropriations in 3554
the Department of Education's budget to meet state formula aid 3555
obligations, the Department of Education shall seek approval from 3556
the Controlling Board to transfer funds as needed. 3557

Sec. 265.40.60. LOTTERY PROFITS EDUCATION RESERVE FUND 3558

(A) There is hereby created the Lottery Profits Education 3559
Reserve Fund (Fund 7018) in the State Treasury. Investment 3560
earnings of the Lottery Profits Education Reserve Fund shall be 3561
credited to the fund. The Superintendent of Public Instruction may 3562
certify cash balances exceeding \$75,000,000 in Fund 7018 to the 3563
Director of Budget and Management in June of any given fiscal 3564
year. Prior to making the certification, the Superintendent of 3565
Public Instruction shall determine whether the funds above the 3566
\$75,000,000 threshold are needed to help pay for foundation 3567
program obligations for that fiscal year. 3568

For fiscal years 2010 and 2011, notwithstanding any 3569
provisions of law to the contrary, amounts necessary to make loans 3570
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 3571
Revised Code are hereby appropriated to Fund 7018. Loan repayments 3572
from loans made in previous years shall be deposited to the fund. 3573

(B) Notwithstanding any other provision of law to the 3574
contrary, the Director of Budget and Management shall transfer 3575
\$40,000,000 cash from Fund 7018 to the Lottery Profits Education 3576

Fund (Fund 7017) in fiscal year 2010. 3577

~~(B)~~(C) On July 15, 2009, or as soon as possible thereafter, 3578
the Director of the Ohio Lottery Commission shall certify to the 3579
Director of Budget and Management the amount by which lottery 3580
profit transfers received by ~~the Lottery Profits Education Fund~~ 3581
~~(Fund 7017)~~ Fund 7017 exceeded \$667,900,000 in fiscal year 2009. 3582
The Director of Budget and Management may transfer the amount so 3583
certified, plus the cash balance in Fund 7017, to Fund 7018. 3584

~~(C)~~(D) On July 15, 2010, or as soon as possible thereafter, 3585
the Director of the Ohio Lottery Commission shall certify to the 3586
Director of Budget and Management the amount by which lottery 3587
profit transfers received by Fund 7017 exceeded \$705,000,000 in 3588
fiscal year 2010. The Director of Budget and Management may 3589
transfer the amount so certified, plus the cash balance in Fund 3590
7017, to Fund 7018. 3591

~~(D)~~(E) Any amounts transferred under division ~~(B)~~(C) or 3592
~~(C)~~(D) of this section may be made available by the Controlling 3593
Board in fiscal years 2010 or 2011, at the request of the 3594
Superintendent of Public Instruction, to provide assistance and 3595
grants to school districts to enable them to remain solvent and to 3596
pay unforeseeable expenses of a temporary or emergency nature that 3597
they are unable to pay from existing resources under section 3598
3316.20 of the Revised Code, and to provide state foundation 3599
payments to school districts. 3600

Section 13. That existing Sections 265.30.40 and 265.40.60 of 3601
Am. Sub. H.B. 1 of the 128th General Assembly are hereby repealed. 3602

Section 14. That Section 265.10 of Am. Sub. H.B. 1 of the 3603
128th General Assembly, as subsequently amended by Sub. H.B. 318 3604
of the 128th General Assembly, be amended to read as follows: 3605

Sec. 265.10. EDU DEPARTMENT OF EDUCATION				3606
General Revenue Fund				3607
GRF 200100	Personal Services	\$ 10,490,789	\$ 10,723,972	3608
GRF 200320	Maintenance and Equipment	\$ 3,110,071	\$ 3,144,897	3609
GRF 200408	Early Childhood Education	\$ 23,268,341	\$ 23,268,341	3610
GRF 200416	Career-Technical Education Match	\$ 2,233,195	\$ 2,233,195	3611
GRF 200420	Computer/Application/ Network Development	\$ 4,880,871	\$ 4,880,871	3612
GRF 200421	Alternative Education Programs	\$ 7,814,479	\$ 7,918,749	3613
GRF 200422	School Management Assistance	\$ 1,950,521	\$ 3,230,469	3614
GRF 200424	Policy Analysis	\$ 356,311	\$ 361,065	3615
GRF 200425	Tech Prep Consortia Support	\$ 1,243,943	\$ 1,260,542	3616
GRF 200426	Ohio Educational Computer Network	\$ 20,156,602	\$ 20,425,556	3617
GRF 200427	Academic Standards	\$ 5,300,074	\$ 5,300,074	3618
GRF 200431	School Improvement Initiatives	\$ 7,294,175	\$ 7,391,503	3619
GRF 200437	Student Assessment	\$ 55,954,648	\$ 56,703,265	3620
GRF 200439	Accountability/Report Cards	\$ 3,804,673	\$ 3,804,673	3621
GRF 200442	Child Care Licensing	\$ 865,590	\$ 877,140	3622
GRF 200446	Education Management Information System	\$ 13,199,152	\$ 11,934,284	3623
GRF 200447	GED Testing	\$ 975,536	\$ 988,553	3624
GRF 200448	Educator Preparation	\$ 1,310,750	\$ 1,328,240	3625
GRF 200455	Community Schools	\$ 1,000,000	\$ 1,000,000	3626

GRF 200457	STEM Initiatives	\$	5,000,000	\$	5,000,000	3627
GRF 200458	School Employees	\$	800,000	\$	800,000	3628
	Health Care Board					
GRF 200502	Pupil Transportation	\$	448,022,619	\$	462,822,619	3629
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000	3630
GRF 200511	Auxiliary Services	\$	111,979,388	\$	111,979,388	3631
GRF 200532	Nonpublic	\$	50,838,939	\$	50,838,939	3632
	Administrative Cost					
	Reimbursement					
GRF 200540	Special Education	\$	134,150,233	\$	135,820,668	3633
	Enhancements					
GRF 200545	Career-Technical	\$	7,752,662	\$	7,802,699	3634
	Education Enhancements					
GRF 200550	Foundation Funding	\$	5,415,906,323	\$	5,312,560,800	3635
GRF 200551	Foundation Funding -	\$	387,583,913	\$	457,449,362	3636
	Federal Stimulus					
GRF 200578	Violence Prevention	\$	200,000	\$	200,000	3637
	and School Safety					
GRF 200901	Property Tax	\$	1,053,262,363	\$	1,020,655,157	3638
	Allocation - Education					
TOTAL GRF	General Revenue Fund	\$	7,789,806,161	\$	7,741,805,021	3639
	General Services Fund Group					3640
1380 200606	Computer	\$	7,600,091	\$	7,600,091	3641
	Services-Operational					
	Support					
4520 200638	Miscellaneous	\$	275,000	\$	275,000	3642
	Educational Services					
4L20 200681	Teacher Certification	\$	8,013,206	\$	8,147,756	3643
	and Licensure					
5960 200656	Ohio Career	\$	529,761	\$	529,761	3644
	Information System					
5H30 200687	School District	\$	18,000,000	\$	18,000,000	3645
	Solvency Assistance					

TOTAL GSF General Services				3646
Fund Group	\$	34,418,058	\$ 34,552,608	3647
Federal Special Revenue Fund Group				3648
3090 200601 Educationally Disadvantaged Programs	\$	8,405,512	\$ 8,405,512	3649
3670 200607 School Food Services	\$	6,324,707	\$ 6,577,695	3650
3680 200614 Veterans' Training	\$	778,349	\$ 793,846	3651
3690 200616 Career-Technical Education Federal Enhancement	\$	5,000,000	\$ 5,000,000	3652
3700 200624 Education of Exceptional Children	\$	2,664,000	\$ 2,755,000	3653
3740 200647 Troops to Teachers	\$	100,000	\$ 100,000	3654
3780 200660 Learn and Serve	\$	619,211	\$ 619,211	3655
3AF0 200603 Schools Medicaid Administrative Claims	\$	639,000	\$ 639,000	3656
3AN0 200671 School Improvement Grants	\$	17,909,676	\$ 17,936,675	3657
3AX0 200698 Improving Health and Educational Outcomes of Young People	\$	630,954	\$ 630,954	3658
3BK0 200628 Longitudinal Data Systems	\$	100,000	\$ 0	3659
3BV0 200636 Character Education	\$	700,000	\$ 0	3660
3C50 200661 Early Childhood Education	\$	14,189,711	\$ 14,554,749	3661
3CF0 200644 Foreign Language Assistance	\$	25,000	\$ 0	3662
3CG0 200646 Teacher Incentive Fund	\$	3,007,975	\$ 1,157,834	3663
3D10 200664 Drug Free Schools	\$	13,347,966	\$ 13,347,966	3664
3D20 200667 Honors Scholarship	\$	6,990,000	\$ 6,985,000	3665

		Program				
3DJ0	200699	IDEA Part B - Federal Stimulus	\$	218,868,026	\$	218,868,026 3666
3DK0	200642	Title 1A - Federal Stimulus	\$	186,336,737	\$	186,336,737 3667
3DL0	200650	IDEA Preschool - Federal Stimulus	\$	6,679,679	\$	6,679,679 3668
3DM0	200651	Title IID Technology - Federal Stimulus	\$	11,951,000	\$	11,951,000 3669
3DP0	200652	Title I School Improvement - Federal Stimulus	\$	54,221,000	\$	54,221,000 3670
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000 3671
3L60	200617	Federal School Lunch	\$	295,421,000	\$	310,150,675 3672
3L70	200618	Federal School Breakfast	\$	80,850,000	\$	84,892,500 3673
3L80	200619	Child/Adult Food Programs	\$	89,250,000	\$	93,712,500 3674
3L90	200621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701 3675
3M00	200623	ESEA Title 1A	\$	530,000,000	\$	530,010,000 3676
3M10	200678	Innovative Education	\$	1,000,000	\$	0 3677
3M20	200680	Individuals with Disabilities Education Act	\$	413,391,594	\$	421,241,163 3678
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397 3679
3T40	200613	Public Charter Schools	\$	14,275,618	\$	14,291,353 3680
3Y20	200688	21st Century Community Learning Centers	\$	36,000,000	\$	36,000,000 3681
3Y40	200632	Reading First	\$	27,366,373	\$	24,455,172 3682

3Y60	200635	Improving Teacher Quality	\$	101,778,397	\$	101,778,400	3683
3Y70	200689	English Language Acquisition	\$	8,142,299	\$	8,142,299	3684
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000	3685
3Z20	200690	State Assessments	\$	12,923,799	\$	12,923,799	3686
3Z30	200645	Consolidated Federal Grant Administration	\$	8,499,279	\$	8,499,280	3687
3Z70	200697	General Supervisory Enhancement Grant	\$	887,319	\$	0	3688
TOTAL FED Federal Special							3689
Revenue Fund Group			\$	2,238,516,279	\$	2,262,899,123	3690
State Special Revenue Fund Group							3691
4540	200610	Guidance and Testing	\$	450,000	\$	450,000	3692
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	3693
4R70	200695	Indirect Operational Support	\$	6,050,000	\$	6,250,000	3694
4V70	200633	Interagency Operational Support	\$	1,111,838	\$	1,117,725	3695
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	3696
5BB0	200696	State Action for Education Leadership	\$	1,250,000	\$	600,000	3697
5BJ0	200626	Half-Mill Maintenance Equalization	\$	16,100,000	\$	16,600,000	3698
<u>5JA0</u>	<u>200611</u>	<u>ARRA Compliance</u>	<u>\$</u>	<u>25,000,000</u>	<u>\$</u>	<u>0</u>	3699
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	3700
5W20	200663	Early Learning Initiative	\$	2,200,000	\$	2,200,000	3701
5X90	200911	NGA STEM	\$	100,000	\$	0	3702
6200	200615	Educational	\$	3,000,000	\$	3,000,000	3703

Improvement Grants			
TOTAL SSR State Special Revenue			3704
Fund Group	\$	55,890,748	\$ 55,846,635 3705
		<u>80,890,748</u>	
Lottery Profits Education Fund Group			3706
7017 200612 Foundation Funding	\$	705,000,000	\$ 711,000,000 3707
		<u>745,000,000</u>	
TOTAL LPE Lottery Profits			3708
Education Fund Group	\$	705,000,000	\$ 711,000,000 3709
		<u>745,000,000</u>	
Revenue Distribution Fund Group			3710
7047 200909 School District	\$	1,150,207,366	\$ 1,150,207,366 3711
Property Tax			
Replacement-Business			
7053 200900 School District	\$	91,123,523	\$ 91,123,523 3712
Property Tax			
Replacement-Utility			
TOTAL RDF Revenue Distribution			3713
Fund Group	\$	1,241,330,889	\$ 1,241,330,889 3714
TOTAL ALL BUDGET FUND GROUPS	\$12,064,962,135	\$12,047,434,276	3715
		<u>12,129,962,135</u>	

Section 15. That existing Section 265.10 of Am. Sub. H.B. 1 3717
of the 128th General Assembly, as subsequently amended by Sub. 3718
H.B. 318 of the 128th General Assembly, is hereby repealed. 3719

Section 16. That Sections 6 and 7 of Sub. H.B. 318 of the 3720
128th General Assembly are hereby repealed. 3721

Section 17. Except as otherwise provided in this act, all 3722
appropriation items in this act are appropriated out of moneys in 3723
the state treasury to the credit of the designated fund that are 3724
not otherwise appropriated. For all appropriations in the 3725

following sections of this act, the amounts in the first column 3726
are for fiscal year 2010 and the amounts in the second column are 3727
for fiscal year 2011. 3728

Section 18. CAC CASINO CONTROL COMMISSION 3729

State Special Revenue 3730

5HS0 955321 Casino Control - \$ 0 \$ 5,500,000 3731
Operating

TOTAL SSR State Special Revenue \$ 0 \$ 5,500,000 3732

Fund Group

Section 19. IGO OFFICE OF THE INSPECTOR GENERAL 3734

State Special Revenue 3735

5HS0 965609 Casino Investigations \$ 0 \$ 250,000 3736

TOTAL SSR State Special Revenue \$ 0 \$ 250,000 3737

Fund Group

The foregoing appropriation shall be used only for the 3738
performance of casino-related duties. 3739

Section 20. ETH ETHICS COMMISSION 3740

State Special Revenue 3741

5HS0 146602 Casino Investigations \$ 0 \$ 250,000 3742

TOTAL SSR Special Revenue Fund \$ 0 \$ 250,000 3743

Group

The foregoing appropriation shall be used only for the 3744
performance of casino-related duties. 3745

Section 21. BOR BOARD OF REGENTS 3746

State Special Revenue 3747

5JC0 235628 Co-Op/Internship \$ 0 \$ 100,000,000 3748
Program

TOTAL SSR State Special Revenue	\$	0	\$	100,000,000	3749
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	106,000,000	3750

Of the foregoing appropriation item, 235628, Co-Op/Internship Program, \$50,000,000 shall be used by the Chancellor of the Board of Regents to operate the Co-Op/Internship Program under sections 3333.71 to 3333.80 of the Revised Code. Funding for eligible institutions shall be disbursed in accordance with the terms of the agreements entered into under section 3333.75 of the Revised Code. The Chancellor of the Board of Regents shall develop a work force development pilot program, for areas of the state with high unemployment, with funding of \$50,000,000. Of this funding, \$25,000,000 shall be for urban areas and \$25,000,000 shall be for rural areas. Of the funding for rural areas, \$12,500,000 shall be for areas in Appalachia and \$12,500,000 shall be for areas elsewhere in the state. All public institutions of higher education, career technical schools, and joint vocational schools shall be eligible to participate in this program. The Chancellor of the Board of Regents shall propose the pilot program to the Controlling Board. Approval of the pilot program by the Controlling Board shall require at least five votes in favor of the program, including those of at least two Senators and at least two Representatives.

Section 22. Section 11 of this act, and the amendment by this act of Sections 265.30.40 and 265.40.60 of Am. Sub. H.B. 1 of the 128th General Assembly and Section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly, as subsequently amended by Sub. H.B. 318 of the 128th General Assembly, are exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law.