

**As Re-Reported by the House Finance and Appropriations
Committee**

**128th General Assembly
Regular Session
2009-2010**

Sub. S. B. No. 181

Senator Stewart

**Cosponsors: Senators Goodman, Schaffer, Seitz, Niehaus, Faber, Gibbs,
Gillmor, Harris, Hughes, Patton, Wagoner, Wilson, Carey
Representative Weddington**

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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 to offer 51
additional deferred compensation plans; to modify 52
the law governing which entities are subject to 53

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

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

Section 1. That sections 122.12, 135.143, 148.06, 926.31, 78
1501.04, 1517.23, 3302.03, 3313.44, 4928.01, 5709.62, 5709.63, 79
5709.632, 5739.02, 5751.08, 5751.09, 6109.22, and 6111.036 be 80
amended and sections 1513.372, 1517.03, 1517.04, and 5709.084 of 81
the Revised Code be enacted to read as follows: 82

Sec. 122.12. As used in this section and in section 122.121	83
of the Revised Code:	84
(A) "Endorsing county" means a county that contains a site	85
selected by a site selection organization for one or more games.	86
(B) "Endorsing municipality" means a municipal corporation	87
that contains a site selected by a site selection organization for	88
one or more games.	89
(C) "Game support contract" means a joinder undertaking,	90
joinder agreement, or similar contract executed by an endorsing	91
municipality or endorsing county and a site selection	92
organization.	93
(D) "Game" means a national football league "super bowl," a	94
national collegiate athletic association championship game <u>or</u>	95
<u>match</u> , the national basketball association all-star game, the	96
national hockey league all-star game, the major league baseball	97
all-star game, a national collegiate athletic association bowl	98
championship series game, a world cup soccer game, <u>a national</u>	99
<u>association for stock car auto racing race</u> , the nation <u>national</u>	100
senior games, <u>the air New Zealand golden oldies world rugby</u>	101
<u>festival</u> , <u>the golden gloves of America, inc.</u> , <u>national golden</u>	102
<u>gloves tournament</u> , <u>the USA boxing association national</u>	103
<u>championships</u> , <u>the international boxing association world cup or</u>	104
<u>world championships</u> , or the olympic games.	105
(E) "Joinder agreement" means an agreement entered into by an	106
endorsing municipality or endorsing county, or more than one	107
endorsing municipality or county acting collectively and a site	108
selection organization setting out representations and assurances	109
by each endorsing municipality or endorsing county in connection	110
with the selection of a site in this state for the location of a	111
game.	112

(F) "Joinder undertaking" means an agreement entered into by 113
an endorsing municipality or endorsing county, or more than one 114
endorsing municipality or county acting collectively and a site 115
selection organization that each endorsing municipality or 116
endorsing county will execute a joinder agreement in the event 117
that the site selection organization selects a site in this state 118
for a game. 119

(G) "Local organizing committee" means a nonprofit 120
corporation or its successor in interest that: 121

(1) Has been authorized by an endorsing municipality, 122
endorsing county, or more than one endorsing municipality or 123
county acting collectively to pursue an application and bid on the 124
applicant's behalf to a site selection organization for selection 125
as the site of one or more games; or 126

(2) With the authorization of an endorsing municipality, 127
endorsing county, or more than one endorsing municipality or 128
county acting collectively, has executed an agreement with a site 129
selection organization regarding a bid to host one or more games. 130

(H) "Site selection organization" means the national football 131
league, the national collegiate athletic association, the national 132
basketball association, the national hockey league, major league 133
baseball, the federation internationale de football association, 134
the international world games association, the United States 135
olympic committee, the national association for stock car auto 136
racings, the national senior games association, the air New Zealand 137
golden oldies world rugby secretariat, golden gloves of America, 138
inc., the USA boxing association, the international boxing 139
association, or the national governing body of a sport that is 140
recognized as such by the United States olympic committee. 141

Sec. 135.143. (A) The treasurer of state may invest or 142
execute transactions for any part or all of the interim funds of 143

the state in the following classifications of obligations:	144
(1) United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States;	145 146 147 148
(2) Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality;	149 150 151
(3) Bonds and other direct obligations of the state of Ohio issued by the treasurer of state and of the Ohio public facilities commission, the Ohio building authority, and the Ohio housing finance agency;	152 153 154 155
(4)(a) Written repurchase agreements with any eligible Ohio 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 agreement the treasurer of state purchases and the eligible financial institution or dealer agrees unconditionally to repurchase any of the securities that are listed in division (A)(1), (2), or (6) of this section and that will mature or are redeemable within ten years from the date of purchase. The market value of securities subject to these transactions must exceed the principal value of the repurchase agreement by an amount specified by the treasurer of state, and the securities must be delivered into the custody of the treasurer of state or the qualified trustee or agent designated by the treasurer of state. The agreement shall contain the requirement that for each transaction pursuant to the agreement, the participating institution or dealer shall provide all of the following information:	156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172
(i) The par value of the securities;	173
(ii) The type, rate, and maturity date of the securities;	174

(iii) A numerical identifier generally accepted in the securities industry that designates the securities.

(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.

(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.

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.

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

(7) Bankers acceptances, maturing in two hundred seventy days or less, which are eligible for purchase by the federal reserve

system, provided that the total amount invested in bankers 206
acceptances at any time shall not exceed ten per cent of the 207
state's total average portfolio, as determined and calculated by 208
the treasurer of state; 209

(8) Certificates of deposit in eligible institutions applying 210
for interim moneys as provided in section 135.08 of the Revised 211
Code, including linked deposits as provided in sections 135.61 to 212
135.67 of the Revised Code, agricultural linked deposits as 213
provided in sections 135.71 to 135.76 of the Revised Code, and 214
housing linked deposits as provided in sections 135.81 to 135.87 215
of the Revised Code; 216

(9) The state treasurer's investment pool authorized under 217
section 135.45 of the Revised Code; 218

(10) Debt interests, other than commercial paper described in 219
division (A)(6) of this section, rated at the time of purchase in 220
the three highest categories by two nationally recognized rating 221
agencies and issued by corporations that are incorporated under 222
the laws of the United States or a state, or issued by foreign 223
nations diplomatically recognized by the United States government, 224
or any instrument based on, derived from, or related to such 225
interests. ~~All interest and principal shall be denominated and~~ 226
~~payable in United States funds. The, provided that:~~ 227

(a) The investments made under division (A)(10) of this 228
section in debt interests shall not exceed in the aggregate 229
twenty-five per cent of the state's ~~total average~~ portfolio, ~~as~~ 230
~~determined and calculated by the treasurer of state. The;~~ 231

(b) The investments made under division (A)(10) of this 232
section in debt interests issued by foreign nations shall not 233
exceed in the aggregate one per cent of the state's ~~total average~~ 234
portfolio, ~~as determined and calculated by the treasurer of state.~~ 235
~~The;~~ 236

~~(c) The investments made under division (A)(10) of this section in the debt interests of a single issuer shall not exceed in the aggregate one-half of one per cent of the state's total average portfolio, as determined and calculated by the treasurer of state except that debt interests of a single issuer that is a foreign nation shall not exceed in the aggregate one per cent of the state's portfolio.~~ 237
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The treasurer of state shall invest under division (A)(10) of this section in a debt interest issued by a foreign nation only if the debt interest is backed by the full faith and credit of that foreign nation, and provided that all interest and principal shall be denominated and payable in United States funds. ~~For~~ 244
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For purposes of division (A)(10) of this section, a debt interest is rated in the three highest categories by two nationally recognized rating agencies if either the debt interest itself or the issuer of the debt interest is rated, or is implicitly rated, at the time of purchase in the three highest categories by two nationally recognized rating agencies. 249
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For purposes of division (A)(10) of this section, the "state's portfolio" means the state's total average portfolio, as determined and calculated by the treasurer of state. 255
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(11) No-load money market mutual funds consisting exclusively of obligations described in division (A)(1), (2), or (6) of this section and repurchase agreements secured by such obligations. 258
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(12) Obligations of a board of education issued under authority of section 133.10 or 133.301 of the Revised Code. 261
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(B) Whenever, during a period of designation, the treasurer of state classifies public moneys as interim moneys, the treasurer of state shall notify the state board of deposit of such action. The notification shall be given within thirty days after such classification and, in the event the state board of deposit does 263
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not concur in such classification or in the investments or 268
deposits made under this section, the board may order the 269
treasurer of state to sell or liquidate any of the investments or 270
deposits, and any such order shall specifically describe the 271
investments or deposits and fix the date upon which they are to be 272
sold or liquidated. Investments or deposits so ordered to be sold 273
or liquidated shall be sold or liquidated for cash by the 274
treasurer of state on the date fixed in such order at the then 275
current market price. Neither the treasurer of state nor the 276
members of the state board of deposit shall be held accountable 277
for any loss occasioned by sales or liquidations of investments or 278
deposits at prices lower than their cost. Any loss or expense 279
incurred in making these sales or liquidations is payable as other 280
expenses of the treasurer's office. 281

(C) If any securities or obligations invested in by the 282
treasurer of state pursuant to this section are registrable either 283
as to principal or interest, or both, such securities or 284
obligations shall be registered in the name of the treasurer of 285
state. 286

(D) The treasurer of state is responsible for the safekeeping 287
of all securities or obligations under this section. Any such 288
securities or obligations may be deposited for safekeeping as 289
provided in section 113.05 of the Revised Code. 290

(E) Interest earned on any investments or deposits authorized 291
by this section shall be collected by the treasurer of state and 292
credited by the treasurer of state to the proper fund of the 293
state. 294

(F) Whenever investments or deposits acquired under this 295
section mature and become due and payable, the treasurer of state 296
shall present them for payment according to their tenor, and shall 297
collect the moneys payable thereon. The moneys so collected shall 298
be treated as public moneys subject to sections 135.01 to 135.21 299

of the Revised Code. 300

(G) The treasurer of state and any board of education issuing 301
obligations referred to in division (A)(12) of this section may 302
enter into an agreement providing for: 303

(1) The purchase of those obligations by the treasurer of 304
state on terms and subject to conditions set forth in the 305
agreement; 306

(2) The payment by the board of education to the treasurer of 307
state of a reasonable fee as consideration for the agreement of 308
the treasurer of state to purchase those obligations; provided, 309
however, that the treasurer of state shall not be authorized to 310
enter into any such agreement with the board of education of a 311
school district that has an outstanding obligation with respect to 312
a loan received under authority of section 3313.483 of the Revised 313
Code. 314

(H) For purposes of division (G) of this section, a fee shall 315
not be considered reasonable unless it is set to recover only the 316
direct costs and a reasonable estimate of the indirect costs 317
associated with the purchasing of obligations of a school board 318
under division (G) of this section and any reselling of the 319
obligations or any interest in the obligations, including 320
interests in a fund comprised of the obligations. No money from 321
the general revenue fund shall be used to subsidize the purchase 322
or resale of these obligations. 323

(I) All money collected by the treasurer of state from the 324
fee imposed by division (G) of this section shall be deposited to 325
the credit of the state school board obligations fund, which is 326
hereby created in the state treasury. Money credited to the fund 327
shall be used solely to pay the treasurer of state's direct and 328
indirect costs associated with purchasing and reselling 329
obligations of a board of education under division (G) of this 330

section. 331

Sec. 148.06. As used in this section: 332

(A) "Government unit" means a county, park district of any 333
kind, conservancy district, sanitary district, regional water and 334
sewer district, health district, public library district, or 335
county law library. 336

(B) "Governing board" means, in the case of the county, the 337
board of county commissioners; in the case of a park district, the 338
board of park commissioners; in the case of a conservancy 339
district, the district's board of directors; in the case of a 340
sanitary district, the district's board of directors; in the case 341
of a regional water and sewer district, the district's board of 342
trustees; in the case of a health district, the board of health; 343
in the case of a public library district, the board of library 344
trustees; and in the case of a county law library, the board of 345
trustees of the law library association. 346

In addition to the program of deferred compensation that may 347
be offered under this chapter, a governing board may offer to all 348
of the officers and employees of the government unit not to exceed 349
two additional programs for deferral of compensation designed for 350
favorable tax treatment of the compensation so deferred. Any such 351
program shall include a reasonable number of options to the 352
officer or employee for the investment of the deferred funds, 353
including annuities, variable annuities, regulated investment 354
trusts, or other forms of investment approved by the governing 355
board, that will assure the desired tax treatment of the funds. 356

Any income deferred under such a plan shall continue to be 357
included as regular compensation for the purpose of computing the 358
contributions to and benefits from the officer's or employee's 359
retirement system but shall not be included in the computation of 360
any federal and state income taxes withheld on behalf of any such 361

employee. 362

Sec. 926.31. (A) Upon receipt of any shipment of an 363
agricultural commodity from a ~~producer~~ depositor or ~~his a~~ 364
depositor's agent, either for sale or for storage under a bailment 365
agreement, the licensed handler shall cause a representative 366
sample to be drawn for testing by an agricultural commodity tester 367
to determine the quality of the commodity. At the request of the 368
~~producer~~ depositor or ~~his~~ the depositor's agent, the tester shall 369
immediately test the sample and shall notify the ~~producer~~ 370
depositor or ~~his~~ the depositor's agent of the results of the test 371
and of any price discount, premium, or conditioning charge that is 372
applicable to the value of the commodity. Upon notification of the 373
test and the value adjustment to be applied, the ~~producer~~ 374
depositor or ~~his~~ the depositor's agent shall do one of the 375
following: 376

(1) Refuse to sell or store the commodity unless ~~he~~ the 377
depositor or agent has unloaded the commodity prior to testing; 378

(2) Agree to sell or store the commodity and accept the 379
agricultural commodity tester's results of the testing of the 380
shipment and the applicable value adjustment; 381

(3) Agree to sell or store the commodity but reject the 382
agricultural commodity tester's results of the testing of the 383
shipment and order the handler to forward the sample to a 384
federally licensed grain inspector immediately for a final testing 385
of the shipment. The ~~producer~~ depositor, ~~his~~ the depositor's 386
agent, or the handler may specify in writing which testing factor 387
or factors ~~he~~ the depositor, depositor's agent, or handler wishes 388
the federal inspector to test. 389

(B) If, either prior to or during the unloading of the 390
shipment, the licensed handler believes that the original sample 391
drawn is not representative of the shipment, or if the ~~producer~~ 392

depositor or ~~his~~ the depositor's agent requests a second sample to 393
be drawn, the handler shall cause a second sample to be drawn and 394
used for the testing of the shipment. 395

(C) Any determination of a federally licensed grain inspector 396
under this section shall be binding on both the licensed handler 397
and the ~~producer~~ depositor or ~~his~~ the depositor's agent as the 398
basis for determining the premium or discount and settlement 399
price, if the shipment was delivered for sale, or the conditioning 400
charge, if the shipment was received for storage under a bailment 401
agreement. The cost of the federal inspection and the actual cost 402
of forwarding the sample for such inspection shall be borne by the 403
handler, if the test increases the value of the agricultural 404
commodity as originally determined by the agricultural commodity 405
tester, or by the ~~producer~~ depositor, if the test does not change 406
or lowers the value of the commodity. 407

(D) Any licensed handler and any ~~producer~~ depositor or ~~his~~ 408
the agent of a depositor may enter into an agreement whereby 409
representative samples of each of several shipments of the same 410
agricultural commodity that arrive at the handler's warehouse or 411
facility during any one business day shall be combined to obtain a 412
single result of the testing of the combined shipments of the 413
commodity. 414

(E) No person shall offer for sale or storage any 415
agricultural commodity that is: 416

(1) Treated with any poisonous material or that contains 417
rodent excreta or any other material in such amounts as to render 418
the commodity unfit for animal or human consumption; 419

(2) Knowingly or purposely loaded unevenly so as to conceal 420
amounts of the commodity that are inferior. 421

(F) Nothing in this section shall be construed to relieve any 422
contractual obligations in effect between the licensed handler or 423

the ~~producer~~ depositor. 424

Sec. 1501.04. There is hereby created in the department of 425
natural resources a recreation and resources commission composed 426
of the chairperson of the wildlife council created under section 427
1531.03 of the Revised Code, the chairperson of the parks and 428
recreation council created under section 1541.40 of the Revised 429
Code, the chairperson of the waterways safety council created 430
under section 1547.73 of the Revised Code, the chairperson of the 431
technical advisory council on oil and gas created under section 432
1509.38 of the Revised Code, the chairperson of the forestry 433
advisory council created under section 1503.40 of the Revised 434
Code, the chairperson of the Ohio soil and water conservation 435
commission created under section 1515.02 of the Revised Code, the 436
chairperson of the Ohio natural areas council created under 437
section 1517.03 of the Revised Code, the chairperson of the Ohio 438
water advisory council created under section 1521.031 of the 439
Revised Code, the chairperson of the recycling and litter 440
prevention advisory council created under section 1502.04 of the 441
Revised Code, the chairperson of the Ohio geology advisory council 442
created under section 1505.11 of the Revised Code, and five 443
members appointed by the governor with the advice and consent of 444
the senate, not more than three of whom shall belong to the same 445
political party. The director of natural resources shall be an ex 446
officio member of the commission, with a voice in its 447
deliberations, but without the power to vote. 448

Terms of office of members of the commission appointed by the 449
governor shall be for five years, commencing on the second day of 450
February and ending on the first day of February. Each member 451
shall hold office from the date of appointment until the end of 452
the term for which the member was appointed. 453

In the event of the death, removal, resignation, or 454

incapacity of a member of the commission, the governor, with the 455
advice and consent of the senate, shall appoint a successor who 456
shall hold office for the remainder of the term for which the 457
member's predecessor was appointed. Any member shall continue in 458
office subsequent to the expiration date of the member's term 459
until the member's successor takes office, or until a period of 460
sixty days has elapsed, whichever occurs first. 461

The governor may remove any appointed member of the 462
commission for misfeasance, nonfeasance, or malfeasance in office. 463

The commission shall exercise no administrative function, but 464
may do any of the following: 465

(A) Advise with and recommend to the director as to plans and 466
programs for the management, development, utilization, and 467
conservation of the natural resources of the state; 468

(B) Advise with and recommend to the director as to methods 469
of coordinating the work of the divisions of the department; 470

(C) Consider and make recommendations upon any matter that 471
the director may submit to it; 472

(D) Submit to the governor biennially recommendations for 473
amendments to the conservation laws of the state. 474

Each member of the commission, before entering upon the 475
discharge of the member's duties, shall take and subscribe to an 476
oath of office, which oath, in writing, shall be filed in the 477
office of the secretary of state. 478

The members of the commission shall serve without 479
compensation, but shall be entitled to receive their actual and 480
necessary expenses incurred in the performance of their official 481
duties. 482

The commission, by a majority vote of all its members, shall 483
adopt and amend bylaws. 484

To be eligible for appointment, a person shall be a citizen 485
of the United States and an elector of the state and shall possess 486
a knowledge of and have an interest in the natural resources of 487
this state. 488

The commission shall hold at least four regular quarterly 489
meetings each year. Special meetings shall be held at such times 490
as the bylaws of the commission provide. Notices of all meetings 491
shall be given in such manner as the bylaws provide. The 492
commission shall choose annually from among its members a 493
chairperson to preside over its meetings and a secretary to keep a 494
record of its proceedings. A majority of the members of the 495
commission constitutes a quorum. No advice shall be given or 496
recommendation made without a majority of the members of the 497
commission concurring in it. 498

Sec. 1513.372. (A) As used in this section: 499

(1) "Abandoned mine land" means land or water resources 500
adversely affected by coal mining practices to which one of the 501
following applies: 502

(a) The coal mining practices occurred prior to August 3, 503
1977, and there is no continuing reclamation responsibility under 504
state or federal law. 505

(b) The coal mining practices occurred prior to April 10, 506
1972. 507

(c) The coal mining practices were conducted pursuant to a 508
license that was issued prior to April 10, 1972. 509

(2) "Eligible landowner" means a landowner who provides 510
access without charge or other consideration to abandoned mine 511
land that is located on the landowner's property for the purpose 512
of allowing the implementation of a reclamation project on the 513
abandoned mine land. "Eligible landowner" does not include a 514

person that is responsible under state or federal law to reclaim 515
the land or address acid mine drainage existing or emanating from 516
the abandoned mine land. 517

(3) "Landowner" means a person who holds a fee interest in 518
real property. 519

(4) "Nonprofit organization" means a corporation, 520
association, group, institution, society, or other organization 521
that is exempt from federal income taxation under section 522
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 523
26 U.S.C. 501(c)(3), as amended, that provides funding or services 524
at no cost or at cost for a reclamation project. 525

(5) "Reclamation project" means an acid mine drainage 526
abatement project that is conducted in compliance with this 527
chapter and rules adopted under it on abandoned mine land that is 528
located on property owned by an eligible landowner. 529

(6) "Reclamation project work area" means the portion of a 530
parcel of real property on which a reclamation project is 531
conducted and the roads providing ingress to and egress from the 532
reclamation project. 533

(B) Except as provided in divisions (C) and (D) of this 534
section, an eligible landowner or nonprofit organization is immune 535
from liability as follows: 536

(1) For any injury to or damage suffered by a person working 537
under the direct supervision of the division of mineral resources 538
management while the person is within the reclamation project work 539
area; 540

(2) For any injury to or damage suffered by a third party 541
that arises out of or occurs as a result of an act or omission of 542
the division during the construction, operation, and maintenance 543
of the reclamation project; 544

(3) For any failure of an acid mine drainage abatement facility constructed or installed during a reclamation project that is supervised by the division; 545
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(4) For the operation, maintenance, or repair of any acid mine drainage abatement facility constructed or installed during a reclamation project unless the eligible landowner negligently damages or destroys the acid mine drainage abatement facility or denies access to the division of mineral resources management that is responsible for the operation, maintenance, or repair of the acid mine drainage abatement facility. 548
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(C) The eligible landowner shall notify the division of a known, latent, dangerous condition located at a reclamation project work area that is not the subject of the reclamation project. The immunity established in division (B) of this section does not apply to any injury, damage, or pollution resulting from the eligible landowner's failure to notify the division of such a known, latent, dangerous condition. 555
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(D) The immunity established in division (B) of this section does not apply in both of the following circumstances: 562
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(1) An injury to a person within the reclamation project work area that results from an eligible landowner's or nonprofit organization's acts or omissions that are reckless or constitute gross negligence or willful or wanton misconduct; 564
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(2) An eligible landowner or nonprofit organization who engages in any unlawful activities with respect to a reclamation project. 568
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(E) The chief of the division of mineral resources management shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section. 571
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Sec. 1517.03. There is hereby created the Ohio natural areas 574

council to advise the chief of the division of natural areas and 575
preserves on the administration of nature preserves and the 576
preservation of natural areas. 577

The council shall have no fewer than five members as 578
determined by the director of natural resources. The members shall 579
be appointed by the director. 580

Not later than thirty days after the effective date of this 581
section, the director shall make initial appointments to the 582
council. The director shall establish the terms of office of the 583
members of the council. 584

The council annually shall select from among its members a 585
chairperson and a secretary. Members of the council shall receive 586
no compensation and shall not be reimbursed for expenses incurred 587
as members of the council. 588

The council shall hold at least one regular meeting in each 589
calendar year. Special meetings may be called by the chairperson 590
and shall be called by the chairperson upon written request by two 591
or more members of the council. A written notice of the time and 592
place of each meeting shall be sent to each member and to the 593
director. A majority of the members of the council constitutes a 594
quorum. The council shall keep a record of its proceedings at each 595
meeting and shall send a copy of the record to the director. The 596
record shall be open to the public for inspection. 597

Sec. 1517.04. The Ohio natural areas council shall do all of 598
the following: 599

(A) Review and make recommendations regarding criteria used 600
by the department of natural resources for acquisition and 601
dedication of nature preserves; 602

(B) Review and make recommendations regarding inventories and 603
registries of natural areas and preserves; 604

(C) Review and make recommendations regarding departmental plans for the selection of particular natural areas for state acquisition; 605
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607

(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; 608
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(E) Recommend the extent and type of visitation and use to be permitted within each nature preserve; 611
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(F) Advise and consult with the chief and with employees of the division of natural areas and preserves on preservation matters; 613
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615

(G) Advise the chief on the program to identify and protect the state's cave resources that is established under this chapter. 616
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Sec. 1517.23. 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: 618
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(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; 622
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(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land. 627
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Sec. 3302.03. (A) Annually the department of education shall report for each school district and each school building in a district all of the following: 630
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632

(1) The extent to which the school district or building meets 633

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:~~

(a) If it does not make adequate yearly progress for three consecutive years, it shall be declared effective.

(b) If it does not make adequate yearly progress for four or more consecutive years, it shall be declared in need of continuous improvement.

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

if it ~~fulfills one of the following requirements:~~ 664

~~(a) It makes adequate yearly progress and either meets at 665
least seventy-five per cent but less than ninety-four per cent of 666
the applicable state performance indicators or has a performance 667
index score established by the department.~~ 668

~~(b) It does not make adequate yearly progress and either 669
meets at least seventy-five per cent of the applicable state 670
performance indicators or has a performance index score 671
established by the department, except that if:~~ 672

(a) If it does not make adequate yearly progress for three 673
consecutive years, it shall be declared in need of continuous 674
improvement. 675

(b) If it does not make adequate yearly progress for four or 676
more consecutive years, it shall be declared to be under an 677
academic watch. 678

(3) A school district or building shall be declared to be in 679
need of continuous improvement if it fulfills one of the following 680
requirements: 681

(a) It makes adequate yearly progress, meets less than 682
seventy-five per cent of the applicable state performance 683
indicators, and has a performance index score established by the 684
department. 685

(b) It does not make adequate yearly progress and either 686
meets at least fifty per cent but less than seventy-five per cent 687
of the applicable state performance indicators or has a 688
performance index score established by the department, except 689
that: 690

(i) If it does not make adequate yearly progress for three 691
consecutive years, it shall be declared to be under an academic 692
watch. 693

(ii) If it does not make adequate yearly progress for four or more consecutive years, it shall be declared to be in a state of academic emergency. 694
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(4) A school district or building shall be declared to be 697
under an academic watch if it does not make adequate yearly 698
progress and either meets at least thirty-one per cent but less 699
than fifty per cent of the applicable state performance indicators 700
or has a performance index score established by the department, 701
except that if it does not make adequate yearly progress for three 702
or more consecutive years, it shall be declared to be in a state 703
of academic emergency. 704

(5) A school district or building shall be declared to be in 705
a state of academic emergency if it does not make adequate yearly 706
progress, does not meet at least thirty-one per cent of the 707
applicable state performance indicators, and has a performance 708
index score established by the department. 709

~~(6) When designating performance ratings for school districts 710~~
~~and buildings under divisions (B)(1) to (5) of this section, the 711~~
~~department shall not assign a school district or building a lower 712~~
~~designation from its previous year's designation based solely on 713~~
~~one subgroup not making adequate yearly progress.~~ 714

~~(7) Division (B)(7)(6) of this section does not apply to any 715~~
community school established under Chapter 3314. of the Revised 716
Code in which a majority of the students are enrolled in a dropout 717
prevention and recovery program. 718

A school district or building shall not be assigned a higher 719
performance rating than in need of continuous improvement if at 720
least ten per cent but not more than fifteen per cent of the 721
enrolled students do not take all achievement assessments 722
prescribed for their grade level under division (A)(1) or (B)(1) 723
of section 3301.0710 of the Revised Code from which they are not 724

excused pursuant to division (C)(1) or (3) of section 3301.0711 of 725
the Revised Code. A school district or building shall not be 726
assigned a higher performance rating than under an academic watch 727
if more than fifteen per cent but not more than twenty per cent of 728
the enrolled students do not take all achievement assessments 729
prescribed for their grade level under division (A)(1) or (B)(1) 730
of section 3301.0710 of the Revised Code from which they are not 731
excused pursuant to division (C)(1) or (3) of section 3301.0711 of 732
the Revised Code. A school district or building shall not be 733
assigned a higher performance rating than in a state of academic 734
emergency if more than twenty per cent of the enrolled students do 735
not take all achievement assessments prescribed for their grade 736
level under division (A)(1) or (B)(1) of section 3301.0710 of the 737
Revised Code from which they are not excused pursuant to division 738
(C)(1) or (3) of section 3301.0711 of the Revised Code. 739

(C)(1) The department shall issue annual report cards for 740
each school district, each building within each district, and for 741
the state as a whole reflecting performance on the indicators 742
created by the state board under section 3302.02 of the Revised 743
Code, the performance index score, and adequate yearly progress. 744

(2) The department shall include on the report card for each 745
district information pertaining to any change from the previous 746
year made by the school district or school buildings within the 747
district on any performance indicator. 748

(3) When reporting data on student performance, the 749
department shall disaggregate that data according to the following 750
categories: 751

(a) Performance of students by age group; 752

(b) Performance of students by race and ethnic group; 753

(c) Performance of students by gender; 754

(d) Performance of students grouped by those who have been 755

enrolled in a district or school for three or more years;	756
(e) Performance of students grouped by those who have been	757
enrolled in a district or school for more than one year and less	758
than three years;	759
(f) Performance of students grouped by those who have been	760
enrolled in a district or school for one year or less;	761
(g) Performance of students grouped by those who are	762
economically disadvantaged;	763
(h) Performance of students grouped by those who are enrolled	764
in a conversion community school established under Chapter 3314.	765
of the Revised Code;	766
(i) Performance of students grouped by those who are	767
classified as limited English proficient;	768
(j) Performance of students grouped by those who have	769
disabilities;	770
(k) Performance of students grouped by those who are	771
classified as migrants;	772
(l) Performance of students grouped by those who are	773
identified as gifted pursuant to Chapter 3324. of the Revised	774
Code.	775
The department may disaggregate data on student performance	776
according to other categories that the department determines are	777
appropriate. To the extent possible, the department shall	778
disaggregate data on student performance according to any	779
combinations of two or more of the categories listed in divisions	780
(C)(3)(a) to (l) of this section that it deems relevant.	781
In reporting data pursuant to division (C)(3) of this	782
section, the department shall not include in the report cards any	783
data statistical in nature that is statistically unreliable or	784
that could result in the identification of individual students.	785

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.

(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(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.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

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

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

for the district. 817

(b) Any district that leases a building to a community school 818
located in the district or that enters into an agreement with a 819
community school located in the district whereby the district and 820
the school endorse each other's programs may elect to have data 821
regarding the academic performance of students enrolled in the 822
community school combined with comparable data from the schools of 823
the district for the purpose of calculating the performance of the 824
district as a whole on the district report card. Any district that 825
so elects shall annually file a copy of the lease or agreement 826
with the department. 827

(7) The department shall include on each report card the 828
percentage of teachers in the district or building who are highly 829
qualified, as defined by the "No Child Left Behind Act of 2001," 830
and a comparison of that percentage with the percentages of such 831
teachers in similar districts and buildings. 832

(8) The department shall include on the report card the 833
number of lead teachers employed by each district and each 834
building once the data is available from the education management 835
information system established under section 3301.0714 of the 836
Revised Code. 837

(D)(1) In calculating English language arts, mathematics, 838
social studies, or science assessment passage rates used to 839
determine school district or building performance under this 840
section, the department shall include all students taking an 841
assessment with accommodation or to whom an alternate assessment 842
is administered pursuant to division (C)(1) or (3) of section 843
3301.0711 of the Revised Code. 844

(2) In calculating performance index scores, rates of 845
achievement on the performance indicators established by the state 846
board under section 3302.02 of the Revised Code, and adequate 847

yearly progress for school districts and buildings under this 848
section, the department shall do all of the following: 849

(a) Include for each district or building only those students 850
who are included in the ADM certified for the first full school 851
week of October and are continuously enrolled in the district or 852
building through the time of the spring administration of any 853
assessment prescribed by division (A)(1) or (B)(1) of section 854
3301.0710 of the Revised Code that is administered to the 855
student's grade level; 856

(b) Include cumulative totals from both the fall and spring 857
administrations of the third grade English language arts 858
achievement assessment; 859

(c) Except as required by the "No Child Left Behind Act of 860
2001" for the calculation of adequate yearly progress, exclude for 861
each district or building any limited English proficient student 862
who has been enrolled in United States schools for less than one 863
full school year. 864

Sec. 3313.44. Real or personal property ~~vested in~~ owned by or 865
leased to any board of education for a lease term of at least 866
fifty years shall be exempt from taxation ~~and from sale on~~ 867
~~execution or other writ or order in the nature of an execution.~~ 868

Sec. 4928.01. (A) As used in this chapter: 869

(1) "Ancillary service" means any function necessary to the 870
provision of electric transmission or distribution service to a 871
retail customer and includes, but is not limited to, scheduling, 872
system control, and dispatch services; reactive supply from 873
generation resources and voltage control service; reactive supply 874
from transmission resources service; regulation service; frequency 875
response service; energy imbalance service; operating 876
reserve-spinning reserve service; operating reserve-supplemental 877

reserve service; load following; back-up supply service; 878
real-power loss replacement service; dynamic scheduling; system 879
black start capability; and network stability service. 880

(2) "Billing and collection agent" means a fully independent 881
agent, not affiliated with or otherwise controlled by an electric 882
utility, electric services company, electric cooperative, or 883
governmental aggregator subject to certification under section 884
4928.08 of the Revised Code, to the extent that the agent is under 885
contract with such utility, company, cooperative, or aggregator 886
solely to provide billing and collection for retail electric 887
service on behalf of the utility company, cooperative, or 888
aggregator. 889

(3) "Certified territory" means the certified territory 890
established for an electric supplier under sections 4933.81 to 891
4933.90 of the Revised Code. 892

(4) "Competitive retail electric service" means a component 893
of retail electric service that is competitive as provided under 894
division (B) of this section. 895

(5) "Electric cooperative" means a not-for-profit electric 896
light company that both is or has been financed in whole or in 897
part under the "Rural Electrification Act of 1936," 49 Stat. 1363, 898
7 U.S.C. 901, and owns or operates facilities in this state to 899
generate, transmit, or distribute electricity, or a not-for-profit 900
successor of such company. 901

(6) "Electric distribution utility" means an electric utility 902
that supplies at least retail electric distribution service. 903

(7) "Electric light company" has the same meaning as in 904
section 4905.03 of the Revised Code and includes an electric 905
services company, but excludes any self-generator to the extent 906
that it consumes electricity it so produces, sells that 907
electricity for resale, or obtains electricity from a generating 908

facility it hosts on its premises. 909

(8) "Electric load center" has the same meaning as in section 910
4933.81 of the Revised Code. 911

(9) "Electric services company" means an electric light 912
company that is engaged on a for-profit or not-for-profit basis in 913
the business of supplying or arranging for the supply of only a 914
competitive retail electric service in this state. "Electric 915
services company" includes a power marketer, power broker, 916
aggregator, or independent power producer but excludes an electric 917
cooperative, municipal electric utility, governmental aggregator, 918
or billing and collection agent. 919

(10) "Electric supplier" has the same meaning as in section 920
4933.81 of the Revised Code. 921

(11) "Electric utility" means an electric light company that 922
has a certified territory and is engaged on a for-profit basis 923
either in the business of supplying a noncompetitive retail 924
electric service in this state or in the businesses of supplying 925
both a noncompetitive and a competitive retail electric service in 926
this state. "Electric utility" excludes a municipal electric 927
utility or a billing and collection agent. 928

(12) "Firm electric service" means electric service other 929
than nonfirm electric service. 930

(13) "Governmental aggregator" means a legislative authority 931
of a municipal corporation, a board of township trustees, or a 932
board of county commissioners acting as an aggregator for the 933
provision of a competitive retail electric service under authority 934
conferred under section 4928.20 of the Revised Code. 935

(14) A person acts "knowingly," regardless of the person's 936
purpose, when the person is aware that the person's conduct will 937
probably cause a certain result or will probably be of a certain 938
nature. A person has knowledge of circumstances when the person is 939

aware that such circumstances probably exist. 940

(15) "Level of funding for low-income customer energy 941
efficiency programs provided through electric utility rates" means 942
the level of funds specifically included in an electric utility's 943
rates on October 5, 1999, pursuant to an order of the public 944
utilities commission issued under Chapter 4905. or 4909. of the 945
Revised Code and in effect on October 4, 1999, for the purpose of 946
improving the energy efficiency of housing for the utility's 947
low-income customers. The term excludes the level of any such 948
funds committed to a specific nonprofit organization or 949
organizations pursuant to a stipulation or contract. 950

(16) "Low-income customer assistance programs" means the 951
percentage of income payment plan program, the home energy 952
assistance program, the home weatherization assistance program, 953
and the targeted energy efficiency and weatherization program. 954

(17) "Market development period" for an electric utility 955
means the period of time beginning on the starting date of 956
competitive retail electric service and ending on the applicable 957
date for that utility as specified in section 4928.40 of the 958
Revised Code, irrespective of whether the utility applies to 959
receive transition revenues under this chapter. 960

(18) "Market power" means the ability to impose on customers 961
a sustained price for a product or service above the price that 962
would prevail in a competitive market. 963

(19) "Mercantile customer" means a commercial or industrial 964
customer if the electricity consumed is for nonresidential use and 965
the customer consumes more than seven hundred thousand kilowatt 966
hours per year or is part of a national account involving multiple 967
facilities in one or more states. 968

(20) "Municipal electric utility" means a municipal 969
corporation that owns or operates facilities to generate, 970

transmit, or distribute electricity.	971
(21) "Noncompetitive retail electric service" means a	972
component of retail electric service that is noncompetitive as	973
provided under division (B) of this section.	974
(22) "Nonfirm electric service" means electric service	975
provided pursuant to a schedule filed under section 4905.30 of the	976
Revised Code or pursuant to an arrangement under section 4905.31	977
of the Revised Code, which schedule or arrangement includes	978
conditions that may require the customer to curtail or interrupt	979
electric usage during nonemergency circumstances upon notification	980
by an electric utility.	981
(23) "Percentage of income payment plan arrears" means funds	982
eligible for collection through the percentage of income payment	983
plan rider, but uncollected as of July 1, 2000.	984
(24) "Person" has the same meaning as in section 1.59 of the	985
Revised Code.	986
(25) "Advanced energy project" means any technologies,	987
products, activities, or management practices or strategies that	988
facilitate the generation or use of electricity or energy and that	989
reduce or support the reduction of energy consumption or support	990
the production of clean, renewable energy for industrial,	991
distribution, commercial, institutional, governmental, research,	992
not-for-profit, or residential energy users, including, but not	993
limited to, advanced energy resources and renewable energy	994
resources. "Advanced energy project" also includes any project	995
described in division (A), (B), or (C) of section 4928.621 of the	996
Revised Code.	997
(26) "Regulatory assets" means the unamortized net regulatory	998
assets that are capitalized or deferred on the regulatory books of	999
the electric utility, pursuant to an order or practice of the	1000
public utilities commission or pursuant to generally accepted	1001

accounting principles as a result of a prior commission 1002
rate-making decision, and that would otherwise have been charged 1003
to expense as incurred or would not have been capitalized or 1004
otherwise deferred for future regulatory consideration absent 1005
commission action. "Regulatory assets" includes, but is not 1006
limited to, all deferred demand-side management costs; all 1007
deferred percentage of income payment plan arrears; 1008
post-in-service capitalized charges and assets recognized in 1009
connection with statement of financial accounting standards no. 1010
109 (receivables from customers for income taxes); future nuclear 1011
decommissioning costs and fuel disposal costs as those costs have 1012
been determined by the commission in the electric utility's most 1013
recent rate or accounting application proceeding addressing such 1014
costs; the undepreciated costs of safety and radiation control 1015
equipment on nuclear generating plants owned or leased by an 1016
electric utility; and fuel costs currently deferred pursuant to 1017
the terms of one or more settlement agreements approved by the 1018
commission. 1019

(27) "Retail electric service" means any service involved in 1020
supplying or arranging for the supply of electricity to ultimate 1021
consumers in this state, from the point of generation to the point 1022
of consumption. For the purposes of this chapter, retail electric 1023
service includes one or more of the following "service 1024
components": generation service, aggregation service, power 1025
marketing service, power brokerage service, transmission service, 1026
distribution service, ancillary service, metering service, and 1027
billing and collection service. 1028

(28) "Starting date of competitive retail electric service" 1029
means January 1, 2001. 1030

(29) "Customer-generator" means a user of a net metering 1031
system. 1032

(30) "Net metering" means measuring the difference in an 1033

applicable billing period between the electricity supplied by an 1034
electric service provider and the electricity generated by a 1035
customer-generator that is fed back to the electric service 1036
provider. 1037

(31) "Net metering system" means a facility for the 1038
production of electrical energy that does all of the following: 1039

(a) Uses as its fuel either solar, wind, biomass, landfill 1040
gas, or hydropower, or uses a microturbine or a fuel cell; 1041

(b) Is located on a customer-generator's premises; 1042

(c) Operates in parallel with the electric utility's 1043
transmission and distribution facilities; 1044

(d) Is intended primarily to offset part or all of the 1045
customer-generator's requirements for electricity. 1046

(32) "Self-generator" means an entity in this state that owns 1047
or hosts on its premises an electric generation facility that 1048
produces electricity primarily for the owner's consumption and 1049
that may provide any such excess electricity to another entity, 1050
whether the facility is installed or operated by the owner or by 1051
an agent under a contract. 1052

(33) "Rate plan" means the standard service offer in effect 1053
on the effective date of the amendment of this section by S.B. 221 1054
of the 127th general assembly, July 31, 2008. 1055

(34) "Advanced energy resource" means any of the following: 1056

(a) Any method or any modification or replacement of any 1057
property, process, device, structure, or equipment that increases 1058
the generation output of an electric generating facility to the 1059
extent such efficiency is achieved without additional carbon 1060
dioxide emissions by that facility; 1061

(b) Any distributed generation system consisting of customer 1062
cogeneration of electricity and thermal output simultaneously, 1063

primarily to meet the energy needs of the customer's facilities; 1064

(c) Clean coal technology that includes a carbon-based 1065
product that is chemically altered before combustion to 1066
demonstrate a reduction, as expressed as ash, in emissions of 1067
nitrous oxide, mercury, arsenic, chlorine, sulfur dioxide, or 1068
sulfur trioxide in accordance with the American society of testing 1069
and materials standard D1757A or a reduction of metal oxide 1070
emissions in accordance with standard D5142 of that society, or 1071
clean coal technology that includes the design capability to 1072
control or prevent the emission of carbon dioxide, which design 1073
capability the commission shall adopt by rule and shall be based 1074
on economically feasible best available technology or, in the 1075
absence of a determined best available technology, shall be of the 1076
highest level of economically feasible design capability for which 1077
there exists generally accepted scientific opinion; 1078

(d) Advanced nuclear energy technology consisting of 1079
generation III technology as defined by the nuclear regulatory 1080
commission; other, later technology; or significant improvements 1081
to existing facilities; 1082

(e) Any fuel cell used in the generation of electricity, 1083
including, but not limited to, a proton exchange membrane fuel 1084
cell, phosphoric acid fuel cell, molten carbonate fuel cell, or 1085
solid oxide fuel cell; 1086

(f) Advanced solid waste or construction and demolition 1087
debris conversion technology, including, but not limited to, 1088
advanced stoker technology, and advanced fluidized bed 1089
gasification technology, that results in measurable greenhouse gas 1090
emissions reductions as calculated pursuant to the United States 1091
environmental protection agency's waste reduction model (WARM). 1092

(g) Demand-side management and any energy efficiency 1093
improvement+ 1094

~~(h) Methane gas emitted from an operating or abandoned coal mine.~~ 1095
1096

(35) "Renewable energy resource" means solar photovoltaic or 1097
solar thermal energy, wind energy, power produced by a 1098
hydroelectric facility, geothermal energy, fuel derived from solid 1099
wastes, as defined in section 3734.01 of the Revised Code, through 1100
fractionation, biological decomposition, or other process that 1101
does not principally involve combustion, biomass energy, 1102
biologically derived methane gas, or energy derived from 1103
nontreated by-products of the pulping process or wood 1104
manufacturing process, including bark, wood chips, sawdust, and 1105
lignin in spent pulping liquors. "Renewable energy resource" 1106
includes, but is not limited to, any fuel cell used in the 1107
generation of electricity, including, but not limited to, a proton 1108
exchange membrane fuel cell, phosphoric acid fuel cell, molten 1109
carbonate fuel cell, or solid oxide fuel cell; wind turbine 1110
located in the state's territorial waters of Lake Erie; methane 1111
gas emitted from an abandoned coal mine; storage facility that 1112
will promote the better utilization of a renewable energy resource 1113
that primarily generates off peak; or distributed generation 1114
system used by a customer to generate electricity from any such 1115
energy. As used in division (A)(35) of this section, 1116
"hydroelectric facility" means a hydroelectric generating facility 1117
that is located at a dam on a river, or on any water discharged to 1118
a river, that is within or bordering this state or within or 1119
bordering an adjoining state and meets all of the following 1120
standards: 1121

(a) The facility provides for river flows that are not 1122
detrimental for fish, wildlife, and water quality, including 1123
seasonal flow fluctuations as defined by the applicable licensing 1124
agency for the facility. 1125

(b) The facility demonstrates that it complies with the water 1126

quality standards of this state, which compliance may consist of 1127
certification under Section 401 of the "Clean Water Act of 1977," 1128
91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has 1129
not contributed to a finding by this state that the river has 1130
impaired water quality under Section 303(d) of the "Clean Water 1131
Act of 1977," 114 Stat. 870, 33 U.S.C. 1313. 1132

(c) The facility complies with mandatory prescriptions 1133
regarding fish passage as required by the federal energy 1134
regulatory commission license issued for the project, regarding 1135
fish protection for riverine, anadromous, and ~~catadromous~~ 1136
catadromous fish. 1137

(d) The facility complies with the recommendations of the 1138
Ohio environmental protection agency and with the terms of its 1139
federal energy regulatory commission license regarding watershed 1140
protection, mitigation, or enhancement, to the extent of each 1141
agency's respective jurisdiction over the facility. 1142

(e) The facility complies with provisions of the "Endangered 1143
Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as 1144
amended. 1145

(f) The facility does not harm cultural resources of the 1146
area. This can be shown through compliance with the terms of its 1147
federal energy regulatory commission license or, if the facility 1148
is not regulated by that commission, through development of a plan 1149
approved by the Ohio historic preservation office, to the extent 1150
it has jurisdiction over the facility. 1151

(g) The facility complies with the terms of its federal 1152
energy regulatory commission license or exemption that are related 1153
to recreational access, accommodation, and facilities or, if the 1154
facility is not regulated by that commission, the facility 1155
complies with similar requirements as are recommended by resource 1156
agencies, to the extent they have jurisdiction over the facility; 1157

and the facility provides access to water to the public without 1158
fee or charge. 1159

(h) The facility is not recommended for removal by any 1160
federal agency or agency of any state, to the extent the 1161
particular agency has jurisdiction over the facility. 1162

(B) For the purposes of this chapter, a retail electric 1163
service component shall be deemed a competitive retail electric 1164
service if the service component is competitive pursuant to a 1165
declaration by a provision of the Revised Code or pursuant to an 1166
order of the public utilities commission authorized under division 1167
(A) of section 4928.04 of the Revised Code. Otherwise, the service 1168
component shall be deemed a noncompetitive retail electric 1169
service. 1170

Sec. 5709.084. Real and personal property comprising a 1171
convention center that is constructed or, in the case of personal 1172
property, acquired after January 1, 2010, are exempt from taxation 1173
if the convention center is located in a county having a 1174
population, when construction of the convention center commences, 1175
of more than one million two hundred thousand according to the 1176
most recent federal decennial census, and if the convention 1177
center, or the land upon which the convention center is situated, 1178
is owned or leased by the county. For the purposes of this 1179
section, construction of the convention center commences upon the 1180
earlier of issuance of debt to finance all or a portion of the 1181
convention center, demolition of existing structures on the site, 1182
or grading of the site in preparation for construction. 1183

As used in this section, "convention center" has the same 1184
meaning as in section 307.695 of the Revised Code. 1185

Sec. 5709.62. (A) In any municipal corporation that is 1186
defined by the United States office of management and budget as a 1187

principal city of a metropolitan statistical area, the legislative 1188
authority of the municipal corporation may designate one or more 1189
areas within its municipal corporation as proposed enterprise 1190
zones. Upon designating an area, the legislative authority shall 1191
petition the director of development for certification of the area 1192
as having the characteristics set forth in division (A)(1) of 1193
section 5709.61 of the Revised Code as amended by Substitute 1194
Senate Bill No. 19 of the 120th general assembly. Except as 1195
otherwise provided in division (E) of this section, on and after 1196
July 1, 1994, legislative authorities shall not enter into 1197
agreements under this section unless the legislative authority has 1198
petitioned the director and the director has certified the zone 1199
under this section as amended by that act; however, all agreements 1200
entered into under this section as it existed prior to July 1, 1201
1994, and the incentives granted under those agreements shall 1202
remain in effect for the period agreed to under those agreements. 1203
Within sixty days after receiving such a petition, the director 1204
shall determine whether the area has the characteristics set forth 1205
in division (A)(1) of section 5709.61 of the Revised Code, and 1206
shall forward the findings to the legislative authority of the 1207
municipal corporation. If the director certifies the area as 1208
having those characteristics, and thereby certifies it as a zone, 1209
the legislative authority may enter into an agreement with an 1210
enterprise under division (C) of this section. 1211

(B) Any enterprise that wishes to enter into an agreement 1212
with a municipal corporation under division (C) of this section 1213
shall submit a proposal to the legislative authority of the 1214
municipal corporation on a form prescribed by the director of 1215
development, together with the application fee established under 1216
section 5709.68 of the Revised Code. The form shall require the 1217
following information: 1218

(1) An estimate of the number of new employees whom the 1219

enterprise intends to hire, or of the number of employees whom the 1220
enterprise intends to retain, within the zone at a facility that 1221
is a project site, and an estimate of the amount of payroll of the 1222
enterprise attributable to these employees; 1223

(2) An estimate of the amount to be invested by the 1224
enterprise to establish, expand, renovate, or occupy a facility, 1225
including investment in new buildings, additions or improvements 1226
to existing buildings, machinery, equipment, furniture, fixtures, 1227
and inventory; 1228

(3) A listing of the enterprise's current investment, if any, 1229
in a facility as of the date of the proposal's submission. 1230

The enterprise shall review and update the listings required 1231
under this division to reflect material changes, and any agreement 1232
entered into under division (C) of this section shall set forth 1233
final estimates and listings as of the time the agreement is 1234
entered into. The legislative authority may, on a separate form 1235
and at any time, require any additional information necessary to 1236
determine whether an enterprise is in compliance with an agreement 1237
and to collect the information required to be reported under 1238
section 5709.68 of the Revised Code. 1239

(C) Upon receipt and investigation of a proposal under 1240
division (B) of this section, if the legislative authority finds 1241
that the enterprise submitting the proposal is qualified by 1242
financial responsibility and business experience to create and 1243
preserve employment opportunities in the zone and improve the 1244
economic climate of the municipal corporation, the legislative 1245
authority, on or before October 15, ~~2010~~ 2011, may do one of the 1246
following: 1247

(1) Enter into an agreement with the enterprise under which 1248
the enterprise agrees to establish, expand, renovate, or occupy a 1249
facility and hire new employees, or preserve employment 1250

opportunities for existing employees, in return for one or more of 1251
the following incentives: 1252

(a) Exemption for a specified number of years, not to exceed 1253
fifteen, of a specified portion, up to seventy-five per cent, of 1254
the assessed value of tangible personal property first used in 1255
business at the project site as a result of the agreement. If an 1256
exemption for inventory is specifically granted in the agreement 1257
pursuant to this division, the exemption applies to inventory 1258
required to be listed pursuant to sections 5711.15 and 5711.16 of 1259
the Revised Code, except that, in the instance of an expansion or 1260
other situations in which an enterprise was in business at the 1261
facility prior to the establishment of the zone, the inventory 1262
that is exempt is that amount or value of inventory in excess of 1263
the amount or value of inventory required to be listed in the 1264
personal property tax return of the enterprise in the return for 1265
the tax year in which the agreement is entered into. 1266

(b) Exemption for a specified number of years, not to exceed 1267
fifteen, of a specified portion, up to seventy-five per cent, of 1268
the increase in the assessed valuation of real property 1269
constituting the project site subsequent to formal approval of the 1270
agreement by the legislative authority; 1271

(c) Provision for a specified number of years, not to exceed 1272
fifteen, of any optional services or assistance that the municipal 1273
corporation is authorized to provide with regard to the project 1274
site. 1275

(2) Enter into an agreement under which the enterprise agrees 1276
to remediate an environmentally contaminated facility, to spend an 1277
amount equal to at least two hundred fifty per cent of the true 1278
value in money of the real property of the facility prior to 1279
remediation as determined for the purposes of property taxation to 1280
establish, expand, renovate, or occupy the remediated facility, 1281
and to hire new employees or preserve employment opportunities for 1282

existing employees at the remediated facility, in return for one 1283
or more of the following incentives: 1284

(a) Exemption for a specified number of years, not to exceed 1285
fifteen, of a specified portion, not to exceed fifty per cent, of 1286
the assessed valuation of the real property of the facility prior 1287
to remediation; 1288

(b) Exemption for a specified number of years, not to exceed 1289
fifteen, of a specified portion, not to exceed one hundred per 1290
cent, of the increase in the assessed valuation of the real 1291
property of the facility during or after remediation; 1292

(c) The incentive under division (C)(1)(a) of this section, 1293
except that the percentage of the assessed value of such property 1294
exempted from taxation shall not exceed one hundred per cent; 1295

(d) The incentive under division (C)(1)(c) of this section. 1296

(3) Enter into an agreement with an enterprise that plans to 1297
purchase and operate a large manufacturing facility that has 1298
ceased operation or announced its intention to cease operation, in 1299
return for exemption for a specified number of years, not to 1300
exceed fifteen, of a specified portion, up to one hundred per 1301
cent, of the assessed value of tangible personal property used in 1302
business at the project site as a result of the agreement, or of 1303
the assessed valuation of real property constituting the project 1304
site, or both. 1305

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this 1306
section, the portion of the assessed value of tangible personal 1307
property or of the increase in the assessed valuation of real 1308
property exempted from taxation under those divisions may exceed 1309
seventy-five per cent in any year for which that portion is 1310
exempted if the average percentage exempted for all years in which 1311
the agreement is in effect does not exceed sixty per cent, or if 1312
the board of education of the city, local, or exempted village 1313

school district within the territory of which the property is or 1314
will be located approves a percentage in excess of seventy-five 1315
per cent. 1316

(2) Notwithstanding any provision of the Revised Code to the 1317
contrary, the exemptions described in divisions (C)(1)(a), (b), 1318
and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may 1319
be for up to fifteen years if the board of education of the city, 1320
local, or exempted village school district within the territory of 1321
which the property is or will be located approves a number of 1322
years in excess of ten. 1323

(3) For the purpose of obtaining the approval of a city, 1324
local, or exempted village school district under division (D)(1) 1325
or (2) of this section, the legislative authority shall deliver to 1326
the board of education a notice not later than forty-five days 1327
prior to approving the agreement, excluding Saturdays, Sundays, 1328
and legal holidays as defined in section 1.14 of the Revised Code. 1329
The notice shall state the percentage to be exempted, an estimate 1330
of the true value of the property to be exempted, and the number 1331
of years the property is to be exempted. The board of education, 1332
by resolution adopted by a majority of the board, shall approve or 1333
disapprove the agreement and certify a copy of the resolution to 1334
the legislative authority not later than fourteen days prior to 1335
the date stipulated by the legislative authority as the date upon 1336
which approval of the agreement is to be formally considered by 1337
the legislative authority. The board of education may include in 1338
the resolution conditions under which the board would approve the 1339
agreement, including the execution of an agreement to compensate 1340
the school district under division (B) of section 5709.82 of the 1341
Revised Code. The legislative authority may approve the agreement 1342
at any time after the board of education certifies its resolution 1343
approving the agreement to the legislative authority, or, if the 1344
board approves the agreement conditionally, at any time after the 1345

conditions are agreed to by the board and the legislative 1346
authority. 1347

If a board of education has adopted a resolution waiving its 1348
right to approve agreements and the resolution remains in effect, 1349
approval of an agreement by the board is not required under this 1350
division. If a board of education has adopted a resolution 1351
allowing a legislative authority to deliver the notice required 1352
under this division fewer than forty-five business days prior to 1353
the legislative authority's approval of the agreement, the 1354
legislative authority shall deliver the notice to the board not 1355
later than the number of days prior to such approval as prescribed 1356
by the board in its resolution. If a board of education adopts a 1357
resolution waiving its right to approve agreements or shortening 1358
the notification period, the board shall certify a copy of the 1359
resolution to the legislative authority. If the board of education 1360
rescinds such a resolution, it shall certify notice of the 1361
rescission to the legislative authority. 1362

(4) The legislative authority shall comply with section 1363
5709.83 of the Revised Code unless the board of education has 1364
adopted a resolution under that section waiving its right to 1365
receive such notice. 1366

(E) This division applies to zones certified by the director 1367
of development under this section prior to July 22, 1994. 1368

On or before October 15, ~~2010~~ 2011, the legislative authority 1369
that designated a zone to which this division applies may enter 1370
into an agreement with an enterprise if the legislative authority 1371
finds that the enterprise satisfies one of the criteria described 1372
in divisions (E)(1) to (5) of this section: 1373

(1) The enterprise currently has no operations in this state 1374
and, subject to approval of the agreement, intends to establish 1375
operations in the zone; 1376

(2) The enterprise currently has operations in this state 1377
and, subject to approval of the agreement, intends to establish 1378
operations at a new location in the zone that would not result in 1379
a reduction in the number of employee positions at any of the 1380
enterprise's other locations in this state; 1381

(3) The enterprise, subject to approval of the agreement, 1382
intends to relocate operations, currently located in another 1383
state, to the zone; 1384

(4) The enterprise, subject to approval of the agreement, 1385
intends to expand operations at an existing site in the zone that 1386
the enterprise currently operates; 1387

(5) The enterprise, subject to approval of the agreement, 1388
intends to relocate operations, currently located in this state, 1389
to the zone, and the director of development has issued a waiver 1390
for the enterprise under division (B) of section 5709.633 of the 1391
Revised Code. 1392

The agreement shall require the enterprise to agree to 1393
establish, expand, renovate, or occupy a facility in the zone and 1394
hire new employees, or preserve employment opportunities for 1395
existing employees, in return for one or more of the incentives 1396
described in division (C) of this section. 1397

(F) All agreements entered into under this section shall be 1398
in the form prescribed under section 5709.631 of the Revised Code. 1399
After an agreement is entered into under this section, if the 1400
legislative authority revokes its designation of a zone, or if the 1401
director of development revokes a zone's certification, any 1402
entitlements granted under the agreement shall continue for the 1403
number of years specified in the agreement. 1404

(G) Except as otherwise provided in this division, an 1405
agreement entered into under this section shall require that the 1406
enterprise pay an annual fee equal to the greater of one per cent 1407

of the dollar value of incentives offered under the agreement or 1408
five hundred dollars; provided, however, that if the value of the 1409
incentives exceeds two hundred fifty thousand dollars, the fee 1410
shall not exceed two thousand five hundred dollars. The fee shall 1411
be payable to the legislative authority once per year for each 1412
year the agreement is effective on the days and in the form 1413
specified in the agreement. Fees paid shall be deposited in a 1414
special fund created for such purpose by the legislative authority 1415
and shall be used by the legislative authority exclusively for the 1416
purpose of complying with section 5709.68 of the Revised Code and 1417
by the tax incentive review council created under section 5709.85 1418
of the Revised Code exclusively for the purposes of performing the 1419
duties prescribed under that section. The legislative authority 1420
may waive or reduce the amount of the fee charged against an 1421
enterprise, but such a waiver or reduction does not affect the 1422
obligations of the legislative authority or the tax incentive 1423
review council to comply with section 5709.68 or 5709.85 of the 1424
Revised Code. 1425

(H) When an agreement is entered into pursuant to this 1426
section, the legislative authority authorizing the agreement shall 1427
forward a copy of the agreement to the director of development and 1428
to the tax commissioner within fifteen days after the agreement is 1429
entered into. If any agreement includes terms not provided for in 1430
section 5709.631 of the Revised Code affecting the revenue of a 1431
city, local, or exempted village school district or causing 1432
revenue to be ~~foregone~~ forgone by the district, including any 1433
compensation to be paid to the school district pursuant to section 1434
5709.82 of the Revised Code, those terms also shall be forwarded 1435
in writing to the director of development along with the copy of 1436
the agreement forwarded under this division. 1437

(I) After an agreement is entered into, the enterprise shall 1438
file with each personal property tax return required to be filed, 1439

or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

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

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

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

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A

board of county commissioners may designate no more than one area 1471
within a township, or within adjacent townships, as a proposed 1472
enterprise zone. The board shall petition the director of 1473
development for certification of the area as having the 1474
characteristics set forth in division (A)(1) or (2) of section 1475
5709.61 of the Revised Code as amended by Substitute Senate Bill 1476
No. 19 of the 120th general assembly. Except as otherwise provided 1477
in division (D) of this section, on and after July 1, 1994, boards 1478
of county commissioners shall not enter into agreements under this 1479
section unless the board has petitioned the director and the 1480
director has certified the zone under this section as amended by 1481
that act; however, all agreements entered into under this section 1482
as it existed prior to July 1, 1994, and the incentives granted 1483
under those agreements shall remain in effect for the period 1484
agreed to under those agreements. The director shall make the 1485
determination in the manner provided under section 5709.62 of the 1486
Revised Code. 1487

Any enterprise wishing to enter into an agreement with the 1488
board under division (B) or (D) of this section shall submit a 1489
proposal to the board on the form and accompanied by the 1490
application fee prescribed under division (B) of section 5709.62 1491
of the Revised Code. The enterprise shall review and update the 1492
estimates and listings required by the form in the manner required 1493
under that division. The board may, on a separate form and at any 1494
time, require any additional information necessary to determine 1495
whether an enterprise is in compliance with an agreement and to 1496
collect the information required to be reported under section 1497
5709.68 of the Revised Code. 1498

(B) If the board of county commissioners finds that an 1499
enterprise submitting a proposal is qualified by financial 1500
responsibility and business experience to create and preserve 1501
employment opportunities in the zone and to improve the economic 1502

climate of the municipal corporation or municipal corporations or 1503
the unincorporated areas in which the zone is located and to which 1504
the proposal applies, the board, on or before October 15, ~~2010~~ 1505
2011, and with the consent of the legislative authority of each 1506
affected municipal corporation or of the board of township 1507
trustees may do either of the following: 1508

(1) Enter into an agreement with the enterprise under which 1509
the enterprise agrees to establish, expand, renovate, or occupy a 1510
facility in the zone and hire new employees, or preserve 1511
employment opportunities for existing employees, in return for the 1512
following incentives: 1513

(a) When the facility is located in a municipal corporation, 1514
the board may enter into an agreement for one or more of the 1515
incentives provided in division (C) of section 5709.62 of the 1516
Revised Code, subject to division (D) of that section; 1517

(b) When the facility is located in an unincorporated area, 1518
the board may enter into an agreement for one or more of the 1519
following incentives: 1520

(i) Exemption for a specified number of years, not to exceed 1521
fifteen, of a specified portion, up to sixty per cent, of the 1522
assessed value of tangible personal property first used in 1523
business at a project site as a result of the agreement. If an 1524
exemption for inventory is specifically granted in the agreement 1525
pursuant to this division, the exemption applies to inventory 1526
required to be listed pursuant to sections 5711.15 and 5711.16 of 1527
the Revised Code, except, in the instance of an expansion or other 1528
situations in which an enterprise was in business at the facility 1529
prior to the establishment of the zone, the inventory that is 1530
exempt is that amount or value of inventory in excess of the 1531
amount or value of inventory required to be listed in the personal 1532
property tax return of the enterprise in the return for the tax 1533
year in which the agreement is entered into. 1534

(ii) Exemption for a specified number of years, not to exceed 1535
fifteen, of a specified portion, up to sixty per cent, of the 1536
increase in the assessed valuation of real property constituting 1537
the project site subsequent to formal approval of the agreement by 1538
the board; 1539

(iii) Provision for a specified number of years, not to 1540
exceed fifteen, of any optional services or assistance the board 1541
is authorized to provide with regard to the project site; 1542

(iv) The incentive described in division (C)(2) of section 1543
5709.62 of the Revised Code. 1544

(2) Enter into an agreement with an enterprise that plans to 1545
purchase and operate a large manufacturing facility that has 1546
ceased operation or has announced its intention to cease 1547
operation, in return for exemption for a specified number of 1548
years, not to exceed fifteen, of a specified portion, up to one 1549
hundred per cent, of tangible personal property used in business 1550
at the project site as a result of the agreement, or of real 1551
property constituting the project site, or both. 1552

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of 1553
this section, the portion of the assessed value of tangible 1554
personal property or of the increase in the assessed valuation of 1555
real property exempted from taxation under those divisions may 1556
exceed sixty per cent in any year for which that portion is 1557
exempted if the average percentage exempted for all years in which 1558
the agreement is in effect does not exceed fifty per cent, or if 1559
the board of education of the city, local, or exempted village 1560
school district within the territory of which the property is or 1561
will be located approves a percentage in excess of sixty per cent. 1562

(b) Notwithstanding any provision of the Revised Code to the 1563
contrary, the exemptions described in divisions (B)(1)(b)(i), 1564
(ii), (iii), and (iv) and (B)(2) of this section may be for up to 1565

fifteen years if the board of education of the city, local, or 1566
exempted village school district within the territory of which the 1567
property is or will be located approves a number of years in 1568
excess of ten. 1569

(c) For the purpose of obtaining the approval of a city, 1570
local, or exempted village school district under division 1571
(C)(1)(a) or (b) of this section, the board of county 1572
commissioners shall deliver to the board of education a notice not 1573
later than forty-five days prior to approving the agreement, 1574
excluding Saturdays, Sundays, and legal holidays as defined in 1575
section 1.14 of the Revised Code. The notice shall state the 1576
percentage to be exempted, an estimate of the true value of the 1577
property to be exempted, and the number of years the property is 1578
to be exempted. The board of education, by resolution adopted by a 1579
majority of the board, shall approve or disapprove the agreement 1580
and certify a copy of the resolution to the board of county 1581
commissioners not later than fourteen days prior to the date 1582
stipulated by the board of county commissioners as the date upon 1583
which approval of the agreement is to be formally considered by 1584
the board of county commissioners. The board of education may 1585
include in the resolution conditions under which the board would 1586
approve the agreement, including the execution of an agreement to 1587
compensate the school district under division (B) of section 1588
5709.82 of the Revised Code. The board of county commissioners may 1589
approve the agreement at any time after the board of education 1590
certifies its resolution approving the agreement to the board of 1591
county commissioners, or, if the board of education approves the 1592
agreement conditionally, at any time after the conditions are 1593
agreed to by the board of education and the board of county 1594
commissioners. 1595

If a board of education has adopted a resolution waiving its 1596
right to approve agreements and the resolution remains in effect, 1597

approval of an agreement by the board of education is not required 1598
under division (C) of this section. If a board of education has 1599
adopted a resolution allowing a board of county commissioners to 1600
deliver the notice required under this division fewer than 1601
forty-five business days prior to approval of the agreement by the 1602
board of county commissioners, the board of county commissioners 1603
shall deliver the notice to the board of education not later than 1604
the number of days prior to such approval as prescribed by the 1605
board of education in its resolution. If a board of education 1606
adopts a resolution waiving its right to approve agreements or 1607
shortening the notification period, the board of education shall 1608
certify a copy of the resolution to the board of county 1609
commissioners. If the board of education rescinds such a 1610
resolution, it shall certify notice of the rescission to the board 1611
of county commissioners. 1612

(2) The board of county commissioners shall comply with 1613
section 5709.83 of the Revised Code unless the board of education 1614
has adopted a resolution under that section waiving its right to 1615
receive such notice. 1616

(D) This division applies to zones certified by the director 1617
of development under this section prior to July 22, 1994. 1618

On or before October 15, ~~2010~~ 2011, and with the consent of 1619
the legislative authority of each affected municipal corporation 1620
or board of township trustees of each affected township, the board 1621
of county commissioners that designated a zone to which this 1622
division applies may enter into an agreement with an enterprise if 1623
the board finds that the enterprise satisfies one of the criteria 1624
described in divisions (D)(1) to (5) of this section: 1625

(1) The enterprise currently has no operations in this state 1626
and, subject to approval of the agreement, intends to establish 1627
operations in the zone; 1628

(2) The enterprise currently has operations in this state 1629
and, subject to approval of the agreement, intends to establish 1630
operations at a new location in the zone that would not result in 1631
a reduction in the number of employee positions at any of the 1632
enterprise's other locations in this state; 1633

(3) The enterprise, subject to approval of the agreement, 1634
intends to relocate operations, currently located in another 1635
state, to the zone; 1636

(4) The enterprise, subject to approval of the agreement, 1637
intends to expand operations at an existing site in the zone that 1638
the enterprise currently operates; 1639

(5) The enterprise, subject to approval of the agreement, 1640
intends to relocate operations, currently located in this state, 1641
to the zone, and the director of development has issued a waiver 1642
for the enterprise under division (B) of section 5709.633 of the 1643
Revised Code. 1644

The agreement shall require the enterprise to agree to 1645
establish, expand, renovate, or occupy a facility in the zone and 1646
hire new employees, or preserve employment opportunities for 1647
existing employees, in return for one or more of the incentives 1648
described in division (B) of this section. 1649

(E) All agreements entered into under this section shall be 1650
in the form prescribed under section 5709.631 of the Revised Code. 1651
After an agreement under this section is entered into, if the 1652
board of county commissioners revokes its designation of a zone, 1653
or if the director of development revokes a zone's certification, 1654
any entitlements granted under the agreement shall continue for 1655
the number of years specified in the agreement. 1656

(F) Except as otherwise provided in this division, an 1657
agreement entered into under this section shall require that the 1658
enterprise pay an annual fee equal to the greater of one per cent 1659

of the dollar value of incentives offered under the agreement or 1660
five hundred dollars; provided, however, that if the value of the 1661
incentives exceeds two hundred fifty thousand dollars, the fee 1662
shall not exceed two thousand five hundred dollars. The fee shall 1663
be payable to the board of county commissioners once per year for 1664
each year the agreement is effective on the days and in the form 1665
specified in the agreement. Fees paid shall be deposited in a 1666
special fund created for such purpose by the board and shall be 1667
used by the board exclusively for the purpose of complying with 1668
section 5709.68 of the Revised Code and by the tax incentive 1669
review council created under section 5709.85 of the Revised Code 1670
exclusively for the purposes of performing the duties prescribed 1671
under that section. The board may waive or reduce the amount of 1672
the fee charged against an enterprise, but such waiver or 1673
reduction does not affect the obligations of the board or the tax 1674
incentive review council to comply with section 5709.68 or 5709.85 1675
of the Revised Code, respectively. 1676

(G) With the approval of the legislative authority of a 1677
municipal corporation or the board of township trustees of a 1678
township in which a zone is designated under division (A) of this 1679
section, the board of county commissioners may delegate to that 1680
legislative authority or board any powers and duties of the board 1681
of county commissioners to negotiate and administer agreements 1682
with regard to that zone under this section. 1683

(H) When an agreement is entered into pursuant to this 1684
section, the board of county commissioners authorizing the 1685
agreement or the legislative authority or board of township 1686
trustees that negotiates and administers the agreement shall 1687
forward a copy of the agreement to the director of development and 1688
to the tax commissioner within fifteen days after the agreement is 1689
entered into. If any agreement includes terms not provided for in 1690
section 5709.631 of the Revised Code affecting the revenue of a 1691

city, local, or exempted village school district or causing 1692
revenue to be foregone by the district, including any compensation 1693
to be paid to the school district pursuant to section 5709.82 of 1694
the Revised Code, those terms also shall be forwarded in writing 1695
to the director of development along with the copy of the 1696
agreement forwarded under this division. 1697

(I) After an agreement is entered into, the enterprise shall 1698
file with each personal property tax return required to be filed, 1699
or annual report that is required to be filed under section 1700
5727.08 of the Revised Code, while the agreement is in effect, an 1701
informational return, on a form prescribed by the tax commissioner 1702
for that purpose, setting forth separately the property, and 1703
related costs and values, exempted from taxation under the 1704
agreement. 1705

(J) Enterprises may agree to give preference to residents of 1706
the zone within which the agreement applies relative to residents 1707
of this state who do not reside in the zone when hiring new 1708
employees under the agreement. 1709

(K) An agreement entered into under this section may include 1710
a provision requiring the enterprise to create one or more 1711
temporary internship positions for students enrolled in a course 1712
of study at a school or other educational institution in the 1713
vicinity, and to create a scholarship or provide another form of 1714
educational financial assistance for students holding such a 1715
position in exchange for the student's commitment to work for the 1716
enterprise at the completion of the internship. 1717

(L) The tax commissioner's authority in determining the 1718
accuracy of any exemption granted by an agreement entered into 1719
under this section is limited to divisions (B)(1)(b)(i) and (ii), 1720
(B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of 1721
this section as it pertains to divisions (C)(2)(a), (b), and (c) 1722
of section 5709.62 of the Revised Code, and divisions (B)(1) to 1723

(10) of section 5709.631 of the Revised Code and, as authorized by 1724
law, to enforcing any modification to, or revocation of, that 1725
agreement by the board of county commissioners or the director of 1726
development or, if the board's powers and duties are delegated 1727
under division (G) of this section, by the legislative authority 1728
of a municipal corporation or board of township trustees. 1729

Sec. 5709.632. (A)(1) The legislative authority of a 1730
municipal corporation defined by the United States office of 1731
management and budget as a principal city of a metropolitan 1732
statistical area may, in the manner set forth in section 5709.62 1733
of the Revised Code, designate one or more areas in the municipal 1734
corporation as a proposed enterprise zone. 1735

(2) With the consent of the legislative authority of each 1736
affected municipal corporation or of a board of township trustees, 1737
a board of county commissioners may, in the manner set forth in 1738
section 5709.62 of the Revised Code, designate one or more areas 1739
in one or more municipal corporations or in unincorporated areas 1740
of the county as proposed urban jobs and enterprise zones, except 1741
that a board of county commissioners may designate no more than 1742
one area within a township, or within adjacent townships, as a 1743
proposed urban jobs and enterprise zone. 1744

(3) The legislative authority or board of county 1745
commissioners may petition the director of development for 1746
certification of the area as having the characteristics set forth 1747
in division (A)(3) of section 5709.61 of the Revised Code. Within 1748
sixty days after receiving such a petition, the director shall 1749
determine whether the area has the characteristics set forth in 1750
that division and forward the findings to the legislative 1751
authority or board of county commissioners. If the director 1752
certifies the area as having those characteristics and thereby 1753
certifies it as a zone, the legislative authority or board may 1754

enter into agreements with enterprises under division (B) of this 1755
section. Any enterprise wishing to enter into an agreement with a 1756
legislative authority or board of county commissioners under this 1757
section and satisfying one of the criteria described in divisions 1758
(B)(1) to (5) of this section shall submit a proposal to the 1759
legislative authority or board on the form prescribed under 1760
division (B) of section 5709.62 of the Revised Code and shall 1761
review and update the estimates and listings required by the form 1762
in the manner required under that division. The legislative 1763
authority or board may, on a separate form and at any time, 1764
require any additional information necessary to determine whether 1765
an enterprise is in compliance with an agreement and to collect 1766
the information required to be reported under section 5709.68 of 1767
the Revised Code. 1768

(B) Prior to entering into an agreement with an enterprise, 1769
the legislative authority or board of county commissioners shall 1770
determine whether the enterprise submitting the proposal is 1771
qualified by financial responsibility and business experience to 1772
create and preserve employment opportunities in the zone and to 1773
improve the economic climate of the municipal corporation or 1774
municipal corporations or the unincorporated areas in which the 1775
zone is located and to which the proposal applies, and whether the 1776
enterprise satisfies one of the following criteria: 1777

(1) The enterprise currently has no operations in this state 1778
and, subject to approval of the agreement, intends to establish 1779
operations in the zone; 1780

(2) The enterprise currently has operations in this state 1781
and, subject to approval of the agreement, intends to establish 1782
operations at a new location in the zone that would not result in 1783
a reduction in the number of employee positions at any of the 1784
enterprise's other locations in this state; 1785

(3) The enterprise, subject to approval of the agreement, 1786

intends to relocate operations, currently located in another 1787
state, to the zone; 1788

(4) The enterprise, subject to approval of the agreement, 1789
intends to expand operations at an existing site in the zone that 1790
the enterprise currently operates; 1791

(5) The enterprise, subject to approval of the agreement, 1792
intends to relocate operations, currently located in this state, 1793
to the zone, and the director of development has issued a waiver 1794
for the enterprise under division (B) of section 5709.633 of the 1795
Revised Code. 1796

(C) If the legislative authority or board determines that the 1797
enterprise is so qualified and satisfies one of the criteria 1798
described in divisions (B)(1) to (5) of this section, the 1799
legislative authority or board may, after complying with section 1800
5709.83 of the Revised Code and on or before October 15, ~~2010~~ 1801
2011, and, in the case of a board of commissioners, with the 1802
consent of the legislative authority of each affected municipal 1803
corporation or of the board of township trustees, enter into an 1804
agreement with the enterprise under which the enterprise agrees to 1805
establish, expand, renovate, or occupy a facility in the zone and 1806
hire new employees, or preserve employment opportunities for 1807
existing employees, in return for the following incentives: 1808

(1) When the facility is located in a municipal corporation, 1809
a legislative authority or board of commissioners may enter into 1810
an agreement for one or more of the incentives provided in 1811
division (C) of section 5709.62 of the Revised Code, subject to 1812
division (D) of that section; 1813

(2) When the facility is located in an unincorporated area, a 1814
board of commissioners may enter into an agreement for one or more 1815
of the incentives provided in divisions (B)(1)(b), (B)(2), and 1816
(B)(3) of section 5709.63 of the Revised Code, subject to division 1817

(C) of that section. 1818

(D) All agreements entered into under this section shall be 1819
in the form prescribed under section 5709.631 of the Revised Code. 1820
After an agreement under this section is entered into, if the 1821
legislative authority or board of county commissioners revokes its 1822
designation of the zone, or if the director of development revokes 1823
the zone's certification, any entitlements granted under the 1824
agreement shall continue for the number of years specified in the 1825
agreement. 1826

(E) Except as otherwise provided in this division, an 1827
agreement entered into under this section shall require that the 1828
enterprise pay an annual fee equal to the greater of one per cent 1829
of the dollar value of incentives offered under the agreement or 1830
five hundred dollars; provided, however, that if the value of the 1831
incentives exceeds two hundred fifty thousand dollars, the fee 1832
shall not exceed two thousand five hundred dollars. The fee shall 1833
be payable to the legislative authority or board of commissioners 1834
once per year for each year the agreement is effective on the days 1835
and in the form specified in the agreement. Fees paid shall be 1836
deposited in a special fund created for such purpose by the 1837
legislative authority or board and shall be used by the 1838
legislative authority or board exclusively for the purpose of 1839
complying with section 5709.68 of the Revised Code and by the tax 1840
incentive review council created under section 5709.85 of the 1841
Revised Code exclusively for the purposes of performing the duties 1842
prescribed under that section. The legislative authority or board 1843
may waive or reduce the amount of the fee charged against an 1844
enterprise, but such waiver or reduction does not affect the 1845
obligations of the legislative authority or board or the tax 1846
incentive review council to comply with section 5709.68 or 5709.85 1847
of the Revised Code, respectively. 1848

(F) With the approval of the legislative authority of a 1849

municipal corporation or the board of township trustees of a 1850
township in which a zone is designated under division (A)(2) of 1851
this section, the board of county commissioners may delegate to 1852
that legislative authority or board any powers and duties of the 1853
board to negotiate and administer agreements with regard to that 1854
zone under this section. 1855

(G) When an agreement is entered into pursuant to this 1856
section, the legislative authority or board of commissioners 1857
authorizing the agreement shall forward a copy of the agreement to 1858
the director of development and to the tax commissioner within 1859
fifteen days after the agreement is entered into. If any agreement 1860
includes terms not provided for in section 5709.631 of the Revised 1861
Code affecting the revenue of a city, local, or exempted village 1862
school district or causing revenue to be ~~foregone~~ forgone by the 1863
district, including any compensation to be paid to the school 1864
district pursuant to section 5709.82 of the Revised Code, those 1865
terms also shall be forwarded in writing to the director of 1866
development along with the copy of the agreement forwarded under 1867
this division. 1868

(H) After an agreement is entered into, the enterprise shall 1869
file with each personal property tax return required to be filed 1870
while the agreement is in effect, an informational return, on a 1871
form prescribed by the tax commissioner for that purpose, setting 1872
forth separately the property, and related costs and values, 1873
exempted from taxation under the agreement. 1874

(I) An agreement entered into under this section may include 1875
a provision requiring the enterprise to create one or more 1876
temporary internship positions for students enrolled in a course 1877
of study at a school or other educational institution in the 1878
vicinity, and to create a scholarship or provide another form of 1879
educational financial assistance for students holding such a 1880
position in exchange for the student's commitment to work for the 1881

enterprise at the completion of the internship. 1882

Sec. 5739.02. For the purpose of providing revenue with which 1883
to meet the needs of the state, for the use of the general revenue 1884
fund of the state, for the purpose of securing a thorough and 1885
efficient system of common schools throughout the state, for the 1886
purpose of affording revenues, in addition to those from general 1887
property taxes, permitted under constitutional limitations, and 1888
from other sources, for the support of local governmental 1889
functions, and for the purpose of reimbursing the state for the 1890
expense of administering this chapter, an excise tax is hereby 1891
levied on each retail sale made in this state. 1892

(A)(1) The tax shall be collected as provided in section 1893
5739.025 of the Revised Code. The rate of the tax shall be five 1894
and one-half per cent. The tax applies and is collectible when the 1895
sale is made, regardless of the time when the price is paid or 1896
delivered. 1897

(2) In the case of the lease or rental, with a fixed term of 1898
more than thirty days or an indefinite term with a minimum period 1899
of more than thirty days, of any motor vehicles designed by the 1900
manufacturer to carry a load of not more than one ton, watercraft, 1901
outboard motor, or aircraft, or of any tangible personal property, 1902
other than motor vehicles designed by the manufacturer to carry a 1903
load of more than one ton, to be used by the lessee or renter 1904
primarily for business purposes, the tax shall be collected by the 1905
vendor at the time the lease or rental is consummated and shall be 1906
calculated by the vendor on the basis of the total amount to be 1907
paid by the lessee or renter under the lease agreement. If the 1908
total amount of the consideration for the lease or rental includes 1909
amounts that are not calculated at the time the lease or rental is 1910
executed, the tax shall be calculated and collected by the vendor 1911
at the time such amounts are billed to the lessee or renter. In 1912

the case of an open-end lease or rental, the tax shall be 1913
calculated by the vendor on the basis of the total amount to be 1914
paid during the initial fixed term of the lease or rental, and for 1915
each subsequent renewal period as it comes due. As used in this 1916
division, "motor vehicle" has the same meaning as in section 1917
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1918
unit attached to the watercraft. 1919

A lease with a renewal clause and a termination penalty or 1920
similar provision that applies if the renewal clause is not 1921
exercised is presumed to be a sham transaction. In such a case, 1922
the tax shall be calculated and paid on the basis of the entire 1923
length of the lease period, including any renewal periods, until 1924
the termination penalty or similar provision no longer applies. 1925
The taxpayer shall bear the burden, by a preponderance of the 1926
evidence, that the transaction or series of transactions is not a 1927
sham transaction. 1928

(3) Except as provided in division (A)(2) of this section, in 1929
the case of a sale, the price of which consists in whole or in 1930
part of the lease or rental of tangible personal property, the tax 1931
shall be measured by the installments of that lease or rental. 1932

(4) In the case of a sale of a physical fitness facility 1933
service or recreation and sports club service, the price of which 1934
consists in whole or in part of a membership for the receipt of 1935
the benefit of the service, the tax applicable to the sale shall 1936
be measured by the installments thereof. 1937

(B) The tax does not apply to the following: 1938

(1) Sales to the state or any of its political subdivisions, 1939
or to any other state or its political subdivisions if the laws of 1940
that state exempt from taxation sales made to this state and its 1941
political subdivisions; 1942

(2) Sales of food for human consumption off the premises 1943

where sold;	1944
(3) Sales of food sold to students only in a cafeteria,	1945
dormitory, fraternity, or sorority maintained in a private,	1946
public, or parochial school, college, or university;	1947
(4) Sales of newspapers and of magazine subscriptions and	1948
sales or transfers of magazines distributed as controlled	1949
circulation publications;	1950
(5) The furnishing, preparing, or serving of meals without	1951
charge by an employer to an employee provided the employer records	1952
the meals as part compensation for services performed or work	1953
done;	1954
(6) Sales of motor fuel upon receipt, use, distribution, or	1955
sale of which in this state a tax is imposed by the law of this	1956
state, but this exemption shall not apply to the sale of motor	1957
fuel on which a refund of the tax is allowable under division (A)	1958
of section 5735.14 of the Revised Code; and the tax commissioner	1959
may deduct the amount of tax levied by this section applicable to	1960
the price of motor fuel when granting a refund of motor fuel tax	1961
pursuant to division (A) of section 5735.14 of the Revised Code	1962
and shall cause the amount deducted to be paid into the general	1963
revenue fund of this state;	1964
(7) Sales of natural gas by a natural gas company, of water	1965
by a water-works company, or of steam by a heating company, if in	1966
each case the thing sold is delivered to consumers through pipes	1967
or conduits, and all sales of communications services by a	1968
telegraph company, all terms as defined in section 5727.01 of the	1969
Revised Code, and sales of electricity delivered through wires;	1970
(8) Casual sales by a person, or auctioneer employed directly	1971
by the person to conduct such sales, except as to such sales of	1972
motor vehicles, watercraft or outboard motors required to be	1973
titled under section 1548.06 of the Revised Code, watercraft	1974

documented with the United States coast guard, snowmobiles, and 1975
all-purpose vehicles as defined in section 4519.01 of the Revised 1976
Code; 1977

(9)(a) Sales of services or tangible personal property, other 1978
than motor vehicles, mobile homes, and manufactured homes, by 1979
churches, organizations exempt from taxation under section 1980
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1981
organizations operated exclusively for charitable purposes as 1982
defined in division (B)(12) of this section, provided that the 1983
number of days on which such tangible personal property or 1984
services, other than items never subject to the tax, are sold does 1985
not exceed six in any calendar year, except as otherwise provided 1986
in division (B)(9)(b) of this section. If the number of days on 1987
which such sales are made exceeds six in any calendar year, the 1988
church or organization shall be considered to be engaged in 1989
business and all subsequent sales by it shall be subject to the 1990
tax. In counting the number of days, all sales by groups within a 1991
church or within an organization shall be considered to be sales 1992
of that church or organization. 1993

(b) The limitation on the number of days on which tax-exempt 1994
sales may be made by a church or organization under division 1995
(B)(9)(a) of this section does not apply to sales made by student 1996
clubs and other groups of students of a primary or secondary 1997
school, or a parent-teacher association, booster group, or similar 1998
organization that raises money to support or fund curricular or 1999
extracurricular activities of a primary or secondary school. 2000

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2001
to sales by a noncommercial educational radio or television 2002
broadcasting station. 2003

(10) Sales not within the taxing power of this state under 2004
the Constitution of the United States; 2005

(11) Except for transactions that are sales under division 2006
(B)(3)(r) of section 5739.01 of the Revised Code, the 2007
transportation of persons or property, unless the transportation 2008
is by a private investigation and security service; 2009

(12) Sales of tangible personal property or services to 2010
churches, to organizations exempt from taxation under section 2011
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2012
nonprofit organizations operated exclusively for charitable 2013
purposes in this state, no part of the net income of which inures 2014
to the benefit of any private shareholder or individual, and no 2015
substantial part of the activities of which consists of carrying 2016
on propaganda or otherwise attempting to influence legislation; 2017
sales to offices administering one or more homes for the aged or 2018
one or more hospital facilities exempt under section 140.08 of the 2019
Revised Code; and sales to organizations described in division (D) 2020
of section 5709.12 of the Revised Code. 2021

"Charitable purposes" means the relief of poverty; the 2022
improvement of health through the alleviation of illness, disease, 2023
or injury; the operation of an organization exclusively for the 2024
provision of professional, laundry, printing, and purchasing 2025
services to hospitals or charitable institutions; the operation of 2026
a home for the aged, as defined in section 5701.13 of the Revised 2027
Code; the operation of a radio or television broadcasting station 2028
that is licensed by the federal communications commission as a 2029
noncommercial educational radio or television station; the 2030
operation of a nonprofit animal adoption service or a county 2031
humane society; the promotion of education by an institution of 2032
learning that maintains a faculty of qualified instructors, 2033
teaches regular continuous courses of study, and confers a 2034
recognized diploma upon completion of a specific curriculum; the 2035
operation of a parent-teacher association, booster group, or 2036
similar organization primarily engaged in the promotion and 2037

support of the curricular or extracurricular activities of a 2038
primary or secondary school; the operation of a community or area 2039
center in which presentations in music, dramatics, the arts, and 2040
related fields are made in order to foster public interest and 2041
education therein; the production of performances in music, 2042
dramatics, and the arts; or the promotion of education by an 2043
organization engaged in carrying on research in, or the 2044
dissemination of, scientific and technological knowledge and 2045
information primarily for the public. 2046

Nothing in this division shall be deemed to exempt sales to 2047
any organization for use in the operation or carrying on of a 2048
trade or business, or sales to a home for the aged for use in the 2049
operation of independent living facilities as defined in division 2050
(A) of section 5709.12 of the Revised Code. 2051

(13) Building and construction materials and services sold to 2052
construction contractors for incorporation into a structure or 2053
improvement to real property under a construction contract with 2054
this state or a political subdivision of this state, or with the 2055
United States government or any of its agencies; building and 2056
construction materials and services sold to construction 2057
contractors for incorporation into a structure or improvement to 2058
real property that are accepted for ownership by this state or any 2059
of its political subdivisions, or by the United States government 2060
or any of its agencies at the time of completion of the structures 2061
or improvements; building and construction materials sold to 2062
construction contractors for incorporation into a horticulture 2063
structure or livestock structure for a person engaged in the 2064
business of horticulture or producing livestock; building 2065
materials and services sold to a construction contractor for 2066
incorporation into a house of public worship or religious 2067
education, or a building used exclusively for charitable purposes 2068
under a construction contract with an organization whose purpose 2069

is as described in division (B)(12) of this section; building 2070
materials and services sold to a construction contractor for 2071
incorporation into a building under a construction contract with 2072
an organization exempt from taxation under section 501(c)(3) of 2073
the Internal Revenue Code of 1986 when the building is to be used 2074
exclusively for the organization's exempt purposes; building and 2075
construction materials sold for incorporation into the original 2076
construction of a sports facility under section 307.696 of the 2077
Revised Code; ~~and~~ building and construction materials and services 2078
sold to a construction contractor for incorporation into real 2079
property outside this state if such materials and services, when 2080
sold to a construction contractor in the state in which the real 2081
property is located for incorporation into real property in that 2082
state, would be exempt from a tax on sales levied by that state; 2083
and, until one calendar year after the construction of a 2084
convention center that qualifies for property tax exemption under 2085
section 5709.084 of the Revised Code is completed, building and 2086
construction materials and services sold to a construction 2087
contractor for incorporation into the real property comprising 2088
that convention center; 2089

(14) Sales of ships or vessels or rail rolling stock used or 2090
to be used principally in interstate or foreign commerce, and 2091
repairs, alterations, fuel, and lubricants for such ships or 2092
vessels or rail rolling stock; 2093

(15) Sales to persons primarily engaged in any of the 2094
activities mentioned in division (B)(42)(a) or (g) of this 2095
section, to persons engaged in making retail sales, or to persons 2096
who purchase for sale from a manufacturer tangible personal 2097
property that was produced by the manufacturer in accordance with 2098
specific designs provided by the purchaser, of packages, including 2099
material, labels, and parts for packages, and of machinery, 2100
equipment, and material for use primarily in packaging tangible 2101

personal property produced for sale, including any machinery, 2102
equipment, and supplies used to make labels or packages, to 2103
prepare packages or products for labeling, or to label packages or 2104
products, by or on the order of the person doing the packaging, or 2105
sold at retail. "Packages" includes bags, baskets, cartons, 2106
crates, boxes, cans, bottles, bindings, wrappings, and other 2107
similar devices and containers, but does not include motor 2108
vehicles or bulk tanks, trailers, or similar devices attached to 2109
motor vehicles. "Packaging" means placing in a package. Division 2110
(B)(15) of this section does not apply to persons engaged in 2111
highway transportation for hire. 2112

(16) Sales of food to persons using supplemental nutrition 2113
assistance program benefits to purchase the food. As used in this 2114
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2115
federal regulations adopted pursuant to the Food and Nutrition Act 2116
of 2008. 2117

(17) Sales to persons engaged in farming, agriculture, 2118
horticulture, or floriculture, of tangible personal property for 2119
use or consumption directly in the production by farming, 2120
agriculture, horticulture, or floriculture of other tangible 2121
personal property for use or consumption directly in the 2122
production of tangible personal property for sale by farming, 2123
agriculture, horticulture, or floriculture; or material and parts 2124
for incorporation into any such tangible personal property for use 2125
or consumption in production; and of tangible personal property 2126
for such use or consumption in the conditioning or holding of 2127
products produced by and for such use, consumption, or sale by 2128
persons engaged in farming, agriculture, horticulture, or 2129
floriculture, except where such property is incorporated into real 2130
property; 2131

(18) Sales of drugs for a human being that may be dispensed 2132
only pursuant to a prescription; insulin as recognized in the 2133

official United States pharmacopoeia; urine and blood testing 2134
materials when used by diabetics or persons with hypoglycemia to 2135
test for glucose or acetone; hypodermic syringes and needles when 2136
used by diabetics for insulin injections; epoetin alfa when 2137
purchased for use in the treatment of persons with medical 2138
disease; hospital beds when purchased by hospitals, nursing homes, 2139
or other medical facilities; and medical oxygen and medical 2140
oxygen-dispensing equipment when purchased by hospitals, nursing 2141
homes, or other medical facilities; 2142

(19) Sales of prosthetic devices, durable medical equipment 2143
for home use, or mobility enhancing equipment, when made pursuant 2144
to a prescription and when such devices or equipment are for use 2145
by a human being. 2146

(20) Sales of emergency and fire protection vehicles and 2147
equipment to nonprofit organizations for use solely in providing 2148
fire protection and emergency services, including trauma care and 2149
emergency medical services, for political subdivisions of the 2150
state; 2151

(21) Sales of tangible personal property manufactured in this 2152
state, if sold by the manufacturer in this state to a retailer for 2153
use in the retail business of the retailer outside of this state 2154
and if possession is taken from the manufacturer by the purchaser 2155
within this state for the sole purpose of immediately removing the 2156
same from this state in a vehicle owned by the purchaser; 2157

(22) Sales of services provided by the state or any of its 2158
political subdivisions, agencies, instrumentalities, institutions, 2159
or authorities, or by governmental entities of the state or any of 2160
its political subdivisions, agencies, instrumentalities, 2161
institutions, or authorities; 2162

(23) Sales of motor vehicles to nonresidents of this state 2163
under the circumstances described in division (B) of section 2164

5739.029 of the Revised Code;	2165
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	2166 2167 2168 2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179 2180
(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;	2181 2182 2183
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	2184 2185 2186 2187
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	2188 2189
(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:	2190 2191 2192 2193
(a) To prepare food for human consumption for sale;	2194
(b) To preserve food that has been or will be prepared for	2195

human consumption for sale by the food service operator, not	2196
including tangible personal property used to display food for	2197
selection by the consumer;	2198
(c) To clean tangible personal property used to prepare or	2199
serve food for human consumption for sale.	2200
(28) Sales of animals by nonprofit animal adoption services	2201
or county humane societies;	2202
(29) Sales of services to a corporation described in division	2203
(A) of section 5709.72 of the Revised Code, and sales of tangible	2204
personal property that qualifies for exemption from taxation under	2205
section 5709.72 of the Revised Code;	2206
(30) Sales and installation of agricultural land tile, as	2207
defined in division (B)(5)(a) of section 5739.01 of the Revised	2208
Code;	2209
(31) Sales and erection or installation of portable grain	2210
bins, as defined in division (B)(5)(b) of section 5739.01 of the	2211
Revised Code;	2212
(32) The sale, lease, repair, and maintenance of, parts for,	2213
or items attached to or incorporated in, motor vehicles that are	2214
primarily used for transporting tangible personal property	2215
belonging to others by a person engaged in highway transportation	2216
for hire, except for packages and packaging used for the	2217
transportation of tangible personal property;	2218
(33) Sales to the state headquarters of any veterans'	2219
organization in this state that is either incorporated and issued	2220
a charter by the congress of the United States or is recognized by	2221
the United States veterans administration, for use by the	2222
headquarters;	2223
(34) Sales to a telecommunications service vendor, mobile	2224
telecommunications service vendor, or satellite broadcasting	2225

service vendor of tangible personal property and services used 2226
directly and primarily in transmitting, receiving, switching, or 2227
recording any interactive, one- or two-way electromagnetic 2228
communications, including voice, image, data, and information, 2229
through the use of any medium, including, but not limited to, 2230
poles, wires, cables, switching equipment, computers, and record 2231
storage devices and media, and component parts for the tangible 2232
personal property. The exemption provided in this division shall 2233
be in lieu of all other exemptions under division (B)(42)(a) of 2234
this section to which the vendor may otherwise be entitled, based 2235
upon the use of the thing purchased in providing the 2236
telecommunications, mobile telecommunications, or satellite 2237
broadcasting service. 2238

(35)(a) Sales where the purpose of the consumer is to use or 2239
consume the things transferred in making retail sales and 2240
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2241
certificates, or other advertising material that prices and 2242
describes tangible personal property offered for retail sale. 2243

(b) Sales to direct marketing vendors of preliminary 2244
materials such as photographs, artwork, and typesetting that will 2245
be used in printing advertising material; of printed matter that 2246
offers free merchandise or chances to win sweepstake prizes and 2247
that is mailed to potential customers with advertising material 2248
described in division (B)(35)(a) of this section; and of equipment 2249
such as telephones, computers, facsimile machines, and similar 2250
tangible personal property primarily used to accept orders for 2251
direct marketing retail sales. 2252

(c) Sales of automatic food vending machines that preserve 2253
food with a shelf life of forty-five days or less by refrigeration 2254
and dispense it to the consumer. 2255

For purposes of division (B)(35) of this section, "direct 2256
marketing" means the method of selling where consumers order 2257

tangible personal property by United States mail, delivery 2258
service, or telecommunication and the vendor delivers or ships the 2259
tangible personal property sold to the consumer from a warehouse, 2260
catalogue distribution center, or similar fulfillment facility by 2261
means of the United States mail, delivery service, or common 2262
carrier. 2263

(36) Sales to a person engaged in the business of 2264
horticulture or producing livestock of materials to be 2265
incorporated into a horticulture structure or livestock structure; 2266

(37) Sales of personal computers, computer monitors, computer 2267
keyboards, modems, and other peripheral computer equipment to an 2268
individual who is licensed or certified to teach in an elementary 2269
or a secondary school in this state for use by that individual in 2270
preparation for teaching elementary or secondary school students; 2271

(38) Sales to a professional racing team of any of the 2272
following: 2273

(a) Motor racing vehicles; 2274

(b) Repair services for motor racing vehicles; 2275

(c) Items of property that are attached to or incorporated in 2276
motor racing vehicles, including engines, chassis, and all other 2277
components of the vehicles, and all spare, replacement, and 2278
rebuilt parts or components of the vehicles; except not including 2279
tires, consumable fluids, paint, and accessories consisting of 2280
instrumentation sensors and related items added to the vehicle to 2281
collect and transmit data by means of telemetry and other forms of 2282
communication. 2283

(39) Sales of used manufactured homes and used mobile homes, 2284
as defined in section 5739.0210 of the Revised Code, made on or 2285
after January 1, 2000; 2286

(40) Sales of tangible personal property and services to a 2287

provider of electricity used or consumed directly and primarily in 2288
generating, transmitting, or distributing electricity for use by 2289
others, including property that is or is to be incorporated into 2290
and will become a part of the consumer's production, transmission, 2291
or distribution system and that retains its classification as 2292
tangible personal property after incorporation; fuel or power used 2293
in the production, transmission, or distribution of electricity; 2294
and tangible personal property and services used in the repair and 2295
maintenance of the production, transmission, or distribution 2296
system, including only those motor vehicles as are specially 2297
designed and equipped for such use. The exemption provided in this 2298
division shall be in lieu of all other exemptions in division 2299
(B)(42)(a) of this section to which a provider of electricity may 2300
otherwise be entitled based on the use of the tangible personal 2301
property or service purchased in generating, transmitting, or 2302
distributing electricity. 2303

(41) Sales to a person providing services under division 2304
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 2305
personal property and services used directly and primarily in 2306
providing taxable services under that section. 2307

(42) Sales where the purpose of the purchaser is to do any of 2308
the following: 2309

(a) To incorporate the thing transferred as a material or a 2310
part into tangible personal property to be produced for sale by 2311
manufacturing, assembling, processing, or refining; or to use or 2312
consume the thing transferred directly in producing tangible 2313
personal property for sale by mining, including, without 2314
limitation, the extraction from the earth of all substances that 2315
are classed geologically as minerals, production of crude oil and 2316
natural gas, farming, agriculture, horticulture, or floriculture, 2317
or directly in the rendition of a public utility service, except 2318
that the sales tax levied by this section shall be collected upon 2319

all meals, drinks, and food for human consumption sold when 2320
transporting persons. Persons engaged in rendering farming, 2321
agricultural, horticultural, or floricultural services, and 2322
services in the exploration for, and production of, crude oil and 2323
natural gas, for others are deemed engaged directly in farming, 2324
agriculture, horticulture, and floriculture, or exploration for, 2325
and production of, crude oil and natural gas. This paragraph does 2326
not exempt from "retail sale" or "sales at retail" the sale of 2327
tangible personal property that is to be incorporated into a 2328
structure or improvement to real property. 2329

(b) To hold the thing transferred as security for the 2330
performance of an obligation of the vendor; 2331

(c) To resell, hold, use, or consume the thing transferred as 2332
evidence of a contract of insurance; 2333

(d) To use or consume the thing directly in commercial 2334
fishing; 2335

(e) To incorporate the thing transferred as a material or a 2336
part into, or to use or consume the thing transferred directly in 2337
the production of, magazines distributed as controlled circulation 2338
publications; 2339

(f) To use or consume the thing transferred in the production 2340
and preparation in suitable condition for market and sale of 2341
printed, imprinted, overprinted, lithographic, multilithic, 2342
blueprinted, photostatic, or other productions or reproductions of 2343
written or graphic matter; 2344

(g) To use the thing transferred, as described in section 2345
5739.011 of the Revised Code, primarily in a manufacturing 2346
operation to produce tangible personal property for sale; 2347

(h) To use the benefit of a warranty, maintenance or service 2348
contract, or similar agreement, as described in division (B)(7) of 2349
section 5739.01 of the Revised Code, to repair or maintain 2350

tangible personal property, if all of the property that is the 2351
subject of the warranty, contract, or agreement would not be 2352
subject to the tax imposed by this section; 2353

(i) To use the thing transferred as qualified research and 2354
development equipment; 2355

(j) To use or consume the thing transferred primarily in 2356
storing, transporting, mailing, or otherwise handling purchased 2357
sales inventory in a warehouse, distribution center, or similar 2358
facility when the inventory is primarily distributed outside this 2359
state to retail stores of the person who owns or controls the 2360
warehouse, distribution center, or similar facility, to retail 2361
stores of an affiliated group of which that person is a member, or 2362
by means of direct marketing. This division does not apply to 2363
motor vehicles registered for operation on the public highways. As 2364
used in this division, "affiliated group" has the same meaning as 2365
in division (B)(3)(e) of section 5739.01 of the Revised Code and 2366
"direct marketing" has the same meaning as in division (B)(35) of 2367
this section. 2368

(k) To use or consume the thing transferred to fulfill a 2369
contractual obligation incurred by a warrantor pursuant to a 2370
warranty provided as a part of the price of the tangible personal 2371
property sold or by a vendor of a warranty, maintenance or service 2372
contract, or similar agreement the provision of which is defined 2373
as a sale under division (B)(7) of section 5739.01 of the Revised 2374
Code; 2375

(l) To use or consume the thing transferred in the production 2376
of a newspaper for distribution to the public; 2377

(m) To use tangible personal property to perform a service 2378
listed in division (B)(3) of section 5739.01 of the Revised Code, 2379
if the property is or is to be permanently transferred to the 2380
consumer of the service as an integral part of the performance of 2381

the service;	2382
(n) To use or consume the thing transferred in acquiring,	2383
formatting, editing, storing, and disseminating data or	2384
information by electronic publishing.	2385
As used in division (B)(42) of this section, "thing" includes	2386
all transactions included in divisions (B)(3)(a), (b), and (e) of	2387
section 5739.01 of the Revised Code.	2388
(43) Sales conducted through a coin operated device that	2389
activates vacuum equipment or equipment that dispenses water,	2390
whether or not in combination with soap or other cleaning agents	2391
or wax, to the consumer for the consumer's use on the premises in	2392
washing, cleaning, or waxing a motor vehicle, provided no other	2393
personal property or personal service is provided as part of the	2394
transaction.	2395
(44) Sales of replacement and modification parts for engines,	2396
airframes, instruments, and interiors in, and paint for, aircraft	2397
used primarily in a fractional aircraft ownership program, and	2398
sales of services for the repair, modification, and maintenance of	2399
such aircraft, and machinery, equipment, and supplies primarily	2400
used to provide those services.	2401
(45) Sales of telecommunications service that is used	2402
directly and primarily to perform the functions of a call center.	2403
As used in this division, "call center" means any physical	2404
location where telephone calls are placed or received in high	2405
volume for the purpose of making sales, marketing, customer	2406
service, technical support, or other specialized business	2407
activity, and that employs at least fifty individuals that engage	2408
in call center activities on a full-time basis, or sufficient	2409
individuals to fill fifty full-time equivalent positions.	2410
(46) Sales by a telecommunications service vendor of 900	2411
service to a subscriber. This division does not apply to	2412

information services, as defined in division (FF) of section 2413
5739.01 of the Revised Code. 2414

(47) Sales of value-added non-voice data service. This 2415
division does not apply to any similar service that is not 2416
otherwise a telecommunications service. 2417

(48)(a) Sales of machinery, equipment, and software to a 2418
qualified direct selling entity for use in a warehouse or 2419
distribution center primarily for storing, transporting, or 2420
otherwise handling inventory that is held for sale to independent 2421
salespersons who operate as direct sellers and that is held 2422
primarily for distribution outside this state; 2423

(b) As used in division (B)(48)(a) of this section: 2424

(i) "Direct seller" means a person selling consumer products 2425
to individuals for personal or household use and not from a fixed 2426
retail location, including selling such product at in-home product 2427
demonstrations, parties, and other one-on-one selling. 2428

(ii) "Qualified direct selling entity" means an entity 2429
selling to direct sellers at the time the entity enters into a tax 2430
credit agreement with the tax credit authority pursuant to section 2431
122.17 of the Revised Code, provided that the agreement was 2432
entered into on or after January 1, 2007. Neither contingencies 2433
relevant to the granting of, nor later developments with respect 2434
to, the tax credit shall impair the status of the qualified direct 2435
selling entity under division (B)(48) of this section after 2436
execution of the tax credit agreement by the tax credit authority. 2437

(c) Division (B)(48) of this section is limited to machinery, 2438
equipment, and software first stored, used, or consumed in this 2439
state within the period commencing June 24, 2008, and ending on 2440
the date that is five years after that date. 2441

(49) Sales of materials, parts, equipment, or engines used in 2442
the repair or maintenance of aircraft or avionics systems of such 2443

aircraft, and sales of repair, remodeling, replacement, or 2444
maintenance services in this state performed on aircraft or on an 2445
aircraft's avionics, engine, or component materials or parts. As 2446
used in division (B)(49) of this section, "aircraft" means 2447
aircraft of more than six thousand pounds maximum certified 2448
takeoff weight or used exclusively in general aviation. 2449

(50) Sales of full flight simulators that are used for pilot 2450
or flight-crew training, sales of repair or replacement parts or 2451
components, and sales of repair or maintenance services for such 2452
full flight simulators. "Full flight simulator" means a replica of 2453
a specific type, or make, model, and series of aircraft cockpit. 2454
It includes the assemblage of equipment and computer programs 2455
necessary to represent aircraft operations in ground and flight 2456
conditions, a visual system providing an out-of-the-cockpit view, 2457
and a system that provides cues at least equivalent to those of a 2458
three-degree-of-freedom motion system, and has the full range of 2459
capabilities of the systems installed in the device as described 2460
in appendices A and B of part 60 of chapter 1 of title 14 of the 2461
Code of Federal Regulations. 2462

(C) For the purpose of the proper administration of this 2463
chapter, and to prevent the evasion of the tax, it is presumed 2464
that all sales made in this state are subject to the tax until the 2465
contrary is established. 2466

(D) The levy of this tax on retail sales of recreation and 2467
sports club service shall not prevent a municipal corporation from 2468
levying any tax on recreation and sports club dues or on any 2469
income generated by recreation and sports club dues. 2470

(E) The tax collected by the vendor from the consumer under 2471
this chapter is not part of the price, but is a tax collection for 2472
the benefit of the state, and of counties levying an additional 2473
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2474
Code and of transit authorities levying an additional sales tax 2475

pursuant to section 5739.023 of the Revised Code. Except for the 2476
discount authorized under section 5739.12 of the Revised Code and 2477
the effects of any rounding pursuant to section 5703.055 of the 2478
Revised Code, no person other than the state or such a county or 2479
transit authority shall derive any benefit from the collection or 2480
payment of the tax levied by this section or section 5739.021, 2481
5739.023, or 5739.026 of the Revised Code. 2482

Sec. 5751.08. (A) An application for refund to the taxpayer 2483
of the amount of taxes imposed under this chapter that are 2484
overpaid, paid illegally or erroneously, or paid on any illegal or 2485
erroneous assessment shall be filed by the reporting person with 2486
the tax commissioner, on the form prescribed by the commissioner, 2487
within four years after the date of the illegal or erroneous 2488
payment of the tax, or within any additional period allowed under 2489
division (F) of section 5751.09 of the Revised Code. The applicant 2490
shall provide the amount of the requested refund along with the 2491
claimed reasons for, and documentation to support, the issuance of 2492
a refund. 2493

(B) On the filing of the refund application, the tax 2494
commissioner shall determine the amount of refund to which the 2495
applicant is entitled. If the amount is not less than that 2496
claimed, the commissioner shall certify the amount to the director 2497
of budget and management and treasurer of state for payment from 2498
the tax refund fund created under section 5703.052 of the Revised 2499
Code. If the amount is less than that claimed, the commissioner 2500
shall proceed in accordance with section 5703.70 of the Revised 2501
Code. 2502

(C) Interest on a refund applied for under this section, 2503
computed at the rate provided for in section 5703.47 of the 2504
Revised Code, shall be allowed from the later of the date the tax 2505
was paid or when the tax payment was due. 2506

(D) A calendar quarter taxpayer with more than one million 2507
dollars in taxable gross receipts in a calendar year other than 2508
calendar year 2005 and that is not able to exclude one million 2509
dollars in taxable gross receipts because of the operation of the 2510
taxpayer's business in that calendar year may file for a refund 2511
under this section to obtain the full exclusion of one million 2512
dollars in taxable gross receipts for that calendar year. 2513

~~(E) No person with an active registration as a taxpayer under 2514
this chapter may claim a refund under this section for the tax 2515
imposed under division (B) of section 5751.03 of the Revised Code 2516
unless the person cancelled the registration before the tenth day 2517
of May of the current calendar year pursuant to division (D) of 2518
section 5751.04 of the Revised Code. 2519~~

~~(F)~~ Except as provided in section ~~5751.091~~ 5751.081 of the 2520
Revised Code, the tax commissioner may, with the consent of the 2521
taxpayer, provide for the crediting against tax due for a tax year 2522
the amount of any refund due the taxpayer under this chapter for a 2523
preceding tax year. 2524

Sec. 5751.09. (A) The tax commissioner may make an 2525
assessment, based on any information in the commissioner's 2526
possession, against any person that fails to file a return or pay 2527
any tax as required by this chapter. The commissioner shall give 2528
the person assessed written notice of the assessment as provided 2529
in section 5703.37 of the Revised Code. With the notice, the 2530
commissioner shall provide instructions on the manner in which to 2531
petition for reassessment and request a hearing with respect to 2532
the petition. The commissioner shall send any assessments against 2533
consolidated elected taxpayer and combined taxpayer groups under 2534
section 5751.011 or 5751.012 of the Revised Code to the taxpayer's 2535
"reporting person" as defined under division (R) of section 2536
5751.01 of the Revised Code. The reporting person shall notify all 2537

members of the group of the assessment and all outstanding taxes, 2538
interest, and penalties for which the assessment is issued. 2539

(B) Unless the person assessed, within sixty days after 2540
service of the notice of assessment, files with the tax 2541
commissioner, either personally or by certified mail, a written 2542
petition signed by the person or the person's authorized agent 2543
having knowledge of the facts, the assessment becomes final, and 2544
the amount of the assessment is due and payable from the person 2545
assessed to the treasurer of state. The petition shall indicate 2546
the objections of the person assessed, but additional objections 2547
may be raised in writing if received by the commissioner prior to 2548
the date shown on the final determination. 2549

If a petition for reassessment has been properly filed, the 2550
commissioner shall proceed under section 5703.60 of the Revised 2551
Code. 2552

(C)(1) After an assessment becomes final, if any portion of 2553
the assessment, including accrued interest, remains unpaid, a 2554
certified copy of the tax commissioner's entry making the 2555
assessment final may be filed in the office of the clerk of the 2556
court of common pleas in the county in which the person resides or 2557
has its principal place of business in this state, or in the 2558
office of the clerk of court of common pleas of Franklin county. 2559

(2) Immediately upon the filing of the entry, the clerk shall 2560
enter judgment for the state against the person assessed in the 2561
amount shown on the entry. The judgment may be filed by the clerk 2562
in a loose-leaf book entitled, "special judgments for the 2563
commercial activity tax" and shall have the same effect as other 2564
judgments. Execution shall issue upon the judgment at the request 2565
of the tax commissioner, and all laws applicable to sales on 2566
execution shall apply to sales made under the judgment. 2567

(3) The portion of the assessment not paid within sixty days 2568

after the day the assessment was issued shall bear interest at the 2569
rate per annum prescribed by section 5703.47 of the Revised Code 2570
from the day the tax commissioner issues the assessment until it 2571
is paid. Interest shall be paid in the same manner as the tax and 2572
may be collected by the issuance of an assessment under this 2573
section. 2574

(D) If the tax commissioner believes that collection of the 2575
tax will be jeopardized unless proceedings to collect or secure 2576
collection of the tax are instituted without delay, the 2577
commissioner may issue a jeopardy assessment against the person 2578
liable for the tax. Immediately upon the issuance of the jeopardy 2579
assessment, the commissioner shall file an entry with the clerk of 2580
the court of common pleas in the manner prescribed by division (C) 2581
of this section. Notice of the jeopardy assessment shall be served 2582
on the person assessed or the person's authorized agent in the 2583
manner provided in section 5703.37 of the Revised Code within five 2584
days of the filing of the entry with the clerk. The total amount 2585
assessed is immediately due and payable, unless the person 2586
assessed files a petition for reassessment in accordance with 2587
division (B) of this section and provides security in a form 2588
satisfactory to the commissioner and in an amount sufficient to 2589
satisfy the unpaid balance of the assessment. Full or partial 2590
payment of the assessment does not prejudice the commissioner's 2591
consideration of the petition for reassessment. 2592

(E) The tax commissioner shall immediately forward to the 2593
treasurer of state all amounts the commissioner receives under 2594
this section, and such amounts shall be considered as revenue 2595
arising from the tax imposed under this chapter. 2596

(F) Except as otherwise provided in this division, no 2597
assessment shall be made or issued against a taxpayer for the tax 2598
imposed under this chapter more than four years after the due date 2599
for the filing of the return for the tax period for which the tax 2600

was reported, or more than four years after the return for the tax 2601
period was filed, whichever is later. The time limit may be 2602
extended if both the taxpayer and the commissioner consent in 2603
writing to the extension or enter into an agreement waiving or 2604
extending the time limit. Any such extension shall extend the 2605
four-year time limit in division (B) of section 5751.08 of the 2606
Revised Code for the same period of time. Nothing in this division 2607
bars an assessment against a taxpayer that fails to file a return 2608
required by this chapter or that files a fraudulent return. 2609

(G) If the tax commissioner possesses information that 2610
indicates that the amount of tax a taxpayer is required to pay 2611
under this chapter exceeds the amount the taxpayer paid, the tax 2612
commissioner may audit a sample of the taxpayer's gross receipts 2613
over a representative period of time to ascertain the amount of 2614
tax due, and may issue an assessment based on the audit. The tax 2615
commissioner shall make a good faith effort to reach agreement 2616
with the taxpayer in selecting a representative sample. The tax 2617
commissioner may apply a sampling method only if the commissioner 2618
has prescribed the method by rule. 2619

(H) If the whereabouts of a person subject to this chapter is 2620
not known to the tax commissioner, the commissioner shall follow 2621
the procedures under section 5703.37 of the Revised Code. 2622

Sec. 6109.22. (A) There is hereby created the drinking water 2623
assistance fund to provide financial and technical assistance for 2624
the purposes of protecting public health and achieving and 2625
maintaining compliance with the Safe Drinking Water Act and this 2626
chapter. In addition to the accounts created under divisions (G) 2627
and (H) of this section, the drinking water assistance fund may 2628
include any other accounts established by the director of 2629
environmental protection. The fund shall be administered by the 2630
director consistent with the Safe Drinking Water Act, this 2631

section, and rules adopted under division (M) of this section. 2632

(B) The drinking water assistance fund shall consist of the 2633
moneys credited to it from all capitalization grants received 2634
under the Safe Drinking Water Act except for moneys reserved by 2635
the governor pursuant to ~~title~~ Title III, section 302 of that act, 2636
all moneys credited to the fund from nonfederal sources, 2637
including, without limitation, the proceeds of state bonds or 2638
notes issued for the benefit of the fund, all payments of 2639
principal and interest on loans made from the fund, and all 2640
investment earnings on moneys held in the fund. On or before the 2641
date that a capitalization grant payment made under the authority 2642
of the Safe Drinking Water Act is credited to the fund, required 2643
matching moneys shall be credited to the fund. Any moneys 2644
transferred to or reserved from the drinking water assistance fund 2645
pursuant to ~~title~~ Title III, section 302 of the Safe Drinking 2646
Water Act shall be accounted for separately. 2647

(C) In a manner consistent with the Safe Drinking Water Act 2648
and the applicable drinking water assistance management plan 2649
prepared in accordance with this section, the director may reserve 2650
and award for assistance moneys allotted to the state under 2651
section 1452 of the Safe Drinking Water Act, provided that the 2652
director makes a determination that the use of the moneys will 2653
accomplish the state's objectives and the objectives established 2654
for capitalization grants under the Safe Drinking Water Act. The 2655
director may use a portion of the reserved moneys to enter into 2656
contracts with qualified organizations, including private 2657
nonprofit organizations, to provide statewide on-site technical 2658
assistance to small public water systems. 2659

(D) Subject to the terms of the agreements provided for in 2660
division (E) of this section, moneys in the drinking water 2661
assistance fund shall be held in trust by the Ohio water 2662
development authority for the purposes of this section, shall be 2663

kept in the same manner that funds of the authority are kept under 2664
section 6121.11 of the Revised Code, and may be invested in the 2665
same manner that funds of the authority are invested under section 2666
6121.12 of the Revised Code. Moneys in the drinking water 2667
assistance fund shall be separate and apart from and not a part of 2668
the state treasury or of the other funds of the authority. No 2669
withdrawals or disbursements shall be made from the drinking water 2670
assistance fund without the written authorization of the director. 2671

(E) The director shall adopt written criteria to ensure that 2672
fiscal controls are established for prudent administration of the 2673
drinking water assistance fund. For that purpose, the director and 2674
the authority shall enter into any necessary and appropriate 2675
agreements under which the authority may perform or provide any of 2676
the following: 2677

(1) Fiscal controls and accounting procedures governing fund 2678
balances, receipts, and disbursements; 2679

(2) Administration of loan accounts; 2680

(3) Maintenance, management, and investment of moneys in the 2681
fund. 2682

Any agreement entered into under division (E) of this section 2683
shall provide for the payment of reasonable fees to the authority 2684
for any services it performs under the agreement and may provide 2685
for reasonable fees for the assistance of financial or accounting 2686
advisors. Payment of any of the fees to the authority may be made 2687
from the drinking water assistance administrative account 2688
established under division (G) of this section. 2689

(F) The authority may make moneys available to the director 2690
for the purpose of providing matching moneys required to be 2691
credited to the drinking water assistance fund under division (B) 2692
of this section, subject to any terms that the director and the 2693
authority consider appropriate, and may pledge moneys that are 2694

held by the authority to secure the payment of bonds or notes 2695
issued by the authority to provide those matching moneys. 2696

The director and the authority may enter into trust 2697
agreements to enable the authority to issue and refund bonds or 2698
notes for the sole benefit of the drinking water assistance fund, 2699
including, without limitation, the raising of matching moneys 2700
required to be credited to the fund in accordance with division 2701
(B) of this section. The agreements may authorize the pledge of 2702
moneys accruing to the fund from payments of principal or interest 2703
or both on loans made from the fund to secure bonds or notes, the 2704
proceeds of which bonds or notes shall be for the sole benefit of 2705
the drinking water assistance fund. The agreements may contain any 2706
terms that the director and the authority consider reasonable and 2707
proper for the payment and security of the bondholders or 2708
noteholders. 2709

(G) There is hereby established within the drinking water 2710
assistance fund the drinking water assistance administrative 2711
account. No state matching moneys deposited into the fund under 2712
this section shall be used for the purpose of paying for or 2713
defraying the costs of administering this section. The director 2714
may establish and collect fees from applicants for assistance 2715
provided under this section. The total fees charged to an 2716
applicant under this division for assistance under this section 2717
shall not exceed the following: 2718

(1) For the environmental protection agency, one per cent of 2719
the principal amount of the assistance awarded to the applicant; 2720

(2) For the authority, thirty-five one-hundredths of one per 2721
cent of the principal amount of the assistance awarded to the 2722
applicant. 2723

All moneys from the fees shall be credited to the drinking 2724
water assistance administrative account in the fund. The moneys 2725

shall be used solely to defray the costs of administering this 2726
section. 2727

(H) There is hereby established within the drinking water 2728
assistance fund the water supply revolving loan account. The 2729
director may provide financial assistance from the water supply 2730
revolving loan account for improvements to community water systems 2731
and to nonprofit noncommunity public water systems. 2732

(I) All moneys from the fund credited to the water supply 2733
revolving loan account, all interest earned on moneys credited to 2734
the account, and all payments of principal and interest on loans 2735
made from the account shall be dedicated in perpetuity and used 2736
and reused solely for the following purposes, except as otherwise 2737
provided in this section: 2738

(1) To make loans to community water systems and nonprofit 2739
noncommunity public water systems, subject to all of the following 2740
conditions: 2741

(a) The loans are made at or below market rates of interest, 2742
including, without limitation, interest-free loans; 2743

(b) Each recipient of a loan shall establish a dedicated 2744
source of security or revenue for repayment of the loan; 2745

(c) All payments of principal and interest on the loans shall 2746
be credited to the water supply revolving loan account. 2747

(2) To purchase or refinance at or below market rates 2748
interest debt obligations incurred after July 1, 1993, by 2749
municipal corporations, other political subdivisions, and 2750
interstate agencies having territory in the state; 2751

(3) To guarantee or purchase insurance for debt obligations 2752
when the guarantee or insurance would improve the borrower's 2753
access to credit markets or would reduce the interest paid on 2754
those obligations; 2755

(4) As a source of revenue or security for the payment of principal and interest on general obligation or revenue bonds or notes issued by this state if the proceeds of the sale of the bonds or notes are or will be deposited into the account;	2756 2757 2758 2759
(5) To provide subsidies in addition to any other financial assistance afforded disadvantaged communities under this section;	2760 2761
(6) To earn interest on moneys credited to the account;	2762
(7) To provide any other assistance authorized by the Safe Drinking Water Act <u>or any other federal law related to the use of federal funds administered under the Safe Drinking Water Act.</u>	2763 2764 2765
(J) The director may provide financial assistance from the water supply revolving loan account after determining all of the following:	2766 2767 2768
(1) The applicant for financial assistance has the legal, institutional, managerial, and financial capability to construct, operate, and maintain its public water system and the proposed improvements to it;	2769 2770 2771 2772
(2) The applicant will implement a financial management plan that includes, without limitation, provisions for satisfactory repayment of the financial assistance;	2773 2774 2775
(3) The public water system of which the project for which assistance is proposed is a part is economically and nonmonetarily cost-effective, based on an evaluation of feasible alternatives that meet the drinking water treatment needs of the planning area in which the proposed project is located;	2776 2777 2778 2779 2780
(4) Based on a comprehensive environmental review approved by the director, there are no significant adverse environmental effects resulting from all necessary improvements to the public water system of which the project proposed for assistance is a part;	2781 2782 2783 2784 2785

(5) Public participation has occurred during the process of planning the project in compliance with applicable requirements under the Safe Drinking Water Act;	2786 2787 2788
(6) The application meets the requirements of this section and rules adopted under division (M) of this section and is consistent with section 1452 of the Safe Drinking Water Act and regulations adopted under it;	2789 2790 2791 2792
(7) If the applicant for assistance is a water district formed under Chapter 6119. of the Revised Code that operates a public water system and that water district seeks to extend the distribution facilities, increase the number of service connections to its system, or provide for any other expansion of its system, the water district has consulted with the board of county commissioners from each county in which is located the proposed extension of distribution facilities, increase in the number of service connections, or other expansion of the public water system;	2793 2794 2795 2796 2797 2798 2799 2800 2801 2802
(8) The application meets any other requirements that the director considers necessary or appropriate to protect public health and the environment and to ensure the financial integrity of the water supply revolving loan account.	2803 2804 2805 2806
Upon approval by the director of an application for financial assistance, the Ohio water development authority shall disburse the appropriate financial assistance from the water supply revolving loan account. If the proposed financial assistance is a loan, and if the payments of the principal or interest on the loan are or are expected to be pledged to secure payment of bonds issued or expected to be issued by the authority, the director shall submit the application for the loan to the authority for review and approval with respect to any matters pertaining to security for and the marketability of authority bonds. Review and approval by the authority shall be required prior to the making of	2807 2808 2809 2810 2811 2812 2813 2814 2815 2816 2817

such a loan. 2818

(K) In accordance with rules adopted under division (M) of 2819
this section, the director periodically shall prepare a drinking 2820
water assistance management plan establishing the short-term and 2821
long-term goals for the assistance provided under this section, 2822
the allocation of available resources for the purposes of this 2823
section, the environmental, financial, and administrative terms, 2824
conditions, and criteria for the award of financial and technical 2825
assistance under this section, and the intended uses of 2826
capitalization grants and available moneys from the drinking water 2827
assistance fund. Criteria for awarding financial or technical 2828
assistance under this section shall not favor or disfavor any 2829
otherwise qualified nonprofit noncommunity public water system 2830
because it is owned by, operated by, or services a religious 2831
organization or a facility used for religious purposes. Prior to 2832
its adoption, the director shall make the drinking water 2833
assistance management plan available for public review and comment 2834
at a minimum of two public meetings and shall take adequate steps 2835
to ensure that reasonable public notice of each public meeting is 2836
given at least thirty days prior to the meeting. 2837

The plan shall include, without limitation, a system that 2838
prioritizes projects funded by the water supply revolving loan 2839
account based on the relative risk to human health being 2840
addressed, their necessity for ensuring compliance with 2841
requirements of the Safe Drinking Water Act, and their 2842
affordability to the applicants, as determined by the director. 2843
Financial assistance for projects from the water supply revolving 2844
loan account shall be limited to projects that are included in 2845
that prioritization and shall be awarded based upon their priority 2846
position and the applicants' readiness to proceed with their 2847
proposed activities as determined by the director. The drinking 2848
water assistance management plan shall include terms, conditions, 2849

amounts of moneys, and qualifying criteria, in addition to any 2850
other criteria established under this section, governing the 2851
financial assistance to be awarded to applicants from the water 2852
supply revolving loan account. The director shall determine the 2853
most effective use of the moneys in that account to achieve the 2854
state's drinking water assistance goals and objectives. 2855

(L) The director, consistent with this section and applicable 2856
rules adopted under division (M) of this section, may enter into 2857
an agreement with an applicant for assistance from the drinking 2858
water assistance fund. Based on the director's review and approval 2859
of the project plans submitted under section 6109.07 of the 2860
Revised Code, any determinations made under division (J) of this 2861
section if an applicant seeks funding from the water supply 2862
revolving loan account, and any other requirements of this section 2863
and rules adopted under it, the director may establish in the 2864
agreement environmental and financial terms and conditions of the 2865
financial assistance to be offered to the applicant. If the 2866
recipient of financial assistance under this section defaults on 2867
any payment required in the agreement for financial assistance or 2868
otherwise violates a term or condition of the agreement or of the 2869
plan approval for the project under section 6109.07 of the Revised 2870
Code, the director, in addition to any other available remedies, 2871
may terminate, suspend, or require immediate repayment of the 2872
financial assistance. The director also may take any enforcement 2873
action available under this chapter. 2874

(M) The director may adopt rules in accordance with Chapter 2875
119. of the Revised Code for the implementation and administration 2876
of this section. The rules shall be consistent with section 1452 2877
of the Safe Drinking Water Act. 2878

(N)(1) For the purposes of this section, appealable actions 2879
of the director pursuant to section 3745.04 of the Revised Code 2880
are limited to the following: 2881

(a) Adoption of the drinking water assistance management plan prepared under division (K) of this section;	2882 2883
(b) Approval of priority systems, priority lists, and written program administration policies;	2884 2885
(c) Approval or disapproval under this section of applicants' project plans submitted under section 6109.07 of the Revised Code;	2886 2887
(d) Approval or disapproval of an application for assistance.	2888
(2) Notwithstanding section 119.06 of the Revised Code, the director may take the final actions described in divisions (N)(1)(a) to (d) of this section without holding an adjudication hearing in connection with the action and without first issuing a proposed action under section 3745.07 of the Revised Code.	2889 2890 2891 2892 2893
(3) Each action described in divisions (N)(1)(a) to (d) of this section and each approval of a plan under section 6109.07 of the Revised Code is a separate and discrete action of the director. Appeals are limited to the issues concerning the specific action appealed. Any appeal shall not include issues determined under the scope of any prior action.	2894 2895 2896 2897 2898 2899
(O) The failure or inability of a public water system to obtain assistance under this section does not alter the obligation of the public water system to comply with all applicable requirements of this chapter and rules adopted under it.	2900 2901 2902 2903
Sec. 6111.036. (A) There is hereby created the water pollution control loan fund to provide financial, technical, and administrative assistance for the following purposes:	2904 2905 2906
(1) Construction of publicly owned wastewater treatment works, as "construction" and "treatment works" are defined in section 212 of the "Federal Water Pollution Control Act," by municipal corporations, other political subdivisions, and interstate agencies having territory in this state;	2907 2908 2909 2910 2911

(2) Implementation of nonpoint source pollution management programs under section 319 of that act;	2912 2913
(3) Development and implementation of estuary conservation and management programs under section 320 of that act.	2914 2915
To the extent they are otherwise allowable as determined by the director of environmental protection, the purposes identified under division (A) of this section are intended to include activities benefiting the waters of the state that are authorized under Chapter 3746. of the Revised Code.	2916 2917 2918 2919 2920
The fund shall be administered by the director consistent with the "Federal Water Pollution Control Act"; regulations adopted under it, including, without limitation, regulations establishing public participation requirements applicable to the providing of financial assistance; this section; and rules adopted under division (O) of this section.	2921 2922 2923 2924 2925 2926
Moneys in the water pollution control loan fund shall be separate and apart from and not a part of the state treasury or of the other funds of the Ohio water development authority. Subject to the terms of the agreements provided for in divisions (B), (C), (D), and (F) of this section, moneys in the fund shall be held in trust by the Ohio water development authority for the purposes of this section, shall be kept in the same manner that funds of the authority are kept under section 6121.11 of the Revised Code, and may be invested in the same manner that funds of the authority are invested under section 6121.12 of the Revised Code. No withdrawals or disbursements shall be made from the water pollution control loan fund without the written authorization of the director or his <u>the director's</u> designated representative. The manner of authorization for any withdrawals or disbursements from the fund to be made by the authority shall be established in the agreements authorized under division (C) of this section.	2927 2928 2929 2930 2931 2932 2933 2934 2935 2936 2937 2938 2939 2940 2941 2942

(B) The director may enter into agreements to receive and 2943
assign moneys credited or to be credited to the water pollution 2944
control loan fund. The director may reserve capitalization grant 2945
moneys allotted to the state under sections 601 and 604(c)(2) of 2946
the "Federal Water Pollution Control Act" for the other purposes 2947
authorized for the use of capitalization grant moneys under 2948
sections 603(d)(7) and 604(b) of that act. 2949

(C) The director shall ensure that fiscal controls are 2950
established for prudent administration of the water pollution 2951
control loan fund. For that purpose, the director and the Ohio 2952
water development authority shall enter into any necessary and 2953
appropriate agreements under which the authority may perform or 2954
provide any of the following: 2955

(1) Fiscal controls and accounting procedures governing fund 2956
balances, receipts, and disbursements; 2957

(2) Administration of loan accounts; 2958

(3) Maintaining, managing, and investing moneys in the fund. 2959

Any agreement entered into under this division shall provide 2960
for the payment of reasonable fees to the Ohio water development 2961
authority for any services it performs under the agreement and may 2962
provide for reasonable fees for the assistance of financial or 2963
accounting advisors. Payments of any such fees to the authority 2964
may be made from the water pollution control loan fund to the 2965
extent authorized by division (H)(7) of this section or from the 2966
water pollution control loan administrative fund created in 2967
division (E) of this section. The authority may enter into loan 2968
agreements with the director and recipients of financial 2969
assistance from the fund as provided in this section. 2970

(D) The water pollution control loan fund shall consist of 2971
the moneys credited to it from all capitalization grants received 2972
under sections 601 and 604(c)(2) of the "Federal Water Pollution 2973

Control Act," all moneys received as capitalization grants under 2974
section 205(m) of that act, all matching moneys credited to the 2975
fund arising from nonfederal sources, all payments of principal 2976
and interest for loans made from the fund, and all investment 2977
earnings on moneys held in the fund. On or before the date on 2978
which a quarterly capitalization grant payment will be received 2979
under that act, matching moneys equal to at least twenty per cent 2980
of the quarterly capitalization grant payment shall be credited to 2981
the fund. The Ohio water development authority may make moneys 2982
available to the director for the purpose of providing the 2983
matching moneys required by this division, subject to such terms 2984
as the director and the authority consider appropriate, and may 2985
pledge moneys that are held by the authority to secure the payment 2986
of bonds or notes issued by the authority to provide those 2987
matching moneys. The authority may make moneys available to the 2988
director for that purpose from any funds now or hereafter 2989
available to the authority from any source, including, without 2990
limitation, the proceeds of bonds or notes heretofore or hereafter 2991
issued by the authority under Chapter 6121. of the Revised Code. 2992
Matching moneys made available to the director by the authority 2993
from the proceeds of any such bonds or notes shall be made 2994
available subject to the terms of the trust agreements relating to 2995
the bonds or notes. Any such matching moneys shall be made 2996
available to the director pursuant to a written agreement between 2997
the director and the authority that contains such terms as the 2998
director and the authority consider appropriate, including, 2999
without limitation, a provision providing for repayment to the 3000
authority of those matching moneys from moneys deposited in the 3001
water pollution control loan fund, including, without limitation, 3002
the proceeds of bonds or notes issued by the authority for the 3003
benefit of the fund and payments of principal and interest on 3004
loans made from the fund, or from any other sources now or 3005
hereafter available to the director for the repayment of those 3006

matching moneys. 3007

(E) All moneys credited to the water pollution control loan 3008
fund, all interest earned on moneys in the fund, and all payments 3009
of principal and interest for loans made from the fund shall be 3010
dedicated in perpetuity and used and reused solely for the 3011
purposes set forth in division (A) of this section, except as 3012
otherwise provided in division (D) or (F) of this section. The 3013
director may establish and collect fees to be paid by recipients 3014
of financial assistance under this section, and all moneys arising 3015
from the fees shall be credited to the water pollution control 3016
loan administrative fund, which is hereby created in the state 3017
treasury, and shall be used to defray the costs of administering 3018
this section. 3019

(F) The director and the Ohio water development authority 3020
shall enter into trust agreements to enable the authority to issue 3021
and refund bonds or notes for the sole benefit of the water 3022
pollution control loan fund, including, without limitation, the 3023
raising of the matching moneys required by division (D) of this 3024
section. These agreements may authorize the pledge of moneys 3025
accruing to the fund from payments of principal and interest on 3026
loans made from the fund adequate to secure bonds or notes, the 3027
proceeds of which bonds or notes shall be for the sole benefit of 3028
the water pollution control loan fund. The agreements may contain 3029
such terms as the director and the authority consider reasonable 3030
and proper for the security of the bondholders or noteholders. 3031

(G) The director shall enter into binding commitments to 3032
provide financial assistance from the water pollution control loan 3033
fund in an amount equal to one hundred twenty per cent of the 3034
amount of each capitalization grant payment received, within one 3035
year after receiving each such grant payment. The director shall 3036
provide the financial assistance in compliance with this section 3037
and rules adopted under division (O) of this section. The director 3038

shall ensure that all moneys credited to the fund are disbursed in 3039
an expeditious and timely manner. During the second year of 3040
operation of the water pollution control loan program, the 3041
director also shall ensure that not less than twenty-five per cent 3042
of the financial assistance provided under this section during 3043
that year is provided for the purpose of division (H)(2) of this 3044
section for the purchase or refinancing of debt obligations 3045
incurred after March 7, 1985, but not later than July 1, 1988, 3046
except that if the amount of money reserved during the second year 3047
of operation of the program for the purchase or refinancing of 3048
those debt obligations exceeds the amount required for the 3049
projects that are eligible to receive financial assistance for 3050
that purpose, the director shall distribute the excess moneys in 3051
accordance with the current priority system and list prepared 3052
under division (I) of this section to provide financial assistance 3053
for projects that otherwise would not receive assistance in that 3054
year. 3055

(H) Moneys credited to the water pollution control loan fund 3056
shall be used only for the following purposes: 3057

(1) To make loans, subject to all of the following 3058
conditions: 3059

(a) The loans are made at or below market rates of interest, 3060
including, without limitation, interest free loans; 3061

(b) Periodic payments of principal and interest shall 3062
commence not later than one year after completion of the project, 3063
and all loans shall be fully amortized not later than twenty years 3064
after project completion; 3065

(c) Each recipient of a loan shall establish a dedicated 3066
source of revenue for repayment of the loan; 3067

(d) All payments of principal and interest on the loans shall 3068
be credited to the fund, except as otherwise provided in division 3069

(D) or (F) of this section.	3070
(2) To purchase or refinance at or below market rates of interest debt obligations incurred after March 7, 1985, by municipal corporations, other political subdivisions, and interstate agencies having territory in the state;	3071 3072 3073 3074
(3) To guarantee or purchase insurance for debt obligations of municipal corporations, other political subdivisions, and interstate agencies having territory within the state when the guarantee or insurance would improve the borrower's access to credit markets or would reduce the interest rate paid on those obligations;	3075 3076 3077 3078 3079 3080
(4) As a source of revenue or security for the payment of principal and interest on general obligation or revenue bonds or notes issued by this state if the proceeds of the sale of the bonds or notes will be deposited in the fund;	3081 3082 3083 3084
(5) To provide loan guarantees for revolving loan funds established by municipal corporations and other political subdivisions that are similar to the water pollution control loan fund;	3085 3086 3087 3088
(6) To earn interest on moneys credited to the fund;	3089
(7) To pay the reasonable costs of administering the fund and this section, except that cumulative expenditures from the fund for administrative costs shall not at any time exceed four per cent of the total amount of the capitalization grants received;	3090 3091 3092 3093
<u>(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.</u>	3094 3095 3096 3097 3098
(I) The director periodically shall prepare in accordance	3099

with rules adopted under division (O) of this section a state 3100
priority system and list ranking assistance proposals principally 3101
on the basis of their relative water quality and public health 3102
benefits and the financial need of the applicants for assistance. 3103
Assistance for proposed activities from the water pollution 3104
control loan fund shall be limited to those activities appearing 3105
on that priority list and shall be awarded based upon their 3106
priority sequence on the list and the applicants' readiness to 3107
proceed with their proposed activities. The director annually 3108
shall prepare and circulate for public review and comment a plan 3109
that defines the goals and intended uses of the fund, as required 3110
by section 606(c) of the "Federal Water Pollution Control Act." 3111

(J) Financial assistance from the water pollution control 3112
loan fund first shall be used to ensure maintenance of progress, 3113
as determined by the governor, toward compliance with enforceable 3114
deadlines, goals, and requirements under the "Federal Water 3115
Pollution Control Act" that are pertinent to the purposes of the 3116
fund set forth in divisions (A)(1) to (3) of this section, 3117
including, without limitation, the municipal compliance deadline 3118
under that act. 3119

(K) The director may provide financial assistance from the 3120
water pollution control loan fund for a publicly owned treatment 3121
works project only after determining that: 3122

(1) Sewerage systems tributary to the treatment works are not 3123
subject to excessive infiltration and inflow; 3124

(2) The applicant for financial assistance has the legal, 3125
institutional, managerial, and financial capability to construct, 3126
operate, and maintain its publicly owned treatment works; 3127

(3) The applicant will implement a financial management plan 3128
that includes, without limitation, provisions for satisfactory 3129
repayment of the financial assistance, a proportional user charge 3130

system to pay the operation, maintenance, and replacement expenses 3131
of the project, and, if appropriate in the director's judgment, an 3132
adequate capital improvements fund; 3133

(4) The proposed disposal system of which the project is a 3134
part is economically and nonmonetarily cost-effective, based upon 3135
an evaluation of feasible alternatives that meet the waste water 3136
treatment needs of the planning area in which the proposed project 3137
is located; 3138

(5) Based upon the environmental review conducted by the 3139
director under division (L) of this section, there are no 3140
significant adverse environmental effects resulting from the 3141
proposed disposal system and the system has been selected from 3142
among environmentally sound alternatives; 3143

(6) Public participation has occurred during the process of 3144
planning the project in compliance with applicable requirements 3145
under the "Federal Water Pollution Control Act"; 3146

(7) The applicant has submitted a facilities plan for the 3147
project that meets the applicable program requirements and that 3148
has been approved by the director; 3149

(8) The application meets the requirements of this section 3150
and rules adopted under division (O) of this section and is 3151
consistent with the intent of Title VI of the "Federal Water 3152
Pollution Control Act" and regulations adopted under it; 3153

(9) The application meets such other requirements as the 3154
director considers necessary or appropriate to protect the 3155
environment or ensure the financial integrity of the fund while 3156
implementing this section. 3157

(L) The director shall perform and document for public review 3158
an independent, comprehensive environmental review of the 3159
assistance proposal for each activity receiving financial 3160
assistance under this section. The review shall serve as the basis 3161

for the determinations to be made under division (K)(5) or (Q)(4) 3162
of this section, as applicable, and may include, without 3163
limitation, an environmental assessment, any necessary 3164
supplemental studies, and an enforceable mitigation plan. The 3165
director may establish environmental impact mitigation terms or 3166
conditions for the implementation of an assistance proposal, 3167
including, without limitation, the installation or modification of 3168
a disposal system, in ~~his~~ the director's approval of the plans for 3169
the installation or modification as authorized by section 6111.44 3170
of the Revised Code or through other legally enforceable means. 3171
The review shall be conducted in accordance with applicable rules 3172
adopted under division (O) of this section. 3173

(M) The director, consistent with this section and applicable 3174
rules adopted under division (O) of this section, may enter into 3175
any agreement with an applicant that is necessary or appropriate 3176
to provide assistance from the water pollution control loan fund. 3177
Based upon ~~his~~ the director's review of an assistance proposal, 3178
including, without limitation, approval for the project under 3179
section 6111.44 of the Revised Code, the environmental review 3180
conducted under division (L) of this section, and the other 3181
requirements of this section and rules adopted under it, the 3182
director may establish in the agreement terms and conditions of 3183
the assistance to be offered to an applicant. In addition to any 3184
other available remedies, the director may terminate, suspend, or 3185
require immediate repayment of financial assistance provided under 3186
this section to, or take any other enforcement action available 3187
under this chapter against, a recipient of financial assistance 3188
under this section who defaults on any payment required in the 3189
agreement for financial assistance or otherwise violates a term or 3190
condition of the agreement or of the plan approval for the project 3191
under section 6111.44 of the Revised Code. 3192

(N) Based upon the director's judgment as to the financial 3193

need of the applicant and as to what constitutes the most 3194
effective allocation of funds to achieve statewide water pollution 3195
control objectives, the director may establish the terms, 3196
conditions, and amount of financial assistance to be offered to an 3197
applicant from the water pollution control loan fund. The 3198
director, to the extent consistent with the water quality 3199
improvement priorities reflected in the current priority system 3200
and list prepared under division (I) of this section and with the 3201
long-term financial integrity of the fund, shall ensure each year 3202
that financial assistance in an amount equal to the cost of the 3203
assistance proposals of applicants having a high level of economic 3204
need that are on the current priority list and for which funding 3205
is available in that year is made available from the fund to those 3206
applicants at an interest rate that is lower than that offered to 3207
other applicants for financial assistance from the fund for 3208
assistance proposals that are on the current priority list and for 3209
which funding is available in that year. 3210

The director shall determine the economic need of applicants 3211
for financial assistance in accordance with uniform criteria 3212
established in rules adopted under division (O) of this section. 3213

(O) The director may adopt rules in accordance with Chapter 3214
119. of the Revised Code for the implementation and administration 3215
of this section and section 6111.037 of the Revised Code. Any such 3216
rules governing the planning, design, and construction of water 3217
pollution control projects, establishing an environmental review 3218
process, establishing requirements for the preparation of 3219
environmental impact reports and mitigation plans, governing the 3220
establishment of priority systems for providing financial 3221
assistance under this section and section 6111.037 of the Revised 3222
Code, and governing the terms and conditions of assistance, shall 3223
be consistent with the intent of Titles II and VI and sections 319 3224
and 320 of the "Federal Water Pollution Control Act." The rules 3225

governing the establishment of priority systems for financial 3226
assistance and governing terms and conditions of assistance shall 3227
provide for the most effective allocation of moneys from the water 3228
pollution control loan fund to achieve water quality and public 3229
health objectives throughout the state as determined by the 3230
director. 3231

(P)(1) For the purpose of this section, appealable actions of 3232
the director pursuant to section 3745.04 of the Revised Code are 3233
limited to the following: 3234

(a) Approval of draft priority systems, draft priority lists, 3235
and draft written program administration policies; 3236

(b) Approval or disapproval of project facility plans under 3237
division (K)(7) of this section; 3238

(c) Approval or disapproval of plans and specifications for a 3239
project under section 6111.44 of the Revised Code and issuance of 3240
a permit to install in connection with a project pursuant to rules 3241
adopted under section 6111.03 of the Revised Code; 3242

(d) Approval or disapproval of an application for assistance. 3243

(2) Notwithstanding section 119.06 of the Revised Code, the 3244
director may take final action described in division (P)(1)(a), 3245
(b), (c), or (d) of this section without holding an adjudication 3246
hearing in connection with the action and without first issuing a 3247
proposed action under section 3745.07 of the Revised Code. 3248

(3) Each action described in divisions (P)(1)(a), (b), (c), 3249
and (d) of this section is a separate and discrete action of the 3250
director. Appeals of any such action are limited to the issues 3251
concerning the specific action appealed, and the appeal shall not 3252
include issues determined under the scope of any prior action. 3253

(Q) The director may provide financial assistance for the 3254
implementation of a nonpoint source management program activity 3255

only after determining all of the following:	3256
(1) The activity is consistent with the state's nonpoint source management program;	3257 3258
(2) The applicant has the legal, institutional, managerial, and financial capability to implement, operate, and maintain the activity;	3259 3260 3261
(3) The cost of the activity is reasonable considering monetary and nonmonetary factors;	3262 3263
(4) Based on the environmental review conducted by the director under division (L) of this section, the activity will not result in significant adverse environmental impacts;	3264 3265 3266
(5) The application meets the requirements of this section and rules adopted under division (O) of this section and is consistent with the intent of Title VI of the "Federal Water Pollution Control Act" and regulations adopted under it;	3267 3268 3269 3270
(6) The applicant will implement a financial management plan, including, without limitation, provisions for satisfactory repayment of the financial assistance;	3271 3272 3273
(7) The application meets such other requirements as the director considers necessary or appropriate to protect the environment and ensure the financial integrity of the fund while implementing this section.	3274 3275 3276 3277
(R) As used in this section, "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," 95 Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 101 Stat. 7, 33 U.S.C.A. 1251.	3278 3279 3280 3281 3282 3283 3284 3285

Section 2. That existing sections 122.12, 135.143, 148.06, 3286
926.31, 1501.04, 1517.23, 3302.03, 3313.44, 4928.01, 5709.62, 3287
5709.63, 5709.632, 5739.02, 5751.08, 5751.09, 6109.22, and 3288
6111.036 of the Revised Code are hereby repealed. 3289

Section 3. (A) Beginning July 1, 2010, and ending January 1, 3290
2012, the Director of Budget and Management, upon the request of 3291
the Director of Natural Resources, shall transfer an amount not to 3292
exceed \$1.2 million from the Natural Areas and Preserves Fund 3293
created in section 1517.11 of the Revised Code (Fund 5220) to the 3294
Departmental Projects Fund (Fund 1550) for the purpose of paying 3295
the salaries of permanent employees of the Division of Natural 3296
Areas and Preserves through January 1, 2012. If such an amount is 3297
so transferred, the Director of Natural Resources, not later than 3298
March 1, 2011, shall submit to the Speaker of the House of 3299
Representatives and the President of the Senate a detailed report 3300
of expenditures from the Departmental Projects Fund (Fund 1550) 3301
for payment of salaries of permanent employees of the Division of 3302
Natural Areas and Preserves. 3303

(B) If an amount is transferred pursuant to division (A) of 3304
this section and if the main operating appropriations act of the 3305
129th General Assembly does not contain an appropriation for the 3306
Division of Natural Areas and Preserves, it is the intent of the 3307
128th General Assembly that a portion of the amount transferred 3308
pursuant to division (A) of this section may be used by the 3309
Department of Natural Resources to pay unemployment compensation 3310
costs of former permanent employees of the Division of Natural 3311
Areas and Preserves. 3312

Section 4. Beginning July 1, 2010, and ending December 31, 3313
2010, the Administrator of the Bureau of Workers' Compensation 3314
shall transfer a portion of the investment earnings credited to 3315

the Coal-Workers Pneumoconiosis Fund created in section 4131.03 of 3316
the Revised Code in an amount not to exceed \$2.28 million to the 3317
Strip Mining Administration Fund (Fund 5260) for the purposes 3318
specified in section 1513.181 of the Revised Code. Transfers from 3319
the Coal-Workers Pneumoconiosis Fund to the Strip Mining 3320
Administration Fund (Fund 5260) are prohibited after December 31, 3321
2010. 3322

Section 5. That section 3313.44 of the Revised Code, as 3323
amended by this act, is remedial in nature and applies to tax 3324
years at issue in any application for exemption from taxation 3325
pending before the Tax Commissioner, Ohio Board of Tax Appeals, 3326
any Court of Appeals, or the Supreme Court on the effective date 3327
of this act and to the property that is the subject of the 3328
application. 3329

Section 6. A person may request a refund of the annual 3330
minimum commercial activity tax paid for calendar year 2007, 2008, 3331
or 2009 under Chapter 5751. of the Revised Code if the person 3332
satisfies both of the following: 3333

(A) The person was not subject to the tax for 2007, 2008, or 3334
2009 because the person was an excluded person under division 3335
(E)(1) of section 5751.01 of the Revised Code. 3336

(B) The person erroneously registered for the tax and failed 3337
to cancel the registration before the tenth day of February of the 3338
calendar year for which the tax was paid. 3339

Section 7. The items set forth in this section are hereby 3340
appropriated for fiscal years 2011 and 2012 out of any moneys in 3341
the state treasury to the credit of the Job Ready Site Development 3342
Fund (Fund 7012) that are not otherwise appropriated: 3343

DEV DEPARTMENT OF DEVELOPMENT			3344
C19502 Job Ready Sites	\$	30,000,000	3345
Total Department of Development	\$	30,000,000	3346
TOTAL Job Ready Site Development Fund	\$	30,000,000	3347

Section 8. JOB READY SITE DEVELOPMENT 3349

The Ohio Public Facilities Commission, upon request of the 3350
Department of Development, is hereby authorized to issue and sell, 3351
in accordance with Section 2p of Article VIII, Ohio Constitution, 3352
and pursuant to sections 151.01 and 151.11 of the Revised Code, 3353
original obligations of the State of Ohio in an aggregate amount 3354
not to exceed \$30,000,000 in addition to the original issuance of 3355
obligations heretofore authorized by prior acts of the General 3356
Assembly. These authorized obligations shall be issued and sold 3357
from time to time, subject to applicable constitutional and 3358
statutory limitations, as needed to ensure sufficient moneys to 3359
the credit of the Job Ready Site Development Fund (Fund 7012) to 3360
pay costs of sites and facilities. 3361

Section 9. The items set forth in this section are hereby 3362
appropriated for fiscal years 2011 and 2012 out of any moneys in 3363
the state treasury to the credit of the Clean Ohio Revitalization 3364
Fund (Fund 7003) that are not otherwise appropriated: 3365

Appropriations

DEV DEPARTMENT OF DEVELOPMENT			3366
C19500 Clean Ohio Revitalization	\$	80,000,000	3367
C19501 Clean Ohio Assistance	\$	20,000,000	3368
Total Department of Development	\$	100,000,000	3369
TOTAL Clean Ohio Assistance Fund	\$	100,000,000	3370

Section 10. CLEAN OHIO REVITALIZATION 3372

The Treasurer of State is hereby authorized to issue and 3373
sell, in accordance with Section 2o and 2q of Article VIII, Ohio 3374

Constitution, and pursuant to sections 151.01 and 151.40 of the 3375
Revised Code, original obligations in an aggregate principal 3376
amount not to exceed \$100,000,000 in addition to the original 3377
issuance of obligations heretofore authorized by prior acts of the 3378
General Assembly. These authorized obligations shall be issued and 3379
sold from time to time, subject to applicable constitutional and 3380
statutory limitations, as needed to ensure sufficient moneys to 3381
the credit of the Clean Ohio Revitalization Fund (Fund 7003) to 3382
pay costs of revitalization projects. 3383

CLEAN OHIO PROJECT SAVINGS REALLOCATION 3384

Notwithstanding division (A) of section 122.658 of the 3385
Revised Code, the Director of Development may reallocate moneys 3386
for the purposes of section 122.653 or 122.656 of the Revised Code 3387
if the Department of Development realizes Clean Ohio Fund project 3388
savings attributable to any of the following instances: 3389

(A) The completion of any project for less than the amount of 3390
grant funds awarded, subject to the local matching funds 3391
participation requirement; 3392

(B) The cancellation of grant awards in which Clean Ohio Fund 3393
moneys have been encumbered for a project but not disbursed, 3394
including those for which a grantee has decided not to proceed 3395
with a project or for which the project term has expired without 3396
substantial project progress; or 3397

(C) Any recapture of Clean Ohio Fund moneys due to a 3398
grantee's default or failure to perform the conditions of the 3399
grant agreement. 3400

Section 11. (A) The ARRA Compliance Fund (Fund 5JA0) is 3401
hereby created in the state treasury. The fund shall be used by 3402
the Department of Education to make adjustments to state support 3403
for local education agencies to meet State Fiscal Stabilization 3404

Fund requirements under the American Recovery and Reinvestment 3405
Act. These requirements are that the state maintain support for 3406
elementary and secondary education to at least the level supported 3407
for fiscal year 2006, and that state payments under the primary 3408
funding formula to local education agencies for fiscal year 2010 3409
and fiscal year 2011 be not less than payments under the primary 3410
funding formula for fiscal year 2009. However, if payments under 3411
the primary funding formula for fiscal year 2010 or fiscal year 3412
2011 are lower than payments under the primary funding formula for 3413
fiscal year 2009, the shortfall in payments must be proportional 3414
to the corresponding shortfall in state aid to public institutions 3415
of higher education. The adjustments under division (B) of this 3416
section shall be made only for the purpose of meeting State Fiscal 3417
Stabilization Fund requirements under the American Recovery and 3418
Reinvestment Act. 3419

(B) If state payments for elementary and secondary education 3420
provided under the primary funding formula for fiscal year 2010 or 3421
fiscal year 2011 are less than required, as described in division 3422
(A) of this section, on or before June 1, 2010, or as soon as 3423
possible thereafter, and on or before June 1, 2011, or as soon as 3424
possible thereafter, the Superintendent of Public Instruction 3425
shall certify to the Director of Budget and Management the amount 3426
by which funding levels are lower than required as the "ARRA 3427
compliance difference." The Superintendent of Public Instruction, 3428
in consultation with the Director of Budget and Management, shall 3429
identify encumbrances that are no longer needed for fiscal year 3430
2010, fiscal year 2011, and prior years against General Revenue 3431
Fund appropriations in the Department of Education's budget equal 3432
to the ARRA compliance difference. The Director of Budget and 3433
Management shall transfer cash in the amount of the identified 3434
fiscal year 2010, and if necessary fiscal year 2011, encumbered 3435
balances no longer needed in appropriation item 200502, Pupil 3436

Transportation, and appropriation item 200550, Foundation Funding, 3437
and up to \$20,000,000 of identified encumbered balances no longer 3438
needed in other General Revenue Fund appropriation items in the 3439
Department of Education's budget, from the General Revenue Fund to 3440
the ARRA Compliance Fund (Fund 5JA0). The amount of transferred 3441
encumbered balances from appropriation items other than 200502 and 3442
200550 shall not total more than \$20,000,000. The Department of 3443
Education shall seek Controlling Board approval if the needed cash 3444
transfer into the ARRA Compliance Fund (Fund 5JA0) exceeds 3445
\$25,000,000. The transferred cash shall be used by the Department 3446
of Education to provide additional subsidy, on a per pupil basis, 3447
to city, local, and exempted village school districts, community 3448
schools, and STEM schools. 3449

Section 12. That Sections 265.30.40 and 265.40.60 of Am. Sub. 3450
H.B. 1 of the 128th General Assembly be amended to read as 3451
follows: 3452

Sec. 265.30.40. FOUNDATION FUNDING 3453

The foregoing appropriation item 200550, Foundation Funding, 3454
includes \$92,300,000 in fiscal year 2010 and \$92,700,000 in fiscal 3455
year 2011 for the state education aid offset due to the change in 3456
public utility valuation as a result of Am. Sub. S.B. 3 and Am. 3457
Sub. S.B. 287, both of the 123rd General Assembly. For each fiscal 3458
year, this amount represents the greater of the total state 3459
education aid offset calculated for that fiscal year or for fiscal 3460
year 2009 due to the valuation change for school districts and the 3461
total state education aid offset calculated for fiscal year 2009 3462
for joint vocational school districts from all relevant 3463
appropriation line item sources. Upon certification by the 3464
Department of Education, in consultation with the Department of 3465
Taxation, to the Director of Budget and Management of the actual 3466
state aid offsets, the cash transfer from the School District 3467

Property Tax Replacement - Utility Fund (Fund 7053) to the General 3468
Revenue Fund shall be decreased or increased by the Director of 3469
Budget and Management to match the certification in accordance 3470
with section 5727.84 of the Revised Code. 3471

The foregoing appropriation item 200550, Foundation Funding, 3472
includes \$127,700,000 in fiscal year 2010 and \$126,600,000 in 3473
fiscal year 2011 for the state education aid offset because of the 3474
changes in tangible personal property valuation as a result of Am. 3475
Sub. H.B. 66 of the 126th General Assembly. For each fiscal year, 3476
this amount represents the greater of the total state education 3477
aid offset calculated for that fiscal year or for fiscal year 2009 3478
because of the valuation change for school districts and the total 3479
state education aid offset calculated for fiscal year 2009 for 3480
joint vocational school districts from all relevant appropriation 3481
item sources. Upon certification by the Department of Education of 3482
the actual state education aid offsets to the Director of Budget 3483
and Management, the cash transfer from the School District 3484
Tangible Property Tax Replacement - Business Fund (Fund 7047) to 3485
the General Revenue Fund shall be decreased or increased by the 3486
Director of Budget and Management to match the certification in 3487
accordance with section 5751.21 of the Revised Code. 3488

Of the foregoing appropriation item 200550, Foundation 3489
Funding, up to \$425,000 shall be expended in each fiscal year for 3490
court payments under section 2151.362 of the Revised Code. 3491

Of the foregoing appropriation item 200550, Foundation 3492
Funding, up to \$15,000,000 in each fiscal year shall be reserved 3493
for payments under sections 3317.026, 3317.027, and 3317.028 of 3494
the Revised Code except that the Controlling Board may increase 3495
the \$15,000,000 amount if presented with such a request from the 3496
Department of Education. 3497

Of the foregoing appropriation item 200550, Foundation 3498
Funding, up to \$8,100,000 in each fiscal year shall be used to 3499

fund gifted education units at educational service centers under 3500
division (L) of section 3317.024 of the Revised Code, 3501
notwithstanding divisions (D)(3) and (6) of section 3317.018 of 3502
the Revised Code. 3503

Of the foregoing appropriation item 200550, Foundation 3504
Funding, an amount shall be available in each fiscal year to be 3505
used by the Department of Education for transitional aid for 3506
school districts under section 3306.19 of the Revised Code. 3507

Of the foregoing appropriation item 200550, Foundation 3508
Funding, up to \$10,000,000 in each fiscal year shall be used to 3509
provide additional state aid to school districts for special 3510
education students under division (C)(3) of section 3317.022 of 3511
the Revised Code, except that the Controlling Board may increase 3512
these amounts if presented with such a request from the Department 3513
of Education at the final meeting of the fiscal year; up to 3514
\$2,000,000 in each fiscal year shall be reserved for Youth 3515
Services tuition payments under section 3317.024 of the Revised 3516
Code; and up to \$46,400,000 in each fiscal year shall be reserved 3517
to fund the state reimbursement of educational service centers 3518
under section 3317.11 of the Revised Code and the section of ~~this~~ 3519
~~act~~ Am. Sub. H.B. 1 of the 128th General Assembly entitled 3520
"EDUCATIONAL SERVICE CENTERS FUNDING." 3521

Of the foregoing appropriation item 200550, Foundation 3522
Funding, up to \$1,000,000 in each fiscal year shall be used by the 3523
Department of Education for a program to pay for educational 3524
services for youth who have been assigned by a juvenile court or 3525
other authorized agency to any of the facilities described in 3526
division (A) of the section of ~~this act~~ Am. Sub. H.B. 1 of the 3527
128th General Assembly entitled "PRIVATE TREATMENT FACILITY 3528
PROJECT." 3529

Of the foregoing appropriation item 200550, Foundation 3530
Funding, up to \$8,686,000 in fiscal year 2010 and up to \$8,722,860 3531

in fiscal year 2011 shall be used to operate school choice 3532
programs. 3533

Of the portion of the funds distributed to the Cleveland 3534
Municipal School District under this section, up to \$11,901,887 in 3535
each fiscal year shall be used to operate the school choice 3536
program in the Cleveland Municipal School District under sections 3537
3313.974 to 3313.979 of the Revised Code. Notwithstanding 3538
divisions (B) and (C) of section 3313.978 and division (C) of 3539
section 3313.979 of the Revised Code, up to \$1,000,000 in each 3540
fiscal year of this amount shall be used by the Cleveland 3541
Municipal School District to provide tutorial assistance as 3542
provided in division (H) of section 3313.974 of the Revised Code. 3543
The Cleveland Municipal School District shall report the use of 3544
these funds in the district's three-year continuous improvement 3545
plan as described in section 3302.04 of the Revised Code in a 3546
manner approved by the Department of Education. 3547

Of the foregoing appropriation item 200550, Foundation 3548
Funding, an amount shall be available in each fiscal year to be 3549
paid to joint vocational school districts in accordance with the 3550
section of ~~this act~~ Am. Sub. H.B. 1 of the 128th General Assembly 3551
entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 3552

Of the foregoing appropriation item 200550, Foundation 3553
Funding, \$7,000,000 in fiscal year 2010 shall be transferred to 3554
appropriation item 200511, Auxiliary Services, for the purpose of 3555
implementing section 3317.06 of the Revised Code. 3556

Of the foregoing appropriation item 200550, Foundation 3557
Funding, \$3,000,000 in fiscal year 2010 shall be transferred to 3558
appropriation item 200532, Nonpublic Administrative Cost 3559
Reimbursement, for the purpose of implementing section 3317.063 of 3560
the Revised Code. 3561

Appropriation items 200502, Pupil Transportation, 200540, 3562

Special Education Enhancements, 200550, Foundation Funding, and 3563
200551, Foundation Funding - Federal Stimulus, other than specific 3564
set-asides, are collectively used in each fiscal year to pay state 3565
formula aid obligations for school districts, community schools, 3566
and joint vocational school districts under ~~this act~~ Am. Sub. H.B. 3567
1 of the 128th General Assembly. The first priority of these 3568
appropriation items, with the exception of specific set-asides, is 3569
to fund state formula aid obligations. It may be necessary to 3570
reallocate funds among these appropriation items or use excess 3571
funds from other general revenue fund appropriation items in the 3572
Department of Education's budget in each fiscal year, in order to 3573
meet state formula aid obligations. If it is determined that it is 3574
necessary to transfer funds among these appropriation items or to 3575
transfer funds from other General Revenue Fund appropriations in 3576
the Department of Education's budget to meet state formula aid 3577
obligations, the Department of Education shall seek approval from 3578
the Controlling Board to transfer funds as needed. 3579

Sec. 265.40.60. LOTTERY PROFITS EDUCATION RESERVE FUND 3580

(A) There is hereby created the Lottery Profits Education 3581
Reserve Fund (Fund 7018) in the State Treasury. Investment 3582
earnings of the Lottery Profits Education Reserve Fund shall be 3583
credited to the fund. The Superintendent of Public Instruction may 3584
certify cash balances exceeding \$75,000,000 in Fund 7018 to the 3585
Director of Budget and Management in June of any given fiscal 3586
year. Prior to making the certification, the Superintendent of 3587
Public Instruction shall determine whether the funds above the 3588
\$75,000,000 threshold are needed to help pay for foundation 3589
program obligations for that fiscal year. 3590

For fiscal years 2010 and 2011, notwithstanding any 3591
provisions of law to the contrary, amounts necessary to make loans 3592
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 3593

Revised Code are hereby appropriated to Fund 7018. Loan repayments 3594
from loans made in previous years shall be deposited to the fund. 3595

(B) Notwithstanding any other provision of law to the 3596
contrary, the Director of Budget and Management shall transfer 3597
\$35,000,000 cash from Fund 7018 to the Lottery Profits Education 3598
Fund (Fund 7017) in fiscal year 2010. 3599

~~(B)~~(C) On July 15, 2009, or as soon as possible thereafter, 3600
the Director of the Ohio Lottery Commission shall certify to the 3601
Director of Budget and Management the amount by which lottery 3602
profit transfers received by ~~the Lottery Profits Education Fund~~ 3603
~~(Fund 7017)~~ Fund 7017 exceeded \$667,900,000 in fiscal year 2009. 3604
The Director of Budget and Management may transfer the amount so 3605
certified, plus the cash balance in Fund 7017, to Fund 7018. 3606

~~(C)~~(D) On July 15, 2010, or as soon as possible thereafter, 3607
the Director of the Ohio Lottery Commission shall certify to the 3608
Director of Budget and Management the amount by which lottery 3609
profit transfers received by Fund 7017 exceeded \$705,000,000 in 3610
fiscal year 2010. The Director of Budget and Management may 3611
transfer the amount so certified, plus the cash balance in Fund 3612
7017, to Fund 7018. 3613

~~(D)~~(E) Any amounts transferred under division ~~(B)~~(C) or 3614
~~(C)~~(D) of this section may be made available by the Controlling 3615
Board in fiscal years 2010 or 2011, at the request of the 3616
Superintendent of Public Instruction, to provide assistance and 3617
grants to school districts to enable them to remain solvent and to 3618
pay unforeseeable expenses of a temporary or emergency nature that 3619
they are unable to pay from existing resources under section 3620
3316.20 of the Revised Code, and to provide state foundation 3621
payments to school districts. 3622

Section 13. That existing Sections 265.30.40 and 265.40.60 of 3623
Am. Sub. H.B. 1 of the 128th General Assembly are hereby repealed. 3624

Section 14. That 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, be amended to read as follows:

Sec. 265.10. EDU DEPARTMENT OF EDUCATION				3628
General Revenue Fund				3629
GRF 200100	Personal Services	\$ 10,490,789	\$ 10,723,972	3630
GRF 200320	Maintenance and Equipment	\$ 3,110,071	\$ 3,144,897	3631
GRF 200408	Early Childhood Education	\$ 23,268,341	\$ 23,268,341	3632
GRF 200416	Career-Technical Education Match	\$ 2,233,195	\$ 2,233,195	3633
GRF 200420	Computer/Application/Network Development	\$ 4,880,871	\$ 4,880,871	3634
GRF 200421	Alternative Education Programs	\$ 7,814,479	\$ 7,918,749	3635
GRF 200422	School Management Assistance	\$ 1,950,521	\$ 3,230,469	3636
GRF 200424	Policy Analysis	\$ 356,311	\$ 361,065	3637
GRF 200425	Tech Prep Consortia Support	\$ 1,243,943	\$ 1,260,542	3638
GRF 200426	Ohio Educational Computer Network	\$ 20,156,602	\$ 20,425,556	3639
GRF 200427	Academic Standards	\$ 5,300,074	\$ 5,300,074	3640
GRF 200431	School Improvement Initiatives	\$ 7,294,175	\$ 7,391,503	3641
GRF 200437	Student Assessment	\$ 55,954,648	\$ 56,703,265	3642
GRF 200439	Accountability/Report Cards	\$ 3,804,673	\$ 3,804,673	3643
GRF 200442	Child Care Licensing	\$ 865,590	\$ 877,140	3644
GRF 200446	Education Management	\$ 13,199,152	\$ 11,934,284	3645

		Information System				
GRF	200447	GED Testing	\$	975,536	\$	988,553 3646
GRF	200448	Educator Preparation	\$	1,310,750	\$	1,328,240 3647
GRF	200455	Community Schools	\$	1,000,000	\$	1,000,000 3648
GRF	200457	STEM Initiatives	\$	5,000,000	\$	5,000,000 3649
GRF	200458	School Employees	\$	800,000	\$	800,000 3650
		Health Care Board				
GRF	200502	Pupil Transportation	\$	448,022,619	\$	462,822,619 3651
GRF	200505	School Lunch Match	\$	9,100,000	\$	9,100,000 3652
GRF	200511	Auxiliary Services	\$	111,979,388	\$	111,979,388 3653
GRF	200532	Nonpublic	\$	50,838,939	\$	50,838,939 3654
		Administrative Cost				
		Reimbursement				
GRF	200540	Special Education	\$	134,150,233	\$	135,820,668 3655
		Enhancements				
GRF	200545	Career-Technical	\$	7,752,662	\$	7,802,699 3656
		Education Enhancements				
GRF	200550	Foundation Funding	\$	5,415,906,323	\$	5,312,560,800 3657
GRF	200551	Foundation Funding -	\$	387,583,913	\$	457,449,362 3658
		Federal Stimulus				
GRF	200578	Violence Prevention	\$	200,000	\$	200,000 3659
		and School Safety				
GRF	200901	Property Tax	\$	1,053,262,363	\$	1,020,655,157 3660
		Allocation - Education				
TOTAL GRF		General Revenue Fund	\$	7,789,806,161	\$	7,741,805,021 3661
		General Services Fund Group				3662
1380	200606	Computer	\$	7,600,091	\$	7,600,091 3663
		Services-Operational				
		Support				
4520	200638	Miscellaneous	\$	275,000	\$	275,000 3664
		Educational Services				
4L20	200681	Teacher Certification	\$	8,013,206	\$	8,147,756 3665
		and Licensure				

5960	200656	Ohio Career Information System	\$	529,761	\$	529,761	3666
5H30	200687	School District Solvency Assistance	\$	18,000,000	\$	18,000,000	3667
TOTAL GSF General Services							3668
Fund Group			\$	34,418,058	\$	34,552,608	3669
Federal Special Revenue Fund Group							3670
3090	200601	Educationally Disadvantaged Programs	\$	8,405,512	\$	8,405,512	3671
3670	200607	School Food Services	\$	6,324,707	\$	6,577,695	3672
3680	200614	Veterans' Training	\$	778,349	\$	793,846	3673
3690	200616	Career-Technical Education Federal Enhancement	\$	5,000,000	\$	5,000,000	3674
3700	200624	Education of Exceptional Children	\$	2,664,000	\$	2,755,000	3675
3740	200647	Troops to Teachers	\$	100,000	\$	100,000	3676
3780	200660	Learn and Serve	\$	619,211	\$	619,211	3677
3AF0	200603	Schools Medicaid Administrative Claims	\$	639,000	\$	639,000	3678
3AN0	200671	School Improvement Grants	\$	17,909,676	\$	17,936,675	3679
3AX0	200698	Improving Health and Educational Outcomes of Young People	\$	630,954	\$	630,954	3680
3BK0	200628	Longitudinal Data Systems	\$	100,000	\$	0	3681
3BV0	200636	Character Education	\$	700,000	\$	0	3682
3C50	200661	Early Childhood Education	\$	14,189,711	\$	14,554,749	3683
3CF0	200644	Foreign Language Assistance	\$	25,000	\$	0	3684

3CG0	200646	Teacher Incentive Fund	\$	3,007,975	\$	1,157,834	3685
3D10	200664	Drug Free Schools	\$	13,347,966	\$	13,347,966	3686
3D20	200667	Honors Scholarship Program	\$	6,990,000	\$	6,985,000	3687
3DJ0	200699	IDEA Part B - Federal Stimulus	\$	218,868,026	\$	218,868,026	3688
3DK0	200642	Title 1A - Federal Stimulus	\$	186,336,737	\$	186,336,737	3689
3DL0	200650	IDEA Preschool - Federal Stimulus	\$	6,679,679	\$	6,679,679	3690
3DM0	200651	Title IID Technology - Federal Stimulus	\$	11,951,000	\$	11,951,000	3691
3DP0	200652	Title I School Improvement - Federal Stimulus	\$	54,221,000	\$	54,221,000	3692
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000	3693
3L60	200617	Federal School Lunch	\$	295,421,000	\$	310,150,675	3694
3L70	200618	Federal School Breakfast	\$	80,850,000	\$	84,892,500	3695
3L80	200619	Child/Adult Food Programs	\$	89,250,000	\$	93,712,500	3696
3L90	200621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	3697
3M00	200623	ESEA Title 1A	\$	530,000,000	\$	530,010,000	3698
3M10	200678	Innovative Education	\$	1,000,000	\$	0	3699
3M20	200680	Individuals with Disabilities Education Act	\$	413,391,594	\$	421,241,163	3700
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397	3701
3T40	200613	Public Charter Schools	\$	14,275,618	\$	14,291,353	3702

3Y20	200688	21st Century Community Learning Centers	\$	36,000,000	\$	36,000,000	3703
3Y40	200632	Reading First	\$	27,366,373	\$	24,455,172	3704
3Y60	200635	Improving Teacher Quality	\$	101,778,397	\$	101,778,400	3705
3Y70	200689	English Language Acquisition	\$	8,142,299	\$	8,142,299	3706
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000	3707
3Z20	200690	State Assessments	\$	12,923,799	\$	12,923,799	3708
3Z30	200645	Consolidated Federal Grant Administration	\$	8,499,279	\$	8,499,280	3709
3Z70	200697	General Supervisory Enhancement Grant	\$	887,319	\$	0	3710
TOTAL FED Federal Special							3711
Revenue Fund Group			\$	2,238,516,279	\$	2,262,899,123	3712
State Special Revenue Fund Group							3713
4540	200610	Guidance and Testing	\$	450,000	\$	450,000	3714
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	3715
4R70	200695	Indirect Operational Support	\$	6,050,000	\$	6,250,000	3716
4V70	200633	Interagency Operational Support	\$	1,111,838	\$	1,117,725	3717
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	3718
5BB0	200696	State Action for Education Leadership	\$	1,250,000	\$	600,000	3719
5BJ0	200626	Half-Mill Maintenance Equalization	\$	16,100,000	\$	16,600,000	3720
<u>5JAO</u>	<u>200611</u>	<u>ARRA Compliance</u>	<u>\$</u>	<u>25,000,000</u>	<u>\$</u>	<u>25,000,000</u>	3721
5U20	200685	National Education Statistics	\$	300,000	\$	300,000	3722

5W20	200663	Early Learning Initiative	\$	2,200,000	\$	2,200,000	3723
5X90	200911	NGA STEM	\$	100,000	\$	0	3724
6200	200615	Educational Improvement Grants	\$	3,000,000	\$	3,000,000	3725
TOTAL SSR State Special Revenue							3726
Fund Group			\$	55,890,748	\$	55,846,635	3727
				<u>80,890,748</u>		<u>80,846,635</u>	
Lottery Profits Education Fund Group							3728
7017	200612	Foundation Funding	\$	705,000,000	\$	711,000,000	3729
				<u>740,000,000</u>			
TOTAL LPE Lottery Profits Education Fund Group							3730
			\$	705,000,000	\$	711,000,000	3731
				<u>740,000,000</u>			
Revenue Distribution Fund Group							3732
7047	200909	School District Property Tax Replacement-Business	\$	1,150,207,366	\$	1,150,207,366	3733
7053	200900	School District Property Tax Replacement-Utility	\$	91,123,523	\$	91,123,523	3734
TOTAL RDF Revenue Distribution							3735
Fund Group			\$	1,241,330,889	\$	1,241,330,889	3736
TOTAL ALL BUDGET FUND GROUPS							3737
				12,064,962,135		12,047,434,276	
				<u>12,124,962,135</u>		<u>12,072,434,276</u>	

Section 15. That existing 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, is hereby repealed.

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

Section 17. Section 11 of this act, and the amendment by this 3744
act of Sections 265.30.40 and 265.40.60 of Am. Sub. H.B. 1 of the 3745
128th General Assembly and Section 265.10 of Am. Sub. H.B. 1 of 3746
the 128th General Assembly, as subsequently amended by Sub. H.B. 3747
318 of the 128th General Assembly, are exempt from the referendum 3748
under Ohio Constitution, Article II, Section 1d and section 1.471 3749
of the Revised Code and therefore take effect immediately when 3750
this act becomes law. 3751