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Representative Amstutz

Cosponsors: Representatives Adams, R., Beck, Blair, Blessing, Boose,

Bubp, Hackett, Henne, Hottinger, Huffman, McClain, Ruhl, Sprague,

Stebelton, Uecker, Wachtmann Speaker Batchelder

Senators Bacon, Schaffer, Beagle, Coley, Eklund, Faber, Niehaus, Seitz

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A B I L L

To amend sections 122.17, 122.171, 122.85, 145.114, 1
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 2
742.114, 742.116, 1311.85, 1311.86, 1311.87, 3
1311.88, 3307.152, 3307.154, 3309.157, 3309.159, 4
5505.068, 5505.0610, 5703.052, 5703.053, 5703.70, 5
5707.03, 5709.76, 5711.22, 5713.03, 5725.02, 6
5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 7
5733.02, 5733.021, 5733.06, 5747.01, 5747.98, 8
5751.01, 5751.011, 5751.012, and 5751.98, to enact 9
sections 5701.12, 5726.01 to 5726.04, 5726.041, 10
5726.05 to 5726.08, 5726.10, 5726.20, 5726.21, 11
5726.30 to 5726.33, 5726.36, 5726.40 to 5726.43, 12
5726.50 to 5726.57, 5726.98, 5726.99, 5747.65, and 13
5751.54 of the Revised Code, and to repeal Section 14
757.51 of Am. Sub. H.B. 487 of the 129th General 15
Assembly to impose a new tax on financial 16
institutions, effective January 1, 2014, to 17
provide that such institutions and dealers in 18
intangibles are no longer subject to the 19
corporation franchise tax or dealers in 20

intangibles tax after 2013, to require dealers in 21
intangibles that are not owned by a financial 22
institution to pay the commercial activity tax 23
after 2013 except for "small dollar lenders," 24
which will become subject to the new financial 25
institutions tax, to make changes to the law 26
regarding commercial real estate broker liens, to 27
require county auditors to account for the impact 28
of police powers and other governmental actions in 29
the valuation of real property, and to accelerate 30
the application of provisions of Am. Sub. H.B. 487 31
of the 129th General Assembly affecting the 32
valuation of real property. 33

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

Section 1. That sections 122.17, 122.171, 122.85, 145.114, 34
145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 742.114, 35
742.116, 1311.85, 1311.86, 1311.87, 1311.88, 3307.152, 3307.154, 36
3309.157, 3309.159, 5505.068, 5505.0610, 5703.052, 5703.053, 37
5703.70, 5707.03, 5709.76, 5711.22, 5713.03, 5725.02, 5725.14, 38
5725.16, 5725.26, 5725.33, 5733.01, 5733.02, 5733.021, 5733.06, 39
5747.01, 5747.98, 5751.01, 5751.011, 5751.012, and 5751.98 be 40
amended and sections 5701.12, 5726.01, 5726.02, 5726.03, 5726.04, 41
5726.041, 5726.05, 5726.06, 5726.07, 5726.08, 5726.10, 5726.20, 42
5726.21, 5726.30, 5726.31, 5726.32, 5726.33, 5726.36, 5726.40, 43
5726.41, 5726.42, 5726.43, 5726.50, 5726.51, 5726.52, 5726.53, 44
5726.54, 5726.55, 5726.56, 5726.57, 5726.98, 5726.99, 5747.65, and 45
5751.54 of the Revised Code be enacted to read as follows: 46

Sec. 122.17. (A) As used in this section: 47

(1) "Income tax revenue" means the total amount withheld 48
under section 5747.06 of the Revised Code by the taxpayer during 49

the taxable year, or during the calendar year that includes the 50
tax period, from the compensation of each employee employed in the 51
project to the extent the employee's withholdings are not used to 52
determine the credit under section 122.171 of the Revised Code. 53
"Income tax revenue" excludes amounts withheld before the day the 54
taxpayer becomes eligible for the credit. 55

(2) "Baseline income tax revenue" means income tax revenue 56
except that the applicable withholding period is the twelve months 57
immediately preceding the date the tax credit authority approves 58
the taxpayer's application multiplied by the sum of one plus an 59
annual pay increase factor to be determined by the tax credit 60
authority. If the taxpayer becomes eligible for the credit after 61
the first day of the taxpayer's taxable year or after the first 62
day of the calendar year that includes the tax period, the 63
taxpayer's baseline income tax revenue for the first such taxable 64
or calendar year of credit eligibility shall be reduced in 65
proportion to the number of days during the taxable or calendar 66
year for which the taxpayer was not eligible for the credit. For 67
subsequent taxable or calendar years, "baseline income tax 68
revenue" equals the unreduced baseline income tax revenue for the 69
preceding taxable or calendar year multiplied by the sum of one 70
plus the pay increase factor. 71

(3) "Excess income tax revenue" means income tax revenue 72
minus baseline income tax revenue. 73

(B) The tax credit authority may make grants under this 74
section to foster job creation in this state. Such a grant shall 75
take the form of a refundable credit allowed against the tax 76
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, or 5747.02 77
or levied under Chapter 5751. of the Revised Code. The credit 78
shall be claimed for the taxable years or tax periods specified in 79
the taxpayer's agreement with the tax credit authority under 80
division (D) of this section. With respect to taxes imposed under 81

section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the 82
Revised Code, the credit shall be claimed in the order required 83
under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised 84
Code. The amount of the credit available for a taxable year or for 85
a calendar year that includes a tax period equals the excess 86
income tax revenue for that year multiplied by the percentage 87
specified in the agreement with the tax credit authority. Any 88
credit granted under this section against the tax imposed by 89
section 5733.06 or 5747.02 of the Revised Code, to the extent not 90
fully utilized against such tax for taxable years ending prior to 91
2008, shall automatically be converted without any action taken by 92
the tax credit authority to a credit against the tax levied under 93
Chapter 5751. of the Revised Code for tax periods beginning on or 94
after July 1, 2008, provided that the person to whom the credit 95
was granted is subject to such tax. The converted credit shall 96
apply to those calendar years in which the remaining taxable years 97
specified in the agreement end. 98

(C) A taxpayer or potential taxpayer who proposes a project 99
to create new jobs in this state may apply to the tax credit 100
authority to enter into an agreement for a tax credit under this 101
section. The director of development services shall prescribe the 102
form of the application. After receipt of an application, the 103
authority may enter into an agreement with the taxpayer for a 104
credit under this section if it determines all of the following: 105

(1) The taxpayer's project will increase payroll and income 106
tax revenue; 107

(2) The taxpayer's project is economically sound and will 108
benefit the people of this state by increasing opportunities for 109
employment and strengthening the economy of this state; 110

(3) Receiving the tax credit is a major factor in the 111
taxpayer's decision to go forward with the project. 112

(D) An agreement under this section shall include all of the	113
following:	114
(1) A detailed description of the project that is the subject	115
of the agreement;	116
(2) The term of the tax credit, which shall not exceed	117
fifteen years, and the first taxable year, or first calendar year	118
that includes a tax period, for which the credit may be claimed;	119
(3) A requirement that the taxpayer shall maintain operations	120
at the project location for at least the greater of seven years or	121
the term of the credit plus three years;	122
(4) The percentage, as determined by the tax credit	123
authority, of excess income tax revenue that will be allowed as	124
the amount of the credit for each taxable year or for each	125
calendar year that includes a tax period;	126
(5) The pay increase factor to be applied to the taxpayer's	127
baseline income tax revenue;	128
(6) A requirement that the taxpayer annually shall report to	129
the director of development <u>services</u> employment, tax withholding,	130
investment, and other information the director needs to perform	131
the director's duties under this section;	132
(7) A requirement that the director of development <u>services</u>	133
annually review the information reported under division (D)(6) of	134
this section and verify compliance with the agreement; if the	135
taxpayer is in compliance, a requirement that the director issue a	136
certificate to the taxpayer stating that the information has been	137
verified and identifying the amount of the credit that may be	138
claimed for the taxable or calendar year;	139
(8) A provision providing that the taxpayer may not relocate	140
a substantial number of employment positions from elsewhere in	141
this state to the project location unless the director of	142

development services determines that the legislative authority of 143
the county, township, or municipal corporation from which the 144
employment positions would be relocated has been notified by the 145
taxpayer of the relocation. 146

For purposes of this section, the movement of an employment 147
position from one political subdivision to another political 148
subdivision shall be considered a relocation of an employment 149
position unless the employment position in the first political 150
subdivision is replaced. 151

(E) If a taxpayer fails to meet or comply with any condition 152
or requirement set forth in a tax credit agreement, the tax credit 153
authority may amend the agreement to reduce the percentage or term 154
of the tax credit. The reduction of the percentage or term may 155
take effect in the current taxable or calendar year. 156

(F) Projects that consist solely of point-of-final-purchase 157
retail facilities are not eligible for a tax credit under this 158
section. If a project consists of both point-of-final-purchase 159
retail facilities and nonretail facilities, only the portion of 160
the project consisting of the nonretail facilities is eligible for 161
a tax credit and only the excess income tax revenue from the 162
nonretail facilities shall be considered when computing the amount 163
of the tax credit. If a warehouse facility is part of a 164
point-of-final-purchase retail facility and supplies only that 165
facility, the warehouse facility is not eligible for a tax credit. 166
Catalog distribution centers are not considered 167
point-of-final-purchase retail facilities for the purposes of this 168
division, and are eligible for tax credits under this section. 169

(G) Financial statements and other information submitted to 170
the department of development services or the tax credit authority 171
by an applicant or recipient of a tax credit under this section, 172
and any information taken for any purpose from such statements or 173
information, are not public records subject to section 149.43 of 174

the Revised Code. However, the chairperson of the authority may 175
make use of the statements and other information for purposes of 176
issuing public reports or in connection with court proceedings 177
concerning tax credit agreements under this section. Upon the 178
request of the tax commissioner or, if the applicant or recipient 179
is an insurance company, upon the request of the superintendent of 180
insurance, the chairperson of the authority shall provide to the 181
commissioner or superintendent any statement or information 182
submitted by an applicant or recipient of a tax credit in 183
connection with the credit. The commissioner or superintendent 184
shall preserve the confidentiality of the statement or 185
information. 186

(H) A taxpayer claiming a credit under this section shall 187
submit to the tax commissioner or, if the taxpayer is an insurance 188
company, to the superintendent of insurance, a copy of the 189
director of ~~development's~~ development services' certificate of 190
verification under division (D)(7) of this section with the 191
taxpayer's tax report or return for the taxable year or for the 192
calendar year that includes the tax period. Failure to submit a 193
copy of the certificate with the report or return does not 194
invalidate a claim for a credit if the taxpayer submits a copy of 195
the certificate to the commissioner or superintendent within sixty 196
days after the commissioner or superintendent requests it. 197

(I) The director of development services, after consultation 198
with the tax commissioner and the superintendent of insurance and 199
in accordance with Chapter 119. of the Revised Code, shall adopt 200
rules necessary to implement this section. The rules may provide 201
for recipients of tax credits under this section to be charged 202
fees to cover administrative costs of the tax credit program. The 203
fees collected shall be credited to the tax incentive programs 204
operating fund created in section 122.174 of the Revised Code. At 205
the time the director gives public notice under division (A) of 206

section 119.03 of the Revised Code of the adoption of the rules, 207
the director shall submit copies of the proposed rules to the 208
chairpersons of the standing committees on economic development in 209
the senate and the house of representatives. 210

(J) For the purposes of this section, a taxpayer may include 211
a partnership, a corporation that has made an election under 212
subchapter S of chapter one of subtitle A of the Internal Revenue 213
Code, or any other business entity through which income flows as a 214
distributive share to its owners. A partnership, S-corporation, or 215
other such business entity may elect to pass the credit received 216
under this section through to the persons to whom the income or 217
profit of the partnership, S-corporation, or other entity is 218
distributed. The election shall be made on the annual report 219
required under division (D)(6) of this section. The election 220
applies to and is irrevocable for the credit for which the report 221
is submitted. If the election is made, the credit shall be 222
apportioned among those persons in the same proportions as those 223
in which the income or profit is distributed. 224

(K) If the director of development services determines that a 225
taxpayer who has received a credit under this section is not 226
complying with the requirement under division (D)(3) of this 227
section, the director shall notify the tax credit authority of the 228
noncompliance. After receiving such a notice, and after giving the 229
taxpayer an opportunity to explain the noncompliance, the tax 230
credit authority may require the taxpayer to refund to this state 231
a portion of the credit in accordance with the following: 232

(1) If the taxpayer maintained operations at the project 233
location for a period less than or equal to the term of the 234
credit, an amount not exceeding one hundred per cent of the sum of 235
any credits allowed and received under this section; 236

(2) If the taxpayer maintained operations at the project 237
location for a period longer than the term of the credit, but less 238

than the greater of seven years or the term of the credit plus 239
three years, an amount not exceeding seventy-five per cent of the 240
sum of any credits allowed and received under this section. 241

In determining the portion of the tax credit to be refunded 242
to this state, the tax credit authority shall consider the effect 243
of market conditions on the taxpayer's project and whether the 244
taxpayer continues to maintain other operations in this state. 245
After making the determination, the authority shall certify the 246
amount to be refunded to the tax commissioner or superintendent of 247
insurance, as appropriate. If the amount is certified to the 248
commissioner, the commissioner shall make an assessment for that 249
amount against the taxpayer under Chapter 5726., 5733., 5747., or 250
5751. of the Revised Code. If the amount is certified to the 251
superintendent, the superintendent shall make an assessment for 252
that amount against the taxpayer under Chapter 5725. or 5729. of 253
the Revised Code. The time limitations on assessments under those 254
chapters do not apply to an assessment under this division, but 255
the commissioner or superintendent, as appropriate, shall make the 256
assessment within one year after the date the authority certifies 257
to the commissioner or superintendent the amount to be refunded. 258

(L) On or before the first day of August each year, the 259
director of development services shall submit a report to the 260
governor, the president of the senate, and the speaker of the 261
house of representatives on the tax credit program under this 262
section. The report shall include information on the number of 263
agreements that were entered into under this section during the 264
preceding calendar year, a description of the project that is the 265
subject of each such agreement, and an update on the status of 266
projects under agreements entered into before the preceding 267
calendar year. 268

(M) There is hereby created the tax credit authority, which 269
consists of the director of development services and four other 270

members appointed as follows: the governor, the president of the 271
senate, and the speaker of the house of representatives each shall 272
appoint one member who shall be a specialist in economic 273
development; the governor also shall appoint a member who is a 274
specialist in taxation. Of the initial appointees, the members 275
appointed by the governor shall serve a term of two years; the 276
members appointed by the president of the senate and the speaker 277
of the house of representatives shall serve a term of four years. 278
Thereafter, terms of office shall be for four years. Initial 279
appointments to the authority shall be made within thirty days 280
after January 13, 1993. Each member shall serve on the authority 281
until the end of the term for which the member was appointed. 282
Vacancies shall be filled in the same manner provided for original 283
appointments. Any member appointed to fill a vacancy occurring 284
prior to the expiration of the term for which the member's 285
predecessor was appointed shall hold office for the remainder of 286
that term. Members may be reappointed to the authority. Members of 287
the authority shall receive their necessary and actual expenses 288
while engaged in the business of the authority. The director of 289
development services shall serve as chairperson of the authority, 290
and the members annually shall elect a vice-chairperson from among 291
themselves. Three members of the authority constitute a quorum to 292
transact and vote on the business of the authority. The majority 293
vote of the membership of the authority is necessary to approve 294
any such business, including the election of the vice-chairperson. 295

The director of development services may appoint a 296
professional employee of the department of development services to 297
serve as the director's substitute at a meeting of the authority. 298
The director shall make the appointment in writing. In the absence 299
of the director from a meeting of the authority, the appointed 300
substitute shall serve as chairperson. In the absence of both the 301
director and the director's substitute from a meeting, the 302
vice-chairperson shall serve as chairperson. 303

(N) For purposes of the credits granted by this section 304
against the taxes imposed under sections 5725.18 and 5729.03 of 305
the Revised Code, "taxable year" means the period covered by the 306
taxpayer's annual statement to the superintendent of insurance. 307

Sec. 122.171. (A) As used in this section: 308

(1) "Capital investment project" means a plan of investment 309
at a project site for the acquisition, construction, renovation, 310
or repair of buildings, machinery, or equipment, or for 311
capitalized costs of basic research and new product development 312
determined in accordance with generally accepted accounting 313
principles, but does not include any of the following: 314

(a) Payments made for the acquisition of personal property 315
through operating leases; 316

(b) Project costs paid before January 1, 2002; 317

(c) Payments made to a related member as defined in section 318
5733.042 of the Revised Code or to a consolidated elected taxpayer 319
or a combined taxpayer as defined in section 5751.01 of the 320
Revised Code. 321

(2) "Eligible business" means a taxpayer and its related 322
members with Ohio operations satisfying all of the following: 323

(a) The taxpayer employs at least five hundred full-time 324
equivalent employees or has an annual payroll of at least 325
thirty-five million dollars at the time the tax credit authority 326
grants the tax credit under this section; 327

(b) The taxpayer makes or causes to be made payments for the 328
capital investment project of one of the following: 329

(i) If the taxpayer is engaged at the project site primarily 330
as a manufacturer, at least fifty million dollars in the aggregate 331
at the project site during a period of three consecutive calendar 332
years, including the calendar year that includes a day of the 333

taxpayer's taxable year or tax period with respect to which the 334
credit is granted; 335

(ii) If the taxpayer is engaged at the project site primarily 336
in significant corporate administrative functions, as defined by 337
the director of development services by rule, at least twenty 338
million dollars in the aggregate at the project site during a 339
period of three consecutive calendar years including the calendar 340
year that includes a day of the taxpayer's taxable year or tax 341
period with respect to which the credit is granted; 342

(iii) If the taxpayer is applying to enter into an agreement 343
for a tax credit authorized under division (B)(3) of this section, 344
at least five million dollars in the aggregate at the project site 345
during a period of three consecutive calendar years, including the 346
calendar year that includes a day of the taxpayer's taxable year 347
or tax period with respect to which the credit is granted. 348

(c) The taxpayer had a capital investment project reviewed 349
and approved by the tax credit authority as provided in divisions 350
(C), (D), and (E) of this section. 351

(3) "Full-time equivalent employees" means the quotient 352
obtained by dividing the total number of hours for which employees 353
were compensated for employment in the project by two thousand 354
eighty. "Full-time equivalent employees" shall exclude hours that 355
are counted for a credit under section 122.17 of the Revised Code. 356

(4) "Income tax revenue" means the total amount withheld 357
under section 5747.06 of the Revised Code by the taxpayer during 358
the taxable year, or during the calendar year that includes the 359
tax period, from the compensation of all employees employed in the 360
project whose hours of compensation are included in calculating 361
the number of full-time equivalent employees. 362

(5) "Manufacturer" has the same meaning as in section 363
5739.011 of the Revised Code. 364

(6) "Project site" means an integrated complex of facilities 365
in this state, as specified by the tax credit authority under this 366
section, within a fifteen-mile radius where a taxpayer is 367
primarily operating as an eligible business. 368

(7) "Related member" has the same meaning as in section 369
5733.042 of the Revised Code as that section existed on the 370
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 371
general assembly, September 29, 1997. 372

(8) "Taxable year" includes, in the case of a domestic or 373
foreign insurance company, the calendar year ending on the 374
thirty-first day of December preceding the day the superintendent 375
of insurance is required to certify to the treasurer of state 376
under section 5725.20 or 5729.05 of the Revised Code the amount of 377
taxes due from insurance companies. 378

(B) The tax credit authority created under section 122.17 of 379
the Revised Code may grant tax credits under this section for the 380
purpose of fostering job retention in this state. Upon application 381
by an eligible business and upon consideration of the 382
recommendation of the director of budget and management, tax 383
commissioner, the superintendent of insurance in the case of an 384
insurance company, and director of development services under 385
division (C) of this section, the tax credit authority may grant 386
the following credits against the tax imposed by section 5725.18, 387
5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised 388
Code: 389

(1) A nonrefundable credit to an eligible business; 390

(2) A refundable credit to an eligible business meeting the 391
following conditions, provided that the director of budget and 392
management, tax commissioner, superintendent of insurance in the 393
case of an insurance company, and director of development services 394
have recommended the granting of the credit to the tax credit 395

authority before July 1, 2011: 396

(a) The business retains at least one thousand full-time 397
equivalent employees at the project site. 398

(b) The business makes or causes to be made payments for a 399
capital investment project of at least twenty-five million dollars 400
in the aggregate at the project site during a period of three 401
consecutive calendar years, including the calendar year that 402
includes a day of the business' taxable year or tax period with 403
respect to which the credit is granted. 404

(c) In 2010, the business received a written offer of 405
financial incentives from another state of the United States that 406
the director determines to be sufficient inducement for the 407
business to relocate the business' operations from this state to 408
that state. 409

(3) A refundable credit to an eligible business with a total 410
annual payroll of at least twenty million dollars, provided that 411
the tax credit authority grants the tax credit on or after July 1, 412
2011, and before January 1, 2014. 413

The credits authorized in divisions (B)(1), (2), and (3) of 414
this section may be granted for a period up to fifteen taxable 415
years or, in the case of the tax levied by section 5751.02 of the 416
Revised Code, for a period of up to fifteen calendar years. The 417
credit amount for a taxable year or a calendar year that includes 418
the tax period for which a credit may be claimed equals the income 419
tax revenue for that year multiplied by the percentage specified 420
in the agreement with the tax credit authority. The percentage may 421
not exceed seventy-five per cent. The credit shall be claimed in 422
the order required under section 5725.98, 5726.98, 5729.98, 423
5733.98, 5747.98, or 5751.98 of the Revised Code. In determining 424
the percentage and term of the credit, the tax credit authority 425
shall consider both the number of full-time equivalent employees 426

and the value of the capital investment project. The credit amount 427
may not be based on the income tax revenue for a calendar year 428
before the calendar year in which the tax credit authority 429
specifies the tax credit is to begin, and the credit shall be 430
claimed only for the taxable years or tax periods specified in the 431
eligible business' agreement with the tax credit authority. In no 432
event shall the credit be claimed for a taxable year or tax period 433
terminating before the date specified in the agreement. Any credit 434
granted under this section against the tax imposed by section 435
5733.06 or 5747.02 of the Revised Code, to the extent not fully 436
utilized against such tax for taxable years ending prior to 2008, 437
shall automatically be converted without any action taken by the 438
tax credit authority to a credit against the tax levied under 439
Chapter 5751. of the Revised Code for tax periods beginning on or 440
after July 1, 2008, provided that the person to whom the credit 441
was granted is subject to such tax. The converted credit shall 442
apply to those calendar years in which the remaining taxable years 443
specified in the agreement end. 444

If a nonrefundable credit allowed under division (B)(1) of 445
this section for a taxable year or tax period exceeds the 446
taxpayer's tax liability for that year or period, the excess may 447
be carried forward for the three succeeding taxable or calendar 448
years, but the amount of any excess credit allowed in any taxable 449
year or tax period shall be deducted from the balance carried 450
forward to the succeeding year or period. 451

(C) A taxpayer that proposes a capital investment project to 452
retain jobs in this state may apply to the tax credit authority to 453
enter into an agreement for a tax credit under this section. The 454
director of development services shall prescribe the form of the 455
application. After receipt of an application, the authority shall 456
forward copies of the application to the director of budget and 457
management, the tax commissioner, the superintendent of insurance 458

in the case of an insurance company, and the director of 459
development services, each of whom shall review the application to 460
determine the economic impact the proposed project would have on 461
the state and the affected political subdivisions and shall submit 462
a summary of their determinations and recommendations to the 463
authority. 464

(D) Upon review and consideration of the determinations and 465
recommendations described in division (C) of this section, the tax 466
credit authority may enter into an agreement with the taxpayer for 467
a credit under this section if the authority determines all of the 468
following: 469

(1) The taxpayer's capital investment project will result in 470
the retention of employment in this state. 471

(2) The taxpayer is economically sound and has the ability to 472
complete the proposed capital investment project. 473

(3) The taxpayer intends to and has the ability to maintain 474
operations at the project site for at least the greater of (a) the 475
term of the credit plus three years, or (b) seven years. 476

(4) Receiving the credit is a major factor in the taxpayer's 477
decision to begin, continue with, or complete the project. 478

(5) If the taxpayer is applying to enter into an agreement 479
for a tax credit authorized under division (B)(3) of this section, 480
the taxpayer's capital investment project will be located in the 481
political subdivision in which the taxpayer maintains its 482
principal place of business. 483

(E) An agreement under this section shall include all of the 484
following: 485

(1) A detailed description of the project that is the subject 486
of the agreement, including the amount of the investment, the 487
period over which the investment has been or is being made, the 488

number of full-time equivalent employees at the project site, and 489
the anticipated income tax revenue to be generated. 490

(2) The term of the credit, the percentage of the tax credit, 491
the maximum annual value of tax credits that may be allowed each 492
year, and the first year for which the credit may be claimed. 493

(3) A requirement that the taxpayer maintain operations at 494
the project site for at least the greater of (a) the term of the 495
credit plus three years, or (b) seven years. 496

(4)(a) In the case of a credit granted under division (B)(1) 497
of this section, a requirement that the taxpayer retain at least 498
five hundred full-time equivalent employees at the project site 499
and within this state for the entire term of the credit, or a 500
requirement that the taxpayer maintain an annual payroll of at 501
least thirty-five million dollars for the entire term of the 502
credit; 503

(b) In the case of a credit granted under division (B)(2) of 504
this section, a requirement that the taxpayer retain at least one 505
thousand full-time equivalent employees at the project site and 506
within this state for the entire term of the credit; 507

(c) In the case of a credit granted under division (B)(3) of 508
this section, either of the following: 509

(i) A requirement that the taxpayer retain at least five 510
hundred full-time equivalent employees at the project site and 511
within this state for the entire term of the credit and a 512
requirement that the taxpayer maintain an annual payroll of at 513
least twenty million dollars for the entire term of the credit; 514

(ii) A requirement that the taxpayer maintain an annual 515
payroll of at least thirty-five million dollars for the entire 516
term of the credit. 517

(5) A requirement that the taxpayer annually report to the 518

director of development services employment, tax withholding, 519
capital investment, and other information the director needs to 520
perform the director's duties under this section. 521

(6) A requirement that the director of development services 522
annually review the annual reports of the taxpayer to verify the 523
information reported under division (E)(5) of this section and 524
compliance with the agreement. Upon verification, the director 525
shall issue a certificate to the taxpayer stating that the 526
information has been verified and identifying the amount of the 527
credit for the taxable year or calendar year that includes the tax 528
period. In determining the number of full-time equivalent 529
employees, no position shall be counted that is filled by an 530
employee who is included in the calculation of a tax credit under 531
section 122.17 of the Revised Code. 532

(7) A provision providing that the taxpayer may not relocate 533
a substantial number of employment positions from elsewhere in 534
this state to the project site unless the director of development 535
services determines that the taxpayer notified the legislative 536
authority of the county, township, or municipal corporation from 537
which the employment positions would be relocated. 538

For purposes of this section, the movement of an employment 539
position from one political subdivision to another political 540
subdivision shall be considered a relocation of an employment 541
position unless the movement is confined to the project site. The 542
transfer of an employment position from one political subdivision 543
to another political subdivision shall not be considered a 544
relocation of an employment position if the employment position in 545
the first political subdivision is replaced by another employment 546
position. 547

(8) A waiver by the taxpayer of any limitations periods 548
relating to assessments or adjustments resulting from the 549
taxpayer's failure to comply with the agreement. 550

(F) If a taxpayer fails to meet or comply with any condition 551
or requirement set forth in a tax credit agreement, the tax credit 552
authority may amend the agreement to reduce the percentage or term 553
of the credit. The reduction of the percentage or term may take 554
effect in the current taxable or calendar year. 555

(G) Financial statements and other information submitted to 556
the department of development services or the tax credit authority 557
by an applicant for or recipient of a tax credit under this 558
section, and any information taken for any purpose from such 559
statements or information, are not public records subject to 560
section 149.43 of the Revised Code. However, the chairperson of 561
the authority may make use of the statements and other information 562
for purposes of issuing public reports or in connection with court 563
proceedings concerning tax credit agreements under this section. 564
Upon the request of the tax commissioner, or the superintendent of 565
insurance in the case of an insurance company, the chairperson of 566
the authority shall provide to the commissioner or superintendent 567
any statement or other information submitted by an applicant for 568
or recipient of a tax credit in connection with the credit. The 569
commissioner or superintendent shall preserve the confidentiality 570
of the statement or other information. 571

(H) A taxpayer claiming a tax credit under this section shall 572
submit to the tax commissioner or, in the case of an insurance 573
company, to the superintendent of insurance, a copy of the 574
director of ~~development's~~ development services' certificate of 575
verification under division (E)(6) of this section with the 576
taxpayer's tax report or return for the taxable year or for the 577
calendar year that includes the tax period. Failure to submit a 578
copy of the certificate with the report or return does not 579
invalidate a claim for a credit if the taxpayer submits a copy of 580
the certificate to the commissioner or superintendent within sixty 581
days after the commissioner or superintendent requests it. 582

(I) For the purposes of this section, a taxpayer may include 583
a partnership, a corporation that has made an election under 584
subchapter S of chapter one of subtitle A of the Internal Revenue 585
Code, or any other business entity through which income flows as a 586
distributive share to its owners. A partnership, S-corporation, or 587
other such business entity may elect to pass the credit received 588
under this section through to the persons to whom the income or 589
profit of the partnership, S-corporation, or other entity is 590
distributed. The election shall be made on the annual report 591
required under division (E)(5) of this section. The election 592
applies to and is irrevocable for the credit for which the report 593
is submitted. If the election is made, the credit shall be 594
apportioned among those persons in the same proportions as those 595
in which the income or profit is distributed. 596

(J) If the director of development services determines that a 597
taxpayer that received a ~~tax credit under~~ certificate under 598
division (E)(6) of this section is not complying with the 599
requirement under division (E)(3) of this section, the director 600
shall notify the tax credit authority of the noncompliance. After 601
receiving such a notice, and after giving the taxpayer an 602
opportunity to explain the noncompliance, the authority may 603
terminate the agreement and require the taxpayer, or any related 604
member or members that claimed the tax credit under division (N) 605
of this section, to refund to the state all or a portion of the 606
credit claimed in previous years, as follows: 607

(1) If the taxpayer maintained operations at the project site 608
for less than or equal to the term of the credit, an amount not to 609
exceed one hundred per cent of the sum of any tax credits allowed 610
and received under this section. 611

(2) If the taxpayer maintained operations at the project site 612
longer than the term of the credit, but less than the greater of 613
(a) the term of the credit plus three years, or (b) seven years, 614

the amount required to be refunded shall not exceed seventy-five 615
per cent of the sum of any tax credits allowed and received under 616
this section. 617

In determining the portion of the credit to be refunded to 618
this state, the authority shall consider the effect of market 619
conditions on the taxpayer's project and whether the taxpayer 620
continues to maintain other operations in this state. After making 621
the determination, the authority shall certify the amount to be 622
refunded to the tax commissioner or the superintendent of 623
insurance. If the taxpayer, or any related member or members who 624
claimed the tax credit under division (N) of this section, is not 625
an insurance company, the commissioner shall make an assessment 626
for that amount against the taxpayer under Chapter 5726., 5733., 627
5747., or 5751. of the Revised Code. If the taxpayer, or any 628
related member or members that claimed the tax credit under 629
division (N) of this section, is an insurance company, the 630
superintendent of insurance shall make an assessment under section 631
5725.222 or 5729.102 of the Revised Code. The time limitations on 632
assessments under those chapters and sections do not apply to an 633
assessment under this division, but the commissioner or 634
superintendent shall make the assessment within one year after the 635
date the authority certifies to the commissioner or superintendent 636
the amount to be refunded. 637

(K) The director of development services, after consultation 638
with the tax commissioner and the superintendent of insurance and 639
in accordance with Chapter 119. of the Revised Code, shall adopt 640
rules necessary to implement this section. The rules may provide 641
for recipients of tax credits under this section to be charged 642
fees to cover administrative costs of the tax credit program. The 643
fees collected shall be credited to the tax incentive programs 644
operating fund created in section 122.174 of the Revised Code. At 645
the time the director gives public notice under division (A) of 646

section 119.03 of the Revised Code of the adoption of the rules, 647
the director shall submit copies of the proposed rules to the 648
chairpersons of the standing committees on economic development in 649
the senate and the house of representatives. 650

(L) On or before the first day of August of each year, the 651
director of development services shall submit a report to the 652
governor, the president of the senate, and the speaker of the 653
house of representatives on the tax credit program under this 654
section. The report shall include information on the number of 655
agreements that were entered into under this section during the 656
preceding calendar year, a description of the project that is the 657
subject of each such agreement, and an update on the status of 658
projects under agreements entered into before the preceding 659
calendar year. 660

(M)(1) The aggregate amount of tax credits issued under 661
division (B)(1) of this section during any calendar year for 662
capital investment projects reviewed and approved by the tax 663
credit authority may not exceed the following amounts: 664

(a) For 2010, thirteen million dollars; 665

(b) For 2011 through 2023, the amount of the limit for the 666
preceding calendar year plus thirteen million dollars; 667

(c) For 2024 and each year thereafter, one hundred 668
ninety-five million dollars. 669

(2) The aggregate amount of tax credits authorized under 670
divisions (B)(2) and (3) of this section and allowed to be claimed 671
by taxpayers in any calendar year for capital improvement projects 672
reviewed and approved by the tax credit authority in 2011, 2012, 673
and 2013 combined shall not exceed twenty-five million dollars. An 674
amount equal to the aggregate amount of credits first authorized 675
in calendar year 2011, 2012, and 2013 may be claimed over the 676
ensuing period up to fifteen years, subject to the terms of 677

individual tax credit agreements. 678

The limitations in division (M) of this section do not apply 679
to credits for capital investment projects approved by the tax 680
credit authority before July 1, 2009. 681

(N) This division applies only to an eligible business that 682
is part of an affiliated group that includes a diversified savings 683
and loan holding company or a grandfathered unitary savings and 684
loan holding company, as those terms are defined in section 685
5726.01 of the Revised Code. Notwithstanding any contrary 686
provision of the agreement between such an eligible business and 687
the tax credit authority, any credit granted under this section 688
against the tax imposed by section 5725.18, 5729.03, 5733.06, 689
5747.02, or 5751.02 of the Revised Code to the eligible business, 690
at the election of the eligible business and without any action by 691
the tax credit authority, may be shared with any member or members 692
of the affiliated group that includes the eligible business, which 693
member or members may claim the credit against the taxes imposed 694
by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 695
of the Revised Code. Credits shall be claimed by the eligible 696
business in sequential order, as applicable, first claiming the 697
credits to the fullest extent possible against the tax that the 698
certificate holder is subject to, then against the tax imposed by, 699
sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and 700
lastly 5726.02 of the Revised Code. The credits may be allocated 701
among the members of the affiliated group in such manner as the 702
eligible business elects, but subject to the sequential order 703
required under this division. This division applies to credits 704
granted before, on, or after the effective date of H.B. 510 of the 705
129th general assembly. Credits granted before that effective date 706
that are shared and allocated under this division may be claimed 707
in those calendar years in which the remaining taxable years 708
specified in the agreement end. 709

As used in this division, "affiliated group" means a group of 710
two or more persons with fifty per cent or greater of the value of 711
each person's ownership interests owned or controlled directly, 712
indirectly, or constructively through related interests by common 713
owners during all or any portion of the taxable year, and the 714
common owners. "Affiliated group" includes, but is not limited to, 715
any person eligible to be included in a consolidated elected 716
taxpayer group under section 5751.011 of the Revised Code or a 717
combined taxpayer group under section 5751.012 of the Revised 718
Code. 719

Sec. 122.85. (A) As used in this section and in sections 720
5726.55, 5733.59 and, 5747.66, and 5751.54 of the Revised Code: 721

(1) "Tax credit-eligible production" means a motion picture 722
production certified by the director of development services under 723
division (B) of this section as qualifying the motion picture 724
company for a tax credit under section 5726.55, 5733.59 ~~or,~~ 725
5747.66, or 5751.54 of the Revised Code. 726

(2) "Certificate owner" means a motion picture company to 727
which a tax credit certificate is issued. 728

(3) "Motion picture company" means an individual, 729
corporation, partnership, limited liability company, or other form 730
of business association producing a motion picture. 731

(4) "Eligible production expenditures" means expenditures 732
made after June 30, 2009, for goods or services purchased and 733
consumed in this state by a motion picture company directly for 734
the production of a tax credit-eligible production. 735

"Eligible production expenditures" includes, but is not 736
limited to, expenditures for resident and nonresident cast and 737
crew wages, accommodations, costs of set construction and 738
operations, editing and related services, photography, sound 739

synchronization, lighting, wardrobe, makeup and accessories, film 740
processing, transfer, sound mixing, special and visual effects, 741
music, location fees, and the purchase or rental of facilities and 742
equipment. 743

(5) "Motion picture" means entertainment content created in 744
whole or in part within this state for distribution or exhibition 745
to the general public, including, but not limited to, 746
feature-length films; documentaries; long-form, specials, 747
miniseries, series, and interstitial television programming; 748
interactive web sites; sound recordings; videos; music videos; 749
interactive television; interactive games; ~~videogames~~ video games; 750
commercials; any format of digital media; and any trailer, pilot, 751
video teaser, or demo created primarily to stimulate the sale, 752
marketing, promotion, or exploitation of future investment in 753
either a product or a motion picture by any means and media in any 754
digital media format, film, or videotape, provided the motion 755
picture qualifies as a motion picture. "Motion picture" does not 756
include any television program created primarily as news, weather, 757
or financial market reports, a production featuring current events 758
or sporting events, an awards show or other gala event, a 759
production whose sole purpose is fundraising, a long-form 760
production that primarily markets a product or service or in-house 761
corporate advertising or other similar productions, a production 762
for purposes of political advocacy, or any production for which 763
records are required to be maintained under 18 U.S.C. 2257 with 764
respect to sexually explicit content. 765

(B) For the purpose of encouraging and developing a strong 766
film industry in this state, the director of development services 767
may certify a motion picture produced by a motion picture company 768
as a tax credit-eligible production. In the case of a television 769
series, the director may certify the production of each episode of 770
the series as a separate tax credit-eligible production. A motion 771

picture company shall apply for certification of a motion picture 772
as a tax credit-eligible production on a form and in the manner 773
prescribed by the director. Each application shall include the 774
following information: 775

- (1) The name and telephone number of the motion picture 776
production company; 777
- (2) The name and telephone number of the company's contact 778
person; 779
- (3) A list of the first preproduction date through the last 780
production date in Ohio; 781
- (4) The Ohio production office address and telephone number; 782
- (5) The total production budget of the motion picture; 783
- (6) The total budgeted eligible production expenditures and 784
the percentage that amount is of the total production budget of 785
the motion picture; 786
- (7) The total percentage of the motion picture being shot in 787
Ohio; 788
- (8) The level of employment of cast and crew who reside in 789
Ohio; 790
- (9) A synopsis of the script; 791
- (10) The shooting script; 792
- (11) A creative elements list that includes the names of the 793
principal cast and crew and the producer and director; 794
- (12) Documentation of financial ability to undertake and 795
complete the motion picture; 796
- (13) Estimated value of the tax credit based upon total 797
budgeted eligible production expenditures; 798
- (14) Any other information considered necessary by the 799
director. 800

Within ninety days after certification of a motion picture as 801
a tax credit-eligible production, and any time thereafter upon the 802
~~director's~~ director of development services' request, the motion 803
picture company shall present to the director ~~of development~~ 804
sufficient evidence of reviewable progress. If the motion picture 805
company fails to present sufficient evidence, the director ~~of~~ 806
~~development~~ may rescind the certification. Upon rescission, the 807
director shall notify the applicant that the certification has 808
been rescinded. Nothing in this section prohibits an applicant 809
whose tax credit-eligible production certification has been 810
rescinded from submitting a subsequent application for 811
certification. 812

(C)(1) A motion picture company whose motion picture has been 813
certified as a tax credit-eligible production may apply to the 814
director of development services on or after July 1, 2009, for a 815
refundable credit against the tax imposed by section 5726.02, 816
5733.06 ~~or,~~ 5747.02, or 5751.02 of the Revised Code. The director 817
in consultation with the tax commissioner shall prescribe the form 818
and manner of the application and the information or documentation 819
required to be submitted with the application. 820

The credit is determined as follows: 821

(a) If the total budgeted eligible production expenditures 822
stated in the application submitted under division (B) of this 823
section or the actual eligible production expenditures as finally 824
determined under division (D) of this section, whichever is least, 825
is less than or equal to three hundred thousand dollars, no credit 826
is allowed; 827

(b) If the total budgeted eligible production expenditures 828
stated in the application submitted under division (B) of this 829
section or the actual eligible production expenditures as finally 830
determined under division (D) of this section, whichever is least, 831
is greater than three hundred thousand dollars, the credit equals 832

the sum of the following, subject to the limitation in division 833
(C)(4) of this section: 834

(i) Twenty-five per cent of the least of such budgeted or 835
actual eligible expenditure amounts excluding budgeted or actual 836
eligible expenditures for resident cast and crew wages; 837

(ii) Thirty-five per cent of budgeted or actual eligible 838
expenditures for resident cast and crew wages. 839

(2) Except as provided in division (C)(4) of this section, if 840
the director of development services approves a motion picture 841
company's application for a credit, the director shall issue a tax 842
credit certificate to the company. The director in consultation 843
with the tax commissioner shall prescribe the form and manner of 844
issuing certificates. The director shall assign a unique 845
identifying number to each tax credit certificate and shall record 846
the certificate in a register devised and maintained by the 847
director for that purpose. The certificate shall state the amount 848
of the eligible production expenditures on which the credit is 849
based and the amount of the credit. Upon the issuance of a 850
certificate, the director shall certify to the tax commissioner 851
the name of the applicant, the amount of eligible production 852
expenditures shown on the certificate, and any other information 853
required by the rules adopted to administer this section. 854

(3) The amount of eligible production expenditures for which 855
a tax credit may be claimed is subject to inspection and 856
examination by the tax commissioner or employees of the 857
commissioner under section 5703.19 of the Revised Code and any 858
other applicable law. Once the eligible production expenditures 859
are finally determined under section 5703.19 of the Revised Code 860
and division (D) of this section, the credit amount is not subject 861
to adjustment unless the director determines an error was 862
committed in the computation of the credit amount. 863

(4) No tax credit certificate may be issued before the 864
completion of the tax credit-eligible production. For the fiscal 865
biennium beginning July 1, 2009, and ending June 30, 2011, not 866
more than thirty million dollars of tax credit may be allowed, of 867
which not more than ten million dollars of tax credit may be 868
allowed in the first year of the biennium. In succeeding fiscal 869
biennia, not more than twenty million dollars of tax credit may be 870
allowed per fiscal biennium, and not more than ten million dollars 871
may be allowed in the first year of the biennium. At any time, not 872
more than five million dollars of tax credit may be allowed per 873
tax credit-eligible production. 874

(D) A motion picture company whose motion picture has been 875
certified as a tax credit-eligible production shall engage, at the 876
company's expense, an independent certified public accountant to 877
examine the company's production expenditures to identify the 878
expenditures that qualify as eligible production expenditures. The 879
certified public accountant shall issue a report to the company 880
and to the director of development services certifying the 881
company's eligible production expenditures and any other 882
information required by the director. Upon receiving and examining 883
the report, the director may disallow any expenditure the director 884
determines is not an eligible production expenditure. If the 885
director disallows an expenditure, the director shall issue a 886
written notice to the motion picture production company stating 887
that the expenditure is disallowed and the reason for the 888
disallowance. Upon examination of the report and disallowance of 889
any expenditures, the director shall determine finally the lesser 890
of the total budgeted eligible production expenditures stated in 891
the application submitted under division (B) of this section or 892
the actual eligible production expenditures for the purpose of 893
computing the amount of the credit. 894

(E) No credit shall be allowed under section 5726.55, 5733.59 895

~~of~~, 5747.66, or 5751.54 of the Revised Code unless the director
has reviewed the report and made the determination prescribed by
division (D) of this section.

(F) This state reserves the right to refuse the use of this
state's name in the credits of any tax credit-eligible motion
picture production.

(G)(1) The director of development services in consultation
with the tax commissioner shall adopt rules for the administration
of this section, including rules setting forth and governing the
criteria for determining whether a motion picture production is a
tax credit-eligible production; activities that constitute the
production of a motion picture; reporting sufficient evidence of
reviewable progress; expenditures that qualify as eligible
production expenditures; a competitive process for approving
credits; and consideration of geographic distribution of credits.
The rules shall be adopted under Chapter 119. of the Revised Code.

(2) The director may require a reasonable application fee to
cover administrative costs of the tax credit program. The fees
collected shall be credited to the motion picture tax credit
program operating fund, which is hereby created in the state
treasury. The motion picture tax credit program operating fund
shall consist of all grants, gifts, fees, and contributions made
to the director ~~of development~~ for marketing and promotion of the
motion picture industry within this state. The director ~~of~~
~~development~~ shall use money in the fund to pay expenses related to
the administration of the Ohio film office and the credit
authorized by this section and sections 5726.55., 5733.59 ~~and~~,
5747.66, and 5751.54 of the Revised Code.

Sec. 145.114. (A) As used in this section and in section
145.116 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of

the Revised Code, who is licensed under sections 1707.01 to 927
1707.45 of the Revised Code or under comparable laws of another 928
state or of the United States. 929

(2) "Minority business enterprise" has the same meaning as in 930
section 122.71 of the Revised Code. 931

(3) "Ohio-qualified agent" means an agent designated as such 932
by the public employees retirement board. 933

(4) "Ohio-qualified investment manager" means an investment 934
manager designated as such by the public employees retirement 935
board. 936

(5) "Principal place of business" means an office in which 937
the agent regularly provides securities or investment advisory 938
services and solicits, meets with, or otherwise communicates with 939
clients. 940

(B) The public employees retirement board shall, for the 941
purposes of this section, designate an agent as an Ohio-qualified 942
agent if the agent meets all of the following requirements: 943

(1) The agent is subject to taxation under Chapter 5725., 944
5726., 5733., ~~or 5747.~~ or 5751. of the Revised Code; 945

(2) The agent is authorized to conduct business in this 946
state; 947

(3) The agent maintains a principal place of business in this 948
state and employs at least five residents of this state. 949

(C) The public employees retirement board shall adopt and 950
implement a written policy to establish criteria and procedures 951
used to select agents to execute securities transactions on behalf 952
of the retirement system. The policy shall address each of the 953
following: 954

(1) Commissions charged by the agent, both in the aggregate 955
and on a per share basis; 956

(2) The execution speed and trade settlement capabilities of the agent;	957 958
(3) The responsiveness, reliability, and integrity of the agent;	959 960
(4) The nature and value of research provided by the agent;	961
(5) Any special capabilities of the agent.	962
(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.	963 964 965 966 967 968 969
(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.	970 971 972
(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.	973 974 975 976 977
(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:	978 979 980
(1) The name of each agent designated as an Ohio-qualified agent under this section;	981 982
(2) The name of each agent that executes securities transactions on behalf of the board;	983 984
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of	985 986

all equity and fixed-income trades that are executed by agents on behalf of the board;	987 988
(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;	989 990 991
(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	992 993 994 995
(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.	996 997
Sec. 145.116. (A) The public employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:	998 999 1000 1001
(1) The investment manager is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or 5747. , <u>or 5751.</u> of the Revised Code;	1002 1003 1004
(2) The investment manager meets one of the following requirements:	1005 1006
(a) Has its corporate headquarters or principal place of business in this state;	1007 1008
(b) Employs at least five hundred individuals in this state;	1009
(c) Has a principal place of business in this state and employs at least 20 residents of this state.	1010 1011
(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable	1012 1013 1014 1015

to other investment managers otherwise available to the board. The 1016
policy shall also provide for the following: 1017

(a) A process whereby the board can develop a list of 1018
Ohio-qualified investment managers and their investment products; 1019

(b) A process whereby the board can give public notice to 1020
Ohio-qualified investment managers of the board's search for an 1021
investment manager that includes the board's search criteria. 1022

(2) The board shall determine whether an investment manager 1023
is an Ohio-qualified investment manager and whether the investment 1024
manager offers quality, services, and safety comparable to other 1025
investment managers otherwise available to the board. The board's 1026
determination shall be final. 1027

(C) The board shall, at least annually, submit to the Ohio 1028
retirement study council a report containing the following 1029
information: 1030

(1) The name of each investment manager designated as an 1031
Ohio-qualified investment manager under this section; 1032

(2) The name of each investment manager with which the board 1033
contracts; 1034

(3) The amount of assets managed by Ohio-qualified investment 1035
managers, expressed as a percentage of the total assets held by 1036
the retirement system and as a percentage of assets managed by 1037
investment managers with which the board has contracted; 1038

(4) The compensation paid to Ohio-qualified investment 1039
managers, expressed as a percentage of total compensation paid to 1040
all investment managers with which the board has contracted; 1041

(5) Any other information requested by the Ohio retirement 1042
study council regarding the board's use of investment managers. 1043

Sec. 149.311. (A) As used in this section: 1044

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as a an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner of a an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging a an historic building;

(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of a an historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Certificate owner" means the owner of a an historic building to which a rehabilitation tax credit certificate was issued under this section.

(5) "Registered historic district" means a an historic district listed in the national register of historic places under 16 U.S.C. 470a, a an historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(6) "Rehabilitation" means the process of repairing or altering a an historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(7) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by the owner not to exceed sixty months during which rehabilitation occurs. Each stage shall be reviewed as a phase of a rehabilitation as determined under 26 C.F.R. 1.48-12 or a successor to that section.

(8) "State historic preservation officer" or "officer" means the state historic preservation officer appointed by the governor under 16 U.S.C. 470a.

(B) The owner of a an historic building may apply to the director of development services for a rehabilitation tax credit certificate for qualified rehabilitation expenditures paid or incurred after April 4, 2007, for rehabilitation of a an historic building. The form and manner of filing such applications shall be prescribed by rule of the director ~~of development~~. Each application shall state the amount of qualified rehabilitation expenditures the applicant estimates will be paid or incurred. The director may require applicants to furnish documentation of such

estimates. 1107

The director, after consultation with the tax commissioner 1108
and in accordance with Chapter 119. of the Revised Code, shall 1109
adopt rules that establish all of the following: 1110

(1) Forms and procedures by which applicants may apply for 1111
rehabilitation tax credit certificates; 1112

(2) Criteria for reviewing, evaluating, and approving 1113
applications for certificates within the limitations under 1114
division (D) of this section, criteria for assuring that the 1115
certificates issued encompass a mixture of high and low qualified 1116
rehabilitation expenditures, and criteria for issuing certificates 1117
under division (C)(3)(b) of this section; 1118

(3) Eligibility requirements for obtaining a certificate 1119
under this section; 1120

(4) The form of rehabilitation tax credit certificates; 1121

(5) Reporting requirements and monitoring procedures; 1122

(6) Procedures and criteria for conducting cost-benefit 1123
analyses of historic buildings that are the subjects of 1124
applications filed under this section. The purpose of a 1125
cost-benefit analysis shall be to determine whether rehabilitation 1126
of the historic building will result in a net revenue gain in 1127
state and local taxes once the building is used. 1128

(7) Any other rules necessary to implement and administer 1129
this section. 1130

(C) The director of development services shall review the 1131
applications with the assistance of the state historic 1132
preservation officer and determine whether all of the following 1133
criteria are met: 1134

(1) That the building that is the subject of the application 1135
is a an historic building and the applicant is the owner of the 1136

building; 1137

(2) That the rehabilitation will satisfy standards prescribed 1138
by the United States secretary of the interior under 16 U.S.C. 1139
470, et seq., as amended, and 36 C.F.R. 67.7 or a successor to 1140
that section; 1141

(3) That receiving a rehabilitation tax credit certificate 1142
under this section is a major factor in: 1143

(a) The applicant's decision to rehabilitate the historic 1144
building; or 1145

(b) To increase the level of investment in such 1146
rehabilitation. 1147

An applicant shall demonstrate to the satisfaction of the 1148
state historic preservation officer and director of development 1149
services that the rehabilitation will satisfy the standards 1150
described in division (C)(2) of this section before the applicant 1151
begins the physical rehabilitation of the historic building. 1152

(D)(1) If the director of development services determines 1153
that an application meets the criteria in divisions (C)(1), (2), 1154
and (3) of this section, the director shall conduct a cost-benefit 1155
analysis for the historic building that is the subject of the 1156
application to determine whether rehabilitation of the historic 1157
building will result in a net revenue gain in state and local 1158
taxes once the building is used. The director shall consider the 1159
results of the cost-benefit analysis in determining whether to 1160
approve the application. The director shall also consider the 1161
potential economic impact and the regional distributive balance of 1162
the credits throughout the state. The director may approve an 1163
application only after completion of the cost-benefit analysis. 1164

(2) A rehabilitation tax credit certificate shall not be 1165
issued for an amount greater than the estimated amount furnished 1166
by the applicant on the application for such certificate and 1167

approved by the director. The director shall not approve more than 1168
a total of sixty million dollars of rehabilitation tax credits per 1169
fiscal year but the director may reallocate unused tax credits 1170
from a prior fiscal year for new applicants and such reallocated 1171
credits shall not apply toward the dollar limit of this division. 1172

(3) For rehabilitations with a rehabilitation period not 1173
exceeding twenty-four months as provided in division (A)(7)(a) of 1174
this section, a rehabilitation tax credit certificate shall not be 1175
issued before the rehabilitation of the historic building is 1176
completed. 1177

(4) For rehabilitations with a rehabilitation period not 1178
exceeding sixty months as provided in division (A)(7)(b) of this 1179
section, a rehabilitation tax credit certificate shall not be 1180
issued before a stage of rehabilitation is completed. After all 1181
stages of rehabilitation are completed, if the director cannot 1182
determine that the criteria in division (C) of this section are 1183
satisfied for all stages of rehabilitations, the director shall 1184
certify this finding to the tax commissioner, and any 1185
rehabilitation tax credits received by the applicant shall be 1186
repaid by the applicant and may be collected by assessment as 1187
unpaid tax by the commissioner. 1188

(5) The director of development services shall require the 1189
applicant to provide a third-party cost certification by a 1190
certified public accountant of the actual costs attributed to the 1191
rehabilitation of the historic building when qualified 1192
rehabilitation expenditures exceed two hundred thousand dollars. 1193

If an applicant whose application is approved for receipt of 1194
a rehabilitation tax credit certificate fails to provide to the 1195
director ~~of development~~ sufficient evidence of reviewable 1196
progress, including a viable financial plan, copies of final 1197
construction drawings, and evidence that the applicant has 1198
obtained all historic approvals within twelve months after the 1199

date the applicant received notification of approval, and if the 1200
applicant fails to provide evidence to the director ~~of development~~ 1201
that the applicant has secured and closed on financing for the 1202
rehabilitation within eighteen months after receiving notification 1203
of approval, the director may rescind the approval of the 1204
application. The director shall notify the applicant if the 1205
approval has been rescinded. Credits that would have been 1206
available to an applicant whose approval was rescinded shall be 1207
available for other qualified applicants. Nothing in this division 1208
prohibits an applicant whose approval has been rescinded from 1209
submitting a new application for a rehabilitation tax credit 1210
certificate. 1211

(E) Issuance of a certificate represents a finding by the 1212
director of development services of the matters described in 1213
divisions (C)(1), (2), and (3) of this section only; issuance of a 1214
certificate does not represent a verification or certification by 1215
the director of the amount of qualified rehabilitation 1216
expenditures for which a tax credit may be claimed under section 1217
5725.151, 5725.34, 5726.52, 5729.17, 5733.47, or 5747.76 of the 1218
Revised Code. The amount of qualified rehabilitation expenditures 1219
for which a tax credit may be claimed is subject to inspection and 1220
examination by the tax commissioner or employees of the 1221
commissioner under section 5703.19 of the Revised Code and any 1222
other applicable law. Upon the issuance of a certificate, the 1223
director shall certify to the tax commissioner, in the form and 1224
manner requested by the tax commissioner, the name of the 1225
applicant, the amount of qualified rehabilitation expenditures 1226
shown on the certificate, and any other information required by 1227
the rules adopted under this section. 1228

(F)(1) On or before the first day of April each year, the 1229
director of development services and tax commissioner jointly 1230
shall submit to the president of the senate and the speaker of the 1231

house of representatives a report on the tax credit program 1232
established under this section and sections 5725.151, 5725.34, 1233
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The 1234
report shall present an overview of the program and shall include 1235
information on the number of rehabilitation tax credit 1236
certificates issued under this section during the preceding fiscal 1237
year, an update on the status of each historic building for which 1238
an application was approved under this section, the dollar amount 1239
of the tax credits granted under sections 5725.151, 5725.34, 1240
5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code, and 1241
any other information the director and commissioner consider 1242
relevant to the topics addressed in the report. 1243

(2) On or before December 1, 2015, the director of 1244
development services and tax commissioner jointly shall submit to 1245
the president of the senate and the speaker of the house of 1246
representatives a comprehensive report that includes the 1247
information required by division (F)(1) of this section and a 1248
detailed analysis of the effectiveness of issuing tax credits for 1249
rehabilitating historic buildings. The report shall be prepared 1250
with the assistance of an economic research organization jointly 1251
chosen by the director and commissioner. 1252

(G) There is hereby created in the state treasury the 1253
historic rehabilitation tax credit operating fund. The director of 1254
development services is authorized to charge reasonable 1255
application and other fees in connection with the administration 1256
of tax credits authorized by this section and sections 5725.151, 1257
5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the Revised 1258
Code. Any such fees collected shall be credited to the fund and 1259
used to pay reasonable costs incurred by the department of 1260
development services in administering this section and sections 1261
5725.151, 5725.34, 5726.52, 5729.17, 5733.44, and 5747.76 of the 1262
Revised Code. 1263

The Ohio historic preservation office is authorized to charge 1264
reasonable fees in connection with its review and approval of 1265
applications under this section. Any such fees collected shall be 1266
credited to the fund and used to pay administrative costs incurred 1267
by the Ohio historic preservation office pursuant to this section. 1268

Sec. 150.01. (A) As used in this chapter: 1269

(1) "Authority" means the Ohio venture capital authority 1270
created under section 150.02 of the Revised Code. 1271

(2) "Issuer" means a port authority organized and existing 1272
under applicable provisions of Chapter 4582. of the Revised Code 1273
that, pursuant to an agreement entered into under division (E) of 1274
section 150.02 of the Revised Code, issues or issued obligations 1275
to fund one or more loans to the program fund. 1276

(3) "Lender" means any person that lends money to the program 1277
fund as provided in this chapter and includes any issuer and any 1278
trustee. 1279

(4) "Loss" means a loss incurred with respect to a lender's 1280
loan to the program fund. Such a loss is incurred only if and to 1281
the extent a program administrator fails to satisfy its 1282
obligations to the lender to make timely payments of principal or 1283
interest as provided in the loan agreement between the lender and 1284
the program administrator. "Loss" does not include either of the 1285
following: 1286

(a) Any loss incurred by the program fund, including a loss 1287
attributable to any investment made by a program administrator; 1288

(b) Any loss of the capital required to be provided by a 1289
program administrator, or income accruing to that capital, under 1290
the agreement entered into under division (B) of section 150.05 of 1291
the Revised Code. 1292

(5) "Ohio-based business enterprise" means a person that is 1293

engaged in business, that employs at least one individual on a 1294
full-time or part-time basis at a place of business in this state, 1295
including a person engaged in business if that person is a 1296
self-employed individual, and that is in the seed or early stage 1297
of business development requiring initial or early stage funding 1298
or is an established business enterprise developing new methods or 1299
technologies. 1300

(6) "Ohio-based venture capital fund" means a venture capital 1301
fund having its principal office in this state, where the majority 1302
of the fund's staff are employed and where at least one investment 1303
professional is employed who has at least five years of experience 1304
in venture capital investment. 1305

(7) "Program fund" means the fund created under section 1306
150.03 of the Revised Code. 1307

(8) "Research and development purposes" has the same meaning 1308
as used in Section 2p of Article VIII, Ohio Constitution, and 1309
includes the development of sites and facilities in this state for 1310
and in support of those research and development purposes. 1311

(9) "Trustee" means a trust company or a bank with corporate 1312
trust powers, in either case having a place of business in this 1313
state, being a taxpayer under Chapter 5707., 5725., 5726., 5727., 1314
5729., 5733., or 5747 of the Revised Code at the time it may claim 1315
and receive a tax credit under division (E) of section 150.07 of 1316
the Revised Code, and acting in its capacity as a trustee pursuant 1317
to a trust agreement under which an issuer issues obligations to 1318
fund loans to the program fund. 1319

(B) The general assembly declares that its purpose in 1320
enacting Chapter 150. of the Revised Code is to increase the 1321
amount of private investment capital available in this state for 1322
Ohio-based business enterprises in the seed or early stages of 1323
business development and requiring initial or early stage funding, 1324

as well as established Ohio-based business enterprises developing 1325
new methods or technologies, including the promotion of research 1326
and development purposes, thereby increasing employment, creating 1327
additional wealth, and otherwise benefiting the economic welfare 1328
of the people of this state. Accordingly, it is the intention of 1329
the general assembly that the program fund make investments in 1330
support of Ohio-based business enterprises in accordance with the 1331
investment policy authorized and required under section 150.03 of 1332
the Revised Code, and that the Ohio venture capital authority 1333
focus its investment policy principally on venture capital funds 1334
investing in such Ohio-based business enterprises. The general 1335
assembly finds and determines that this chapter and the investment 1336
policy, and actions taken under and consistent therewith, will 1337
promote and implement the public purposes of Section 2p of Article 1338
VIII, Ohio Constitution. 1339

Sec. 150.07. (A) For the purpose stated in section 150.01 of 1340
the Revised Code, the authority may authorize a lender to claim 1341
one of the refundable tax credits allowed under section 5707.031, 1342
5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 of the 1343
Revised Code. The credits shall be authorized by a written 1344
contract with the lender. The contract shall specify the terms 1345
under which the lender may claim the credit, including the amount 1346
of loss, if any, the lender must incur before the lender may claim 1347
the credit; specify that the credit shall not exceed the amount of 1348
the loss; and specify that the lender may claim the credit only 1349
for a loss certified by a program administrator to the authority 1350
under the procedures prescribed under division (B)(6) of section 1351
150.05 of the Revised Code. The program administrator shall 1352
provide to the authority an estimate of the amount of tax credits, 1353
if any, that are likely, in the administrator's reasonable 1354
judgment, to be claimed by a lender during the current and next 1355
succeeding state fiscal years. The estimate shall be provided at 1356

the same time each year that the administrator is required to 1357
report the annual audit to the authority under section 150.05 of 1358
the Revised Code. 1359

(B) Tax credits may be authorized at any time after the 1360
authority establishes the investment policy under section 150.03 1361
of the Revised Code, but a tax credit so authorized may not be 1362
claimed before July 1, 2007, or after June 30, 2026, except, with 1363
respect to loans made from the proceeds of obligations issued 1364
under section 4582.71 of the Revised Code, a tax credit may not be 1365
claimed before July 1, 2012, or after June 30, 2036. 1366

(C)(1) Upon receiving certification of a lender's loss from a 1367
program administrator pursuant to the procedures in the investment 1368
policy, the authority shall issue a tax credit certificate to the 1369
lender, except as otherwise provided in division (D) of this 1370
section. 1371

(2) If the lender is a pass-through entity, as defined in 1372
section 5733.04 of the Revised Code, then each equity investor in 1373
the lender pass-through entity shall be entitled to claim one of 1374
the tax credits allowed under division (A) of this section for 1375
that equity investor's taxable year in which or with which ends 1376
the taxable year of the lender pass-through entity in an amount 1377
based on the equity investor's distributive or proportionate share 1378
of the credit amount set forth in the certificate issued by the 1379
authority. If all equity investors of the lender pass-through 1380
entity are not eligible to claim a credit against the same tax set 1381
forth in division (A) of this section, then each equity investor 1382
may elect to claim a credit against the tax to which the equity 1383
investor is subject to in an amount based on the equity investor's 1384
distributive or proportionate share of the credit amount set forth 1385
in the certificate issued by the authority. 1386

(3) The certificate shall state the amount of the credit and 1387

the calendar year under section 5707.031, 5725.19, 5727.241, or 1388
5729.08, the tax year under section 5726.53 or 5733.49, or the 1389
taxable year under section 5747.80 of the Revised Code for which 1390
the credit may be claimed. The authority, in conjunction with the 1391
tax commissioner, shall develop a system for issuing tax credit 1392
certificates for the purpose of verifying that any credit claimed 1393
is a credit issued under this section and is properly taken in the 1394
year specified in the certificate and in compliance with division 1395
(B) of this section. 1396

(D) The authority shall not, in any fiscal year, issue tax 1397
credit certificates under this section in a total amount exceeding 1398
twenty million dollars. The authority shall not issue tax credit 1399
certificates under this section in a total amount exceeding three 1400
hundred eighty million dollars. 1401

(E) Notwithstanding any other section of this chapter or any 1402
provision of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1403
5747. of the Revised Code, if provided by the terms of an 1404
agreement entered into by the issuer and the authority under 1405
division (E) of section 150.02 of the Revised Code, and subject to 1406
the limitations of divisions (B) and (D) of this section, a 1407
trustee shall have the right, for the benefit of the issuer, to 1408
receive and claim the credits authorized under division (A) of 1409
this section solely for the purpose provided for in section 150.04 1410
of the Revised Code, and the trustee shall be entitled to file a 1411
tax return, an amended tax return, or an estimated tax return at 1412
such times as are permitted or required under the applicable 1413
provisions of Chapter 5707., 5725., 5726., 5727., 5729., 5733., or 1414
5747. of the Revised Code for the purpose of claiming credits 1415
issued to the trustee. The trustee shall receive the proceeds of 1416
such a tax credit for the benefit of the issuer, and shall apply 1417
the proceeds solely to satisfy a loss or restore a reserve as 1418
provided in section 150.04 of the Revised Code. Nothing in this 1419

section shall require a trustee to file a tax return under any 1420
chapter for any purpose other than claiming such credits if the 1421
trustee is not otherwise required to make such a filing. 1422

The general assembly may from time to time modify or repeal 1423
any of the taxes against which the credits authorized under 1424
division (A) of this section may be claimed, and may authorize 1425
those credits to be claimed for the purposes provided for in 1426
section 150.04 of the Revised Code with respect to any other tax 1427
imposed by this state; provided, that if any obligations issued 1428
under section 4582.71 of the Revised Code are then outstanding and 1429
such modification or repeal would have the effect of impairing any 1430
covenant made in or pursuant to an agreement under division (E) of 1431
section 150.02 of the Revised Code regarding the maintenance or 1432
restoration of reserves established and maintained with a trustee 1433
consistent with division (B)(2) of section 150.04 of the Revised 1434
Code and such agreement, the state shall provide other security to 1435
the extent necessary to avoid or offset the impairment of such 1436
covenant. 1437

Sec. 150.10. (A) On the first day of January of the second 1438
year after the date of entering into an agreement under section 1439
150.05 of the Revised Code and of each ensuing year, the authority 1440
shall file with the clerk of the house of representatives, the 1441
clerk of the senate, and the chairpersons of the house and senate 1442
standing committees predominantly concerned with economic 1443
development a written report on the Ohio venture capital program. 1444
The report shall include all the following: 1445

(1) A description of the details of the investment policy 1446
established or modified in accordance with sections 150.03 and 1447
150.04 of the Revised Code; 1448

(2) The authority's assessment of the program's achievement 1449
of its purpose stated in section 150.01 of the Revised Code; 1450

(3) The value of tax credit certificates issued by the authority under section 150.07 of the Revised Code in each fiscal year ending on or before the preceding thirtieth day of June;

(4) The amount of tax credits claimed pursuant to section 5707.031, 5725.19, 5726.53, 5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code, as to the respective taxes involved;

(5) The financial status of the Ohio venture capital fund;

(6) The names of venture capital funds in which money from the program fund has been invested and the locations of their principal offices, and the names of the enterprises in which each of those venture capital funds has invested such money and the locations of those enterprises' principal offices;

(7) Any recommendations for modifying the program to better achieve the purpose stated in section 150.01 of the Revised Code.

(B) During each year that a report is issued under division (A) of this section, the chairperson of the authority, or another member of the authority designated by the chairperson as the authority's representative, shall be required to appear in person before the standing committees of the house and senate predominantly concerned with economic development to give testimony concerning the status of the Ohio venture capital program.

Sec. 715.013. (A) Except as otherwise expressly authorized by the Revised Code, no municipal corporation shall levy a tax that is the same as or similar to a tax levied under Chapter 322., 3734., 3769., 4123., 4141., 4301., 4303., 4305., 4307., 4309., 5707., 5725., 5726., 5727., 5728., 5729., 5731., 5735., 5737., 5739., 5741., 5743., or 5749. of the Revised Code.

(B) This section does not prohibit a municipal corporation from levying a tax on any of the following:

(1) Amounts received for admission to any place;	1481
(2) The income of an electric company or combined company, as defined in section 5727.01 of the Revised Code;	1482 1483
(3) On and after January 1, 2004, the income of a telephone company, as defined in section 5727.01 of the Revised Code.	1484 1485
Sec. 742.114. (A) As used in this section and in section 742.116 of the Revised Code:	1486 1487
(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.	1488 1489 1490 1491
(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.	1492 1493
(3) "Ohio-qualified agent" means an agent designated as such by the board of trustees of the fund.	1494 1495
(4) "Ohio-qualified investment manager" means an investment manager designated as such by the board of trustees of the fund.	1496 1497
(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.	1498 1499 1500 1501
(B) The board of trustees of the fund shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:	1502 1503 1504
(1) The agent is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or 5747. <u>or 5751.</u> of the Revised Code;	1505 1506
(2) The agent is authorized to conduct business in this state;	1507 1508
(3) The agent maintains a principal place of business in this	1509

state and employs at least five residents of this state. 1510

(C) The board shall adopt and implement a written policy to 1511
establish criteria and procedures used to select agents to execute 1512
securities transactions on behalf of the retirement system. The 1513
policy shall address each of the following: 1514

(1) Commissions charged by the agent, both in the aggregate 1515
and on a per share basis; 1516

(2) The execution speed and trade settlement capabilities of 1517
the agent; 1518

(3) The responsiveness, reliability, and integrity of the 1519
agent; 1520

(4) The nature and value of research provided by the agent; 1521

(5) Any special capabilities of the agent. 1522

(D)(1) The board shall, at least annually, establish a policy 1523
with the goal to increase utilization by the board of 1524
Ohio-qualified agents for the execution of domestic equity and 1525
fixed-income trades on behalf of the retirement system, when an 1526
Ohio-qualified agent offers quality, services, and safety 1527
comparable to other agents otherwise available to the board and 1528
meets the criteria established under division (C) of this section. 1529

(2) The board shall review, at least annually, the 1530
performance of the agents that execute securities transactions on 1531
behalf of the board. 1532

(3) The board shall determine whether an agent is an 1533
Ohio-qualified agent, meets the criteria established by the board 1534
pursuant to division (C) of this section, and offers quality, 1535
services, and safety comparable to other agents otherwise 1536
available to the board. The board's determination shall be final. 1537

(E) The board shall, at least annually, submit to the Ohio 1538
retirement study council a report containing the following 1539

information:	1540
(1) The name of each agent designated as an Ohio-qualified agent under this section;	1541 1542
(2) The name of each agent that executes securities transactions on behalf of the board;	1543 1544
(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1545 1546 1547 1548
(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;	1549 1550 1551
(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;	1552 1553 1554 1555
(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.	1556 1557
Sec. 742.116. (A) The board of trustees of the pension fund shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:	1558 1559 1560 1561
(1) The investment manager is subject to taxation under Chapter 5725., <u>5726.</u> , 5733., or <u>5747.</u> , <u>or 5751.</u> of the Revised Code;	1562 1563 1564
(2) The investment manager meets one of the following requirements:	1565 1566
(a) Has its corporate headquarters or principal place of business in this state;	1567 1568

(b) Employs at least five hundred individuals in this state;	1569
(c) Has a principal place of business in this state and	1570
employs at least 20 residents of this state.	1571
(B)(1) The board shall, at least annually, establish a policy	1572
with the goal to increase utilization by the board of	1573
Ohio-qualified investment managers, when an Ohio-qualified	1574
investment manager offers quality, services, and safety comparable	1575
to other investment managers otherwise available to the board. The	1576
policy shall also provide for the following:	1577
(a) A process whereby the board can develop a list of	1578
Ohio-qualified investment managers and their investment products;	1579
(b) A process whereby the board can give public notice to	1580
Ohio-qualified investment managers of the board's search for an	1581
investment manager that includes the board's search criteria.	1582
(2) The board shall determine whether an investment manager	1583
is an Ohio-qualified investment manager and whether the investment	1584
manager offers quality, services, and safety comparable to other	1585
investment managers otherwise available to the board. The board's	1586
determination shall be final.	1587
(C) The board shall, at least annually, submit to the Ohio	1588
retirement study council a report containing the following	1589
information:	1590
(1) The name of each investment manager designated as an	1591
Ohio-qualified investment manager under this section;	1592
(2) The name of each investment manager with which the board	1593
contracts;	1594
(3) The amount of assets managed by Ohio-qualified investment	1595
managers, expressed as a percentage of the total assets held by	1596
the retirement system and as a percentage of assets managed by	1597
investment managers with which the board has contracted;	1598

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 1311.85. As used in sections 1311.85 to 1311.93 of the Revised Code:

(A) "Broker" means an individual, partnership, corporation, or association licensed as a real estate broker pursuant to Chapter 4735. of the Revised Code.

(B) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured housing, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even though these units may be a part of a larger building or parcel of real estate containing more than four residential units. "Commercial real estate" also does not include real estate owned by a public authority as defined in section 1311.25 of the Revised Code.

(C) "Lien property" means any interest in commercial real estate against which a broker has a lien pursuant to sections 1311.85 to 1311.93 of the Revised Code.

(D) "Owner" means a person who has a legal or equitable interest in lien property and who enters into, or has previously entered into, a written contract with a broker for services related to purchasing, selling, leasing, or conveying any interest in the lien property.

Sec. 1311.86. (A) Any broker that enters into a written contract for services related to selling, leasing, or conveying

any interest in commercial real estate has a lien on that 1629
commercial real estate. The lien is effective only if the contract 1630
for services is in writing and is signed by the broker or the 1631
broker's agent and the owner of the lien property or the owner's 1632
agent. 1633

(B) Any broker that enters into a written contract for 1634
services related to purchasing any interest in commercial real 1635
estate has a lien on any real estate purchased pursuant to that 1636
contract. The lien is effective only if the contract for services 1637
is in writing and is signed by the broker or the broker's agent 1638
and the owner of the lien property or the owner's agent. 1639

(C)(1) Only the broker named in the contract has a lien 1640
pursuant to this section and a lien is not available to any 1641
employee or independent contractor of the broker. 1642

(2) The amount of ~~the~~ a lien for services related to selling 1643
or conveying any interest in commercial real estate is limited to 1644
the amount due to the broker pursuant to the contract. If the 1645
amount due to the broker is payable in installments, a portion of 1646
which is due after conveyance, the amount of the lien is limited 1647
to the amount due to the broker prior to or upon conveyance. 1648

(3) The amount of a lien for services related to leasing any 1649
interest in commercial real estate is limited to the amount due to 1650
the broker pursuant to the contract. If the amount due to the 1651
broker is payable in installments, the amount of the lien is 1652
limited to the amount of all installment payments due to the 1653
broker over the life of the contract, minus the amount of any 1654
installment payments made under the contract prior to the time of 1655
the owner's default. 1656

(4) The amount of a lien for services related to purchasing 1657
any interest in commercial real estate is limited to the amount 1658
due to the broker pursuant to the contract. If the amount due to 1659

the broker is payable in installments, the amount of the lien is 1660
limited to the amount of all installment payments due to the 1661
broker over the life of the contract, minus the amount of any 1662
installment payments made under the contract prior to the time the 1663
lien is filed. 1664

(5) The lien is effective only against the interest in real 1665
estate that is the subject of the contract. 1666

Sec. 1311.87. (A)(1) A lien established pursuant to section 1667
1311.86 of the Revised Code is perfected when both of the 1668
following have occurred: 1669

(a) The broker is entitled to a fee or commission under the 1670
contract. 1671

(b) The broker has met the requirements of division (B) of 1672
this section. 1673

(2) The lien is perfected as of the date the requirements of 1674
division (A)(1) of this section are met and does not relate back 1675
to an earlier date. 1676

(B) To perfect a lien pursuant to division (A)(1) of this 1677
section, a broker shall comply with all of the following: 1678

(1) The broker shall record a lien affidavit in the county 1679
recorder's office of the county in which the real estate is 1680
located. The recorder shall record on the affidavit the date and 1681
precise time the affidavit was presented for record, and shall 1682
record the affidavit. The recorder shall charge and collect the 1683
fees set forth in section 317.32 of the Revised Code for the 1684
recorder's services. 1685

(2)(a) The lien affidavit shall include the name of the 1686
broker who has the lien, the name of the owner of the lien 1687
property, a legal description of the lien property, the amount for 1688
which the lien is claimed, the date and a summary of the written 1689

contract on which the lien is based, and the real estate license 1690
number of the broker. The lien affidavit shall state that the 1691
information contained in the affidavit is true and accurate to the 1692
knowledge of the signator, be signed by the broker or the broker's 1693
agent, and be verified. 1694

(b) For purposes of division (B)(2)(a) of this section, a 1695
description that is sufficient to describe the lien property for 1696
the purpose of conveyance, or is contained in the instrument by 1697
which the owner took title, is a legal description. 1698

(3) A lien affidavit based on the ~~conveyance~~ sale of lien 1699
property shall be recorded prior to the conveyance of the 1700
property. 1701

(4)(a) A lien affidavit based on the purchase of lien 1702
property shall be recorded within ninety days after the conveyance 1703
of the property. 1704

(5) A lien affidavit based on a lease of lien property shall 1705
be recorded within ~~thirty~~ ninety days after ~~the first rental 1706
payment is due unless the owner of the lien property has provided 1707
notice pursuant to division (B)(4)(b) of this section.~~ 1708

~~(b) If the owner has provided the broker with written notice 1709
of the intended date for signing the lease, which is served on the 1710
broker no later than ten days prior to the intended date of 1711
signing the lease either by personal delivery or by certified 1712
mail, return receipt requested, the broker shall record the lien 1713
affidavit before that date.~~ 1714

~~(5) a default by the owner in the payment of an amount due 1715
under a written contract for services related to leasing the lien 1716
property. 1717~~

(6) On the day the lien affidavit is recorded, the broker 1718
shall provide a copy of the lien affidavit to the owner of the 1719
lien property and, where a contract for the sale or other 1720

conveyance of the lien property has been entered into, to the 1721
prospective transferee, where known, either by personal delivery 1722
or by certified mail, return receipt requested. 1723

(C) Initial leases, lease renewals, and expansions of the 1724
space leased shall be treated as separate leases for purposes of 1725
division (B)(5) of this section. 1726

Sec. 1311.88. (A) To commence proceedings to enforce a lien, 1727
a broker shall comply with all of the following: 1728

(1) The broker shall file a complaint in the common pleas 1729
court in the county where the lien property is located. 1730

(2)(a) The complaint shall be filed within ~~one year~~ two years 1731
following the recording of the lien affidavit as provided in 1732
division (B) of section 1311.87 of the Revised Code. 1733

(b) Failure to file a complaint within the time specified in 1734
this division extinguishes the lien, in which case no subsequent 1735
lien affidavit may be recorded for the same claim and the claim 1736
may not be asserted in any proceeding under this section. 1737

(3) A complaint shall identify the contract upon which the 1738
lien is based and the date of the contract, describe the services 1739
performed by the broker pursuant to the contract, specify the 1740
unpaid amounts due to the broker pursuant to the contract, specify 1741
the address of the lien property, and have a copy of the contract 1742
attached. 1743

(4) The broker shall name as defendants in the complaint all 1744
parties that have a legal or equitable interest in the lien 1745
property of whom the broker has knowledge. 1746

(B)(1) The owner may demand that the broker commence a suit 1747
to enforce a broker's lien by serving a written notice of demand 1748
on the broker by personal delivery or by certified mail, return 1749
receipt requested. 1750

(2) If the broker does not commence the suit or file the answer demanded within twenty-eight days after receipt of the notice of demand, the lien is extinguished.

(C) In an action based on a broker's lien, a court may assess the nonprevailing parties with costs and reasonable attorney's fees incurred by the prevailing parties. The court shall equitably apportion the assessed costs and attorney's fees among all responsible nonprevailing parties.

Sec. 3307.152. (A) As used in this section and in section 3307.154 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state teachers retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state teachers retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state teachers retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state.	1780 1781
(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.	1782 1783
(C) The state teachers retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:	1784 1785 1786 1787 1788
(a) (1) Commissions charged by the agent, both in the aggregate and on a per share basis;	1789 1790
(b) (2) The execution speed and trade settlement capabilities of the agent;	1791 1792
(c) (3) The responsiveness, reliability, and integrity of the agent;	1793 1794
(d) (4) The nature and value of research provided by the agent;	1795 1796
(e) (5) Any special capabilities of the agent.	1797
(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.	1798 1799 1800 1801 1802 1803 1804
(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.	1805 1806 1807
(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board	1808 1809

pursuant to division (C) of this section, and offers quality, 1810
services, and safety comparable to other agents otherwise 1811
available to the board. The board's determination shall be final. 1812

(E) The board shall, at least annually, submit to the Ohio 1813
retirement study council a report containing the following 1814
information: 1815

(1) The name of each agent designated as an Ohio-qualified 1816
agent under this section; 1817

(2) The name of each agent that executes securities 1818
transactions on behalf of the board; 1819

(3) The amount of equity and fixed-income trades that are 1820
executed by Ohio-qualified agents, expressed as a percentage of 1821
all equity and fixed-income trades that are executed by agents on 1822
behalf of the board; 1823

(4) The compensation paid to Ohio-qualified agents, expressed 1824
as a percentage of total compensation paid to all agents that 1825
execute securities transactions on behalf of the board; 1826

(5) The amount of equity and fixed-income trades that are 1827
executed by agents that are minority business enterprises, 1828
expressed as a percentage of all equity and fixed-income trades 1829
that are executed by agents on behalf of the board; 1830

(6) Any other information requested by the Ohio retirement 1831
study council regarding the board's use of agents. 1832

Sec. 3307.154. (A) The state teachers retirement board shall, 1833
for the purposes of this section, designate an investment manager 1834
as an Ohio-qualified investment manager if the investment manager 1835
meets all of the following requirements: 1836

(1) The investment manager is subject to taxation under 1837
Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised 1838
Code. 1839

(2) The investment manager meets one of the following requirements:	1840 1841
(a) Has its corporate headquarters or principal place of business in this state;	1842 1843
(b) Employs at least five hundred individuals in this state;	1844
(c) Has a principal place of business in this state and employs at least twenty residents of this state.	1845 1846
(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:	1847 1848 1849 1850 1851 1852
(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;	1853 1854
(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.	1855 1856 1857
(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.	1858 1859 1860 1861 1862
(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:	1863 1864 1865
(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;	1866 1867
(2) The name of each investment manager with which the board contracts;	1868 1869

(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;

(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;

(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.

Sec. 3309.157. (A) As used in this section and in section 3309.159 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the school employees retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the school employees retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The school employees retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 1899
5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 1900

(2) The agent is authorized to conduct business in this 1901
state. 1902

(3) The agent maintains a principal place of business in this 1903
state and ~~employees~~ employs at least five residents of this state. 1904

(C) The school employees retirement board shall adopt and 1905
implement a written policy to establish criteria and procedures 1906
used to select agents to execute securities transactions on behalf 1907
of the retirement system. The policy shall address each of the 1908
following: 1909

~~(a)~~(1) Commissions charged by the agent, both in the 1910
aggregate and on a per share basis; 1911

~~(b)~~(2) The execution speed and trade settlement capabilities 1912
of the agent; 1913

~~(c)~~(3) The responsiveness, reliability, and integrity of the 1914
agent; 1915

~~(d)~~(4) The nature and value of research provided by the 1916
agent; 1917

~~(e)~~(5) Any special capabilities of the agent. 1918

(D)(1) The board shall, at least annually, establish a policy 1919
with the goal to increase utilization by the board of 1920
Ohio-qualified agents for the execution of domestic equity and 1921
fixed income trades on behalf of the retirement system, when an 1922
Ohio-qualified agent offers quality, services, and safety 1923
comparable to other agents otherwise available to the board and 1924
meets the criteria established under division (C) of this section. 1925

(2) The board shall review, at least annually, the 1926
performance of the agents that execute securities transactions on 1927
behalf of the board. 1928

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:

(1) The name of each agent designated as an Ohio-qualified agent under this section;

(2) The name of each agent that executes securities transactions on behalf of the board;

(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;

(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;

(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.

Sec. 3309.159. (A) The school employees retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under

Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 1959
1960

(2) The investment manager meets one of the following requirements: 1961
1962

(a) Has its corporate headquarters or principal place of business in this state; 1963
1964

(b) Employs at least five hundred individuals in this state; 1965

(c) Has a principal place of business in this state and employs at least ~~20~~ twenty residents of this state. 1966
1967

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following: 1968
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(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products; 1974
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(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria. 1976
1977
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(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final. 1979
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(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information: 1984
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1986

(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section; 1987
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(2) The name of each investment manager with which the board contracts;	1989 1990
(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;	1991 1992 1993 1994
(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;	1995 1996 1997
(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.	1998 1999
Sec. 5505.068. (A) As used in this section and in section 5505.0610 of the Revised Code:	2000 2001
(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.	2002 2003 2004 2005
(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.	2006 2007
(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board.	2008 2009
(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board.	2010 2011 2012
(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.	2013 2014 2015 2016
(B) The state highway patrol retirement board shall, for the	2017

purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., ~~or~~ 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state highway patrol retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on

behalf of the board. 2048

(3) The board shall determine whether an agent is an 2049
Ohio-qualified agent, meets the criteria established by the board 2050
pursuant to division (C) of this section, and offers quality, 2051
services, and safety comparable to other agents otherwise 2052
available to the board. The board's determination shall be final. 2053

(E) The board shall, at least annually, submit to the Ohio 2054
retirement study council a report containing the following 2055
information: 2056

(1) The name of each agent designated as an Ohio-qualified 2057
agent under this section; 2058

(2) The name of each agent that executes securities 2059
transactions on behalf of the board; 2060

(3) The amount of equity and fixed-income trades that are 2061
executed by Ohio-qualified agents, expressed as a percentage of 2062
all equity and fixed-income trades that are executed by agents on 2063
behalf of the board; 2064

(4) The compensation paid to Ohio-qualified agents, expressed 2065
as a percentage of total compensation paid to all agents that 2066
execute securities transactions on behalf of the board; 2067

(5) The amount of equity and fixed-income trades that are 2068
executed by agents that are minority business enterprises, 2069
expressed as a percentage of all equity and fixed-income trades 2070
that are executed by agents on behalf of the board; 2071

(6) Any other information requested by the Ohio retirement 2072
study council regarding the board's use of agents. 2073

Sec. 5505.0610. (A) The state highway patrol retirement board 2074
shall, for the purposes of this section, designate an investment 2075
manager as an Ohio-qualified investment manager if the investment 2076
manager meets all of the following requirements: 2077

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., ~~or 5747.~~, or 5751. of the Revised Code. 2078
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(2) The investment manager meets one of the following requirements: 2081
2082

(a) Has its corporate headquarters or principal place of business in this state; 2083
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(b) Employs at least five hundred individuals in this state; 2085

(c) Has a principal place of business in this state and employs at least ~~20~~ twenty residents of this state. 2086
2087

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following: 2088
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(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products; 2094
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(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria. 2096
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(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final. 2099
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(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information: 2104
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(1) The name of each investment manager designated as an 2107

Ohio-qualified investment manager under this section;	2108
(2) The name of each investment manager with which the board contracts;	2109 2110
(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;	2111 2112 2113 2114
(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;	2115 2116 2117
(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.	2118 2119
<u>Sec. 5701.12. (A) The effective date to which this section refers is the effective date of this section as enacted by H.B. 510 of the 129th general assembly.</u>	2120 2121 2122
<u>(B) Any reference in Title LVII to "consolidated reports of condition and income" or "call report" means the consolidated reports of condition and income as those reports existed on the effective date.</u>	2123 2124 2125 2126
<u>(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means the FR Y-9 financial statements as those financial statements existed on the effective date.</u>	2127 2128 2129
<u>(D) This section does not apply to any reference in Title LVII of the Revised Code to "consolidated reports of condition and income," "call report," "FR Y-9," or "Y-9" as of a date certain specifying the day, month, and year.</u>	2130 2131 2132 2133
Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any	2134 2135 2136

other reason overpaid, that are levied by Chapter 4301., 4305., 2137
5726., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 2138
5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 2139
3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 2140
5727.811 of the Revised Code. Refunds for fees illegally or 2141
erroneously assessed or collected, or for any other reason 2142
overpaid, that are levied by sections 3734.90 to 3734.9014 of the 2143
Revised Code also shall be paid from the fund. Refunds for amounts 2144
illegally or erroneously assessed or collected by the tax 2145
commissioner, or for any other reason overpaid, that are due under 2146
section 1509.50 of the Revised Code shall be paid from the fund. 2147
However, refunds for taxes levied under section 5739.101 of the 2148
Revised Code shall not be paid from the tax refund fund, but shall 2149
be paid as provided in section 5739.104 of the Revised Code. 2150

(B)(1) Upon certification by the tax commissioner to the 2151
treasurer of state of a tax refund, a fee refund, or an other 2152
amount refunded, or by the superintendent of insurance of a 2153
domestic or foreign insurance tax refund, the treasurer of state 2154
shall place the amount certified to the credit of the fund. The 2155
certified amount transferred shall be derived from current 2156
receipts of the same tax, fee, or other amount from which the 2157
refund arose. If current receipts from the tax, fee, or other 2158
amount from which the refund arose are inadequate to make the 2159
transfer of the amount so certified, the treasurer of state shall 2160
transfer such certified amount from current receipts of the sales 2161
tax levied by section 5739.02 of the Revised Code. 2162

(2) When the treasurer of state provides for the payment of a 2163
refund of a tax, fee, or other amount from the current receipts of 2164
the sales tax, and the refund is for a tax, fee, or other amount 2165
that is not levied by the state, the tax commissioner shall 2166
recover the amount of that refund from the next distribution of 2167
that tax, fee, or other amount that otherwise would be made to the 2168

taxing jurisdiction. If the amount to be recovered would exceed 2169
twenty-five per cent of the next distribution of that tax, fee, or 2170
other amount, the commissioner may spread the recovery over more 2171
than one future distribution, taking into account the amount to be 2172
recovered and the amount of the anticipated future distributions. 2173
In no event may the commissioner spread the recovery over a period 2174
to exceed twenty-four months. 2175

Sec. 5703.053. As used in this section, "postal service" 2176
means the United States postal service. 2177

An application to the tax commissioner for a tax refund under 2178
section 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 2179
5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 2180
5743.05, 5743.53, 5745.11, 5749.08, or 5751.08 of the Revised Code 2181
or division (B) of section 5703.05 of the Revised Code, or a fee 2182
refunded under section 3734.905 of the Revised Code, that is 2183
received after the last day for filing under such section shall be 2184
considered to have been filed in a timely manner if: 2185

(A) The application is delivered by the postal service and 2186
the earliest postal service postmark on the cover in which the 2187
application is enclosed is not later than the last day for filing 2188
the application; 2189

(B) The application is delivered by the postal service, the 2190
only postmark on the cover in which the application is enclosed 2191
was affixed by a private postal meter, the date of that postmark 2192
is not later than the last day for filing the application, and the 2193
application is received within seven days of such last day; or 2194

(C) The application is delivered by the postal service, no 2195
postmark date was affixed to the cover in which the application is 2196
enclosed or the date of the postmark so affixed is not legible, 2197
and the application is received within seven days of the last day 2198
for making the application. 2199

Sec. 5703.70. (A) On the filing of an application for refund 2200
under section 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 2201
5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 2202
5735.142, 5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 2203
5743.53, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an 2204
application for compensation under section 5739.061 of the Revised 2205
Code, if the tax commissioner determines that the amount of the 2206
refund or compensation to which the applicant is entitled is less 2207
than the amount claimed in the application, the commissioner shall 2208
give the applicant written notice by ordinary mail of the amount. 2209
The notice shall be sent to the address shown on the application 2210
unless the applicant notifies the commissioner of a different 2211
address. The applicant shall have sixty days from the date the 2212
commissioner mails the notice to provide additional information to 2213
the commissioner or request a hearing, or both. 2214

(B) If the applicant neither requests a hearing nor provides 2215
additional information to the tax commissioner within the time 2216
prescribed by division (A) of this section, the commissioner shall 2217
take no further action, and the refund or compensation amount 2218
denied becomes final. 2219

(C)(1) If the applicant requests a hearing within the time 2220
prescribed by division (A) of this section, the tax commissioner 2221
shall assign a time and place for the hearing and notify the 2222
applicant of such time and place, but the commissioner may 2223
continue the hearing from time to time as necessary. After the 2224
hearing, the commissioner may make such adjustments to the refund 2225
or compensation as the commissioner finds proper, and shall issue 2226
a final determination thereon. 2227

(2) If the applicant does not request a hearing, but provides 2228
additional information, within the time prescribed by division (A) 2229
of this section, the commissioner shall review the information, 2230

make such adjustments to the refund or compensation as the 2231
commissioner finds proper, and issue a final determination 2232
thereon. 2233

(3) The commissioner shall serve a copy of the final 2234
determination made under division (C)(1) or (2) of this section on 2235
the applicant in the manner provided in section 5703.37 of the 2236
Revised Code, and the decision is final, subject to appeal under 2237
section 5717.02 of the Revised Code. 2238

(D) The tax commissioner shall certify to the director of 2239
budget and management and treasurer of state for payment from the 2240
tax refund fund created by section 5703.052 of the Revised Code, 2241
the amount of the refund to be refunded under division (B) or (C) 2242
of this section. The commissioner also shall certify to the 2243
director and treasurer of state for payment from the general 2244
revenue fund the amount of compensation to be paid under division 2245
(B) or (C) of this section. 2246

Sec. 5707.03. Annual taxes are hereby levied on the kinds of 2247
intangible property, enumerated in this section, on the intangible 2248
property tax list in the office of the treasurer of state at the 2249
following rates: 2250

(A) On investments, five per cent of income yield or of 2251
income as provided by section 5711.10 of the Revised Code for the 2252
1983, 1984, and 1985 return years and no tax for subsequent return 2253
years; 2254

(B) On unproductive investments, two mills on the dollar for 2255
the 1983, 1984, and 1985 return years and no tax for subsequent 2256
return years; 2257

(C) On deposits, one and three-eighths mills on the dollar 2258
for the 1982 and 1983 return years and no tax for subsequent 2259
return years; 2260

(D) On shares of, and capital employed by, dealers in	2261
intangibles, eight mills on the dollar <u>for return years prior to</u>	2262
<u>2014 and no tax under this section for subsequent return years;</u>	2263
(E) On money, credits, and all other taxable intangibles,	2264
three mills on the dollar for the 1983, 1984, and 1985 return	2265
years and no tax for subsequent return years.	2266
The object and distribution of such taxes shall be as	2267
provided in section 5725.24 of the Revised Code.	2268
Sec. 5709.76. (A) All of the following are exempt from taxes	2269
levied by the state and its subdivisions:	2270
(1) Public obligations;	2271
(2) Interest or interest equivalent on public obligations and	2272
on purchase obligations;	2273
(3) The transfer, and any profit made on the sale, exchange,	2274
or other disposition, of public obligations.	2275
(B) The exemptions granted by division (A) of this section	2276
apply to public obligations and purchase obligations issued,	2277
incurred, or entered into before, on, or after the effective date	2278
of this section <u>March 29, 1988</u> , but only for taxable years ending	2279
on or after the later of July 1, 1988, or the effective date of	2280
this section <u>March 29, 1988</u> .	2281
(C) This section supplements, and does not restrict, limit,	2282
or impair, any exemption from taxation otherwise provided for in	2283
the Ohio Constitution, the Revised Code, or other laws.	2284
(D) As used in this section:	2285
(1) "Fractionalized interests in purchase obligations" means	2286
participations, shares, or other instruments or agreements,	2287
separate from the purchase obligations themselves, evidencing	2288
ownership of interests in purchase obligations or of rights to	2289

receive payments of, or on account of, principal or interest or 2290
their equivalents payable by or on behalf of the state or a 2291
subdivision pursuant to purchase obligations, and does not include 2292
interests or shares in qualified investment trusts. 2293

(2) "Interest or interest equivalent" means those payments or 2294
portions of payments, however denominated, that constitute or 2295
represent consideration for forbearing the collection of money, or 2296
for deferring the receipt of payment of money to a future time, as 2297
determined for federal income tax purposes, and includes those 2298
portions of a qualified investment trust's distributions to its 2299
shareholders or beneficial owners, whether distributed or deemed 2300
distributed in cash or in trust shares or interests, that are 2301
attributable to the trust's receipt of interest or interest 2302
equivalent. 2303

(3) "Internal Revenue Code" has the same meaning as in 2304
division (H) of section 5747.01 of the Revised Code. 2305

(4) "Qualified investment trust" or "trust" means a unit 2306
investment trust, grantor trust, or regulated investment company, 2307
if at all times at least fifty per cent of the value of the total 2308
assets of the trust or company consists of public securities or 2309
purchase obligations, or similar obligations of other states or 2310
their subdivisions. 2311

(5) "Public obligations" means public securities, 2312
fractionalized interests in purchase obligations, and any 2313
obligation or evidence of obligation to pay interest or interest 2314
equivalent on public securities or on fractionalized interests in 2315
purchase obligations, and does not include purchase obligations. 2316

(6) "Public securities" means bonds, notes, certificates of 2317
indebtedness, commercial paper, and other instruments in writing 2318
issued by the state or a subdivision, or by any nonprofit 2319
corporation authorized to issue public securities for or on behalf 2320

of the state or a subdivision, to evidence the obligation of the 2321
state, subdivision, or nonprofit corporation to repay money 2322
borrowed by, or to pay at any future time other money obligations 2323
of, the state, subdivision, or nonprofit corporation, and does not 2324
include purchase obligations. Public securities may be in the form 2325
of either certificated securities or uncertificated securities, as 2326
those terms are defined in section 1308.01 of the Revised Code. 2327

(7) "Purchase obligations" means interest-bearing obligations 2328
of the state or a subdivision to make payments under installment 2329
sale, lease, lease purchase, or similar types of agreements. 2330

(8) "Regulated investment company" means a regulated 2331
investment company as defined in section 851 of the Internal 2332
Revenue Code. 2333

(9) "State" means the state, state officers, and state 2334
agencies, including commissions, institutions, boards, agencies, 2335
authorities, or other instrumentalities. 2336

(10) "Subdivision" means any local taxing authority, 2337
political or governmental subdivision, body corporate and politic, 2338
or other local public or governmental entity in the state, any 2339
combination or consortium of two or more of those subdivisions, 2340
and any public division, district, commission, authority, 2341
department, board, officer, or institution of any one or more of 2342
those subdivisions. 2343

(11) "Taxes" means any direct or indirect taxes, including 2344
income, ad valorem, transfer, and excise taxes, and including the 2345
tax on the net income measure of the issued and outstanding shares 2346
of a corporation under Chapter 5733. of the Revised Code. "Taxes" 2347
does not mean any of the following: 2348

(a) The tax on the net worth measure of the issued and 2349
outstanding shares of corporations and financial institutions 2350
under Chapter 5733. of the Revised Code; 2351

(b) The tax on the value of the gross estate under Chapter 5731. of the Revised Code;	2352 2353
(c) The tax on the value of the capital and surplus of a domestic insurance company under Chapter 5725. of the Revised Code;	2354 2355 2356
(d) The tax on the shares of and capital employed by dealers in intangibles under Chapter 5725. and section 5707.03 of the Revised Code;	2357 2358 2359
<u>(e) The tax levied on the basis of the total equity capital of financial institutions under Chapter 5726. of the Revised Code.</u>	2360 2361
Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code that has not been outstanding for the full calendar year next preceding the date of listing, except shares of stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.	2362 2363 2364 2365 2366 2367 2368 2369 2370 2371 2372 2373 2374 2375 2376 2377 2378 2379
Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be listed.	2380 2381 2382

Shares of stock of a bank holding company, as defined in 2383
Title 12 U.S.C.A., section 1841, that are required to be listed 2384
for taxation under this division and upon which dividends were 2385
paid during the year of their issuance, which dividends are 2386
subject to taxation under the provisions of Chapter 5747. of the 2387
Revised Code, shall be exempt from the intangibles tax for the 2388
year immediately succeeding their issuance. If such shares bear 2389
dividends the first calendar year after their issuance, which 2390
dividends are subject to taxation under the provisions of Chapter 2391
5747. of the Revised Code, it shall be deemed that the 2392
nondelinquent intangible property tax pursuant to division (A) of 2393
section 5707.04 of the Revised Code was paid on those dividends 2394
paid that first calendar year after the issuance of the shares. 2395

(B) For tax years before tax year 2009, boilers, machinery, 2396
equipment, and personal property the true value of which is 2397
determined under division (B) of section 5711.21 of the Revised 2398
Code shall be listed and assessed at an amount equal to the sum of 2399
the products determined under divisions (B)(1), (2), and (3) of 2400
this section: 2401

(1) Multiply the portion of the true value determined under 2402
division (B)(1) of section 5711.21 of the Revised Code by the 2403
assessment rate for the tax year in division (G) of this section; 2404

(2) Multiply the portion of the true value determined under 2405
division (B)(2) of section 5711.21 of the Revised Code by the 2406
assessment rate in section 5727.111 of the Revised Code that is 2407
applicable to the production equipment of an electric company; 2408

(3) Multiply the portion of the true value determined under 2409
division (B)(3) of section 5711.21 of the Revised Code by the 2410
assessment rate in section 5727.111 of the Revised Code that is 2411
applicable to the property of an electric company that is not 2412
production equipment. 2413

(C) For tax years before tax year 2009, personal property 2414
leased to a public utility or interexchange telecommunications 2415
company as defined in section 5727.01 of the Revised Code and used 2416
directly in the rendition of a public utility service as defined 2417
in division (P) of section 5739.01 of the Revised Code shall be 2418
listed and assessed at the same percentage of true value in money 2419
that such property is required to be assessed by section 5727.111 2420
of the Revised Code if owned by the public utility or 2421
interexchange telecommunications company. 2422

(D)(1) Merchandise or an agricultural product shipped from 2423
outside this state and held in this state in a warehouse or a 2424
place of storage without further manufacturing or processing and 2425
for storage only and for shipment outside this state, but that 2426
does not qualify as "not used in business in this state" under 2427
division (B)(1) or (2) of section 5701.08 of the Revised Code, is 2428
nevertheless not used in business in this state for property tax 2429
purposes. 2430

(2) Merchandise or an agricultural product owned by a 2431
qualified out-of-state person shipped from outside this state and 2432
held in this state in a public warehouse without further 2433
manufacturing or processing and for temporary storage only and for 2434
shipment inside this state, but that does not qualify as "not used 2435
in business in this state" under division (B)(1) or (2) of section 2436
5701.08 of the Revised Code, is nevertheless not used in business 2437
in this state for property tax purposes. 2438

(3) As used in division (D)(2) of this section: 2439

(a) "Qualified out-of-state person" means a person that does 2440
not own, lease, or use property, other than merchandise or an 2441
agricultural product described in this division, in this state, 2442
and does not have employees, agents, or representatives in this 2443
state; 2444

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

(E) Personal property valued pursuant to section 5711.15 of the Revised Code and personal property required to be listed on the average basis by division (B) of section 5711.16 of the Revised Code, except property described in division (D) of this section, business fixtures, and furniture not held for sale in the course of business, shall be listed and assessed at twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.

(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money:

(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, zero per cent of true value;

(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter.

(G) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the following percentages of true value in money:

(1) For tax year 2005, twenty-five per cent of true value;

(2) For tax year 2006, eighteen and three-fourths per cent of

true value;	2476
(3) For tax year 2007, twelve and one-half per cent of true value;	2477 2478
(4) For tax year 2008, six and one-fourth per cent of true value;	2479 2480
(5) For tax year 2009 and each tax year thereafter, zero per cent of true value.	2481 2482
(H)(1) For tax year 2007 and thereafter, all personal property used by a telephone company, telegraph company, or interexchange telecommunications company shall be listed as provided in this chapter and assessed at the following percentages of true value in money:	2483 2484 2485 2486 2487
(a) For tax year 2007, twenty per cent of true value;	2488
(b) For tax year 2008, fifteen per cent of true value;	2489
(c) For tax year 2009, ten per cent of true value;	2490
(d) For tax year 2010, five per cent of true value;	2491
(e) For tax year 2011 and each tax year thereafter, zero per cent of true value.	2492 2493
(2) The property owned by a telephone, telegraph, or telecommunications company shall be apportioned to each appropriate taxing district as provided in section 5727.15 of the Revised Code.	2494 2495 2496 2497
(I) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), (G), or (H) of this section shall not be listed for taxation.	2498 2499 2500
(J) Divisions (E), (F), (G), and (H) of this section apply to the property of a person described in divisions (E)(3) to (10) , <u>(4), and (5)</u> of section 5751.01 of the Revised Code. Division (J) of this section does not prevent the application of the exemption	2501 2502 2503 2504

of property from taxation under section 5725.25 or 5725.26 of the Revised Code.

Sec. 5713.03. The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due to some casualty;

(B) An improvement is added to the property. Nothing in this section or section 5713.01 of the Revised Code and no rule adopted

under section 5715.01 of the Revised Code shall require the county auditor to change the true value in money of any property in any year except a year in which the tax commissioner is required to determine under section 5715.24 of the Revised Code whether the property has been assessed as required by law.

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5725.02. ~~The~~ For report years prior to 2014, the cashier or other principal accounting officer of each bank, the secretary or other principal accounting officer of each other incorporated financial institution, and the manager or owner of each unincorporated financial institution shall return to the department of taxation between the first and second Mondays of March, annually, a report exhibiting in detail, and under appropriate heads, the resources and liabilities of such institution at the close of business on the thirty-first day of December next preceding.

The report of each financial institution shall also show the aggregate balances of the taxable deposits of its depositors in each county in which the institution maintained an office for the receipt of deposits, at the end of business on the day fixed by the tax commissioner pursuant to section 5725.05 of the Revised

Code. The report shall show also the names and addresses of all 2567
depositors whose deposits were wholly withdrawn from such 2568
institution between the day so fixed and the date on which notice 2569
of the fixing was received by such institution, or if no such 2570
notice was received, then between the day fixed and the first day 2571
of January next following, and the amount of taxable deposits of 2572
each such ~~depositer~~ depositor on the day fixed. 2573

Sec. 5725.14. (A) As used in this section and section 5725.15 2574
of the Revised Code: 2575

(1) "Billing address" of a customer means one of the 2576
following: 2577

(a) The customer's address as set forth in any notice, 2578
statement, bill, or similar acknowledgment shall be presumed to be 2579
the address where the customer is located with respect to the 2580
transaction for which the dealer issued the notice, statement, 2581
bill, or acknowledgment. 2582

(b) If the dealer issues any notice, statement, bill, or 2583
similar acknowledgment electronically to an address other than a 2584
street address or post office box address or if the dealer does 2585
not issue such a notice, statement, bill, or acknowledgment, the 2586
customer's street address as set forth in the records of the 2587
dealer at the time of the transaction shall be presumed to be the 2588
address where the customer is located. 2589

(2) "Commissions" includes but is not limited to brokerage 2590
commissions, asset management fees, and similar fees charged in 2591
the regular course of business to a customer for the maintenance 2592
and management of the customer's account. 2593

(3) "Gross receipts" means one of the following: 2594

(a) In the case of a dealer in intangibles principally 2595
engaged in the business of lending money or discounting loans, the 2596

aggregate amount of loans effected or discounted; 2597

(b) In the case of a dealer in intangibles principally 2598
engaged in the business of selling or buying stocks, bonds, or 2599
other similar securities either on the dealer's own account or as 2600
agent for another, the aggregate amount of all commissions 2601
charged. 2602

(B) Each dealer in intangibles shall return to the tax 2603
commissioner between the first and second Mondays of March, 2604
annually for return years prior to 2014, a report exhibiting in 2605
detail, and under appropriate heads, the dealer's resources and 2606
liabilities at the close of business on the thirty-first day of 2607
December next preceding. In the case of an unincorporated dealer 2608
in intangibles, such report shall also exhibit the amount or value 2609
as of the date of conversion of all property within the year 2610
preceding the date of listing, and on or after the first day of 2611
November converted into bonds or other securities not taxed to the 2612
extent such nontaxable bonds or securities may be shown in the 2613
dealer's resources on such date, without deduction for 2614
indebtedness created in the purchase of such nontaxable bonds or 2615
securities. 2616

If a dealer in intangibles maintains separate business 2617
offices, whether within this state only or within and without this 2618
state, the report shall also show the gross receipts from business 2619
done at each such office during the year ending on the 2620
thirty-first day of December next preceding. 2621

For the purposes of this section and section 5725.15 of the 2622
Revised Code, business is considered done at an office when it 2623
originates at such office, but the receipts from business 2624
originating at one office and consummated at another office shall 2625
be divided equitably between such offices. 2626

(C) For the purposes of this section and section 5725.15 of 2627

the Revised Code, in the case of a dealer in intangibles 2628
principally engaged in the business of selling or buying stocks, 2629
bonds, or other similar securities either on the dealer's own 2630
account or as agent for another, the dealer's capital, surplus, 2631
and undivided profits employed in this state shall bear the same 2632
ratio to the dealer's total capital, surplus, and undivided 2633
profits employed everywhere as the amount described in division 2634
(C)(1) of this section bears to the amount described in division 2635
(C)(2) of this section: 2636

(1) The sum of the commissions earned during the year covered 2637
by the report from transactions with respect to brokerage accounts 2638
owned by customers having billing addresses in this state; 2639

(2) The sum of the commissions earned during that year from 2640
transactions with respect to brokerage accounts owned by all of 2641
the dealer's customers. 2642

(D) An incorporated dealer in intangibles which owns or 2643
controls fifty-one per cent or more of the common stock of another 2644
incorporated dealer in intangibles may, under uniform regulations 2645
prescribed by the tax commissioner, make a consolidated return for 2646
the purpose of sections 5725.01 to 5725.26, inclusive, of the 2647
Revised Code. In such case the parent corporation making such 2648
return is not required to include in its resources any of the 2649
stocks, securities, or other obligations of its subsidiary 2650
dealers, nor permitted to include in its liabilities any of its 2651
own securities or other obligations belonging to its subsidiaries. 2652

Sec. 5725.16. On or before the first Monday of May, annually 2653
for return years prior to 2014, the tax commissioner shall certify 2654
to the treasurer of state the assessment of the shares or property 2655
representing capital, or apportionment of either, of each dealer 2656
in intangibles doing business in the state, showing separately the 2657
amount representing capital employed in each county. 2658

The treasurer of state shall place the amounts certified on 2659
the intangible property tax list in ~~his~~ the treasurer of state's 2660
office in the names of the dealers represented by those 2661
certificates. 2662

Any certificate of abatement issued pursuant to section 2663
5703.05 of the Revised Code for the overpayment of the tax on 2664
shares or property representing capital of a dealer in intangibles 2665
may be tendered by the payee or transferee thereof to the 2666
treasurer of state as payment for any taxes allocable to the 2667
county in which the claim for overpayment arose. 2668

Sec. 5725.26. The real estate of a financial institution or 2669
dealer in intangibles shall be taxed in the place where it is 2670
located, the same as the real estate of persons is taxed, but the 2671
taxes provided for in Chapters 5725. ~~and, 5726.,~~ 5733., ~~and 5751.~~ 2672
of the Revised Code, shall be in lieu of all other taxes on the 2673
other property and assets of such institution or dealer, except 2674
personal property taxable under Chapter 5711. of the Revised Code 2675
and leased, or held for the purpose of leasing, to others if the 2676
owner or lessor of the property acquired it for the sole purpose 2677
of leasing it to others. 2678

For reports required to be filed under section 5725.14 of the 2679
Revised Code in 2003 and thereafter, nothing in this section shall 2680
be construed to exempt the property of any dealer in intangibles 2681
under section 5725.13 of the Revised Code from the tax imposed 2682
under section 5707.03 of the Revised Code. 2683

Sec. 5725.33. (A) Except as otherwise provided in this 2684
section, terms used in this section have the same meaning as 2685
section 45D of the Internal Revenue Code, any related proposed, 2686
temporary or final regulations promulgated under the Internal 2687
Revenue Code, any rules or guidance of the internal revenue 2688

service or the United States department of the treasury, and any 2689
related rules or guidance issued by the community development 2690
financial institutions fund of the United States department of the 2691
treasury, as such law, regulations, rules, and guidance exist on 2692
~~the effective date of the enactment of this section by H.B. 1 of~~ 2693
~~the 128th general assembly~~ October 16, 2009. 2694

As used in this section: 2695

(1) "Adjusted purchase price" means the amount paid for 2696
qualified equity investments multiplied by the qualified 2697
low-income community investments made by the issuer in projects 2698
located in this state as a percentage of the total amount of 2699
qualified low-income community investments made by the issuer in 2700
projects located in all states on the credit allowance date during 2701
the applicable tax year, subject to divisions (B)(1) and (2) of 2702
this section. 2703

(2) "Applicable percentage" means zero per cent for each of 2704
the first two credit allowance dates, seven per cent for the third 2705
credit allowance date, and eight per cent for the four following 2706
credit allowance dates. 2707

(3) "Credit allowance date" means the date, on or after 2708
January 1, 2010, a qualified equity investment is made and each of 2709
the six anniversary dates thereafter. For qualified equity 2710
investments made after ~~the effective date of this section~~ October 2711
16, 2009, but before January 1, 2010, the initial credit allowance 2712
date is January 1, 2010, and each of the six anniversary dates 2713
thereafter is on the first day of January of each year. 2714

(4) "Qualified active low-income community business" excludes 2715
any business that derives or projects to derive fifteen per cent 2716
or more of annual revenue from the rental or sale of real 2717
property, except any business that is a special purpose entity 2718
principally owned by a principal user of that property formed 2719

solely for the purpose of renting, either directly or indirectly, 2720
or selling real property back to such principal user if such 2721
principal user does not derive fifteen per cent or more of its 2722
gross annual revenue from the rental or sale of real property. 2723

(5) "Qualified community development entity" includes only 2724
entities: 2725

(a) That have entered into an allocation agreement with the 2726
community development financial institutions fund of the United 2727
States department of the treasury with respect to credits 2728
authorized by section 45D of the Internal Revenue Code; 2729

(b) Whose service area includes any portion of this state; 2730
and 2731

(c) That will designate an equity investment in such entities 2732
as a qualified equity investment for purposes of both section 45D 2733
of the Internal Revenue Code and this section. 2734

(6) "Qualified equity investment" is limited to an equity 2735
investment in a qualified community development entity that: 2736

(a) Is acquired after ~~the effective date of the enactment of~~ 2737
~~this section~~ October 16, 2009, at its original issuance solely in 2738
exchange for cash; 2739

(b) Has at least eighty-five per cent of its cash purchase 2740
price used by the qualified community development entity to make 2741
qualified low-income community investments, provided that in the 2742
seventh year after a qualified equity investment is made, only 2743
seventy-five per cent of such cash purchase price must be used by 2744
the qualified community development entity to make qualified 2745
low-income community investments; and 2746

(c) Is designated by the issuer as a qualified equity 2747
investment. 2748

"Qualified equity investment" includes any equity investment 2749

that would, but for division (A)(6)(a) of this section, be a 2750
qualified equity investment in the hands of the taxpayer if such 2751
investment was a qualified equity investment in the hands of a 2752
prior holder. 2753

(B) There is hereby allowed a nonrefundable credit against 2754
the tax imposed by section 5725.18 of the Revised Code for an 2755
insurance company holding a qualified equity investment on the 2756
credit allowance date occurring in the calendar year for which the 2757
tax is due. The credit shall equal the applicable percentage of 2758
the adjusted purchase price of qualified low-income community 2759
investments, subject to divisions (B)(1) and (2) of this section: 2760

(1) For the purpose of calculating the amount of qualified 2761
low-income community investments held by a qualified community 2762
development entity, an investment shall be considered held by a 2763
qualified community development entity even if the investment has 2764
been sold or repaid, provided that, at any time before the seventh 2765
anniversary of the issuance of the qualified equity investment, 2766
the qualified community development entity reinvests an amount 2767
equal to the capital returned to or received or recovered by the 2768
qualified community development entity from the original 2769
investment, exclusive of any profits realized and costs incurred 2770
in the sale or repayment, in another qualified low-income 2771
community investment within twelve months of the receipt of such 2772
capital. If the qualified low-income community investment is sold 2773
or repaid after the sixth anniversary of the issuance of the 2774
qualified equity investment, the qualified low-income community 2775
investment shall be considered held by the ~~qualified~~ qualified 2776
community development entity through the seventh anniversary of 2777
the qualified equity investment's issuance. 2778

(2) The qualified low-income community investment made in 2779
this state shall equal the sum of the qualified low-income 2780
community investments in each qualified active low-income 2781

community business in this state, not to exceed two million five 2782
hundred sixty-four thousand dollars, in which the qualified 2783
community development entity invests, including such investments 2784
in any such businesses in this state related to that qualified 2785
active low-income community business through majority ownership or 2786
control. 2787

The credit shall be claimed in the order prescribed by 2788
section 5725.98 of the Revised Code. If the amount of the credit 2789
exceeds the amount of tax otherwise due after deducting all other 2790
credits in that order, the excess may be carried forward and 2791
applied to the tax due for not more than four ensuing years. 2792

By claiming a tax credit under this section, an insurance 2793
company waives its rights under section 5725.222 of the Revised 2794
Code with respect to the time limitation for the assessment of 2795
taxes as it relates to credits claimed that later become subject 2796
to recapture under division (E) of this section. 2797

(C) The amount of qualified equity investments on the basis 2798
of which credits may be claimed under this section and sections 2799
5726.54, 5729.16, and 5733.58 of the Revised Code shall not exceed 2800
the amount, estimated by the director of development, that would 2801
cause the total amount of credits allowed each fiscal year to 2802
exceed ten million dollars, computed without regard to the 2803
potential for taxpayers to carry tax credits forward to later 2804
years. 2805

(D) If any amount of the federal tax credit allowed for a 2806
qualified equity investment for which a credit was received under 2807
this section is recaptured under section 45D of the Internal 2808
Revenue Code, or if the director of development services 2809
determines that an investment for which a tax credit is claimed 2810
under this section is not a qualified equity investment or that 2811
the proceeds of an investment for which a tax credit is claimed 2812
under this section are used to make qualified low-income community 2813

investments other than in a qualified active low-income community 2814
business, all or a portion of the credit received on account of 2815
that investment shall be paid by the insurance company that 2816
received the credit to the superintendent of insurance. The amount 2817
to be recovered shall be determined by the director of development 2818
services pursuant to rules adopted under division (E) of this 2819
section. The director shall certify any amount due under this 2820
division to the superintendent of insurance, and the 2821
superintendent shall notify the treasurer of state of the amount 2822
due. Upon notification, the treasurer shall invoice the insurance 2823
company for the amount due. The amount due is payable not later 2824
than thirty days after the date the treasurer invoices the 2825
insurance company. The amount due shall be considered to be tax 2826
due under section 5725.18 of the Revised Code, and may be 2827
collected by assessment without regard to the time limitations 2828
imposed under section 5725.222 of the Revised Code for the 2829
assessment of taxes by the superintendent. All amounts collected 2830
under this division shall be credited as revenue from the tax 2831
levied under section 5725.18 of the Revised Code. 2832

(E) The tax credits authorized under this section and 2833
sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall 2834
be administered by the department of development services. The 2835
director of development services, in consultation with the tax 2836
commissioner and the superintendent of insurance, pursuant to 2837
Chapter 119. of the Revised Code, shall adopt rules for the 2838
administration of this section and sections 5726.54, 5729.16, and 2839
5733.58 of the Revised Code. The rules shall provide for 2840
determining the recovery of credits under division (D) of this 2841
section, ~~division (D) of section~~ and under sections 5726.54, 2842
5729.16, and ~~section~~ 5733.58 of the Revised Code, including 2843
prorating the amount of the credit to be recovered on any 2844
reasonable basis, the manner in which credits may be allocated 2845
among claimants, and the amount of any application or other fees 2846

to be charged in connection with a recovery. 2847

(F) There is hereby created in the state treasury the new 2848
markets tax credit operating fund. The director of development 2849
services is authorized to charge reasonable application and other 2850
fees in connection with the administration of tax credits 2851
authorized by this section and sections 5726.54, 5729.16, and 2852
5733.58 of the Revised Code. Any such fees collected shall be 2853
credited to the fund. The director of development services shall 2854
use money in the fund to pay expenses related to the 2855
administration of tax credits authorized under sections 5725.33, 2856
5726.54, 5729.16, and 5733.58 of the Revised Code. 2857

Sec. 5726.01. As used in this chapter: 2858

(A) "Affiliated group" means a group of two or more persons 2859
with fifty per cent or greater of the value of each person's 2860
ownership interests owned or controlled directly, indirectly, or 2861
constructively through related interests by common owners during 2862
all or any portion of the taxable year, and the common owners. 2863
"Affiliated group" includes, but is not limited to, any person 2864
eligible to be included in a consolidated elected taxpayer group 2865
under section 5751.011 of the Revised Code or a combined taxpayer 2866
group under section 5751.012 of the Revised Code. 2867

(B) "Bank organization" means any of the following: 2868

(1) A national bank organized and operating as a national 2869
bank association pursuant to the "National Bank Act," 13 Stat. 100 2870
(1864), 12 U.S.C. 21, et seq.; 2871

(2) A federal savings association or federal savings bank 2872
chartered under 12 U.S.C. 1464; 2873

(3) A bank, banking association, trust company, savings and 2874
loan association, savings bank, or other banking institution that 2875
is organized or incorporated under the laws of the United States, 2876

<u>any state, or a foreign country;</u>	2877
<u>(4) Any corporation organized and operating pursuant to 12 U.S.C. 611, et seq.;</u>	2878
<u>(5) Any agency or branch of a foreign bank, as those terms are defined in 12 U.S.C. 3101;</u>	2879
<u>(6) An entity licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, et seq.;</u>	2880
<u>(7) A company chartered under the "Farm Credit Act of 1933," 48 Stat. 257, or a successor of such a company.</u>	2881
<u>"Bank organization" does not include an institution organized under the "Federal Farm Loan Act," 39 Stat. 360 (1916), or a successor of such an institution, an insurance company, or a credit union.</u>	2882
<u>(C) "Call report" means the consolidated reports of condition and income prescribed by the federal financial institutions examination council that a person is required to file with a federal regulatory agency pursuant to 12 U.S.C. 161, 12 U.S.C. 324, or 12 U.S.C. 1817.</u>	2883
<u>(D) "Captive finance company" means a person that derived at least seventy-five per cent of its gross income for the current taxable year and the two taxable years preceding the current taxable year from one or more of the following transactions:</u>	2884
<u>(1) Financing transactions with members of its affiliated group;</u>	2885
<u>(2) Financing transactions with or for customers of products manufactured or sold by a member of its affiliated group;</u>	2886
<u>(3) Financing transactions with or for a distributor or franchisee that sells, leases, or services a product manufactured or sold by a member of the person's affiliated group;</u>	2887
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(4) Financing transactions with or for a supplier to a member of the person's affiliated group in connection with the member's manufacturing business; 2907
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(5) Issuing bonds or other publicly traded debt instruments for the benefit of the affiliated group; 2910
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(6) Short-term or long-term investments whereby the person invests the cash reserves of the affiliated group and the affiliated group utilizes the proceeds from the investments. 2912
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For the purposes of division (D) of this section, "financing transaction" means making or selling loans, extending credit, leasing, earning or receiving subvention, including interest supplements and other support costs related thereto, or acquiring, selling, or servicing accounts receivable, notes, loans, leases, debt, or installment obligations that arise from the sale or lease of tangible personal property or the performance of services, and "gross income" has the same meaning as in section 61 of the Internal Revenue Code and includes income from transactions between the captive finance company and other members of its affiliated group. 2915
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A person that has not been in continuous existence for the two taxable years preceding the current taxable year qualifies as a "captive finance company" for purposes of division (D) of this section if the person derived at least seventy-five per cent of its gross income for the period of its existence from one or more of the transactions described in divisions (D)(1) to (6) of this section. 2926
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"Captive finance company" does not include a small dollar lender. 2933
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(e) "Credit union" means a nonprofit cooperative financial institution organized or chartered under the laws of this state, any other state, or the United States. 2935
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(F) "Diversified savings and loan holding company" has the same meaning as in 12 U.S.C. 1467a, as that section existed on January 1, 2012.

(G) "Document of creation" means the articles of incorporation of a corporation, articles of organization of a limited liability company, registration of a foreign limited liability company, certificate of limited partnership, registration of a foreign limited partnership, registration of a domestic or foreign limited liability partnership, or registration of a trade name.

(H) "Financial institution" means a bank organization, a holding company of a bank organization, or a nonbank financial organization, except when one of the following applies:

(1) If two or more such entities are consolidated for the purposes of filing an FR Y-9, "financial institution" means a group consisting of all entities that are included in the FR Y-9.

(2) If two or more such entities are consolidated for the purposes of filing a call report, "financial institution" means a group consisting of all entities that are included in the call report and that are not included in a group described in division (H)(1) of this section.

(3) If a bank organization is owned directly by a grandfathered unitary savings and loan holding company, "financial institution" means a group consisting only of that bank organization and the entities included in that bank organization's call report, notwithstanding division (H)(1) or (2) of this section.

"Financial institution" does not include a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company.

(I) "FR Y-9" means the consolidated or parent-only financial

statements that a holding company is required to file with the 2969
federal reserve board pursuant to 12 U.S.C. 1844. In the case of a 2970
holding company required to file both consolidated and parent-only 2971
financial statements, "FR Y-9" means the consolidated financial 2972
statements that the holding company is required to file. 2973

(J) "Grandfathered unitary savings and loan holding company" 2974
means an entity described in 12 U.S.C. 1467a(c)(9)(C), as that 2975
section existed on December 31, 1999. 2976

(K) "Gross receipts" means all items of income, without 2977
deduction for expenses. If the reporting person for a taxpayer is 2978
a holding company, "gross receipts" includes all items of income 2979
reported on the FR Y-9 filed by the holding company. If the 2980
reporting person for a taxpayer is a bank organization, "gross 2981
receipts" includes all items of income reported on the call report 2982
filed by the bank organization. If the reporting person for a 2983
taxpayer is a nonbank financial organization, "gross receipts" 2984
includes all items of income reported in accordance with generally 2985
accepted accounting principles. 2986

(L) "Insurance company" means every corporation, association, 2987
and society engaged in the business of insurance of any character, 2988
or engaged in the business of entering into contracts 2989
substantially amounting to insurance of any character, or of 2990
indemnifying or guaranteeing against loss or damage, or acting as 2991
surety on bonds or undertakings. "Insurance company" also includes 2992
any health insuring corporation as defined in section 1751.01 of 2993
the Revised Code. 2994

(M)(1) "Nonbank financial organization" means every person 2995
that is not a bank organization or a holding company of a bank 2996
organization and that engages in business primarily as a small 2997
dollar lender. "Nonbank financial organization" does not include 2998
an institution organized under the "Federal Farm Loan Act," 39 2999
Stat. 360 (1916), or a successor of such an institution, an 3000

insurance company, a captive finance company, a credit union, an 3001
institution organized and operated exclusively for charitable 3002
purposes within the meaning of section 501(c)(3) of the Internal 3003
Revenue Code, or a person that facilitates or services one or more 3004
securitizations for a bank organization, a holding company of a 3005
bank organization, a captive finance company, or any member of the 3006
person's affiliated group. 3007

(2) A person is engaged in business primarily as a small 3008
dollar lender if the person has, for the taxable year, gross 3009
income from the activities described in division (O) of this 3010
section that exceeds the person's gross income from all other 3011
activities. As used in division (M) of this section, "gross 3012
income" has the same meaning as in section 61 of the Internal 3013
Revenue Code, and income from transactions between the person and 3014
the other members of the affiliated group shall be eliminated, and 3015
any sales, exchanges, and other dispositions of commercial paper 3016
to persons outside the affiliated group produces gross income only 3017
to the extent the proceeds from such transactions exceed the 3018
affiliated group's basis in such commercial paper. 3019

(N) "Reporting person" means one of the following: 3020

(1) In the case of a financial institution described in 3021
division (H)(1) of this section, the top-tier holding company 3022
required to file an FR Y-9. 3023

(2) In the case of a financial institution described in 3024
division (H)(2) or (3) of this section, the bank organization 3025
required to file the call report. 3026

(3) In the case of a bank organization or nonbank financial 3027
organization that is not included in a group described in division 3028
(H)(1) or (2) of this section, the bank organization or nonbank 3029
financial organization. 3030

(O) "Small dollar lender" means any person engaged primarily 3031

in the business of loaning money to individuals, provided that the 3032
loan amounts do not exceed five thousand dollars and the duration 3033
of the loans do not exceed twelve months. A "small dollar lender" 3034
does not include a bank organization, credit union, or captive 3035
finance company. 3036

(P) "Tax year" means the calendar year for which the tax 3037
levied under section 5726.02 of the Revised Code is required to be 3038
paid. 3039

(O) "Taxable year" means the calendar year preceding the year 3040
in which an annual report is required to be filed under section 3041
5726.03 of the Revised Code. 3042

(R) "Taxpayer" means a financial institution subject to the 3043
tax levied under section 5726.02 of the Revised Code. 3044

(S) "Total equity capital" means the sum of the common stock 3045
at par value, perpetual preferred stock and related surplus, other 3046
surplus not related to perpetual preferred stock, retained 3047
earnings, accumulated other comprehensive income, treasury stock, 3048
unearned employee stock ownership plan shares, and other equity 3049
components of a financial institution. "Total equity capital" 3050
shall not include any noncontrolling (minority) interests as 3051
reported on an FR Y-9 or call report, unless such interests are in 3052
a bank organization or a bank holding company. 3053

(T) "Total Ohio equity capital" means the portion of the 3054
total equity capital of a financial institution apportioned to 3055
Ohio pursuant to section 5726.05 of the Revised Code. 3056

(U) "Holding company" does not include a diversified savings 3057
and loan holding company or a grandfathered unitary savings and 3058
loan holding company. 3059

(V) "Securitization" means transferring one or more assets to 3060
one or more persons and subsequently issuing securities backed by 3061
the right to receive payment from the asset or assets so 3062

transferred. 3063

Sec. 5726.02. (A) For the purpose of funding the needs of 3064
this state and its local governments beginning with the tax year 3065
that commences on January 1, 2014, and continuing for every tax 3066
year thereafter, there is hereby levied a tax on each financial 3067
institution for the privilege of doing business in this state. A 3068
financial institution is subject to the tax imposed under this 3069
chapter for each calendar year that the financial institution 3070
conducts business as a financial institution in this state or 3071
otherwise has nexus in or with this state under the Constitution 3072
of the United States on the first day of January of that calendar 3073
year. 3074

(B) The amount of tax a financial institution is required to 3075
pay under this chapter shall equal the greater of the minimum tax 3076
required under division (A)(1) of section 5726.04 of the Revised 3077
Code or the amount by which the tax calculated under division 3078
(A)(2) of that section exceeds any credits allowed against the 3079
tax. 3080

Sec. 5726.03. (A)(1) Annually, on or before the fifteenth day 3081
of October, the reporting person for each taxpayer shall make a 3082
report in writing to the tax commissioner, in such form as the 3083
commissioner prescribes, and shall remit to the commissioner the 3084
amount of tax shown to be due on the report. The remittance shall 3085
be made payable to the treasurer of state. The commissioner shall 3086
make available, on the official internet web site of the 3087
department of taxation, copies of the forms prescribed by the 3088
commissioner for the purpose of making the annual report. 3089

(2) An annual report shall be signed by the president, 3090
vice-president, secretary, treasurer, general manager, 3091
superintendent, or managing agent in this state of the reporting 3092

person. 3093

(3) An annual report shall contain the facts, figures, computations, and attachments that result in the determination of the amount of tax due from a taxpayer under this chapter. 3094
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(B)(1) In the case of a financial institution described in division (H)(1) of section 5726.01 of the Revised Code, the annual report filed for a taxable year shall list, and include information related to, each person includable in an FR Y-9 filed by the reporting person for that taxable year. 3097
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(2) In the case of a financial institution described in division (H)(2) or (3) of section 5726.01 of the Revised Code, the annual report for a taxable year shall list, and include information related to, each person includable in a call report filed by the reporting person for that taxable year. 3102
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(C)(1) The reporting person for a taxpayer shall remit each tax payment and, if required by the commissioner, file each annual or estimated tax report electronically. The commissioner may require reporting persons to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file reports and remit the tax, or may provide another means for reporting persons to file and remit the tax electronically. 3107
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(2) The payment of taxes as provided in division (C) of this section shall not affect a taxpayer's obligation to file an annual report required under division (A) of this section. 3114
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(3) The reporting person for a taxpayer that is required to remit tax payments electronically under this section may apply to the tax commissioner, in the manner prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse the taxpayer from the requirements of division (C) of this section for good cause. 3117
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(4) If the reporting person for a taxpayer that is required 3123

to remit tax payments or file reports electronically under this 3124
section fails to do so, the commissioner may impose a penalty not 3125
to exceed the following: 3126

(a) For either of the first two reports the person so fails, 3127
five per cent of the amount of the payment that was required to be 3128
remitted; 3129

(b) For the third and any subsequent reports the person so 3130
fails, ten per cent of the amount of the payment that was required 3131
to be remitted. 3132

The penalty imposed under this section is in addition to any 3133
other penalty or charge imposed under this chapter and shall be 3134
considered as revenue arising from the tax levied under this 3135
chapter. A penalty may be collected by assessment in the manner 3136
prescribed by section 5726.20 of the Revised Code. The tax 3137
commissioner may abate all or a portion of such a penalty and may 3138
adopt rules governing such abatements. 3139

Sec. 5726.04. (A) The tax levied on a financial institution 3140
under this chapter shall be the greater of the following: 3141

(1) A minimum tax equal to one thousand dollars; 3142

(2) The product of the total Ohio equity capital of the 3143
financial institution, as determined under this section, 3144
multiplied by eight mills for each dollar of the first two hundred 3145
million dollars of total Ohio equity capital, by four mills for 3146
each dollar of total Ohio equity capital greater than two hundred 3147
million and less than one billion three hundred million one 3148
dollars, and by two and one-half mills for each dollar of total 3149
Ohio equity capital in excess of one billion three hundred million 3150
dollars. 3151

(B) If the reporting person for a financial institution files 3152
an FR Y-9 or call report, the total equity capital of the 3153

financial institution shall equal the total equity capital shown 3154
on the reporting person's FR Y-9 or call report as of the end of 3155
the taxable year. The total equity capital of all other financial 3156
institutions shall be reported as of the end of the taxable year 3157
in accordance with generally accepted accounting principles. 3158

(C) For the purposes of this section, "total Ohio equity 3159
capital" means the product of the total equity capital of a 3160
financial institution as of the end of a taxable year multiplied 3161
by the Ohio apportionment ratio calculated for the financial 3162
institution under section 5726.05 of the Revised Code, except as 3163
provided in section 5726.041 of the Revised Code. 3164

(D) All payments received from the tax levied under this 3165
chapter shall be credited to the general revenue fund. 3166

(E)(1) As used in this division: 3167

(a) "First target tax amount" means two hundred million 3168
dollars. 3169

(b) "Second target tax amount" means one hundred six per cent 3170
of the first target tax amount or, if applicable, the first target 3171
tax amount as adjusted under division (E)(2) or (3) of this 3172
section. 3173

(c) "Amount of taxes collected" means the amount of taxes 3174
received by the tax commissioner from the tax levied under this 3175
chapter for a tax year, less any amounts refunded to taxpayers for 3176
the same tax year. 3177

(2) If, for the tax year beginning on January 1, 2014, the 3178
total amount of taxes collected from all taxpayers under this 3179
chapter is greater than one hundred ten per cent of the first 3180
target tax amount, the tax commissioner shall decrease each tax 3181
rate provided in division (A)(2) of this section by a percentage 3182
equal to the percentage by which the amount of taxes collected 3183
exceeded the first target tax amount. 3184

(3) If, for the tax year beginning on January 1, 2014, the 3185
total amount of taxes collected from all taxpayers under this 3186
chapter is less than ninety per cent of the first target tax 3187
amount, the tax commissioner shall increase the tax rate for each 3188
dollar of total Ohio equity capital in excess of one billion three 3189
hundred million dollars as provided in division (A)(2) of this 3190
section by a percentage equal to the difference of (a) the 3191
percentage by which the first target tax amount exceeded the 3192
amount of taxes collected minus (b) ten per cent of the first 3193
target tax amount. 3194

(4) If, for the tax year beginning on January 1, 2016, the 3195
total amount of taxes collected from all taxpayers under this 3196
chapter is greater than one hundred ten per cent of the second 3197
target tax amount, the tax commissioner shall decrease each tax 3198
rate in effect on January 1, 2016, by a percentage equal to the 3199
percentage by which the amount of taxes collected exceeded the 3200
second target tax amount. 3201

(5) If, for the tax year beginning on January 1, 2016, the 3202
total amount of taxes collected from all taxpayers under this 3203
chapter is less than ninety per cent of the second target tax 3204
amount, the tax commissioner shall increase the tax rate for each 3205
dollar of total Ohio equity capital in excess of one billion three 3206
hundred million dollars as provided in division (A)(2) of this 3207
section by a percentage equal to the difference of (a) the 3208
percentage by which the second target tax amount exceeded the 3209
amount of taxes collected minus (b) ten per cent of the second 3210
target tax amount. 3211

(6) Tax rates adjusted pursuant to division (E)(2), (3), (4), 3212
or (5) of this section shall be rounded to the nearest one-tenth 3213
of one mill per dollar. The tax commissioner shall publish the new 3214
tax rates by journal entry and provide notice of the new tax rates 3215
to taxpayers. The new tax rates adjusted pursuant to division 3216

(E)(2) or (3) of this section shall apply to tax years beginning 3217
on or after January 1, 2015. The new tax rates adjusted pursuant 3218
to division (E)(4) or (5) of this section shall apply to tax years 3219
beginning on or after January 1, 2017. 3220

Sec. 5726.041. (A) As used in this section, "Ohio-qualified 3221
real estate investment trust" means a real estate investment trust 3222
that is traded on a public stock exchange and that was traded on a 3223
public stock exchange on January 1, 2012. 3224

(B) For the purpose of computing the total Ohio equity 3225
capital under division (C) of section 5726.04 of the Revised Code 3226
for a financial institution the total equity capital of which 3227
includes investments in an Ohio-qualified real estate investment 3228
trust, the following amounts shall be subtracted for the tax year 3229
specified: 3230

(1) For tax year 2014, eighty per cent of the institution's 3231
investment in an Ohio-qualified real estate investment trust as of 3232
January 1, 2012; 3233

(2) For tax year 2015, sixty per cent of the institution's 3234
investment in an Ohio-qualified real estate investment trust as of 3235
January 1, 2012; 3236

(3) For tax year 2016, forty per cent of the institution's 3237
investment in an Ohio-qualified real estate investment trust as of 3238
January 1, 2012; 3239

(4) For tax year 2017, twenty per cent of the institution's 3240
investment in an Ohio-qualified real estate investment trust as of 3241
January 1, 2012. 3242

For tax years after tax year 2017, no deduction is allowed 3243
for an investment in an Ohio-qualified real estate investment 3244
trust. 3245

(C) For the purpose of computing the apportionment factor 3246

under section 5726.05 of the Revised Code for a financial 3247
institution the total equity capital of which includes investments 3248
in an Ohio-qualified real estate investment trust, the following 3249
amounts shall be subtracted from both the numerator and 3250
denominator of the apportionment factor fraction for the tax year 3251
specified: 3252

(1) For tax year 2014, eighty per cent of the gross receipts 3253
from an Ohio-qualified real estate investment trust; 3254

(2) For tax year 2015, sixty per cent of the gross receipts 3255
from an Ohio-qualified real estate investment trust; 3256

(3) For tax year 2016, forty per cent of the gross receipts 3257
from an Ohio-qualified real estate investment trust; 3258

(4) For tax year 2017, twenty per cent of the gross receipts 3259
from an Ohio-qualified real estate investment trust. 3260

For tax years after tax year 2017, no deduction is allowed 3261
from the apportionment factor fraction for gross receipts from an 3262
Ohio-qualified real estate investment trust. 3263

Sec. 5726.05. (A) An apportionment factor shall be used to 3264
determine the total Ohio equity capital of a financial 3265
institution. The factor shall be based upon the gross receipts 3266
generated by the financial institution. 3267

(B) The apportionment factor is a fraction, the numerator of 3268
which is the total gross receipts of the financial institution in 3269
this state during the taxable year and the denominator of which is 3270
the total gross receipts of the financial institution everywhere 3271
during the taxable year. Gross receipts generated by a financial 3272
institution shall be situated to this state in the proportion that 3273
the customers' benefit in this state with respect to the services 3274
received bears to the customers' benefit everywhere with respect 3275
to the services received. The physical location where the customer 3276

ultimately uses or receives the benefit of what was received shall 3277
be paramount in determining the proportion of the benefit in this 3278
state to the benefit everywhere. The method of calculating gross 3279
receipts for purposes of the denominator shall be the same as the 3280
method used in determining gross receipts for purposes of the 3281
numerator. 3282

(C) The following are examples of gross receipts to be 3283
included in the numerator of the apportionment factor: 3284

(1) Receipts from the lease, sublease, rental, or subrental 3285
of real property located in this state; 3286

(2) Receipts from the lease, sublease, rental, or subrental 3287
of tangible personal property to the extent such property is used 3288
in this state; 3289

(3) Interest, fees, penalties, or any other charge received 3290
from loans secured by real property located within this state; 3291

(4) Interest, fees, penalties, or any other charge received 3292
from loans not secured by real property if the borrower is located 3293
in this state; 3294

(5) The amount of net gains, but not less than zero, from the 3295
sale of loans secured by real property located in this state; 3296

(6) The amount of net gains, but not less than zero, from the 3297
sale of loans not secured by real property if the borrower is 3298
located in this state; 3299

(7) Interest, annual fees, penalties, or any other charges 3300
received from credit card receivables and from cardholders if the 3301
billing address of the cardholder is located in this state; 3302

(8) The amount of net gains, but not less than zero, from the 3303
sale of credit card receivables if the billing address of the 3304
cardholder is located in this state; 3305

(9) Reimbursement fees of a credit card issuer if the billing 3306

<u>address of the cardholder is located in this state;</u>	3307
<u>(10) Receipts from merchant discounts if the merchant is located in this state;</u>	3308
<u>(11) Loan servicing fees derived from loans secured by real property located in this state;</u>	3309
<u>(12) Loan servicing fees derived from loans not secured by real property if the borrower is located in this state;</u>	3310
<u>(13) Loan servicing fees derived from servicing loans from other financial institutions if the borrower is located in this state;</u>	3311
<u>(14) Receipts not otherwise listed herein if the payor of those receipts is located in this state.</u>	3312
<u>(D)(1) Receipts from investment assets and activities and trading assets and activities, including interest and dividends, are in this state to the extent the financial institution's customer is in this state, which a financial institution may determine by electing to apply either the gross receipts factor calculated under division (B) of this section to the investment assets and activities and trading assets and activities or the method prescribed in division (D)(2) of this section. As used in division (D) of this section, "investment assets and activities and trading assets and activities" includes interest, dividends, and other income from assets and activities, including, but not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; foreign currency transactions; and amounts in the matched book and in the arbitrage book, but excluding amounts otherwise sourced in this section.</u>	3313
<u>(2) If a financial institution elects to apply the method</u>	3314
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prescribed in division (D)(2) of this section, each of the 3338
following apply: 3339

(a) With respect to the investment and trading assets and 3340
activities, the gross receipts factor shall include the following: 3341

(i) The amount by which interest from federal funds sold and 3342
securities purchased under resale agreements exceeds interest 3343
expense on federal funds purchased and securities sold under 3344
repurchase agreements. 3345

(ii) The amount by which interest, dividends, gains, and 3346
other income from trading assets and activities, including, but 3347
not limited to, assets and activities in the matched book, in the 3348
arbitrage book, and foreign currency transactions, exceed amounts 3349
paid in lieu of interest, amounts paid in lieu of dividends, and 3350
losses from such assets and activities. 3351

(b) The numerator of the gross receipts factor shall include 3352
interest, dividends, net gains, but not less than zero, and other 3353
income from investment assets and activities and from trading 3354
assets and activities that are attributable to this state as 3355
follows: 3356

(i) The amount of interest, other than interest described in 3357
division (D)(2)(b)(ii) of this section, dividends, other than 3358
dividends described in that division, net gains, but not less than 3359
zero, and other income from investment assets and activities in 3360
the investment account to be attributed to this state and included 3361
in the numerator is determined by multiplying all such income from 3362
such assets and activities by a fraction, the numerator of which 3363
is the average value of such assets that are properly assigned to 3364
a regular place of business of the taxpayer within this state and 3365
the denominator of which is the average value of all such assets. 3366

(ii) The amount of interest from federal funds sold and 3367
purchased and from securities purchased under resale agreements 3368

and securities sold under repurchase agreements attributable to 3369
this state and included in the numerator is determined by 3370
multiplying the amount described in division (D)(2)(a)(i) of this 3371
section from such funds and such securities by a fraction, the 3372
numerator of which is the average value of federal funds sold and 3373
securities purchased under agreements to resell that are properly 3374
assigned to a regular place of business of the taxpayer within 3375
this state and the denominator of which is the average value of 3376
all such funds and such securities. 3377

(iii) The amount of interest, dividends, gains, and other 3378
income from trading assets and activities, including but not 3379
limited to assets and activities in the matched book, in the 3380
arbitrage book, and foreign currency transaction, but excluding 3381
amounts described in division (D)(2)(b)(i) or (ii) of this 3382
section, attributable to this state and included in the numerator 3383
is determined by multiplying the amount described in division 3384
(D)(2)(a)(ii) of this section by a fraction, the numerator of 3385
which is the average value of such trading assets that are 3386
properly assigned to a regular place of business of the taxpayer 3387
within this state and the denominator of which is the average 3388
value of all such assets. 3389

(3) For purposes of division (D)(2) of this section, average 3390
value shall be determined as follows: 3391

(a)(i) The value of real property and tangible personal 3392
property owned by the taxpayer is the original cost or other basis 3393
of such property for federal income tax purposes without regard to 3394
depletion, depreciation, or amortization. 3395

(ii) Loans are valued at their outstanding principal balance, 3396
without regard to any reserve for bad debts. If a loan is charged 3397
off in whole or in part for federal income tax purposes, the 3398
portion of the loan charged off is not outstanding. A specifically 3399
allocated reserve established pursuant to financial accounting 3400

guidelines that is treated as charged off for federal income tax purposes shall be treated as charged off for purposes of this section. 3401
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(iii) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged off in whole or in part for federal income tax purposes, the portion of the receivable charged off is not outstanding. 3404
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(b) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the tax commissioner may require averaging on a more frequent basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the tax commissioner or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner or the tax commissioner requires a different method of determining value. 3409
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(E) A taxpayer's election under division (D)(1) of this section shall be in effect on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method. 3423
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(F) A taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment 3427
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asset or activity or trading asset or activity occur at more than 3433
one regular place of business and one such regular place of 3434
business is in this state and one such regular place of business 3435
is outside this state, such asset or activity shall be considered 3436
to be located at the regular place of business of the taxpayer 3437
where the investment or trading policies or guidelines with 3438
respect to the asset or activity are established. Unless the 3439
taxpayer demonstrates to the contrary, such policies and 3440
guidelines shall be presumed to be established at the commercial 3441
domicile of the taxpayer. 3442

(G) If the apportionment provisions of this section do not 3443
fairly represent the extent of the taxpayer's business activity in 3444
this state, the taxpayer may request, or the tax commissioner may 3445
require or permit, an alternative method. Such a request must be 3446
made within any applicable statute of limitations set forth in 3447
this chapter. 3448

(H) A financial institution's "gross receipts" for purposes 3449
of the calculation required by division (B) or (D) of this section 3450
shall be determined using the financial institution's method of 3451
accounting for income tax purposes. If a financial institution's 3452
method of accounting is changed for income tax purposes, its 3453
method of accounting for purposes of the calculation required by 3454
division (B) or (D) of this section shall be changed accordingly. 3455

(I) The tax commissioner shall adopt administrative rules to 3456
provide additional guidance for the application of this section. 3457

Sec. 5726.06. (A) The reporting person for a taxpayer shall 3458
file estimated tax reports and remit the amount of tax estimated 3459
to be due for a tax year to the tax commissioner as follows: 3460

(1) The minimum tax required under division (A)(1) of section 3461
5726.04 of the Revised Code or one-third of the estimated tax, 3462
whichever is greater, on or before the thirty-first day of January 3463

of the tax year; 3464

(2) One-half of the amount by which the estimated tax exceeds 3465
the amount paid under division (A)(1) of this section on or before 3466
the thirty-first day of March of the tax year; 3467

(3) One-half of the amount by which the estimated tax exceeds 3468
the amount paid under division (A)(1) of this section on or before 3469
the thirty-first day of May of the tax year. 3470

(B)(1) The reporting person for a taxpayer shall remit the 3471
estimated tax electronically as provided in division (C) of 3472
section 5726.03 of the Revised Code. Remittance shall be made 3473
payable to the treasurer of state. 3474

(2) The tax commissioner shall immediately forward to the 3475
treasurer of state all amounts received under this section, and 3476
the treasurer of state shall credit all payments of such estimated 3477
tax as provided in division (D) of section 5726.04 of the Revised 3478
Code. 3479

(C)(1) If a taxpayer was not subject to the tax imposed by 3480
section 5726.02 of the Revised Code for the preceding tax year, 3481
"estimated tax" for purposes of division (A)(1) of this section 3482
means ninety per cent of the qualifying net tax for the tax year. 3483
If a taxpayer was subject to the tax for the preceding tax year, 3484
"estimated tax" for purposes of division (A)(1) of this section 3485
means the lesser of one hundred per cent of the taxpayer's 3486
qualifying net tax for the preceding tax year or ninety per cent 3487
of the qualifying net tax for the tax year. 3488

(2) If the taxpayer did not file a report under section 3489
5726.02 of the Revised Code for the tax year or failed to prepare 3490
and file the report in good faith for the tax year, "qualifying 3491
net tax" as used in division (C)(1) of this section for that tax 3492
year means the amount described in division (C)(2)(a) of this 3493
section. Otherwise, "qualifying net tax" as used in division 3494

(C)(1) of this section for that tax year means the lesser of the 3495
amount described in division (C)(2)(a) or (b) of this section. 3496

(a) The tax imposed by section 5726.02 of the Revised Code 3497
for that tax year reduced by the credits listed in section 5726.98 3498
of the Revised Code. If the credits exceed the total tax, the 3499
qualifying net tax is the minimum tax. 3500

(b) The lesser of the tax shown on the report, prepared and 3501
filed in good faith, reduced by the credits shown on that report, 3502
or the tax shown on an amended report, prepared and filed in good 3503
faith, reduced by the credits shown on that amended report. If the 3504
credits shown exceed the total tax shown, the qualifying net tax 3505
is the minimum tax. 3506

Sec. 5726.07. (A) In the case of an underpayment of estimated 3507
taxes required to be paid under section 5726.06 of the Revised 3508
Code, interest upon the amount of underpayment, calculated at the 3509
rate per annum prescribed by section 5703.47 of the Revised Code 3510
for the period of underpayment, shall be added to the tax due for 3511
the tax year for which the estimated tax is paid. 3512

(B) The amount of underpayment upon which such interest is 3513
computed equals the amount by which division (B)(1) of this 3514
section exceeds division (B)(2) of this section. 3515

(1) The amount of the estimated tax payment that would be 3516
required to be paid if the total estimated tax due were equal to 3517
the amount of tax shown to be due on the annual report filed for 3518
the tax year or, if no report was filed, the total amount of tax 3519
due for the tax year; 3520

(2) The amount, if any, of the estimated tax that has been 3521
paid on or before the last day prescribed for such payment. 3522

(C) The period of underpayment for which such interest is 3523
computed shall run from the date the estimated tax payment was 3524

required to be made to the date the payment is made. 3525

For purposes of this section, a payment of estimated tax on 3526
any payment date shall be considered a payment of any previous 3527
underpayment only to the extent that such payment exceeds the 3528
amount of payment currently due. 3529

Sec. 5726.08. Except as otherwise provided in this section, 3530
if any report, claim, statement, or other document required to be 3531
filed, or any payment required to be made, within a prescribed 3532
period or on or before a prescribed date under this chapter is, 3533
after such period or date, delivered by United States mail to the 3534
agency, officer, or office with which such report, claim, 3535
statement, or other document is required to be filed, or to which 3536
such payment is required to be made, the date of the postmark 3537
stamped on the cover in which such report, claim, statement, or 3538
other document, or payment is mailed shall be deemed the date of 3539
delivery or the date of payment. 3540

If a payment is made electronically, the payment is 3541
considered to be made when the payment is received by the 3542
treasurer of state or credited to an account designated by the 3543
treasurer of state for the receipt of tax payments. 3544

As used in this section, "the date of the postmark" means, in 3545
the event there is more than one date on the cover, the earliest 3546
date imprinted on the cover by the post office. 3547

Sec. 5726.10. The tax commissioner shall enforce and 3548
administer this chapter. In addition to any other powers conferred 3549
upon the commissioner by law, the commissioner may do any of the 3550
following: 3551

(A) Prescribe all forms required to be filed pursuant to this 3552
chapter; 3553

(B) Promulgate such rules and regulations as the commissioner 3554

finds necessary to carry out this chapter; 3555

(C) Appoint and employ such personnel as are necessary to 3556
carry out the duties imposed upon the commissioner by this 3557
chapter. 3558

Sec. 5726.20. (A) The tax commissioner may make an 3559
assessment, based on any information in the commissioner's 3560
possession, against any person that fails to file a return or 3561
report or pay any tax as required by this chapter. The reporting 3562
person for a taxpayer shall file the annual report required under 3563
section 5726.02 of the Revised Code and remit the tax imposed by 3564
this chapter. Each person included in the annual report of the 3565
taxpayer is jointly and severally liable for the tax imposed by 3566
this chapter and any penalties and interest thereon. If the 3567
reporting person fails, for any reason, to file and remit any tax, 3568
the amount due may be collected by assessment against the 3569
reporting person and against any or all other persons required to 3570
be included in the annual report of the taxpayer in the manner 3571
provided by this section. The commissioner shall give the person 3572
assessed written notice of the assessment as provided in section 3573
5703.37 of the Revised Code. With the notice, the commissioner 3574
shall provide instructions on the manner in which to petition for 3575
reassessment and request a hearing with respect to the petition. 3576

(B) No assessment shall be made or issued against a person 3577
under this section more than four years after the later of the 3578
final date the report subject to assessment was required to be 3579
filed or the date such report was filed. Such time limit may be 3580
extended if both the person and the commissioner consent in 3581
writing to the extension or if an agreement waiving or extending 3582
the time limit has been entered into pursuant to section 122.171 3583
of the Revised Code. Any such extension shall extend the four-year 3584
time limit prescribed in division (A) of section 5726.30 of the 3585

Revised Code for the same period of time. There shall be no bar or 3586
limit to an assessment against a person that fails to file a 3587
report subject to assessment as required by this chapter, or that 3588
files a fraudulent report. 3589

(C) Unless the person assessed, within sixty days after 3590
service of the notice of assessment, files with the tax 3591
commissioner, either in person or by certified mail, a written 3592
petition for reassessment signed by the person or the person's 3593
authorized agent having knowledge of the facts, the assessment 3594
shall become final, and the amount of the assessment is due and 3595
payable from the person assessed to the treasurer of state. A 3596
petition shall indicate the objections of the person assessed, but 3597
additional objections may be raised in writing if received by the 3598
commissioner prior to the date shown on the final determination. 3599
If a petition for reassessment has been properly filed, the 3600
commissioner shall proceed under section 5703.60 of the Revised 3601
Code. 3602

(D)(1) After an assessment becomes final, if any portion of 3603
the assessment, including any accrued interest, remains unpaid, a 3604
certified copy of the tax commissioner's entry making the 3605
assessment final may be filed in the office of the clerk of the 3606
court of common pleas in the county in which the person resides or 3607
has its principal place of business in this state, or in the 3608
office of the clerk of court of common pleas of Franklin county. 3609

(2) Immediately upon the filing of the entry, the clerk shall 3610
enter judgment for the state against the person assessed in the 3611
amount shown on the entry. The judgment may be filed by the clerk 3612
in a loose-leaf book entitled, "special judgments for the 3613
financial institution tax" and shall have the same effect as other 3614
judgments. Execution shall issue upon the judgment at the request 3615
of the tax commissioner, and all laws applicable to sales on 3616
execution shall apply to sales made under the judgment. 3617

(3) The portion of the assessment not paid within sixty days 3618
after the day the assessment was issued shall bear interest at the 3619
rate per annum prescribed by section 5703.47 of the Revised Code 3620
from the date the tax commissioner issues the assessment until the 3621
date the assessment is paid. Interest shall be paid in the same 3622
manner as the tax and may be collected by the issuance of an 3623
assessment under this section. 3624

(E) If the tax commissioner believes that collection of the 3625
tax imposed by this chapter will be jeopardized unless proceedings 3626
to collect or secure collection of the tax are instituted without 3627
delay, the commissioner may issue a jeopardy assessment against 3628
the person liable for the tax. Immediately upon the issuance of 3629
the jeopardy assessment, the commissioner shall file an entry with 3630
the clerk of the court of common pleas in the manner prescribed by 3631
division (D) of this section. Notice of the jeopardy assessment 3632
shall be served on the person assessed or the person's authorized 3633
agent in the manner provided in section 5703.37 of the Revised 3634
Code within five days of the filing of the entry with the clerk. 3635
The total amount assessed shall be immediately due and payable, 3636
unless the person assessed files a petition for reassessment in 3637
accordance with division (C) of this section and provides security 3638
in a form satisfactory to the commissioner and in an amount 3639
sufficient to satisfy the unpaid balance of the assessment. Full 3640
or partial payment of the assessment shall not prejudice the 3641
commissioner's consideration of the petition for reassessment. 3642

(F) The tax commissioner shall immediately forward to the 3643
treasurer of state all amounts the commissioner receives under 3644
this section. Such amounts shall be considered as revenue arising 3645
from the tax imposed by this chapter. 3646

(G) If the tax commissioner possesses information indicating 3647
that the amount of tax a taxpayer is required to pay under this 3648
chapter exceeds the amount the reporting person for the taxpayer 3649

paid, the tax commissioner may audit a sample of the taxpayer's 3650
gross receipts over a representative period of time to ascertain 3651
the amount of tax due, and may issue an assessment based on the 3652
audit. The tax commissioner shall make a good faith effort to 3653
reach agreement with the taxpayer in selecting a representative 3654
sample. The tax commissioner may apply a sampling method only if 3655
the commissioner has prescribed the method by rule. 3656

(H) If the whereabouts of a person subject to this chapter is 3657
not known to the tax commissioner, the secretary of state is 3658
hereby deemed to be that person's agent for purposes of service of 3659
process or notice of any assessment, action, or proceedings 3660
instituted in this state against the person under this chapter. 3661
Such process or notice shall be served on such person by the 3662
commissioner or by an agent of the commissioner by leaving a true 3663
and attested copy of the process or notice at the office of the 3664
secretary of state at least fifteen days before the return day of 3665
such process or notice, and by sending a copy of the process or 3666
notice to such person by ordinary mail, with an endorsement 3667
thereon of the service upon the secretary of state, addressed to 3668
such person at the person's last known address. 3669

Sec. 5726.21. (A) In addition to any other penalty imposed by 3670
this chapter or Chapter 5703. of the Revised Code, the following 3671
penalties shall apply: 3672

(1) If a taxpayer required to file any report under this 3673
chapter fails to make and file the report within the time 3674
prescribed, a penalty may be imposed not exceeding the greater of 3675
fifty dollars per month or fraction of a month, not to exceed five 3676
hundred dollars, or five per cent per month or fraction of a 3677
month, not to exceed fifty per cent of the tax required to be 3678
shown on the report, for each month or fraction of a month 3679
elapsing between the due date and the date on which the report is 3680

filed. 3681

(2) If a taxpayer fails to pay the amount of tax required to be paid under this chapter, except for estimated tax under section 5726.06 of the Revised Code, by the dates prescribed in this chapter for payment, a penalty may be imposed not exceeding fifteen per cent of the delinquent payment. 3682
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(3) If a taxpayer files what purports to be a report required by this chapter that does not contain information upon which the substantial correctness of the report may be judged or contains information that on its face indicates that the report is substantially incorrect, and the filing of the report in that manner is due to a position that is frivolous or a desire that is apparent from the report to delay or impede the administration of the tax levied under this chapter, a penalty of up to five hundred dollars may be imposed. 3687
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(4) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any report required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the report. 3696
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(5) If a taxpayer makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. 3701
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(B) The tax commissioner may collect any penalty imposed by this section in the same manner as the tax levied under this chapter. Penalties so collected shall be considered as revenue arising from the tax levied under this chapter. 3705
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(C) For purposes of this section, the tax required to be shown on the report shall be reduced by the amount of any part of the tax paid on or before the date prescribed for filing the 3709
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report. 3712

(D) The tax commissioner may abate all or a portion of any 3713
penalties imposed under this section and may adopt rules governing 3714
such abatements. 3715

Sec. 5726.30. (A) The tax commissioner shall refund the 3716
amount of taxes imposed under this chapter that a person overpaid, 3717
paid illegally or erroneously, or paid on an illegal or erroneous 3718
assessment. The person shall file an application for refund with 3719
the tax commissioner, on the form prescribed by the commissioner, 3720
within four years after the date of the illegal or erroneous 3721
payment of the tax, or within any additional period allowed under 3722
division (B) of section 5726.20 of the Revised Code. The applicant 3723
shall provide the amount of the requested refund along with the 3724
claimed reasons for, and documentation to support, the issuance of 3725
a refund. 3726

For purposes of this division, a payment that an applicant 3727
made before the due date for filing the report to which the 3728
payment relates shall be deemed to have been made on the due date 3729
of the report. 3730

(B) Upon the filing of a refund application, the tax 3731
commissioner shall determine the amount of refund to which the 3732
applicant is entitled. If the amount is not less than that 3733
claimed, the commissioner shall certify the amount to the director 3734
of budget and management and treasurer of state for payment from 3735
the tax refund fund created under section 5703.052 of the Revised 3736
Code. If the amount is less than that claimed, the commissioner 3737
shall proceed in accordance with section 5703.70 of the Revised 3738
Code. 3739

(C)(1) Except as provided in division (C)(2) of this section, 3740
interest on a refund applied for under this section, computed at 3741
the rate provided for in section 5703.47 of the Revised Code, 3742

shall be allowed from the later of the date the tax was paid or 3743
the date the tax payment was due until the refund is paid. 3744

(2) No interest shall be allowed under this section on an 3745
amount refunded to a person to the extent that the refund results 3746
from the allowance of a refundable credit against the tax imposed 3747
by section 5726.02 of the Revised Code. 3748

Sec. 5726.31. As used in this section, "debt to this state" 3749
means unpaid taxes due the state, unpaid workers' compensation 3750
premiums due under section 4123.35 of the Revised Code, unpaid 3751
unemployment compensation contributions due under section 4141.25 3752
of the Revised Code, unpaid unemployment compensation payments in 3753
lieu of contributions due under section 4141.241 of the Revised 3754
Code, unpaid claims certified under section 131.02 or 131.021 of 3755
the Revised Code, unpaid fees payable to the state or to the clerk 3756
of courts pursuant to section 4505.06 of the Revised Code or any 3757
unpaid charge, penalty, or interest arising from any of the 3758
foregoing. 3759

If a person entitled to a refund under section 5726.30 of the 3760
Revised Code owes any debt to this state, the amount refundable 3761
may be applied in satisfaction of the debt. If the amount 3762
refundable is less than the amount of the debt, it may be applied 3763
in partial satisfaction of the debt. If the amount refundable is 3764
greater than the amount of the debt, the amount remaining after 3765
satisfaction of the debt shall be refunded. If the taxpayer has 3766
more than one such debt, any debt subject to section 5739.33 or 3767
division (G) of section 5747.07 of the Revised Code shall be 3768
satisfied first. 3769

Except as provided in section 131.021 of the Revised Code, 3770
this section applies only to debts that have become final. For the 3771
purposes of this section, a debt becomes final when, under the 3772
applicable law, any time provided for petition for reassessment, 3773

request for reconsideration, or other appeal of the legality or 3774
validity of the amount giving rise to the debt expires without an 3775
appeal having been filed in the manner provided by law. 3776

The tax commissioner may charge each respective agency of the 3777
state for the commissioner's cost in applying refunds to debts due 3778
to the state and may charge the attorney general for the 3779
commissioner's cost in applying refunds to certified claims. The 3780
commissioner may promulgate rules to implement this section. 3781

The commissioner may, with the consent of the reporting 3782
person for a taxpayer, provide for the crediting of the amount of 3783
any refund due to the taxpayer under this chapter for a tax year 3784
against the tax due for any succeeding tax year. 3785

Sec. 5726.32. If any tax due under this chapter is not paid 3786
on or before the date prescribed for its payment, interest shall 3787
be assessed, collected, and paid, in the same manner as the tax, 3788
upon such unpaid amount at the rate per annum prescribed by 3789
section 5703.47 of the Revised Code from the date prescribed for 3790
the payment of the tax until the date the tax is paid or the date 3791
an assessment is issued under section 5726.20 of the Revised Code, 3792
whichever is earlier. Interest so collected shall be considered as 3793
revenue arising from the tax imposed by this chapter. 3794

Sec. 5726.33. (A) As used in this section, "qualifying refund 3795
overpayment" means an amount received by a taxpayer in excess of a 3796
refund claimed or a request for payment made by the reporting 3797
person for the taxpayer on a return, report, or other document 3798
filed with the tax commissioner. 3799

(B) A taxpayer is not liable for any interest or penalty with 3800
respect to the repayment of a qualifying refund overpayment if the 3801
reporting person for the taxpayer pays the entire amount of the 3802
qualifying refund overpayment to the commissioner not later than 3803

thirty days after the taxpayer receives an assessment for the 3804
amount. If the reporting person does not pay the entire amount of 3805
the overpayment to the commissioner within the time prescribed by 3806
this section, interest shall accrue on the amount of the 3807
deficiency pursuant to section 5726.32 of the Revised Code from 3808
the date the commissioner issues the assessment until the date the 3809
deficiency is paid. 3810

Sec. 5726.36. (A) A person shall notify the tax commissioner 3811
when the person is no longer subject to the tax imposed by this 3812
chapter. 3813

(B) If the ownership structure of a financial institution 3814
changes such that a person is no longer includable in the annual 3815
report of the financial institution, the reporting person for the 3816
financial institution shall notify the commissioner of the change 3817
when the reporting person files its next annual report or in 3818
writing prior to the due date of that report. 3819

Sec. 5726.40. If a person, wherever organized, doing business 3820
in this state or owning or issuing all or part of the entity's 3821
capital or property in this state, and required by law to file any 3822
report or return or to pay any tax or fee under Title LVII of the 3823
Revised Code, fails or neglects to make such report or return or 3824
to pay any such tax or fee for ninety days after the time 3825
prescribed by law for making such report or return or for paying 3826
such tax or fee, the tax commissioner shall certify such fact to 3827
the secretary of state. The secretary of state shall thereupon 3828
cancel the document of creation authorizing the person to do 3829
business in this state. Upon such cancellation, all of the powers, 3830
privileges, and franchises conferred upon that person by its 3831
document of creation shall cease, subject to section 1701.88 of 3832
the Revised Code. The secretary of state shall immediately notify 3833
the person of the action taken by the secretary, and shall also 3834

forward for filing a certificate of the action so taken to the 3835
county recorder of the county in which the principal place of 3836
business of the person in this state is located. No fee shall be 3837
charged for the filing. 3838

Sec. 5726.41. No person shall exercise, or attempt to 3839
exercise, any powers, privileges, or franchises under the person's 3840
document of creation after the document is canceled pursuant to 3841
section 5726.40 of the Revised Code. A penalty of one hundred 3842
dollars shall be imposed for each day a violation of this section 3843
occurs, up to a maximum penalty of five thousand dollars. 3844

Sec. 5726.42. (A)(1) A person whose document of creation has 3845
been canceled by the secretary of state pursuant to section 3846
5726.40 the Revised Code shall be reinstated and again entitled to 3847
exercise its rights, privileges, and franchises in this state upon 3848
compliance with all of the following: 3849

(a) Filing with the secretary of state a certificate from the 3850
tax commissioner that the person has complied with all the 3851
requirements of law as to tax reports and paid all taxes, fees, or 3852
penalties due thereon for every year of delinquency; 3853

(b) Payment to the secretary of state of any additional fees 3854
and penalties required to be paid to the secretary of state; 3855

(c) Payment to the secretary of state of an additional fee of 3856
ten dollars. 3857

Upon the person's compliance with this division, the 3858
secretary of state shall cancel the entry of cancellation filed 3859
under section 5726.40 of the Revised Code. 3860

(2) If a reinstatement is not made within one year from the 3861
date of cancellation of the document of creation, and if it 3862
appears that a document of creation has been issued to a person of 3863

the same or similar name as the applicant for reinstatement, the 3864
secretary of state shall require, as a condition prerequisite to 3865
such reinstatement, that the applicant amend its document of 3866
creation by changing the applicant's name. 3867

(B) Any officer, shareholder, creditor, or receiver of a 3868
person may at any time take all steps required by this section to 3869
effect a reinstatement. 3870

(C) The rights, privileges, and franchises of a person whose 3871
document of creation has been reinstated in accordance with this 3872
section are subject to section 1701.922 of the Revised Code. 3873

(D) Notwithstanding a violation of section 5726.41 of the 3874
Revised Code, upon reinstatement of a person's document of 3875
creation in accordance with this section, neither section 5726.40 3876
nor section 5726.41 of the Revised Code shall be applied to 3877
invalidate the exercise or attempt to exercise any right, 3878
privilege, or franchise on behalf of the person by an officer, 3879
agent, or employee of the person after cancellation and prior to 3880
the reinstatement of the document of creation, if the conditions 3881
set forth in divisions (B)(1)(a) and (b) of section 1701.922 of 3882
the Revised Code are met. 3883

Sec. 5726.43. If any financial institution fails to make and 3884
file any return or report required under this chapter, or to pay 3885
the penalties provided by law for failure to make and file such 3886
reports or returns, for a period of ninety days after the time 3887
prescribed by law, the attorney general, on the request of the tax 3888
commissioner, shall commence an action in quo warranto in the 3889
court of appeals of the county in which the reporting person for 3890
the financial institution has its principal place of business in 3891
this state to forfeit and annul the privileges and franchises of 3892
each person included in the annual report of the financial 3893
institution. If the court is satisfied that any such financial 3894

institution is in default, it shall render judgment ousting each 3895
person included in the annual report of the financial institution 3896
from the exercise of its privileges and franchises within this 3897
state, and shall otherwise proceed as provided in sections 2733.01 3898
to 2733.39 of the Revised Code. 3899

Sec. 5726.50. (A) A taxpayer may claim a refundable tax 3900
credit against the tax imposed under this chapter for each person 3901
included in the annual report of the taxpayer that is granted a 3902
credit by the tax credit authority under section 122.17 or 3903
division (B)(2) or (3) of section 122.171 of the Revised Code. 3904
Such a credit shall not be claimed for any tax year following the 3905
calendar year in which a relocation of employment positions occurs 3906
in violation of an agreement entered into under section 122.171 of 3907
the Revised Code. For the purpose of making tax payments under 3908
this chapter, taxes equal to the amount of the refundable credit 3909
shall be considered to be paid on the first day of the tax year. 3910

(B) A taxpayer may claim a nonrefundable tax credit against 3911
the tax imposed under this chapter for each person included in the 3912
annual report of the taxpayer that is granted a credit by the tax 3913
credit authority under division (B)(1) of section 122.171 of the 3914
Revised Code. A taxpayer may claim against the tax imposed by this 3915
chapter any unused portion of the credits authorized under 3916
division (B) of section 5733.0610 of the Revised Code. 3917

(C) The credits authorized in divisions (A) and (B) of this 3918
section shall be claimed in the order required under section 3919
5726.98 of the Revised Code. If the amount of a credit authorized 3920
in division (A) of this section exceeds the tax otherwise due 3921
under section 5726.02 of the Revised Code after deducting all 3922
other credits preceding the credit in the order prescribed in 3923
section 5726.98 of the Revised Code, the excess shall be refunded 3924
to the taxpayer. 3925

Sec. 5726.51. A taxpayer may claim a nonrefundable credit 3926
against the tax imposed under this chapter for each bank 3927
organization that is organized under Title XI of the Revised Code 3928
and included in the annual report of the taxpayer. The credit 3929
shall equal the sum of the annual assessments such bank 3930
organizations paid during the taxable year to the division of 3931
financial institutions pursuant to Title XI of the Revised Code 3932
and the schedule of fees published by the division. A taxpayer may 3933
claim against the tax imposed by this chapter any unused portion 3934
of the credits authorized under section 5733.063 of the Revised 3935
Code. 3936

The credit authorized by this section shall be claimed in the 3937
order required under section 5726.98 of the Revised Code. The 3938
credit shall not be allowed unless there is filed with the 3939
taxpayer's annual report a document certified by the division of 3940
financial institutions verifying the amount of state annual 3941
assessment fees and federal supervisory fees paid by the bank 3942
organizations during the taxable year. 3943

Sec. 5726.52. (A) As used in this section, "certificate 3944
owner" has the same meaning as in section 149.311 of the Revised 3945
Code. 3946

(B) A taxpayer may claim a refundable credit against the tax 3947
imposed by this chapter for each person included in the annual 3948
report of a taxpayer that is a certificate owner of a 3949
rehabilitation tax credit certificate issued under section 149.311 3950
of the Revised Code. The credit shall equal twenty-five per cent 3951
of the dollar amount indicated on each certificate, but shall not 3952
exceed five million dollars for each certificate. 3953

The credit shall be claimed for the calendar year specified 3954
in the certificate and in the order required under section 5726.98 3955

of the Revised Code. If the credit exceeds the amount of tax 3956
otherwise due in that year, the excess shall be refunded to the 3957
taxpayer, provided that, if any amount of the credit is refunded, 3958
the sum of the amount refunded and the amount applied to reduce 3959
the tax otherwise due in that year shall not exceed three million 3960
dollars. The taxpayer may carry forward any balance of the credit 3961
in excess of the amount claimed in that year for not more than 3962
five ensuing years, and shall deduct any amount claimed in any 3963
such year from the amount claimed in an ensuing year. A taxpayer 3964
may claim against the tax imposed by this chapter any unused 3965
portion of the credit authorized under section 5725.151 of the 3966
Revised Code, but only to the extent of the five-year carry 3967
forward period authorized by that section. 3968

(C) A taxpayer claiming a credit under this section shall 3969
retain the rehabilitation tax credit certificate for four years 3970
following the end of the year to which the credit was applied, and 3971
shall make the certificate available for inspection by the tax 3972
commissioner upon the request of the commissioner during that 3973
period. 3974

Sec. 5726.53. A taxpayer may claim a refundable credit 3975
against the tax imposed by this chapter for each person included 3976
in the annual report of the taxpayer that was issued a tax credit 3977
certificate by the Ohio venture capital authority under section 3978
150.07 of the Revised Code. The amount of the credit shall equal 3979
the amount specified in the tax credit certificate. The credit 3980
shall be claimed for the tax year specified in the tax credit 3981
certificate. The taxpayer shall claim the credit in the order 3982
required under section 5726.98 of the Revised Code. If the credit 3983
amount exceeds the tax otherwise due under section 5726.02 of the 3984
Revised Code after deducting all other credits preceding the 3985
credit in the order prescribed in section 5726.98 of the Revised 3986
Code, the excess shall be refunded to the taxpayer. 3987

Sec. 5726.54. (A) Any term used in this section has the same 3988
meaning as in section 5725.33 of the Revised Code. 3989

(B) A taxpayer may claim a nonrefundable credit against the 3990
tax imposed by this chapter for each person included in the annual 3991
report of the taxpayer that holds a qualified equity investment on 3992
a credit allowance date occurring in the calendar year immediately 3993
preceding the tax year for which the tax is due. The credit shall 3994
be computed in the same manner prescribed for the computation of 3995
credits allowed under section 5725.33 of the Revised Code. 3996

By claiming a tax credit under this section, a taxpayer 3997
waives its rights under section 5726.20 of the Revised Code with 3998
respect to the time limitation for the assessment of taxes as it 3999
relates to credits claimed under this section that later become 4000
subject to recapture under division (D) of this section. 4001

A taxpayer may claim against the tax imposed by this chapter 4002
any unused portion of the credits authorized under sections 4003
5725.33 and 5733.58 of the Revised Code, but only to the extent of 4004
the remaining carry forward period authorized by those sections. 4005

The credit shall be claimed in the order prescribed by 4006
section 5726.98 of the Revised Code. If the amount of the credit 4007
exceeds the amount of tax otherwise due after deducting all other 4008
credits preceding the credit in the order prescribed in section 4009
5726.98 of the Revised Code, the excess may be carried forward for 4010
not more than four ensuing tax years. 4011

(C) The total amount of qualified equity investments on the 4012
basis of which credits may be claimed under this section and 4013
sections 5725.33, 5729.16, and 5733.58 of the Revised Code is 4014
subject to the limitation of division (C) of section 5725.33 of 4015
the Revised Code. 4016

(D) If any amount of the federal tax credit allowed for a 4017

qualified equity investment for which a credit was received under 4018
this section is recaptured under section 45D of the Internal 4019
Revenue Code, or if the director of development services 4020
determines that an investment for which a tax credit is claimed 4021
under this section is not a qualified equity investment or that 4022
the proceeds of an investment for which a tax credit is claimed 4023
under this section are used to make qualified low-income community 4024
investments other than in a qualified active low-income community 4025
business, all or a portion of the credit received on account of 4026
that investment shall be paid by the taxpayer that received the 4027
credit to the tax commissioner. The amount to be recovered shall 4028
be determined by the director pursuant to rules adopted under 4029
section 5725.33 of the Revised Code. The director shall certify 4030
any amount due under this division to the tax commissioner, and 4031
the commissioner shall notify the taxpayer of the amount due. The 4032
amount due is payable not later than thirty days after the day the 4033
commissioner issues the notice. The amount due shall be considered 4034
to be tax due under section 5726.02 of the Revised Code, and may 4035
be collected by assessment without regard to the limitations 4036
imposed under section 5726.20 of the Revised Code for the 4037
assessment of taxes by the commissioner. All amounts collected 4038
under this division shall be credited as revenue from the tax 4039
levied under section 5726.02 of the Revised Code. 4040

Sec. 5726.55. (A) Any term used in this section has the same 4041
meaning as in section 122.85 of the Revised Code. 4042

(B) A taxpayer may claim a refundable credit against the tax 4043
imposed under this chapter for each person included in the annual 4044
report of the taxpayer that is a certificate owner of a tax credit 4045
certificate issued under section 122.85 of the Revised Code. The 4046
credit shall be claimed for the taxable year in which the 4047
certificate is issued by the director of development services. The 4048
credit amount equals the amount stated in the certificate. The 4049

credit shall be claimed in the order required under section 4050
5726.98 of the Revised Code. If the credit amount exceeds the tax 4051
otherwise due under section 5726.02 of the Revised Code after 4052
deducting all other credits preceding the credit in the order 4053
prescribed in section 5726.98 of the Revised Code, the excess 4054
shall be refunded to the taxpayer. 4055

(C) Nothing in this section shall allow a taxpayer to claim 4056
more than one credit per tax credit-eligible production. 4057

Sec. 5726.56. (A) As used in this section, "qualified 4058
research expenses" has the same meaning as in section 41 of the 4059
Internal Revenue Code. 4060

(B) A taxpayer may claim a nonrefundable credit against the 4061
tax imposed under this chapter equal to seven per cent of the 4062
excess of (1) the qualified research expenses incurred by the 4063
taxpayer in this state in a taxable year over (2) the average 4064
annual qualified research expenses incurred by the taxpayer in 4065
this state in the three previous taxable years. For the purposes 4066
of this division, "qualified research expenses incurred by the 4067
taxpayer" includes the qualified research expenses incurred by all 4068
persons included in the annual report of the taxpayer and by any 4069
insurance company subject to the tax levied under section 5725.18 4070
or Chapter 5729. of the Revised Code that has more than fifty per 4071
cent of its ownership interests directly or indirectly owned or 4072
controlled by a person included in the annual report of the 4073
taxpayer, even though such an insurance company is not subject to 4074
the tax imposed under this chapter. 4075

(C) A taxpayer shall claim the credit allowed under this 4076
section in the order prescribed by section 5726.98 of the Revised 4077
Code. If the amount of the credit exceeds the amount of tax 4078
otherwise due after deducting all other credits preceding the 4079
credit in the order prescribed in section 5726.98 of the Revised 4080

Code, the excess may be carried forward for not more than seven 4081
ensuing tax years. The amount of the excess credit claimed in any 4082
such year shall be deducted from the balance carried forward to 4083
the next tax year. 4084

(D) A taxpayer may claim against the tax imposed under this 4085
chapter any unused portion of a credit authorized under section 4086
5733.351 of the Revised Code but only to the extent of the 4087
remaining portion of the seven-year carry-forward period 4088
authorized by that section. 4089

Sec. 5726.57. (A) As used in this section, "qualifying dealer 4090
in intangibles" means a dealer in intangibles that is a member of 4091
a qualifying controlled group of which a financial institution is 4092
also a member on the first day of the financial institution's tax 4093
year. 4094

(B) For tax year 2014 there is hereby allowed to each 4095
financial institution a nonrefundable credit against the tax 4096
imposed by section 5726.02 of the Revised Code. The amount of the 4097
credit shall be computed in accordance with division (C) of this 4098
section. The credit shall be claimed in the order prescribed by 4099
section 5726.98 of the Revised Code. The credit shall not exceed 4100
the amount of tax otherwise due under section 5726.02 of the 4101
Revised Code after deducting any other credits that precede the 4102
credit claimed under this section in that order. 4103

(C) Subject to division (D) of this section, the amount of 4104
the credit equals the lesser of the amount described in division 4105
(C)(1) of this section or in division (C)(2) of this section. 4106

(1) The amount of tax that a qualifying dealer in intangibles 4107
paid under Chapter 5707. of the Revised Code during the calendar 4108
year immediately preceding the financial institution's tax year. 4109
Such amount shall be reduced, but not below zero, by any refunds 4110
of such tax received by the qualifying dealer in intangibles under 4111

<u>Chapter 5703. of the Revised Code during that calendar year.</u>	4112
<u>(2) The product of the amounts described in divisions</u>	4113
<u>(C)(2)(a) to (c) of this section.</u>	4114
<u>(a) The cost of the financial institution's direct investment</u>	4115
<u>in the capital stock of the qualifying dealer in intangibles</u>	4116
<u>calculated on the last day of the financial institution's taxable</u>	4117
<u>year immediately preceding the tax year;</u>	4118
<u>(b) The ratio described in section 5725.15 of the Revised</u>	4119
<u>Code for the calendar year immediately preceding the financial</u>	4120
<u>institution's tax year;</u>	4121
<u>(c) The tax rate imposed under division (D) of section</u>	4122
<u>5707.03 of the Revised Code for the calendar year immediately</u>	4123
<u>preceding the financial institution's tax year.</u>	4124
<u>(D)(1) The principles and concepts described in section</u>	4125
<u>5733.057 of the Revised Code shall apply in determining whether a</u>	4126
<u>dealer in intangibles is a member of a qualifying controlled group</u>	4127
<u>of which the financial institution also is a member and to</u>	4128
<u>ascertain the cost of the financial institution's direct</u>	4129
<u>investment in the capital stock of the qualifying dealer in</u>	4130
<u>intangibles.</u>	4131
<u>(2) Notwithstanding section 5703.56 of the Revised Code to</u>	4132
<u>the contrary, a financial institution claiming the credit provided</u>	4133
<u>by this section has the burden to establish by a preponderance of</u>	4134
<u>the evidence that the doctrines enumerated in that section would</u>	4135
<u>not apply to deny to the financial institution all or a part of</u>	4136
<u>the credit otherwise provided by this section.</u>	4137
<u>Sec. 5726.98. (A) To provide a uniform procedure for</u>	4138
<u>calculating the amount of tax due under section 5726.02 of the</u>	4139
<u>Revised Code, a taxpayer shall claim any credits to which the</u>	4140
<u>taxpayer is entitled under this chapter in the following order:</u>	4141

<u>(1) The bank organization assessment credit under section</u>	4142
<u>5726.51 of the Revised Code;</u>	4143
<u>(2) The nonrefundable job retention credit under division (B)</u>	4144
<u>of section 5726.50 of the Revised Code;</u>	4145
<u>(3) The nonrefundable credit for purchases of qualified</u>	4146
<u>low-income community investments under section 5726.54 of the</u>	4147
<u>Revised Code;</u>	4148
<u>(4) The nonrefundable credit for qualified research expenses</u>	4149
<u>under section 5726.56 of the Revised Code;</u>	4150
<u>(5) The nonrefundable credit for qualifying dealer in</u>	4151
<u>intangibles taxes under section 5726.57 of the Revised Code.</u>	4152
<u>(6) The refundable credit for rehabilitating an historic</u>	4153
<u>building under section 5726.52 of the Revised Code;</u>	4154
<u>(7) The refundable job retention or job creation credit under</u>	4155
<u>division (A) of section 5726.50 of the Revised Code;</u>	4156
<u>(8) The refundable credit under section 5726.53 of the</u>	4157
<u>Revised Code for losses on loans made under the Ohio venture</u>	4158
<u>capital program under sections 150.01 to 150.10 of the Revised</u>	4159
<u>Code;</u>	4160
<u>(9) The refundable motion picture production credit under</u>	4161
<u>section 5726.55 of the Revised Code.</u>	4162
<u>(B) For any credit except the refundable credits enumerated</u>	4163
<u>in this section, the amount of the credit for a taxable year shall</u>	4164
<u>not exceed the tax due after allowing for any other credit that</u>	4165
<u>precedes it in the order required under this section. Any excess</u>	4166
<u>amount of a particular credit may be carried forward if authorized</u>	4167
<u>under the section creating that credit. Nothing in this chapter</u>	4168
<u>shall be construed to allow a taxpayer to claim, directly or</u>	4169
<u>indirectly, a credit more than once for a taxable year.</u>	4170

Sec. 5726.99. Whoever violates section 5726.41 of the Revised Code shall be fined not less than one hundred dollars or more than one thousand dollars. 4171
4172
4173

Sec. 5733.01. (A) The tax provided by this chapter for 4174
domestic corporations shall be the amount charged against each 4175
corporation organized for profit under the laws of this state and 4176
each nonprofit corporation organized pursuant to Chapter 1729. of 4177
the Revised Code, except as provided in sections 5733.09 and 4178
5733.10 of the Revised Code, for the privilege of exercising its 4179
franchise during the calendar year in which that amount is 4180
payable, and the tax provided by this chapter for foreign 4181
corporations shall be the amount charged against each corporation 4182
organized for profit and each nonprofit corporation organized or 4183
operating in the same or similar manner as nonprofit corporations 4184
organized under Chapter 1729. of the Revised Code, under the laws 4185
of any state or country other than this state, except as provided 4186
in sections 5733.09 and 5733.10 of the Revised Code, for the 4187
privilege of doing business in this state, owning or using a part 4188
or all of its capital or property in this state, holding a 4189
certificate of compliance with the laws of this state authorizing 4190
it to do business in this state, or otherwise having nexus in or 4191
with this state under the Constitution of the United States, 4192
during the calendar year in which that amount is payable. 4193

(B) A corporation is subject to the tax imposed by section 4194
5733.06 of the Revised Code for each calendar year prior to 2014 4195
that it is so organized, doing business, owning or using a part or 4196
all of its capital or property, holding a certificate of 4197
compliance, or otherwise having nexus in or with this state under 4198
the Constitution of the United States, on the first day of January 4199
of that calendar year. No credit authorized by this chapter may be 4200
claimed for tax year 2014 or any tax year thereafter. 4201

(C) Any corporation subject to this chapter that is not 4202
subject to the federal income tax shall file its returns and 4203
compute its tax liability as required by this chapter in the same 4204
manner as if that corporation were subject to the federal income 4205
tax. 4206

(D) For purposes of this chapter, a federally chartered 4207
financial institution shall be deemed to be organized under the 4208
laws of the state within which its principal office is located. 4209

(E) For purposes of this chapter, any person, as defined in 4210
section 5701.01 of the Revised Code, shall be treated as a 4211
corporation if the person is classified for federal income tax 4212
purposes as an association taxable as a corporation, and an equity 4213
interest in the person shall be treated as capital stock of the 4214
person. 4215

(F) For the purposes of this chapter, "disregarded entity" 4216
has the same meaning as in division (D) of section 5745.01 of the 4217
Revised Code. 4218

(1) A person's interest in a disregarded entity, whether held 4219
directly or indirectly, shall be treated as the person's ownership 4220
of the assets and liabilities of the disregarded entity, and the 4221
income, including gain or loss, shall be included in the person's 4222
net income under this chapter. 4223

(2) Any sale, exchange, or other disposition of the person's 4224
interest in the disregarded entity, whether held directly or 4225
indirectly, shall be treated as a sale, exchange, or other 4226
disposition of the person's share of the disregarded entity's 4227
underlying assets or liabilities, and the gain or loss from such 4228
sale, exchange, or disposition shall be included in the person's 4229
net income under this chapter. 4230

(3) The disregarded entity's payroll, property, and sales 4231
factors shall be included in the person's factors. 4232

(G) The tax a corporation is required to pay under this 4233
chapter shall be as follows: 4234

(1)(a) For financial institutions, the greater of the minimum 4235
payment required under division (E) of section 5733.06 of the 4236
Revised Code or the difference between all taxes charged the 4237
financial institution under this chapter, without regard to 4238
division (G)(2) of this section, less any credits allowable 4239
against such tax. 4240

(b) A corporation satisfying the description in division 4241
(E)(5), (6), (7), (8), or (10) of section 5751.01 of the Revised 4242
Code, as that section existed before its amendment by H.B. 510 of 4243
the 129th general assembly, that is not a financial institution, 4244
insurance company, or dealer in intangibles is subject to the 4245
taxes imposed under this chapter as a corporation and not subject 4246
to tax as a financial institution, and shall pay the greater of 4247
the minimum payment required under division (E) of section 5733.06 4248
of the Revised Code or the difference between all the taxes 4249
charged under this chapter, without regard to division (G)(2) of 4250
this section, less any credits allowable against such tax. 4251

(2) For all corporations other than those persons described 4252
in division (G)(1)(a) or (b) of this section, the amount under 4253
division (G)(2)(a) of this section applicable to the tax year 4254
specified less the amount under division (G)(2)(b) of this 4255
section: 4256

(a)(i) For tax year 2005, the greater of the minimum payment 4257
required under division (E) of section 5733.06 of the Revised Code 4258
or the difference between all taxes charged the corporation under 4259
this chapter and any credits allowable against such tax; 4260

(ii) For tax year 2006, the greater of the minimum payment 4261
required under division (E) of section 5733.06 of the Revised Code 4262
or four-fifths of the difference between all taxes charged the 4263

corporation under this chapter and any credits allowable against 4264
such tax, except the qualifying pass-through entity tax credit 4265
described in division (A)(30) and the refundable credits described 4266
in divisions (A)(31) to (35) of section 5733.98 of the Revised 4267
Code; 4268

(iii) For tax year 2007, the greater of the minimum payment 4269
required under division (E) of section 5733.06 of the Revised Code 4270
or three-fifths of the difference between all taxes charged the 4271
corporation under this chapter and any credits allowable against 4272
such tax, except the qualifying pass-through entity tax credit 4273
described in division (A)(30) and the refundable credits described 4274
in divisions (A)(31) to (35) of section 5733.98 of the Revised 4275
Code; 4276

(iv) For tax year 2008, the greater of the minimum payment 4277
required under division (E) of section 5733.06 of the Revised Code 4278
or two-fifths of the difference between all taxes charged the 4279
corporation under this chapter and any credits allowable against 4280
such tax, except the qualifying pass-through entity tax credit 4281
described in division (A)(30) and the refundable credits described 4282
in divisions (A)(31) to (35) of section 5733.98 of the Revised 4283
Code; 4284

(v) For tax year 2009, the greater of the minimum payment 4285
required under division (E) of section 5733.06 of the Revised Code 4286
or one-fifth of the difference between all taxes charged the 4287
corporation under this chapter and any credits allowable against 4288
such tax, except the qualifying pass-through entity tax credit 4289
described in division (A)(30) and the refundable credits described 4290
in divisions (A)(31), (32), (33), and (34) of section 5733.98 of 4291
the Revised Code; 4292

(vi) For tax year 2010 and each tax year thereafter, no tax. 4293

(b) A corporation shall subtract from the amount calculated 4294

under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section 4295
any qualifying pass-through entity tax credit described in 4296
division (A)(30) and any refundable credits described in divisions 4297
(A)(31) to (35) of section 5733.98 of the Revised Code to which 4298
the corporation is entitled. Any unused qualifying pass-through 4299
entity tax credit is not refundable. 4300

(c) For the purposes of computing the amount of a credit that 4301
may be carried forward to a subsequent tax year under division 4302
(G)(2) of this section, a credit is utilized against the tax for a 4303
tax year to the extent the credit applies against the tax for that 4304
tax year, even if the difference is then multiplied by the 4305
applicable fraction under division (G)(2)(a) of this section. 4306

(3) Nothing in division (G) of this section eliminates or 4307
reduces the tax imposed by section 5733.41 of the Revised Code on 4308
a qualifying pass-through entity. 4309

Sec. 5733.02. Annually, for tax years prior to tax year 2014, 4310
between the first day of January and the thirty-first day of March 4311
or on or before the date as extended under section 5733.13 of the 4312
Revised Code, each taxpayer shall make a report in writing to the 4313
tax commissioner in such form as the tax commissioner prescribes, 4314
and shall remit to the commissioner, with the remittance made 4315
payable to the treasurer of state, the amount of the tax as shown 4316
to be due by such report less the amount paid for the year on a 4317
declaration of estimated tax report filed by the taxpayer as 4318
provided by section 5733.021 of the Revised Code. Remittance shall 4319
be made in the form prescribed by the commissioner, including 4320
electronic funds transfer if required by section 5733.022 of the 4321
Revised Code. 4322

The commissioner shall furnish corporations, on request, 4323
copies of the forms prescribed by the commissioner for the purpose 4324
of making such report. A domestic corporation shall not dissolve, 4325

and a foreign corporation shall not withdraw or retire from 4326
business in Ohio, on or after the first day of January in any year 4327
prior to 2014 without making a franchise tax report to the 4328
commissioner and paying or securing the tax charged for the year 4329
in which such dissolution or withdrawal occurs. 4330

The annual corporation report shall be signed by the 4331
president, vice-president, secretary, treasurer, general manager, 4332
superintendent, or managing agent in this state of such 4333
corporation. If a domestic corporation has not completed its 4334
organization, its annual report shall be signed by one of its 4335
incorporators. 4336

The report shall contain the facts, figures, computations, 4337
and attachments that result in the tax charged by this chapter and 4338
determined in the manner provided within the chapter. 4339

Sec. 5733.021. (A) Each taxpayer that does not in January of 4340
any year prior to 2014 file the report and make the payment 4341
required by section 5733.02 of the Revised Code shall make and 4342
file a declaration of estimated tax report for the tax year. 4343

The declaration of estimated tax report shall be filed with 4344
the tax commissioner on or before the last day of January in such 4345
form as prescribed by the tax commissioner, and shall reflect an 4346
estimate of the total amount due under this chapter for the tax 4347
year. 4348

(B) A taxpayer required to file a declaration of estimated 4349
tax report shall make remittance of such estimated tax to the tax 4350
commissioner as follows: 4351

(1) The entire estimated tax at the time of filing the 4352
declaration of estimated tax report, if such estimated tax is not 4353
in excess of the minimum tax as provided in section 5733.06 of the 4354
Revised Code; 4355

(2) If the estimated tax is in excess of the minimum tax: 4356

(a) One-third of the estimated tax at the time of filing the 4357
declaration of estimated tax report; 4358

(b) Two-thirds of the estimated tax on or before the last day 4359
of March of the tax year, if the report required by section 4360
5733.02 of the Revised Code is filed on or before the last day of 4361
March of the tax year. 4362

(3) If the estimated tax is in excess of the minimum tax, and 4363
an extension of time for filing the report required by section 4364
5733.02 of the Revised Code has been granted pursuant to section 4365
5733.13 of the Revised Code: 4366

(a) One-third of the estimated tax at the time of filing the 4367
declaration of estimated tax report; 4368

(b) One-third of the estimated tax on or before the last day 4369
of March of the tax year; 4370

(c) One-third of the estimated tax on or before the last day 4371
of May of the tax year. 4372

Remittance of the estimated tax shall be made payable to the 4373
treasurer of state and shall be made in the form prescribed by the 4374
tax commissioner, including electronic funds transfer if required 4375
by section 5733.022 of the Revised Code. 4376

The tax commissioner shall immediately forward to the 4377
treasurer of state all amounts received under this section, and 4378
the treasurer of state shall credit all payments of such estimated 4379
tax as provided in section 5733.12 of the Revised Code. 4380

(C)(1)(a) For any period of delinquency ending prior to the 4381
first day of June of the tax year, the penalty under division 4382
(A)(2) of section 5733.28 of the Revised Code may be imposed only 4383
on the delinquent portion of the estimated tax required to be paid 4384
under divisions (B)(2)(a) and (b) and (B)(3)(a) and (b) of this 4385

section. 4386

(b) If the taxpayer was not subject to tax for the 4387
immediately preceding tax year, "estimated tax" for purposes of 4388
division (C)(1) of this section is ninety per cent of the 4389
qualifying net tax for the tax year. If the taxpayer was subject 4390
to the tax for the immediately preceding tax year, "estimated tax" 4391
for purposes of division (C)(1) of this section is the lesser of 4392
one hundred per cent of the qualifying net tax for the immediately 4393
preceding tax year or ninety per cent of the qualifying net tax 4394
for the tax year. 4395

(2)(a) For any period of delinquency commencing the first day 4396
of June of the tax year and concluding on the extended due date 4397
pursuant to section 5733.13 of the Revised Code, the penalty under 4398
division (A)(2) of section 5733.28 of the Revised Code may be 4399
imposed only on the delinquent portion of the estimated tax 4400
required to be paid under division (B)(3)(c) of this section. 4401

(b) For purposes of division (C)(2) of this section, 4402
"estimated tax" is ninety per cent of the qualifying net tax for 4403
the tax year. 4404

(3) If the taxpayer did not file a report under section 4405
5733.02 of the Revised Code for the tax year or failed to prepare 4406
and file the report in good faith for the tax year, "qualifying 4407
net tax" as used in division (C) of this section for that tax year 4408
means the amount described in division (C)(3)(a) of this section. 4409
Otherwise, "qualifying net tax" as used in division (C) of this 4410
section for that tax year means the lesser of the amount described 4411
in division (C)(3)(a) or (b) of this section: 4412

(a) The tax imposed by sections 5733.06, 5733.065, and 4413
5733.066 of the Revised Code for that tax year reduced by the 4414
credits listed in section 5733.98 of the Revised Code. If the 4415
credits exceed the total tax, the qualifying net tax is the 4416

minimum tax. 4417

(b) The lesser of the tax shown on the report, prepared and 4418
filed in good faith, reduced by the credits shown on that report, 4419
or the tax shown on an amended report, prepared and filed in good 4420
faith, reduced by the credits shown on that amended report. If the 4421
credits shown exceed the total tax shown, the qualifying net tax 4422
is the minimum tax. 4423

Sec. 5733.06. ~~The~~ For tax years prior to tax year 2014, the 4424
tax hereby charged each corporation subject to this chapter shall 4425
be the greater of the sum of divisions (A) and (B) of this 4426
section, after the reduction, if any, provided by division (J) of 4427
this section, or division (C) of this section, after the 4428
reduction, if any, provided by division (J) of this section, 4429
except that the tax hereby charged each financial institution 4430
subject to this chapter shall be the amount computed under 4431
division (D) of this section: 4432

(A) Except as set forth in division (F) of this section, five 4433
and one-tenth per cent upon the first fifty thousand dollars of 4434
the value of the taxpayer's issued and outstanding shares of stock 4435
as determined under division (B) of section 5733.05 of the Revised 4436
Code; 4437

(B) Except as set forth in division (F) of this section, 4438
eight and one-half per cent upon the value so determined in excess 4439
of fifty thousand dollars; or 4440

(C)(1) Except as otherwise provided under division (G) of 4441
this section, four mills times that portion of the value of the 4442
issued and outstanding shares of stock as determined under 4443
division (C) of section 5733.05 of the Revised Code. For the 4444
purposes of division (C) of this section, division (C)(2) of 4445
section 5733.065, and division (C) of section 5733.066 of the 4446
Revised Code, the value of the issued and outstanding shares of 4447

stock of an eligible corporation for tax year 2003 through tax 4448
year 2007, or of a ~~qualified~~ qualifying holding company, is zero. 4449

(2) As used in division (C) of this section, "eligible 4450
corporation" means a person treated as a corporation for federal 4451
income tax purposes that meets all of the following criteria: 4452

(a) The corporation conducts business for an entire taxable 4453
year as a qualified trade or business as defined by division (C) 4454
of section 122.15 of the Revised Code. 4455

(b) The corporation uses more than fifty per cent of the 4456
corporation's assets, based on net book value, that are located in 4457
Ohio solely to conduct activities that constitute a qualified 4458
trade or business as defined by section 122.15 of the Revised 4459
Code. 4460

(c) The corporation has been formed or organized not more 4461
than three years before the report required to be filed by section 4462
5733.02 of the Revised Code is due, without regard to any 4463
extensions. 4464

(d) The corporation is not a related member, as defined in 4465
section 5733.042 of the Revised Code, at any time during the 4466
taxable year with respect to another person treated as a 4467
corporation for federal income tax purposes. A corporation is not 4468
a related member if during the entire taxable year at least 4469
seventy-five per cent of the corporation's stock is owned directly 4470
or through a pass-through entity by individuals, estates, and 4471
grantor trusts, and the individuals, estates, and grantor trusts 4472
do not directly or indirectly own more than twenty per cent of the 4473
value of another person treated as a corporation for federal 4474
income tax purposes that is conducting a qualified trade or 4475
business. 4476

(D) The tax charged each financial institution subject to 4477
this chapter shall be that portion of the value of the issued and 4478

outstanding shares of stock as determined under division (A) of 4479
section 5733.05 of the Revised Code, multiplied by the following 4480
amounts: 4481

(1) For tax years prior to the 1999 tax year, fifteen mills; 4482

(2) For the 1999 tax year, fourteen mills; 4483

(3) For tax year 2000 and thereafter, thirteen mills. 4484

(E) No tax shall be charged from any corporation that has 4485
been adjudicated bankrupt, or for which a receiver has been 4486
appointed, or that has made a general assignment for the benefit 4487
of creditors, except for the portion of the then current tax year 4488
during which the tax commissioner finds such corporation had the 4489
power to exercise its corporate franchise unimpaired by such 4490
proceedings or act. The minimum payment for each corporation shall 4491
be as follows: 4492

(1) One thousand dollars in the case of a corporation having 4493
gross receipts for the taxable year equal to at least five million 4494
dollars from activities within or outside this state or in the 4495
case of a corporation employing at least three hundred employees 4496
at some time during the taxable year within or outside this state; 4497

(2) Fifty dollars in the case of any other corporation. 4498

The tax charged to corporations under this chapter for the 4499
privilege of engaging in business in this state, which is an 4500
excise tax levied on the value of the issued and outstanding 4501
shares of stock, shall in no manner be construed as prohibiting or 4502
otherwise limiting the powers of municipal corporations, joint 4503
economic development zones created under section 715.691 of the 4504
Revised Code, and joint economic development districts created 4505
under section 715.70 or 715.71 or sections 715.72 to 715.81 of the 4506
Revised Code in this state to impose an income tax on the income 4507
of such corporations. 4508

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion

of the immediately preceding calendar year, the corporation had 4540
net income that was not included in a report filed by the 4541
corporation or its transferee pursuant to section 5733.02, 4542
5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code; 4543

(f) The corporation would have been subject to the tax 4544
computed under divisions (A), (B), (C), (F), and (G) of this 4545
section if the corporation is assumed to be a corporation 4546
described in division (A) of section 5733.01 of the Revised Code 4547
on the first day of January immediately following the calendar 4548
year to which division (H)(1)(a) of this section refers. 4549

(2) For the purposes of division (H) of this section, 4550
"unreported net income" means net income that was not previously 4551
included in a report filed pursuant to section 5733.02, 5733.021, 4552
5733.03, 5733.031, or 5733.053 of the Revised Code and that was 4553
realized or recognized during the calendar year to which division 4554
(H)(1) of this section refers or the immediately preceding 4555
calendar year. 4556

(3) Each exiting corporation shall pay a tax computed by 4557
first allocating and apportioning the unreported net income 4558
pursuant to division (B) of section 5733.05 and section 5733.051 4559
and, if applicable, section 5733.052 of the Revised Code. The 4560
exiting corporation then shall compute the tax due on its 4561
unreported net income allocated and apportioned to this state by 4562
applying divisions (A), (B), and (F) of this section to that 4563
income. 4564

(4) Divisions (C) and (G) of this section, division (D)(2) of 4565
section 5733.065, and division (C) of section 5733.066 of the 4566
Revised Code do not apply to an exiting corporation, but exiting 4567
corporations are subject to every other provision of this chapter. 4568

(5) Notwithstanding division (B) of section 5733.01 or 4569
sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the 4570

contrary, each exiting corporation shall report and pay the tax 4571
due under division (H) of this section on or before the 4572
thirty-first day of May immediately following the calendar year to 4573
which division (H)(1)(a) of this section refers. The exiting 4574
corporation shall file that report on the form most recently 4575
prescribed by the tax commissioner for the purposes of complying 4576
with sections 5733.02 and 5733.03 of the Revised Code. Upon 4577
request by the corporation, the tax commissioner may extend the 4578
date for filing the report. 4579

(6) If, on account of the application of section 5733.053 of 4580
the Revised Code, net income is subject to the tax imposed by 4581
divisions (A) and (B) of this section, such income shall not be 4582
subject to the tax imposed by division (H)(3) of this section. 4583

(7) The amendments made to division (H) of this section by 4584
Am. Sub. S.B. 287 of the 123rd general assembly do not apply to 4585
any transfer, as defined in section 5733.053 of the Revised Code, 4586
for which negotiations began prior to January 1, 2001, and that 4587
was commenced in and completed during calendar year 2001, unless 4588
the taxpayer makes an election prior to December 31, 2001, to 4589
apply those amendments. 4590

(8) The tax commissioner may adopt rules governing division 4591
(H) of this section. 4592

(I) Any reference in the Revised Code to "the tax imposed by 4593
section 5733.06 of the Revised Code" or "the tax due under section 4594
5733.06 of the Revised Code" includes the taxes imposed under 4595
sections 5733.065 and 5733.066 of the Revised Code. 4596

(J)(1) Division (J) of this section applies solely to a 4597
combined company. Section 5733.057 of the Revised Code shall apply 4598
when calculating the adjustments required by division (J) of this 4599
section. 4600

(2) Subject to division (J)(4) of this section, the total tax 4601

calculated in divisions (A) and (B) of this section shall be 4602
reduced by an amount calculated by multiplying such tax by a 4603
fraction, the numerator of which is the total taxable gross 4604
receipts attributed to providing public utility activity other 4605
than as an electric company under section 5727.03 of the Revised 4606
Code for the year upon which the taxable gross receipts are 4607
measured immediately preceding the tax year, and the denominator 4608
of which is the total gross receipts from all sources for the year 4609
upon which the taxable gross receipts are measured immediately 4610
preceding the tax year. Nothing herein shall be construed to 4611
exclude from the denominator any item of income described in 4612
section 5733.051 of the Revised Code. 4613

(3) Subject to division (J)(4) of this section, the total tax 4614
calculated in division (C) of this section shall be reduced by an 4615
amount calculated by multiplying such tax by the fraction 4616
described in division (J)(2) of this section. 4617

(4) In no event shall the reduction provided by division 4618
(J)(2) or (J)(3) of this section exceed the amount of the excise 4619
tax paid in accordance with section 5727.38 of the Revised Code, 4620
for the year upon which the taxable gross receipts are measured 4621
immediately preceding the tax year. 4622

Sec. 5747.01. Except as otherwise expressly provided or 4623
clearly appearing from the context, any term used in this chapter 4624
that is not otherwise defined in this section has the same meaning 4625
as when used in a comparable context in the laws of the United 4626
States relating to federal income taxes or if not used in a 4627
comparable context in those laws, has the same meaning as in 4628
section 5733.40 of the Revised Code. Any reference in this chapter 4629
to the Internal Revenue Code includes other laws of the United 4630
States relating to federal income taxes. 4631

As used in this chapter: 4632

(A) "Adjusted gross income" or "Ohio adjusted gross income" 4633
means federal adjusted gross income, as defined and used in the 4634
Internal Revenue Code, adjusted as provided in this section: 4635

(1) Add interest or dividends on obligations or securities of 4636
any state or of any political subdivision or authority of any 4637
state, other than this state and its subdivisions and authorities. 4638

(2) Add interest or dividends on obligations of any 4639
authority, commission, instrumentality, territory, or possession 4640
of the United States to the extent that the interest or dividends 4641
are exempt from federal income taxes but not from state income 4642
taxes. 4643

(3) Deduct interest or dividends on obligations of the United 4644
States and its territories and possessions or of any authority, 4645
commission, or instrumentality of the United States to the extent 4646
that the interest or dividends are included in federal adjusted 4647
gross income but exempt from state income taxes under the laws of 4648
the United States. 4649

(4) Deduct disability and survivor's benefits to the extent 4650
included in federal adjusted gross income. 4651

(5) Deduct benefits under Title II of the Social Security Act 4652
and tier 1 railroad retirement benefits to the extent included in 4653
federal adjusted gross income under section 86 of the Internal 4654
Revenue Code. 4655

(6) In the case of a taxpayer who is a beneficiary of a trust 4656
that makes an accumulation distribution as defined in section 665 4657
of the Internal Revenue Code, add, for the beneficiary's taxable 4658
years beginning before 2002, the portion, if any, of such 4659
distribution that does not exceed the undistributed net income of 4660
the trust for the three taxable years preceding the taxable year 4661
in which the distribution is made to the extent that the portion 4662
was not included in the trust's taxable income for any of the 4663

trust's taxable years beginning in 2002 or thereafter. 4664

"Undistributed net income of a trust" means the taxable income of 4665
the trust increased by (a)(i) the additions to adjusted gross 4666
income required under division (A) of this section and (ii) the 4667
personal exemptions allowed to the trust pursuant to section 4668
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 4669
deductions to adjusted gross income required under division (A) of 4670
this section, (ii) the amount of federal income taxes attributable 4671
to such income, and (iii) the amount of taxable income that has 4672
been included in the adjusted gross income of a beneficiary by 4673
reason of a prior accumulation distribution. Any undistributed net 4674
income included in the adjusted gross income of a beneficiary 4675
shall reduce the undistributed net income of the trust commencing 4676
with the earliest years of the accumulation period. 4677

(7) Deduct the amount of wages and salaries, if any, not 4678
otherwise allowable as a deduction but that would have been 4679
allowable as a deduction in computing federal adjusted gross 4680
income for the taxable year, had the targeted jobs credit allowed 4681
and determined under sections 38, 51, and 52 of the Internal 4682
Revenue Code not been in effect. 4683

(8) Deduct any interest or interest equivalent on public 4684
obligations and purchase obligations to the extent that the 4685
interest or interest equivalent is included in federal adjusted 4686
gross income. 4687

(9) Add any loss or deduct any gain resulting from the sale, 4688
exchange, or other disposition of public obligations to the extent 4689
that the loss has been deducted or the gain has been included in 4690
computing federal adjusted gross income. 4691

(10) Deduct or add amounts, as provided under section 5747.70 4692
of the Revised Code, related to contributions to variable college 4693
savings program accounts made or tuition units purchased pursuant 4694
to Chapter 3334. of the Revised Code. 4695

(11)(a) Deduct, to the extent not otherwise allowable as a 4696
deduction or exclusion in computing federal or Ohio adjusted gross 4697
income for the taxable year, the amount the taxpayer paid during 4698
the taxable year for medical care insurance and qualified 4699
long-term care insurance for the taxpayer, the taxpayer's spouse, 4700
and dependents. No deduction for medical care insurance under 4701
division (A)(11) of this section shall be allowed either to any 4702
taxpayer who is eligible to participate in any subsidized health 4703
plan maintained by any employer of the taxpayer or of the 4704
taxpayer's spouse, or to any taxpayer who is entitled to, or on 4705
application would be entitled to, benefits under part A of Title 4706
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 4707
301, as amended. For the purposes of division (A)(11)(a) of this 4708
section, "subsidized health plan" means a health plan for which 4709
the employer pays any portion of the plan's cost. The deduction 4710
allowed under division (A)(11)(a) of this section shall be the net 4711
of any related premium refunds, related premium reimbursements, or 4712
related insurance premium dividends received during the taxable 4713
year. 4714

(b) Deduct, to the extent not otherwise deducted or excluded 4715
in computing federal or Ohio adjusted gross income during the 4716
taxable year, the amount the taxpayer paid during the taxable 4717
year, not compensated for by any insurance or otherwise, for 4718
medical care of the taxpayer, the taxpayer's spouse, and 4719
dependents, to the extent the expenses exceed seven and one-half 4720
per cent of the taxpayer's federal adjusted gross income. 4721

(c) Deduct, to the extent not otherwise deducted or excluded 4722
in computing federal or Ohio adjusted gross income, any amount 4723
included in federal adjusted gross income under section 105 or not 4724
excluded under section 106 of the Internal Revenue Code solely 4725
because it relates to an accident and health plan for a person who 4726
otherwise would be a "qualifying relative" and thus a "dependent" 4727

under section 152 of the Internal Revenue Code but for the fact 4728
that the person fails to meet the income and support limitations 4729
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 4730

(d) For purposes of division (A)(11) of this section, 4731
"medical care" has the meaning given in section 213 of the 4732
Internal Revenue Code, subject to the special rules, limitations, 4733
and exclusions set forth therein, and "qualified long-term care" 4734
has the same meaning given in section 7702B(c) of the Internal 4735
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 4736
of this section, "dependent" includes a person who otherwise would 4737
be a "qualifying relative" and thus a "dependent" under section 4738
152 of the Internal Revenue Code but for the fact that the person 4739
fails to meet the income and support limitations under section 4740
152(d)(1)(B) and (C) of the Internal Revenue Code. 4741

(12)(a) Deduct any amount included in federal adjusted gross 4742
income solely because the amount represents a reimbursement or 4743
refund of expenses that in any year the taxpayer had deducted as 4744
an itemized deduction pursuant to section 63 of the Internal 4745
Revenue Code and applicable United States department of the 4746
treasury regulations. The deduction otherwise allowed under 4747
division (A)(12)(a) of this section shall be reduced to the extent 4748
the reimbursement is attributable to an amount the taxpayer 4749
deducted under this section in any taxable year. 4750

(b) Add any amount not otherwise included in Ohio adjusted 4751
gross income for any taxable year to the extent that the amount is 4752
attributable to the recovery during the taxable year of any amount 4753
deducted or excluded in computing federal or Ohio adjusted gross 4754
income in any taxable year. 4755

(13) Deduct any portion of the deduction described in section 4756
1341(a)(2) of the Internal Revenue Code, for repaying previously 4757
reported income received under a claim of right, that meets both 4758
of the following requirements: 4759

(a) It is allowable for repayment of an item that was 4760
included in the taxpayer's adjusted gross income for a prior 4761
taxable year and did not qualify for a credit under division (A) 4762
or (B) of section 5747.05 of the Revised Code for that year; 4763

(b) It does not otherwise reduce the taxpayer's adjusted 4764
gross income for the current or any other taxable year. 4765

(14) Deduct an amount equal to the deposits made to, and net 4766
investment earnings of, a medical savings account during the 4767
taxable year, in accordance with section 3924.66 of the Revised 4768
Code. The deduction allowed by division (A)(14) of this section 4769
does not apply to medical savings account deposits and earnings 4770
otherwise deducted or excluded for the current or any other 4771
taxable year from the taxpayer's federal adjusted gross income. 4772

(15)(a) Add an amount equal to the funds withdrawn from a 4773
medical savings account during the taxable year, and the net 4774
investment earnings on those funds, when the funds withdrawn were 4775
used for any purpose other than to reimburse an account holder 4776
for, or to pay, eligible medical expenses, in accordance with 4777
section 3924.66 of the Revised Code; 4778

(b) Add the amounts distributed from a medical savings 4779
account under division (A)(2) of section 3924.68 of the Revised 4780
Code during the taxable year. 4781

(16) Add any amount claimed as a credit under section 4782
5747.059 or 5747.65 of the Revised Code to the extent that such 4783
amount satisfies either of the following: 4784

(a) The amount was deducted or excluded from the computation 4785
of the taxpayer's federal adjusted gross income as required to be 4786
reported for the taxpayer's taxable year under the Internal 4787
Revenue Code; 4788

(b) The amount resulted in a reduction of the taxpayer's 4789
federal adjusted gross income as required to be reported for any 4790

of the taxpayer's taxable years under the Internal Revenue Code. 4791

(17) Deduct the amount contributed by the taxpayer to an 4792
individual development account program established by a county 4793
department of job and family services pursuant to sections 329.11 4794
to 329.14 of the Revised Code for the purpose of matching funds 4795
deposited by program participants. On request of the tax 4796
commissioner, the taxpayer shall provide any information that, in 4797
the tax commissioner's opinion, is necessary to establish the 4798
amount deducted under division (A)(17) of this section. 4799

(18) Beginning in taxable year 2001 but not for any taxable 4800
year beginning after December 31, 2005, if the taxpayer is married 4801
and files a joint return and the combined federal adjusted gross 4802
income of the taxpayer and the taxpayer's spouse for the taxable 4803
year does not exceed one hundred thousand dollars, or if the 4804
taxpayer is single and has a federal adjusted gross income for the 4805
taxable year not exceeding fifty thousand dollars, deduct amounts 4806
paid during the taxable year for qualified tuition and fees paid 4807
to an eligible institution for the taxpayer, the taxpayer's 4808
spouse, or any dependent of the taxpayer, who is a resident of 4809
this state and is enrolled in or attending a program that 4810
culminates in a degree or diploma at an eligible institution. The 4811
deduction may be claimed only to the extent that qualified tuition 4812
and fees are not otherwise deducted or excluded for any taxable 4813
year from federal or Ohio adjusted gross income. The deduction may 4814
not be claimed for educational expenses for which the taxpayer 4815
claims a credit under section 5747.27 of the Revised Code. 4816

(19) Add any reimbursement received during the taxable year 4817
of any amount the taxpayer deducted under division (A)(18) of this 4818
section in any previous taxable year to the extent the amount is 4819
not otherwise included in Ohio adjusted gross income. 4820

(20)(a)(i) Add five-sixths of the amount of depreciation 4821
expense allowed by subsection (k) of section 168 of the Internal 4822

Revenue Code, including the taxpayer's proportionate or 4823
distributive share of the amount of depreciation expense allowed 4824
by that subsection to a pass-through entity in which the taxpayer 4825
has a direct or indirect ownership interest. 4826

(ii) Add five-sixths of the amount of qualifying section 179 4827
depreciation expense, including a person's proportionate or 4828
distributive share of the amount of qualifying section 179 4829
depreciation expense allowed to any pass-through entity in which 4830
the person has a direct or indirect ownership. For the purposes of 4831
this division, "qualifying section 179 depreciation expense" means 4832
the difference between (I) the amount of depreciation expense 4833
directly or indirectly allowed to the taxpayer under section 179 4834
of the Internal Revenue Code, and (II) the amount of depreciation 4835
expense directly or indirectly allowed to the taxpayer under 4836
section 179 of the Internal Revenue Code as that section existed 4837
on December 31, 2002. 4838

The tax commissioner, under procedures established by the 4839
commissioner, may waive the add-backs related to a pass-through 4840
entity if the taxpayer owns, directly or indirectly, less than 4841
five per cent of the pass-through entity. 4842

(b) Nothing in division (A)(20) of this section shall be 4843
construed to adjust or modify the adjusted basis of any asset. 4844

(c) To the extent the add-back required under division 4845
(A)(20)(a) of this section is attributable to property generating 4846
nonbusiness income or loss allocated under section 5747.20 of the 4847
Revised Code, the add-back shall be situated to the same location 4848
as the nonbusiness income or loss generated by the property for 4849
the purpose of determining the credit under division (A) of 4850
section 5747.05 of the Revised Code. Otherwise, the add-back shall 4851
be apportioned, subject to one or more of the four alternative 4852
methods of apportionment enumerated in section 5747.21 of the 4853
Revised Code. 4854

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

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

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

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

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded 4886
in computing federal or Ohio adjusted gross income for the taxable 4887
year, the amount the taxpayer received during the taxable year as 4888
a death benefit paid by the adjutant general under section 5919.33 4889
of the Revised Code. 4890

(24) Deduct, to the extent included in federal adjusted gross 4891
income and not otherwise allowable as a deduction or exclusion in 4892
computing federal or Ohio adjusted gross income for the taxable 4893
year, military pay and allowances received by the taxpayer during 4894
the taxable year for active duty service in the United States 4895
army, air force, navy, marine corps, or coast guard or reserve 4896
components thereof or the national guard. The deduction may not be 4897
claimed for military pay and allowances received by the taxpayer 4898
while the taxpayer is stationed in this state. 4899

(25) Deduct, to the extent not otherwise allowable as a 4900
deduction or exclusion in computing federal or Ohio adjusted gross 4901
income for the taxable year and not otherwise compensated for by 4902
any other source, the amount of qualified organ donation expenses 4903
incurred by the taxpayer during the taxable year, not to exceed 4904
ten thousand dollars. A taxpayer may deduct qualified organ 4905
donation expenses only once for all taxable years beginning with 4906
taxable years beginning in 2007. 4907

For the purposes of division (A)(25) of this section: 4908

(a) "Human organ" means all or any portion of a human liver, 4909
pancreas, kidney, intestine, or lung, and any portion of human 4910
bone marrow. 4911

(b) "Qualified organ donation expenses" means travel 4912
expenses, lodging expenses, and wages and salary forgone by a 4913
taxpayer in connection with the taxpayer's donation, while living, 4914
of one or more of the taxpayer's human organs to another human 4915
being. 4916

(26) Deduct, to the extent not otherwise deducted or excluded 4917
in computing federal or Ohio adjusted gross income for the taxable 4918
year, amounts received by the taxpayer as retired military 4919
personnel pay for service in the United States army, navy, air 4920
force, coast guard, or marine corps or reserve components thereof, 4921
or the national guard, or received by the surviving spouse or 4922
former spouse of such a taxpayer under the survivor benefit plan 4923
on account of such a taxpayer's death. If the taxpayer receives 4924
income on account of retirement paid under the federal civil 4925
service retirement system or federal employees retirement system, 4926
or under any successor retirement program enacted by the congress 4927
of the United States that is established and maintained for 4928
retired employees of the United States government, and such 4929
retirement income is based, in whole or in part, on credit for the 4930
taxpayer's military service, the deduction allowed under this 4931
division shall include only that portion of such retirement income 4932
that is attributable to the taxpayer's military service, to the 4933
extent that portion of such retirement income is otherwise 4934
included in federal adjusted gross income and is not otherwise 4935
deducted under this section. Any amount deducted under division 4936
(A)(26) of this section is not included in a taxpayer's adjusted 4937
gross income for the purposes of section 5747.055 of the Revised 4938
Code. No amount may be deducted under division (A)(26) of this 4939
section on the basis of which a credit was claimed under section 4940
5747.055 of the Revised Code. 4941

(27) Deduct, to the extent not otherwise deducted or excluded 4942
in computing federal or Ohio adjusted gross income for the taxable 4943
year, the amount the taxpayer received during the taxable year 4944
from the military injury relief fund created in section 5101.98 of 4945
the Revised Code. 4946

(28) Deduct, to the extent not otherwise deducted or excluded 4947
in computing federal or Ohio adjusted gross income for the taxable 4948

year, the amount the taxpayer received as a veterans bonus during 4949
the taxable year from the Ohio department of veterans services as 4950
authorized by Section 2r of Article VIII, Ohio Constitution. 4951

(29) Deduct, to the extent not otherwise deducted or excluded 4952
in computing federal or Ohio adjusted gross income for the taxable 4953
year, any loss from wagering transactions that is allowed as an 4954
itemized deduction under section 165 of the Internal Revenue Code 4955
and that the taxpayer deducted in computing federal taxable 4956
income. 4957

(30) Deduct, to the extent not otherwise deducted or excluded 4958
in computing federal or Ohio adjusted gross income for the taxable 4959
year, any income derived from providing public services under a 4960
contract through a project owned by the state, as described in 4961
section 126.604 of the Revised Code or derived from a transfer 4962
agreement or from the enterprise transferred under that agreement 4963
under section 4313.02 of the Revised Code. 4964

(31) Deduct, to the extent not otherwise deducted or excluded 4965
in computing federal or Ohio adjusted gross income for the taxable 4966
year, Ohio college opportunity or federal Pell grant amounts 4967
received by the taxpayer or the taxpayer's spouse or dependent 4968
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 4969
1070a, et seq., and used to pay room or board furnished by the 4970
educational institution for which the grant was awarded at the 4971
institution's facilities, including meal plans administered by the 4972
institution. For the purposes of this division, receipt of a grant 4973
includes the distribution of a grant directly to an educational 4974
institution and the crediting of the grant to the enrollee's 4975
account with the institution. 4976

(B) "Business income" means income, including gain or loss, 4977
arising from transactions, activities, and sources in the regular 4978
course of a trade or business and includes income, gain, or loss 4979
from real property, tangible property, and intangible property if 4980

the acquisition, rental, management, and disposition of the 4981
property constitute integral parts of the regular course of a 4982
trade or business operation. "Business income" includes income, 4983
including gain or loss, from a partial or complete liquidation of 4984
a business, including, but not limited to, gain or loss from the 4985
sale or other disposition of goodwill. 4986

(C) "Nonbusiness income" means all income other than business 4987
income and may include, but is not limited to, compensation, rents 4988
and royalties from real or tangible personal property, capital 4989
gains, interest, dividends and distributions, patent or copyright 4990
royalties, or lottery winnings, prizes, and awards. 4991

(D) "Compensation" means any form of remuneration paid to an 4992
employee for personal services. 4993

(E) "Fiduciary" means a guardian, trustee, executor, 4994
administrator, receiver, conservator, or any other person acting 4995
in any fiduciary capacity for any individual, trust, or estate. 4996

(F) "Fiscal year" means an accounting period of twelve months 4997
ending on the last day of any month other than December. 4998

(G) "Individual" means any natural person. 4999

(H) "Internal Revenue Code" means the "Internal Revenue Code 5000
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 5001

(I) "Resident" means any of the following, provided that 5002
division (I)(3) of this section applies only to taxable years of a 5003
trust beginning in 2002 or thereafter: 5004

(1) An individual who is domiciled in this state, subject to 5005
section 5747.24 of the Revised Code; 5006

(2) The estate of a decedent who at the time of death was 5007
domiciled in this state. The domicile tests of section 5747.24 of 5008
the Revised Code are not controlling for purposes of division 5009
(I)(2) of this section. 5010

(3) A trust that, in whole or part, resides in this state. If 5011
only part of a trust resides in this state, the trust is a 5012
resident only with respect to that part. 5013

For the purposes of division (I)(3) of this section: 5014

(a) A trust resides in this state for the trust's current 5015
taxable year to the extent, as described in division (I)(3)(d) of 5016
this section, that the trust consists directly or indirectly, in 5017
whole or in part, of assets, net of any related liabilities, that 5018
were transferred, or caused to be transferred, directly or 5019
indirectly, to the trust by any of the following: 5020

(i) A person, a court, or a governmental entity or 5021
instrumentality on account of the death of a decedent, but only if 5022
the trust is described in division (I)(3)(e)(i) or (ii) of this 5023
section; 5024

(ii) A person who was domiciled in this state for the 5025
purposes of this chapter when the person directly or indirectly 5026
transferred assets to an irrevocable trust, but only if at least 5027
one of the trust's qualifying beneficiaries is domiciled in this 5028
state for the purposes of this chapter during all or some portion 5029
of the trust's current taxable year; 5030

(iii) A person who was domiciled in this state for the 5031
purposes of this chapter when the trust document or instrument or 5032
part of the trust document or instrument became irrevocable, but 5033
only if at least one of the trust's qualifying beneficiaries is a 5034
resident domiciled in this state for the purposes of this chapter 5035
during all or some portion of the trust's current taxable year. If 5036
a trust document or instrument became irrevocable upon the death 5037
of a person who at the time of death was domiciled in this state 5038
for purposes of this chapter, that person is a person described in 5039
division (I)(3)(a)(iii) of this section. 5040

(b) A trust is irrevocable to the extent that the transferor 5041

is not considered to be the owner of the net assets of the trust 5042
under sections 671 to 678 of the Internal Revenue Code. 5043

(c) With respect to a trust other than a charitable lead 5044
trust, "qualifying beneficiary" has the same meaning as "potential 5045
current beneficiary" as defined in section 1361(e)(2) of the 5046
Internal Revenue Code, and with respect to a charitable lead trust 5047
"qualifying beneficiary" is any current, future, or contingent 5048
beneficiary, but with respect to any trust "qualifying 5049
beneficiary" excludes a person or a governmental entity or 5050
instrumentality to any of which a contribution would qualify for 5051
the charitable deduction under section 170 of the Internal Revenue 5052
Code. 5053

(d) For the purposes of division (I)(3)(a) of this section, 5054
the extent to which a trust consists directly or indirectly, in 5055
whole or in part, of assets, net of any related liabilities, that 5056
were transferred directly or indirectly, in whole or part, to the 5057
trust by any of the sources enumerated in that division shall be 5058
ascertained by multiplying the fair market value of the trust's 5059
assets, net of related liabilities, by the qualifying ratio, which 5060
shall be computed as follows: 5061

(i) The first time the trust receives assets, the numerator 5062
of the qualifying ratio is the fair market value of those assets 5063
at that time, net of any related liabilities, from sources 5064
enumerated in division (I)(3)(a) of this section. The denominator 5065
of the qualifying ratio is the fair market value of all the 5066
trust's assets at that time, net of any related liabilities. 5067

(ii) Each subsequent time the trust receives assets, a 5068
revised qualifying ratio shall be computed. The numerator of the 5069
revised qualifying ratio is the sum of (1) the fair market value 5070
of the trust's assets immediately prior to the subsequent 5071
transfer, net of any related liabilities, multiplied by the 5072
qualifying ratio last computed without regard to the subsequent 5073

transfer, and (2) the fair market value of the subsequently 5074
transferred assets at the time transferred, net of any related 5075
liabilities, from sources enumerated in division (I)(3)(a) of this 5076
section. The denominator of the revised qualifying ratio is the 5077
fair market value of all the trust's assets immediately after the 5078
subsequent transfer, net of any related liabilities. 5079

(iii) Whether a transfer to the trust is by or from any of 5080
the sources enumerated in division (I)(3)(a) of this section shall 5081
be ascertained without regard to the domicile of the trust's 5082
beneficiaries. 5083

(e) For the purposes of division (I)(3)(a)(i) of this 5084
section: 5085

(i) A trust is described in division (I)(3)(e)(i) of this 5086
section if the trust is a testamentary trust and the testator of 5087
that testamentary trust was domiciled in this state at the time of 5088
the testator's death for purposes of the taxes levied under 5089
Chapter 5731. of the Revised Code. 5090

(ii) A trust is described in division (I)(3)(e)(ii) of this 5091
section if the transfer is a qualifying transfer described in any 5092
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 5093
irrevocable inter vivos trust, and at least one of the trust's 5094
qualifying beneficiaries is domiciled in this state for purposes 5095
of this chapter during all or some portion of the trust's current 5096
taxable year. 5097

(f) For the purposes of division (I)(3)(e)(ii) of this 5098
section, a "qualifying transfer" is a transfer of assets, net of 5099
any related liabilities, directly or indirectly to a trust, if the 5100
transfer is described in any of the following: 5101

(i) The transfer is made to a trust, created by the decedent 5102
before the decedent's death and while the decedent was domiciled 5103
in this state for the purposes of this chapter, and, prior to the 5104

death of the decedent, the trust became irrevocable while the 5105
decedent was domiciled in this state for the purposes of this 5106
chapter. 5107

(ii) The transfer is made to a trust to which the decedent, 5108
prior to the decedent's death, had directly or indirectly 5109
transferred assets, net of any related liabilities, while the 5110
decedent was domiciled in this state for the purposes of this 5111
chapter, and prior to the death of the decedent the trust became 5112
irrevocable while the decedent was domiciled in this state for the 5113
purposes of this chapter. 5114

(iii) The transfer is made on account of a contractual 5115
relationship existing directly or indirectly between the 5116
transferor and either the decedent or the estate of the decedent 5117
at any time prior to the date of the decedent's death, and the 5118
decedent was domiciled in this state at the time of death for 5119
purposes of the taxes levied under Chapter 5731. of the Revised 5120
Code. 5121

(iv) The transfer is made to a trust on account of a 5122
contractual relationship existing directly or indirectly between 5123
the transferor and another person who at the time of the 5124
decedent's death was domiciled in this state for purposes of this 5125
chapter. 5126

(v) The transfer is made to a trust on account of the will of 5127
a testator who was domiciled in this state at the time of the 5128
testator's death for purposes of the taxes levied under Chapter 5129
5731. of the Revised Code. 5130

(vi) The transfer is made to a trust created by or caused to 5131
be created by a court, and the trust was directly or indirectly 5132
created in connection with or as a result of the death of an 5133
individual who, for purposes of the taxes levied under Chapter 5134
5731. of the Revised Code, was domiciled in this state at the time 5135

of the individual's death. 5136

(g) The tax commissioner may adopt rules to ascertain the 5137
part of a trust residing in this state. 5138

(J) "Nonresident" means an individual or estate that is not a 5139
resident. An individual who is a resident for only part of a 5140
taxable year is a nonresident for the remainder of that taxable 5141
year. 5142

(K) "Pass-through entity" has the same meaning as in section 5143
5733.04 of the Revised Code. 5144

(L) "Return" means the notifications and reports required to 5145
be filed pursuant to this chapter for the purpose of reporting the 5146
tax due and includes declarations of estimated tax when so 5147
required. 5148

(M) "Taxable year" means the calendar year or the taxpayer's 5149
fiscal year ending during the calendar year, or fractional part 5150
thereof, upon which the adjusted gross income is calculated 5151
pursuant to this chapter. 5152

(N) "Taxpayer" means any person subject to the tax imposed by 5153
section 5747.02 of the Revised Code or any pass-through entity 5154
that makes the election under division (D) of section 5747.08 of 5155
the Revised Code. 5156

(O) "Dependents" means dependents as defined in the Internal 5157
Revenue Code and as claimed in the taxpayer's federal income tax 5158
return for the taxable year or which the taxpayer would have been 5159
permitted to claim had the taxpayer filed a federal income tax 5160
return. 5161

(P) "Principal county of employment" means, in the case of a 5162
nonresident, the county within the state in which a taxpayer 5163
performs services for an employer or, if those services are 5164
performed in more than one county, the county in which the major 5165

portion of the services are performed. 5166

(Q) As used in sections 5747.50 to 5747.55 of the Revised 5167
Code: 5168

(1) "Subdivision" means any county, municipal corporation, 5169
park district, or township. 5170

(2) "Essential local government purposes" includes all 5171
functions that any subdivision is required by general law to 5172
exercise, including like functions that are exercised under a 5173
charter adopted pursuant to the Ohio Constitution. 5174

(R) "Overpayment" means any amount already paid that exceeds 5175
the figure determined to be the correct amount of the tax. 5176

(S) "Taxable income" or "Ohio taxable income" applies only to 5177
estates and trusts, and means federal taxable income, as defined 5178
and used in the Internal Revenue Code, adjusted as follows: 5179

(1) Add interest or dividends, net of ordinary, necessary, 5180
and reasonable expenses not deducted in computing federal taxable 5181
income, on obligations or securities of any state or of any 5182
political subdivision or authority of any state, other than this 5183
state and its subdivisions and authorities, but only to the extent 5184
that such net amount is not otherwise includible in Ohio taxable 5185
income and is described in either division (S)(1)(a) or (b) of 5186
this section: 5187

(a) The net amount is not attributable to the S portion of an 5188
electing small business trust and has not been distributed to 5189
beneficiaries for the taxable year; 5190

(b) The net amount is attributable to the S portion of an 5191
electing small business trust for the taxable year. 5192

(2) Add interest or dividends, net of ordinary, necessary, 5193
and reasonable expenses not deducted in computing federal taxable 5194
income, on obligations of any authority, commission, 5195

instrumentality, territory, or possession of the United States to 5196
the extent that the interest or dividends are exempt from federal 5197
income taxes but not from state income taxes, but only to the 5198
extent that such net amount is not otherwise includible in Ohio 5199
taxable income and is described in either division (S)(1)(a) or 5200
(b) of this section; 5201

(3) Add the amount of personal exemption allowed to the 5202
estate pursuant to section 642(b) of the Internal Revenue Code; 5203

(4) Deduct interest or dividends, net of related expenses 5204
deducted in computing federal taxable income, on obligations of 5205
the United States and its territories and possessions or of any 5206
authority, commission, or instrumentality of the United States to 5207
the extent that the interest or dividends are exempt from state 5208
taxes under the laws of the United States, but only to the extent 5209
that such amount is included in federal taxable income and is 5210
described in either division (S)(1)(a) or (b) of this section; 5211

(5) Deduct the amount of wages and salaries, if any, not 5212
otherwise allowable as a deduction but that would have been 5213
allowable as a deduction in computing federal taxable income for 5214
the taxable year, had the targeted jobs credit allowed under 5215
sections 38, 51, and 52 of the Internal Revenue Code not been in 5216
effect, but only to the extent such amount relates either to 5217
income included in federal taxable income for the taxable year or 5218
to income of the S portion of an electing small business trust for 5219
the taxable year; 5220

(6) Deduct any interest or interest equivalent, net of 5221
related expenses deducted in computing federal taxable income, on 5222
public obligations and purchase obligations, but only to the 5223
extent that such net amount relates either to income included in 5224
federal taxable income for the taxable year or to income of the S 5225
portion of an electing small business trust for the taxable year; 5226

(7) Add any loss or deduct any gain resulting from sale, 5227
exchange, or other disposition of public obligations to the extent 5228
that such loss has been deducted or such gain has been included in 5229
computing either federal taxable income or income of the S portion 5230
of an electing small business trust for the taxable year; 5231

(8) Except in the case of the final return of an estate, add 5232
any amount deducted by the taxpayer on both its Ohio estate tax 5233
return pursuant to section 5731.14 of the Revised Code, and on its 5234
federal income tax return in determining federal taxable income; 5235

(9)(a) Deduct any amount included in federal taxable income 5236
solely because the amount represents a reimbursement or refund of 5237
expenses that in a previous year the decedent had deducted as an 5238
itemized deduction pursuant to section 63 of the Internal Revenue 5239
Code and applicable treasury regulations. The deduction otherwise 5240
allowed under division (S)(9)(a) of this section shall be reduced 5241
to the extent the reimbursement is attributable to an amount the 5242
taxpayer or decedent deducted under this section in any taxable 5243
year. 5244

(b) Add any amount not otherwise included in Ohio taxable 5245
income for any taxable year to the extent that the amount is 5246
attributable to the recovery during the taxable year of any amount 5247
deducted or excluded in computing federal or Ohio taxable income 5248
in any taxable year, but only to the extent such amount has not 5249
been distributed to beneficiaries for the taxable year. 5250

(10) Deduct any portion of the deduction described in section 5251
1341(a)(2) of the Internal Revenue Code, for repaying previously 5252
reported income received under a claim of right, that meets both 5253
of the following requirements: 5254

(a) It is allowable for repayment of an item that was 5255
included in the taxpayer's taxable income or the decedent's 5256
adjusted gross income for a prior taxable year and did not qualify 5257

for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

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

(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of the following:

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

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

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

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of

this section applies only to taxable years of a trust beginning in 2002 or thereafter.

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

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

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

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

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

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

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

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the

taxpayer's taxable year. 5319

(AA)(1) "Eligible institution" means a state university or 5320
state institution of higher education as defined in section 5321
3345.011 of the Revised Code, or a private, nonprofit college, 5322
university, or other post-secondary institution located in this 5323
state that possesses a certificate of authorization issued by the 5324
Ohio board of regents pursuant to Chapter 1713. of the Revised 5325
Code or a certificate of registration issued by the state board of 5326
career colleges and schools under Chapter 3332. of the Revised 5327
Code. 5328

(2) "Qualified tuition and fees" means tuition and fees 5329
imposed by an eligible institution as a condition of enrollment or 5330
attendance, not exceeding two thousand five hundred dollars in 5331
each of the individual's first two years of post-secondary 5332
education. If the individual is a part-time student, "qualified 5333
tuition and fees" includes tuition and fees paid for the academic 5334
equivalent of the first two years of post-secondary education 5335
during a maximum of five taxable years, not exceeding a total of 5336
five thousand dollars. "Qualified tuition and fees" does not 5337
include: 5338

(a) Expenses for any course or activity involving sports, 5339
games, or hobbies unless the course or activity is part of the 5340
individual's degree or diploma program; 5341

(b) The cost of books, room and board, student activity fees, 5342
athletic fees, insurance expenses, or other expenses unrelated to 5343
the individual's academic course of instruction; 5344

(c) Tuition, fees, or other expenses paid or reimbursed 5345
through an employer, scholarship, grant in aid, or other 5346
educational benefit program. 5347

(BB)(1) "Modified business income" means the business income 5348
included in a trust's Ohio taxable income after such taxable 5349

income is first reduced by the qualifying trust amount, if any. 5350

(2) "Qualifying trust amount" of a trust means capital gains 5351
and losses from the sale, exchange, or other disposition of equity 5352
or ownership interests in, or debt obligations of, a qualifying 5353
investee to the extent included in the trust's Ohio taxable 5354
income, but only if the following requirements are satisfied: 5355

(a) The book value of the qualifying investee's physical 5356
assets in this state and everywhere, as of the last day of the 5357
qualifying investee's fiscal or calendar year ending immediately 5358
prior to the date on which the trust recognizes the gain or loss, 5359
is available to the trust. 5360

(b) The requirements of section 5747.011 of the Revised Code 5361
are satisfied for the trust's taxable year in which the trust 5362
recognizes the gain or loss. 5363

Any gain or loss that is not a qualifying trust amount is 5364
modified business income, qualifying investment income, or 5365
modified nonbusiness income, as the case may be. 5366

(3) "Modified nonbusiness income" means a trust's Ohio 5367
taxable income other than modified business income, other than the 5368
qualifying trust amount, and other than qualifying investment 5369
income, as defined in section 5747.012 of the Revised Code, to the 5370
extent such qualifying investment income is not otherwise part of 5371
modified business income. 5372

(4) "Modified Ohio taxable income" applies only to trusts, 5373
and means the sum of the amounts described in divisions (BB)(4)(a) 5374
to (c) of this section: 5375

(a) The fraction, calculated under section 5747.013, and 5376
applying section 5747.231 of the Revised Code, multiplied by the 5377
sum of the following amounts: 5378

(i) The trust's modified business income; 5379

(ii) The trust's qualifying investment income, as defined in 5380
section 5747.012 of the Revised Code, but only to the extent the 5381
qualifying investment income does not otherwise constitute 5382
modified business income and does not otherwise constitute a 5383
qualifying trust amount. 5384

(b) The qualifying trust amount multiplied by a fraction, the 5385
numerator of which is the sum of the book value of the qualifying 5386
investee's physical assets in this state on the last day of the 5387
qualifying investee's fiscal or calendar year ending immediately 5388
prior to the day on which the trust recognizes the qualifying 5389
trust amount, and the denominator of which is the sum of the book 5390
value of the qualifying investee's total physical assets 5391
everywhere on the last day of the qualifying investee's fiscal or 5392
calendar year ending immediately prior to the day on which the 5393
trust recognizes the qualifying trust amount. If, for a taxable 5394
year, the trust recognizes a qualifying trust amount with respect 5395
to more than one qualifying investee, the amount described in 5396
division (BB)(4)(b) of this section shall equal the sum of the 5397
products so computed for each such qualifying investee. 5398

(c)(i) With respect to a trust or portion of a trust that is 5399
a resident as ascertained in accordance with division (I)(3)(d) of 5400
this section, its modified nonbusiness income. 5401

(ii) With respect to a trust or portion of a trust that is 5402
not a resident as ascertained in accordance with division 5403
(I)(3)(d) of this section, the amount of its modified nonbusiness 5404
income satisfying the descriptions in divisions (B)(2) to (5) of 5405
section 5747.20 of the Revised Code, except as otherwise provided 5406
in division (BB)(4)(c)(ii) of this section. With respect to a 5407
trust or portion of a trust that is not a resident as ascertained 5408
in accordance with division (I)(3)(d) of this section, the trust's 5409
portion of modified nonbusiness income recognized from the sale, 5410
exchange, or other disposition of a debt interest in or equity 5411

interest in a section 5747.212 entity, as defined in section 5412
5747.212 of the Revised Code, without regard to division (A) of 5413
that section, shall not be allocated to this state in accordance 5414
with section 5747.20 of the Revised Code but shall be apportioned 5415
to this state in accordance with division (B) of section 5747.212 5416
of the Revised Code without regard to division (A) of that 5417
section. 5418

If the allocation and apportionment of a trust's income under 5419
divisions (BB)(4)(a) and (c) of this section do not fairly 5420
represent the modified Ohio taxable income of the trust in this 5421
state, the alternative methods described in division (C) of 5422
section 5747.21 of the Revised Code may be applied in the manner 5423
and to the same extent provided in that section. 5424

(5)(a) Except as set forth in division (BB)(5)(b) of this 5425
section, "qualifying investee" means a person in which a trust has 5426
an equity or ownership interest, or a person or unit of government 5427
the debt obligations of either of which are owned by a trust. For 5428
the purposes of division (BB)(2)(a) of this section and for the 5429
purpose of computing the fraction described in division (BB)(4)(b) 5430
of this section, all of the following apply: 5431

(i) If the qualifying investee is a member of a qualifying 5432
controlled group on the last day of the qualifying investee's 5433
fiscal or calendar year ending immediately prior to the date on 5434
which the trust recognizes the gain or loss, then "qualifying 5435
investee" includes all persons in the qualifying controlled group 5436
on such last day. 5437

(ii) If the qualifying investee, or if the qualifying 5438
investee and any members of the qualifying controlled group of 5439
which the qualifying investee is a member on the last day of the 5440
qualifying investee's fiscal or calendar year ending immediately 5441
prior to the date on which the trust recognizes the gain or loss, 5442
separately or cumulatively own, directly or indirectly, on the 5443

last day of the qualifying investee's fiscal or calendar year 5444
ending immediately prior to the date on which the trust recognizes 5445
the qualifying trust amount, more than fifty per cent of the 5446
equity of a pass-through entity, then the qualifying investee and 5447
the other members are deemed to own the proportionate share of the 5448
pass-through entity's physical assets which the pass-through 5449
entity directly or indirectly owns on the last day of the 5450
pass-through entity's calendar or fiscal year ending within or 5451
with the last day of the qualifying investee's fiscal or calendar 5452
year ending immediately prior to the date on which the trust 5453
recognizes the qualifying trust amount. 5454

(iii) For the purposes of division (BB)(5)(a)(iii) of this 5455
section, "upper level pass-through entity" means a pass-through 5456
entity directly or indirectly owning any equity of another 5457
pass-through entity, and "lower level pass-through entity" means 5458
that other pass-through entity. 5459

An upper level pass-through entity, whether or not it is also 5460
a qualifying investee, is deemed to own, on the last day of the 5461
upper level pass-through entity's calendar or fiscal year, the 5462
proportionate share of the lower level pass-through entity's 5463
physical assets that the lower level pass-through entity directly 5464
or indirectly owns on the last day of the lower level pass-through 5465
entity's calendar or fiscal year ending within or with the last 5466
day of the upper level pass-through entity's fiscal or calendar 5467
year. If the upper level pass-through entity directly and 5468
indirectly owns less than fifty per cent of the equity of the 5469
lower level pass-through entity on each day of the upper level 5470
pass-through entity's calendar or fiscal year in which or with 5471
which ends the calendar or fiscal year of the lower level 5472
pass-through entity and if, based upon clear and convincing 5473
evidence, complete information about the location and cost of the 5474
physical assets of the lower pass-through entity is not available 5475

to the upper level pass-through entity, then solely for purposes 5476
of ascertaining if a gain or loss constitutes a qualifying trust 5477
amount, the upper level pass-through entity shall be deemed as 5478
owning no equity of the lower level pass-through entity for each 5479
day during the upper level pass-through entity's calendar or 5480
fiscal year in which or with which ends the lower level 5481
pass-through entity's calendar or fiscal year. Nothing in division 5482
(BB)(5)(a)(iii) of this section shall be construed to provide for 5483
any deduction or exclusion in computing any trust's Ohio taxable 5484
income. 5485

(b) With respect to a trust that is not a resident for the 5486
taxable year and with respect to a part of a trust that is not a 5487
resident for the taxable year, "qualifying investee" for that 5488
taxable year does not include a C corporation if both of the 5489
following apply: 5490

(i) During the taxable year the trust or part of the trust 5491
recognizes a gain or loss from the sale, exchange, or other 5492
disposition of equity or ownership interests in, or debt 5493
obligations of, the C corporation. 5494

(ii) Such gain or loss constitutes nonbusiness income. 5495

(6) "Available" means information is such that a person is 5496
able to learn of the information by the due date plus extensions, 5497
if any, for filing the return for the taxable year in which the 5498
trust recognizes the gain or loss. 5499

(CC) "Qualifying controlled group" has the same meaning as in 5500
section 5733.04 of the Revised Code. 5501

(DD) "Related member" has the same meaning as in section 5502
5733.042 of the Revised Code. 5503

(EE)(1) For the purposes of division (EE) of this section: 5504

(a) "Qualifying person" means any person other than a 5505

qualifying corporation. 5506

(b) "Qualifying corporation" means any person classified for 5507
federal income tax purposes as an association taxable as a 5508
corporation, except either of the following: 5509

(i) A corporation that has made an election under subchapter 5510
S, chapter one, subtitle A, of the Internal Revenue Code for its 5511
taxable year ending within, or on the last day of, the investor's 5512
taxable year; 5513

(ii) A subsidiary that is wholly owned by any corporation 5514
that has made an election under subchapter S, chapter one, 5515
subtitle A of the Internal Revenue Code for its taxable year 5516
ending within, or on the last day of, the investor's taxable year. 5517

(2) For the purposes of this chapter, unless expressly stated 5518
otherwise, no qualifying person indirectly owns any asset directly 5519
or indirectly owned by any qualifying corporation. 5520

(FF) For purposes of this chapter and Chapter 5751. of the 5521
Revised Code: 5522

(1) "Trust" does not include a qualified pre-income tax 5523
trust. 5524

(2) A "qualified pre-income tax trust" is any pre-income tax 5525
trust that makes a qualifying pre-income tax trust election as 5526
described in division (FF)(3) of this section. 5527

(3) A "qualifying pre-income tax trust election" is an 5528
election by a pre-income tax trust to subject to the tax imposed 5529
by section 5751.02 of the Revised Code the pre-income tax trust 5530
and all pass-through entities of which the trust owns or controls, 5531
directly, indirectly, or constructively through related interests, 5532
five per cent or more of the ownership or equity interests. The 5533
trustee shall notify the tax commissioner in writing of the 5534
election on or before April 15, 2006. The election, if timely 5535

made, shall be effective on and after January 1, 2006, and shall 5536
apply for all tax periods and tax years until revoked by the 5537
trustee of the trust. 5538

(4) A "pre-income tax trust" is a trust that satisfies all of 5539
the following requirements: 5540

(a) The document or instrument creating the trust was 5541
executed by the grantor before January 1, 1972; 5542

(b) The trust became irrevocable upon the creation of the 5543
trust; and 5544

(c) The grantor was domiciled in this state at the time the 5545
trust was created. 5546

Sec. 5747.65. There is hereby allowed a refundable credit 5547
against the tax imposed under section 5747.02 of the Revised Code. 5548
The amount of the credit shall equal the taxpayer's proportionate 5549
share of the lesser of either the tax due or the tax paid for the 5550
tax imposed by section 5726.02 of the Revised Code by a 5551
pass-through entity for the pass-through entity's taxable year 5552
ending in the taxpayer's taxable year. 5553

The taxpayer shall claim the credit for the taxpayer's 5554
taxable year that includes the last day of the pass-through 5555
entity's taxable year. For purposes of making tax payments under 5556
this chapter, taxes equal to the amount of the credit shall be 5557
considered to be paid by the taxpayer on the day the pass-through 5558
entity pays to the treasurer of state the amount due for the tax 5559
imposed by section 5726.02 of the Revised Code. 5560

In claiming the credit and determining the taxpayer's 5561
proportionate share of the tax due and the tax paid by a 5562
pass-through entity, the taxpayer shall follow the concepts set 5563
forth in subchapters J and K of the Internal Revenue Code. 5564

The credit shall be claimed in the order required under 5565

section 5747.98 of the Revised Code. If the amount of the credit 5566
exceeds the amount of tax otherwise due under section 5747.02 of 5567
the Revised Code after deduction of all other credits in that 5568
order, the taxpayer is entitled to a refund of the excess. 5569

Sec. 5747.98. (A) To provide a uniform procedure for 5570
calculating the amount of tax due under section 5747.02 of the 5571
Revised Code, a taxpayer shall claim any credits to which the 5572
taxpayer is entitled in the following order: 5573

(1) The retirement income credit under division (B) of 5574
section 5747.055 of the Revised Code; 5575

(2) The senior citizen credit under division (C) of section 5576
5747.05 of the Revised Code; 5577

(3) The lump sum distribution credit under division (D) of 5578
section 5747.05 of the Revised Code; 5579

(4) The dependent care credit under section 5747.054 of the 5580
Revised Code; 5581

(5) The lump sum retirement income credit under division (C) 5582
of section 5747.055 of the Revised Code; 5583

(6) The lump sum retirement income credit under division (D) 5584
of section 5747.055 of the Revised Code; 5585

(7) The lump sum retirement income credit under division (E) 5586
of section 5747.055 of the Revised Code; 5587

(8) The low-income credit under section 5747.056 of the 5588
Revised Code; 5589

(9) The credit for displaced workers who pay for job training 5590
under section 5747.27 of the Revised Code; 5591

(10) The campaign contribution credit under section 5747.29 5592
of the Revised Code; 5593

(11) The twenty-dollar personal exemption credit under 5594

section 5747.022 of the Revised Code;	5595
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	5596 5597
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	5598 5599
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	5600 5601
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	5602 5603
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	5604 5605
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	5606 5607
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	5608 5609
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	5610 5611
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	5612 5613
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	5614 5615 5616
(22) The job training credit under section 5747.39 of the Revised Code;	5617 5618
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	5619 5620
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	5621 5622
(25) The credit for employers that establish on-site child	5623

day-care centers under section 5747.35 of the Revised Code;	5624
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	5625 5626
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	5627 5628
(28) The small business investment credit under section 5747.81 of the Revised Code;	5629 5630
(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;	5631 5632
(30) The enterprise zone credits under section 5709.65 of the Revised Code;	5633 5634
(31) The research and development credit under section 5747.331 of the Revised Code;	5635 5636
(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	5637 5638
(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	5639 5640
(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	5641 5642
(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	5643 5644
(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	5645 5646 5647
(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	5648 5649
(38) The refundable credit for tax withheld under section 5747.063 of the Revised Code;	5650 5651
(39) The refundable credit under section 5747.80 of the	5652

Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; 5653
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(40) The refundable motion picture production credit under section 5747.66 of the Revised Code; 5655
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(41) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code. 5657
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(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year. 5660
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Sec. 5751.01. As used in this chapter: 5670

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. 5671
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(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 5680
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5682

of the Revised Code. 5683

(C) "Combined taxpayer" means a group of two or more persons 5684
treated as a single taxpayer for purposes of this chapter under 5685
section 5751.012 of the Revised Code. 5686

(D) "Taxpayer" means any person, or any group of persons in 5687
the case of a consolidated elected taxpayer or combined taxpayer 5688
treated as one taxpayer, required to register or pay tax under 5689
this chapter. "Taxpayer" does not include excluded persons. 5690

(E) "Excluded person" means any of the following: 5691

(1) Any person with not more than one hundred fifty thousand 5692
dollars of taxable gross receipts during the calendar year. 5693
Division (E)(1) of this section does not apply to a person that is 5694
a member of a consolidated elected taxpayer; 5695

(2) A public utility that paid the excise tax imposed by 5696
section 5727.24 or 5727.30 of the Revised Code based on one or 5697
more measurement periods that include the entire tax period under 5698
this chapter, except that a public utility that is a combined 5699
company is a taxpayer with regard to the following gross receipts: 5700

(a) Taxable gross receipts directly attributed to a public 5701
utility activity, but not directly attributed to an activity that 5702
is subject to the excise tax imposed by section 5727.24 or 5727.30 5703
of the Revised Code; 5704

(b) Taxable gross receipts that cannot be directly attributed 5705
to any activity, multiplied by a fraction whose numerator is the 5706
taxable gross receipts described in division (E)(2)(a) of this 5707
section and whose denominator is the total taxable gross receipts 5708
that can be directly attributed to any activity; 5709

(c) Except for any differences resulting from the use of an 5710
accrual basis method of accounting for purposes of determining 5711
gross receipts under this chapter and the use of the cash basis 5712

method of accounting for purposes of determining gross receipts 5713
under section 5727.24 of the Revised Code, the gross receipts 5714
directly attributed to the activity of a natural gas company shall 5715
be determined in a manner consistent with division (D) of section 5716
5727.03 of the Revised Code. 5717

As used in division (E)(2) of this section, "combined 5718
company" and "public utility" have the same meanings as in section 5719
5727.01 of the Revised Code. 5720

(3) A financial institution, as defined in section ~~5725.01~~ 5721
~~5726.01~~ of the Revised Code, that paid the ~~corporation franchise~~ 5722
~~tax charged by division (D) of~~ imposed by section ~~5733.06~~ 5726.02 5723
of the Revised Code based on one or more taxable years that 5724
include the entire tax period under this chapter; 5725

~~(4) A dealer in intangibles, as defined in section 5725.01 of~~ 5726
~~the Revised Code, that paid the dealer in intangibles tax levied~~ 5727
~~by division (D) of section 5707.03 of the Revised Code based on~~ 5728
~~one or more measurement periods that include the entire tax period~~ 5729
~~under this chapter;~~ 5730

~~(5) A financial holding company as defined in the "Bank~~ 5731
~~Holding Company Act," 12 U.S.C. 1841(p);~~ 5732

~~(6) A bank holding company as defined in the "Bank Holding~~ 5733
~~Company Act," 12 U.S.C. 1841(a);~~ 5734

~~(7) A savings and loan holding company as defined in the~~ 5735
~~"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging~~ 5736
~~only in activities or investments permissible for a financial~~ 5737
~~holding company under 12 U.S.C. 1843(k);~~ 5738

~~(8) A person directly or indirectly owned by one or more~~ 5739
~~financial institutions, financial holding companies, bank holding~~ 5740
~~companies, or savings and loan holding companies described in~~ 5741
~~division (E)(3), (5), (6), or (7) of this section that is engaged~~ 5742
~~in activities permissible for a financial holding company under 12~~ 5743

~~U.S.C. 1843(k), except that any such person held pursuant to~~ 5744
~~merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12~~ 5745
~~U.S.C. 1843(k)(4)(I) is not an excluded person, or a person~~ 5746
~~directly or indirectly owned by one or more insurance companies~~ 5747
~~described in division (E)(9) of this section that is authorized to~~ 5748
~~do the business of insurance in this state. A person directly or~~ 5749
~~indirectly owned by one or more financial institutions, as defined~~ 5750
~~in section 5726.01 of the Revised Code, that paid the tax imposed~~ 5751
~~by section 5726.02 of the Revised Code based on one or more~~ 5752
~~taxable years that include the entire tax period under this~~ 5753
~~chapter.~~ 5754

For the purposes of division (E)~~(8)~~(4) of this section, a 5755
person owns another person under the following circumstances: 5756

(a) In the case of corporations issuing capital stock, one 5757
corporation owns another corporation if it owns fifty per cent or 5758
more of the other corporation's capital stock with current voting 5759
rights; 5760

(b) In the case of a limited liability company, one person 5761
owns the company if that person's membership interest, as defined 5762
in section 1705.01 of the Revised Code, is fifty per cent or more 5763
of the combined membership interests of all persons owning such 5764
interests in the company; 5765

(c) In the case of a partnership, trust, or other 5766
unincorporated business organization other than a limited 5767
liability company, one person owns the organization if, under the 5768
articles of organization or other instrument governing the affairs 5769
of the organization, that person has a beneficial interest in the 5770
organization's profits, surpluses, losses, or distributions of 5771
fifty per cent or more of the combined beneficial interests of all 5772
persons having such an interest in the organization; 5773

~~(d) In the case of multiple ownership, the ownership~~ 5774

~~interests of more than one person may be aggregated to meet the~~ 5775
~~fifty per cent ownership tests in this division only when each~~ 5776
~~such owner is described in division (E)(3), (5), (6), or (7) of~~ 5777
~~this section and is engaged in activities permissible for a~~ 5778
~~financial holding company under 12 U.S.C. 1843(k) or is a person~~ 5779
~~directly or indirectly owned by one or more insurance companies~~ 5780
~~described in division (E)(9) of this section that is authorized to~~ 5781
~~do the business of insurance in this state.~~ 5782

~~(9)(5)~~ A domestic insurance company or foreign insurance 5783
company, as defined in section 5725.01 of the Revised Code, that 5784
paid the insurance company premiums tax imposed by section 5725.18 5785
or Chapter 5729. of the Revised Code, or an unauthorized insurance 5786
company whose gross premiums are subject to tax under section 5787
3905.36 of the Revised Code based on one or more measurement 5788
periods that include the entire tax period under this chapter; 5789

~~(10)(6)~~ A person that solely facilitates or services one or 5790
more securitizations ~~or similar transactions for any person~~ 5791
~~described in division (E)(3), (5), (6), (7), (8), or (9) of this~~ 5792
~~section, or a person that solely facilitates or services one or~~ 5793
~~more securitizations~~ of phase-in-recovery property pursuant to a 5794
final financing order as those terms are defined in section 5795
4928.23 of the Revised Code. For purposes of this division, 5796
"securitization" means transferring one or more assets to one or 5797
more persons and then issuing securities backed by the right to 5798
receive payment from the asset or assets so transferred. 5799

~~(11)(7)~~ Except as otherwise provided in this division, a 5800
pre-income tax trust as defined in division (FF)(4) of section 5801
5747.01 of the Revised Code and any pass-through entity of which 5802
such pre-income tax trust owns or controls, directly, indirectly, 5803
or constructively through related interests, more than five per 5804
cent of the ownership or equity interests. If the pre-income tax 5805
trust has made a qualifying pre-income tax trust election under 5806

division (FF)(3) of section 5747.01 of the Revised Code, then the 5807
trust and the pass-through entities of which it owns or controls, 5808
directly, indirectly, or constructively through related interests, 5809
more than five per cent of the ownership or equity interests, 5810
shall not be excluded persons for purposes of the tax imposed 5811
under section 5751.02 of the Revised Code. 5812

~~(12)~~(8) Nonprofit organizations or the state and its 5813
agencies, instrumentalities, or political subdivisions. 5814

(F) Except as otherwise provided in divisions (F)(2), (3), 5815
and (4) of this section, "gross receipts" means the total amount 5816
realized by a person, without deduction for the cost of goods sold 5817
or other expenses incurred, that contributes to the production of 5818
gross income of the person, including the fair market value of any 5819
property and any services received, and any debt transferred or 5820
forgiven as consideration. 5821

(1) The following are examples of gross receipts: 5822

(a) Amounts realized from the sale, exchange, or other 5823
disposition of the taxpayer's property to or with another; 5824

(b) Amounts realized from the taxpayer's performance of 5825
services for another; 5826

(c) Amounts realized from another's use or possession of the 5827
taxpayer's property or capital; 5828

(d) Any combination of the foregoing amounts. 5829

(2) "Gross receipts" excludes the following amounts: 5830

(a) Interest income except interest on credit sales; 5831

(b) Dividends and distributions from corporations, and 5832
distributive or proportionate shares of receipts and income from a 5833
pass-through entity as defined under section 5733.04 of the 5834
Revised Code; 5835

(c) Receipts from the sale, exchange, or other disposition of 5836

an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance

premiums, or employee expenses, or on account of a dependent care	5869
spending account, legal services plan, any cafeteria plan	5870
described in section 125 of the Internal Revenue Code, or any	5871
similar employee reimbursement;	5872
(h) Proceeds received from the issuance of the taxpayer's own	5873
stock, options, warrants, puts, or calls, or from the sale of the	5874
taxpayer's treasury stock;	5875
(i) Proceeds received on the account of payments from	5876
insurance policies, except those proceeds received for the loss of	5877
business revenue;	5878
(j) Gifts or charitable contributions received; membership	5879
dues received by trade, professional, homeowners', or condominium	5880
associations; and payments received for educational courses,	5881
meetings, meals, or similar payments to a trade, professional, or	5882
other similar association; and fundraising receipts received by	5883
any person when any excess receipts are donated or used	5884
exclusively for charitable purposes;	5885
(k) Damages received as the result of litigation in excess of	5886
amounts that, if received without litigation, would be gross	5887
receipts;	5888
(l) Property, money, and other amounts received or acquired	5889
by an agent on behalf of another in excess of the agent's	5890
commission, fee, or other remuneration;	5891
(m) Tax refunds, other tax benefit recoveries, and	5892
reimbursements for the tax imposed under this chapter made by	5893
entities that are part of the same combined taxpayer or	5894
consolidated elected taxpayer group, and reimbursements made by	5895
entities that are not members of a combined taxpayer or	5896
consolidated elected taxpayer group that are required to be made	5897
for economic parity among multiple owners of an entity whose tax	5898
obligation under this chapter is required to be reported and paid	5899

entirely by one owner, pursuant to the requirements of sections 5900
5751.011 and 5751.012 of the Revised Code; 5901

(n) Pension reversions; 5902

(o) Contributions to capital; 5903

(p) Sales or use taxes collected as a vendor or an 5904
out-of-state seller on behalf of the taxing jurisdiction from a 5905
consumer or other taxes the taxpayer is required by law to collect 5906
directly from a purchaser and remit to a local, state, or federal 5907
tax authority; 5908

(q) In the case of receipts from the sale of cigarettes or 5909
tobacco products by a wholesale dealer, retail dealer, 5910
distributor, manufacturer, or seller, all as defined in section 5911
5743.01 of the Revised Code, an amount equal to the federal and 5912
state excise taxes paid by any person on or for such cigarettes or 5913
tobacco products under subtitle E of the Internal Revenue Code or 5914
Chapter 5743. of the Revised Code; 5915

(r) In the case of receipts from the sale of motor fuel by a 5916
licensed motor fuel dealer, licensed retail dealer, or licensed 5917
permissive motor fuel dealer, all as defined in section 5735.01 of 5918
the Revised Code, an amount equal to federal and state excise 5919
taxes paid by any person on such motor fuel under section 4081 of 5920
the Internal Revenue Code or Chapter 5735. of the Revised Code; 5921

(s) In the case of receipts from the sale of beer or 5922
intoxicating liquor, as defined in section 4301.01 of the Revised 5923
Code, by a person holding a permit issued under Chapter 4301. or 5924
4303. of the Revised Code, an amount equal to federal and state 5925
excise taxes paid by any person on or for such beer or 5926
intoxicating liquor under subtitle E of the Internal Revenue Code 5927
or Chapter 4301. or 4305. of the Revised Code; 5928

(t) Receipts realized by a new motor vehicle dealer or used 5929
motor vehicle dealer, as defined in section 4517.01 of the Revised 5930

Code, from the sale or other transfer of a motor vehicle, as 5931
defined in that section, to another motor vehicle dealer for the 5932
purpose of resale by the transferee motor vehicle dealer, but only 5933
if the sale or other transfer was based upon the transferee's need 5934
to meet a specific customer's preference for a motor vehicle; 5935

(u) Receipts from a financial institution described in 5936
division (E)(3) of this section for services provided to the 5937
financial institution in connection with the issuance, processing, 5938
servicing, and management of loans or credit accounts, if such 5939
financial institution and the recipient of such receipts have at 5940
least fifty per cent of their ownership interests owned or 5941
controlled, directly or constructively through related interests, 5942
by common owners; 5943

(v) Receipts realized from administering anti-neoplastic 5944
drugs and other cancer chemotherapy, biologicals, therapeutic 5945
agents, and supportive drugs in a physician's office to patients 5946
with cancer; 5947

(w) Funds received or used by a mortgage broker that is not a 5948
dealer in intangibles, other than fees or other consideration, 5949
pursuant to a table-funding mortgage loan or warehouse-lending 5950
mortgage loan. Terms used in division (F)(2)(w) of this section 5951
have the same meanings as in section 1322.01 of the Revised Code, 5952
except "mortgage broker" means a person assisting a buyer in 5953
obtaining a mortgage loan for a fee or other consideration paid by 5954
the buyer or a lender, or a person engaged in table-funding or 5955
warehouse-lending mortgage loans that are first lien mortgage 5956
loans. 5957

(x) Property, money, and other amounts received by a 5958
professional employer organization, as defined in section 4125.01 5959
of the Revised Code, from a client employer, as defined in that 5960
section, in excess of the administrative fee charged by the 5961
professional employer organization to the client employer; 5962

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the

thirtieth day of June of the year preceding the qualifying year. 5994

(VI) "Qualifying certificate" means the certificate issued by 5995
the tax commissioner after the operator of a distribution center 5996
files an annual application with the commissioner. The application 5997
and annual fee shall be filed and paid for each qualified 5998
distribution center on or before the first day of September before 5999
the qualifying year or within forty-five days after the 6000
distribution center opens, whichever is later. 6001

The applicant must substantiate to the commissioner's 6002
satisfaction that, for the qualifying period, all persons 6003
operating the distribution center have more than fifty per cent of 6004
the cost of the qualified property shipped to a location such that 6005
it would be situated outside this state under the provisions of 6006
division (E) of section 5751.033 of the Revised Code. The 6007
applicant must also substantiate that the distribution center 6008
cumulatively had costs from its suppliers equal to or exceeding 6009
five hundred million dollars during the qualifying period. (For 6010
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 6011
excludes any person that is part of the consolidated elected 6012
taxpayer group, if applicable, of the operator of the qualified 6013
distribution center.) The commissioner may require the applicant 6014
to have an independent certified public accountant certify that 6015
the calculation of the minimum thresholds required for a qualified 6016
distribution center by the operator of a distribution center has 6017
been made in accordance with generally accepted accounting 6018
principles. The commissioner shall issue or deny the issuance of a 6019
certificate within sixty days after the receipt of the 6020
application. A denial is subject to appeal under section 5717.02 6021
of the Revised Code. If the operator files a timely appeal under 6022
section 5717.02 of the Revised Code, the operator shall be granted 6023
a qualifying certificate, provided that the operator is liable for 6024
any tax, interest, or penalty upon amounts claimed as qualifying 6025

distribution center receipts, other than those receipts exempt 6026
under division (C)(1) of section 5751.011 of the Revised Code, 6027
that would have otherwise not been owed by its suppliers if the 6028
qualifying certificate was valid. 6029

(VII) "Ohio delivery percentage" means the proportion of the 6030
total property delivered to a destination inside Ohio from the 6031
qualified distribution center during the qualifying period 6032
compared with total deliveries from such distribution center 6033
everywhere during the qualifying period. 6034

(ii) If the distribution center is new and was not open for 6035
the entire qualifying period, the operator of the distribution 6036
center may request that the commissioner grant a qualifying 6037
certificate. If the certificate is granted and it is later 6038
determined that more than fifty per cent of the qualified property 6039
during that year was not shipped to a location such that it would 6040
be situated outside of this state under the provisions of division 6041
(E) of section 5751.033 of the Revised Code or if it is later 6042
determined that the person that operates the distribution center 6043
had average monthly costs from its suppliers of less than forty 6044
million dollars during that year, then the operator of the 6045
distribution center shall be liable for any tax, interest, or 6046
penalty upon amounts claimed as qualifying distribution center 6047
receipts, other than those receipts exempt under division (C)(1) 6048
of section 5751.011 of the Revised Code, that would have not 6049
otherwise been owed by its suppliers during the qualifying year if 6050
the qualifying certificate was valid. (For purposes of division 6051
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 6052
is part of the consolidated elected taxpayer group, if applicable, 6053
of the operator of the qualified distribution center.) 6054

(iii) When filing an application for a qualifying certificate 6055
under division (F)(2)(z)(i)(VI) of this section, the operator of a 6056
qualified distribution center also shall provide documentation, as 6057

the commissioner requires, for the commissioner to ascertain the 6058
Ohio delivery percentage. The commissioner, upon issuing the 6059
qualifying certificate, also shall certify the Ohio delivery 6060
percentage. The operator of the qualified distribution center may 6061
appeal the commissioner's certification of the Ohio delivery 6062
percentage in the same manner as an appeal is taken from the 6063
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 6064
of this section. 6065

Within thirty days after all appeals have been exhausted, the 6066
operator of the qualified distribution center shall notify the 6067
affected suppliers of qualified property that such suppliers are 6068
required to file, within sixty days after receiving notice from 6069
the operator of the qualified distribution center, amended reports 6070
for the impacted calendar quarter or quarters or calendar year, 6071
whichever the case may be. Any additional tax liability or tax 6072
overpayment shall be subject to interest but shall not be subject 6073
to the imposition of any penalty so long as the amended returns 6074
are timely filed. The supplier of tangible personal property 6075
delivered to the qualified distribution center shall include in 6076
its report of taxable gross receipts the receipts from the total 6077
sales of property delivered to the qualified distribution center 6078
for the calendar quarter or calendar year, whichever the case may 6079
be, multiplied by the Ohio delivery percentage for the qualifying 6080
year. Nothing in division (F)(2)(z)(iii) of this section shall be 6081
construed as imposing liability on the operator of a qualified 6082
distribution center for the tax imposed by this chapter arising 6083
from any change to the Ohio delivery percentage. 6084

(iv) In the case where the distribution center is new and not 6085
open for the entire qualifying period, the operator shall make a 6086
good faith estimate of an Ohio delivery percentage for use by 6087
suppliers in their reports of taxable gross receipts for the 6088
remainder of the qualifying period. The operator of the facility 6089

shall disclose to the suppliers that such Ohio delivery percentage 6090
is an estimate and is subject to recalculation. By the due date of 6091
the next application for a qualifying certificate, the operator 6092
shall determine the actual Ohio delivery percentage for the 6093
estimated qualifying period and proceed as provided in division 6094
(F)(2)(z)(iii) of this section with respect to the calculation and 6095
recalculation of the Ohio delivery percentage. The supplier is 6096
required to file, within sixty days after receiving notice from 6097
the operator of the qualified distribution center, amended reports 6098
for the impacted calendar quarter or quarters or calendar year, 6099
whichever the case may be. Any additional tax liability or tax 6100
overpayment shall be subject to interest but shall not be subject 6101
to the imposition of any penalty so long as the amended returns 6102
are timely filed. 6103

(v) Qualifying certificates and Ohio delivery percentages 6104
issued by the commissioner shall be open to public inspection and 6105
shall be timely published by the commissioner. A supplier relying 6106
in good faith on a certificate issued under this division shall 6107
not be subject to tax on the qualifying distribution center 6108
receipts under division (F)(2)(z) of this section. A person 6109
receiving a qualifying certificate is responsible for paying the 6110
tax, interest, and penalty upon amounts claimed as qualifying 6111
distribution center receipts that would not otherwise have been 6112
owed by the supplier if the qualifying certificate were available 6113
when it is later determined that the qualifying certificate should 6114
not have been issued because the statutory requirements were in 6115
fact not met. 6116

(vi) The annual fee for a qualifying certificate shall be one 6117
hundred thousand dollars for each qualified distribution center. 6118
If a qualifying certificate is not issued, the annual fee is 6119
subject to refund after the exhaustion of all appeals provided for 6120
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 6121

under this division may be assessed in the same manner as the tax 6122
imposed under this chapter. The first one hundred thousand dollars 6123
of the annual application fees collected each calendar year shall 6124
be credited to the revenue enhancement fund. The remainder of the 6125
annual application fees collected shall be distributed in the same 6126
manner required under section 5751.20 of the Revised Code. 6127

(vii) The tax commissioner may require that adequate security 6128
be posted by the operator of the distribution center on appeal 6129
when the commissioner disagrees that the applicant has met the 6130
minimum thresholds for a qualified distribution center as set 6131
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 6132
section. 6133

(aa) Receipts of an employer from payroll deductions relating 6134
to the reimbursement of the employer for advancing moneys to an 6135
unrelated third party on an employee's behalf; 6136

(bb) Cash discounts allowed and taken; 6137

(cc) Returns and allowances; 6138

(dd) Bad debts from receipts on the basis of which the tax 6139
imposed by this chapter was paid in a prior quarterly tax payment 6140
period. For the purpose of this division, "bad debts" means any 6141
debts that have become worthless or uncollectible between the 6142
preceding and current quarterly tax payment periods, have been 6143
uncollected for at least six months, and that may be claimed as a 6144
deduction under section 166 of the Internal Revenue Code and the 6145
regulations adopted under that section, or that could be claimed 6146
as such if the taxpayer kept its accounts on the accrual basis. 6147
"Bad debts" does not include repossessed property, uncollectible 6148
amounts on property that remains in the possession of the taxpayer 6149
until the full purchase price is paid, or expenses in attempting 6150
to collect any account receivable or for any portion of the debt 6151
recovered; 6152

(ee) Any amount realized from the sale of an account 6153
receivable to the extent the receipts from the underlying 6154
transaction giving rise to the account receivable were included in 6155
the gross receipts of the taxpayer; 6156

(ff) Any receipts directly attributed to providing public 6157
services pursuant to sections 126.60 to 126.605 of the Revised 6158
Code, or any receipts directly attributed to a transfer agreement 6159
or to the enterprise transferred under that agreement under 6160
section 4313.02 of the Revised Code. 6161

(gg)(i) As used in this division: 6162

(I) "Qualified uranium receipts" means receipts from the 6163
sale, exchange, lease, loan, production, processing, or other 6164
disposition of uranium within a uranium enrichment zone certified 6165
by the tax commissioner under division (F)(2)(gg)(ii) of this 6166
section. "Qualified uranium receipts" does not include any 6167
receipts with a situs in this state outside a uranium enrichment 6168
zone certified by the tax commissioner under division 6169
(F)(2)(gg)(ii) of this section. 6170

(II) "Uranium enrichment zone" means all real property that 6171
is part of a uranium enrichment facility licensed by the United 6172
States nuclear regulatory commission and that was or is owned or 6173
controlled by the United States department of energy or its 6174
successor. 6175

(ii) Any person that owns, leases, or operates real or 6176
tangible personal property constituting or located within a 6177
uranium enrichment zone may apply to the tax commissioner to have 6178
the uranium enrichment zone certified for the purpose of excluding 6179
qualified uranium receipts under division (F)(2)(gg) of this 6180
section. The application shall include such information that the 6181
tax commissioner prescribes. Within sixty days after receiving the 6182
application, the tax commissioner shall certify the zone for that 6183

purpose if the commissioner determines that the property qualifies 6184
as a uranium enrichment zone as defined in division (F)(2)(gg) of 6185
this section, or, if the tax commissioner determines that the 6186
property does not qualify, the commissioner shall deny the 6187
application or request additional information from the applicant. 6188
If the tax commissioner denies an application, the commissioner 6189
shall state the reasons for the denial. The applicant may appeal 6190
the denial of an application to the board of tax appeals pursuant 6191
to section 5717.02 of the Revised Code. If the applicant files a 6192
timely appeal, the tax commissioner shall conditionally certify 6193
the applicant's property. The conditional certification shall 6194
expire when all of the applicant's appeals are exhausted. Until 6195
final resolution of the appeal, the applicant shall retain the 6196
applicant's records in accordance with section 5751.12 of the 6197
Revised Code, notwithstanding any time limit on the preservation 6198
of records under that section. 6199

(hh) Amounts realized by licensed motor fuel dealers or 6200
licensed permissive motor fuel dealers from the exchange of 6201
petroleum products, including motor fuel, between such dealers, 6202
provided that delivery of the petroleum products occurs at a 6203
refinery, terminal, pipeline, or marine vessel and that the 6204
exchanging dealers agree neither dealer shall require monetary 6205
compensation from the other for the value of the exchanged 6206
petroleum products other than such compensation for differences in 6207
product location or grade. Division (F)(2)(hh) of this section 6208
does not apply to amounts realized as a result of differences in 6209
location or grade of exchanged petroleum products or from 6210
handling, lubricity, dye, or other additive injections fees, 6211
pipeline security fees, or similar fees. As used in this division, 6212
"motor fuel," "licensed motor fuel dealer," "licensed permissive 6213
motor fuel dealer," and "terminal" have the same meanings as in 6214
section 5735.01 of the Revised Code. 6215

(ii) In the case of amounts collected by a licensed casino operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.

(jj) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

(1) Owns or uses a part or all of its capital in this state;

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;

(3) Has bright-line presence in this state;	6247
(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.	6248 6249 6250
(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:	6251 6252 6253
(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.	6254 6255 6256 6257 6258
(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:	6259 6260 6261
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	6262 6263
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	6264 6265 6266
(c) Any amount the person pays for services performed in this state on its behalf by another.	6267 6268
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	6269 6270
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	6271 6272 6273
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	6274 6275
(J) "Tangible personal property" has the same meaning as in	6276

section 5739.01 of the Revised Code. 6277

(K) "Internal Revenue Code" means the Internal Revenue Code 6278
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 6279
this chapter that is not otherwise defined has the same meaning as 6280
when used in a comparable context in the laws of the United States 6281
relating to federal income taxes unless a different meaning is 6282
clearly required. Any reference in this chapter to the Internal 6283
Revenue Code includes other laws of the United States relating to 6284
federal income taxes. 6285

(L) "Calendar quarter" means a three-month period ending on 6286
the thirty-first day of March, the thirtieth day of June, the 6287
thirtieth day of September, or the thirty-first day of December. 6288

(M) "Tax period" means the calendar quarter or calendar year 6289
on the basis of which a taxpayer is required to pay the tax 6290
imposed under this chapter. 6291

(N) "Calendar year taxpayer" means a taxpayer for which the 6292
tax period is a calendar year. 6293

(O) "Calendar quarter taxpayer" means a taxpayer for which 6294
the tax period is a calendar quarter. 6295

(P) "Agent" means a person authorized by another person to 6296
act on its behalf to undertake a transaction for the other, 6297
including any of the following: 6298

(1) A person receiving a fee to sell financial instruments; 6299

(2) A person retaining only a commission from a transaction 6300
with the other proceeds from the transaction being remitted to 6301
another person; 6302

(3) A person issuing licenses and permits under section 6303
1533.13 of the Revised Code; 6304

(4) A lottery sales agent holding a valid license issued 6305
under section 3770.05 of the Revised Code; 6306

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code. 6307
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(Q) "Received" includes amounts accrued under the accrual method of accounting. 6309
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(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group. 6311
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Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements: 6318
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(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to ~~(10)~~(5) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners. 6321
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A group making its initial election on the basis of the eighty per cent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the fifty per cent ownership test if all of the following are satisfied: 6328
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(a) When the initial election was made, the group did not have any persons satisfying the fifty per cent ownership test; 6333
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(b) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that 6335
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the fifty per cent ownership test is satisfied, the eighty per 6337
cent ownership test is not satisfied, and the acquired person 6338
would be required to be included in a combined taxpayer group 6339
under section 5751.012 of the Revised Code; 6340

(c) The group requests the change in a written request to the 6341
tax commissioner on or before the due date for filing the first 6342
return due under section 5751.051 of the Revised Code after the 6343
date of the acquisition; 6344

(d) The group has not previously changed its election. 6345

At the election of the group, all entities that are not 6346
incorporated or formed under the laws of a state or of the United 6347
States and that meet the consolidated elected ownership test shall 6348
either be included in the group or all shall be excluded from the 6349
group. If, at the time of registration, the group does not include 6350
any such entities that meet the consolidated elected ownership 6351
test, the group shall elect to either include or exclude the newly 6352
acquired entities before the due date of the first return due 6353
after the date of the acquisition. 6354

Each group shall notify the tax commissioner of the foregoing 6355
elections before the due date of the return for the period in 6356
which the election becomes binding. If fifty per cent of the value 6357
of a person's ownership interests is owned or controlled by each 6358
of two consolidated elected taxpayer groups formed under the fifty 6359
per cent ownership or control test, that person is a member of 6360
each group for the purposes of this section, and each group shall 6361
include in the group's taxable gross receipts fifty per cent of 6362
that person's taxable gross receipts. Otherwise, all of that 6363
person's taxable gross receipts shall be included in the taxable 6364
gross receipts of the consolidated elected taxpayer group of which 6365
the person is a member. In no event shall the ownership or control 6366
of fifty per cent of the value of a person's ownership interests 6367
by two otherwise unrelated groups form the basis for consolidating 6368

the groups into a single consolidated elected taxpayer group or 6369
permit any exclusion under division (C) of this section of taxable 6370
gross receipts between members of the two groups. Division (A)(3) 6371
of this section applies with respect to the elections described in 6372
this division. 6373

(2) The group makes the election to be treated as a 6374
consolidated elected taxpayer in the manner prescribed under 6375
division (D) of this section. 6376

(3) Subject to review and audit by the tax commissioner, the 6377
group agrees that all of the following apply: 6378

(a) The group shall file reports as a single taxpayer for at 6379
least the next eight calendar quarters following the election so 6380
long as at least two or more of the members of the group meet the 6381
requirements of division (A)(1) of this section. 6382

(b) Before the expiration of the eighth such calendar 6383
quarter, the group shall notify the commissioner if it elects to 6384
cancel its designation as a consolidated elected taxpayer. If the 6385
group does not so notify the tax commissioner, the election 6386
remains in effect for another eight calendar quarters. 6387

(c) If, at any time during any of those eight calendar 6388
quarters following the election, a former member of the group no 6389
longer meets the requirements under division (A)(1) of this 6390
section, that member shall report and pay the tax imposed under 6391
this chapter separately, as a member of a combined taxpayer, or, 6392
if the former member satisfies such requirements with respect to 6393
another consolidated elected group, as a member of that 6394
consolidated elected group. 6395

(d) The group agrees to the application of division (B) of 6396
this section. 6397

(B) A group of persons making the election under this section 6398
shall report and pay tax on all of the group's taxable gross 6399

receipts even if substantial nexus with this state does not exist 6400
for one or more persons in the group. 6401

(C)(1)(a) Members of a consolidated elected taxpayer group 6402
shall exclude gross receipts among persons included in the 6403
consolidated elected taxpayer group. 6404

(b) Subject to divisions (C)(1)(c) and (C)(2) of this 6405
section, nothing in this section shall have the effect of 6406
requiring a consolidated elected taxpayer group to include gross 6407
receipts received by a person enumerated in divisions (E)(2) to 6408
~~(10)~~(5) of section 5751.01 of the Revised Code if that person is a 6409
member of the group pursuant to the elections made by the group 6410
under division (A)(1) of this section. 6411

(c)(i) As used in division (C)(1)(c) of this section, "dealer 6412
transfer" means a transfer of property that satisfies both of the 6413
following: (I) the property is directly transferred by any means 6414
from one member of the group to another member of the group that 6415
is a dealer in intangibles but is not a qualifying dealer as 6416
defined in section 5707.031 of the Revised Code; and (II) the 6417
property is subsequently delivered by the dealer in intangibles to 6418
a person that is not a member of the group. 6419

(ii) In the event of a dealer transfer, a consolidated 6420
elected taxpayer group shall not exclude, under division (C) of 6421
this section, gross receipts from the transfer described in 6422
division (C)(1)(c)(i)(I) of this section. 6423

(2) Gross receipts related to the sale or transmission of 6424
electricity through the use of an intermediary regional 6425
transmission organization approved by the federal energy 6426
regulatory commission shall be excluded from taxable gross 6427
receipts under division (C)(1) of this section if all other 6428
requirements of that division are met, even if the receipts are 6429
from and to the same member of the group. 6430

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before the beginning of the first calendar quarter to which the election applies. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to ~~(4)~~(5) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code.

(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer.

(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members.

(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the tax commissioner of any additions with the next quarterly tax return it files with the commissioner.

Sec. 5751.54. (A) Any term used in this section has the same meaning as in section 122.85 of the Revised Code.

(B) There is allowed a refundable credit against the tax imposed by section 5751.02 of the Revised Code for any person that is the certificate owner of a tax credit certificate issued under section 122.85 of the Revised Code. The credit shall be claimed for the tax period in which the certificate is issued by the director of development services. The credit amount equals the amount stated in the certificate. The credit shall be claimed in the order required under section 5751.98 of the Revised Code. If the credit amount exceeds the tax otherwise due under section 5751.02 of the Revised Code after deducting all other credits in that order, the excess shall be refunded.

(C) Nothing in this section allows a person to claim more than one credit per tax credit-eligible production.

Sec. 5751.98. (A) To provide a uniform procedure for 6493
calculating the amount of tax due under this chapter, a taxpayer 6494
shall claim any credits to which it is entitled in the following 6495
order: 6496

(1) The nonrefundable jobs retention credit under division 6497
(B) of section 5751.50 of the Revised Code; 6498

(2) The nonrefundable credit for qualified research expenses 6499
under division (B) of section 5751.51 of the Revised Code; 6500

(3) The nonrefundable credit for a borrower's qualified 6501
research and development loan payments under division (B) of 6502
section 5751.52 of the Revised Code; 6503

(4) The nonrefundable credit for calendar years 2010 to 2029 6504
for unused net operating losses under division (B) of section 6505
5751.53 of the Revised Code; 6506

(5) The refundable motion picture production credit ~~for~~ 6507
~~calendar year 2030 for unused net operating losses~~ under division 6508
~~(C) of section 5751.53~~ 5751.54 of the Revised Code; 6509

(6) The refundable jobs creation credit or job retention 6510
credit under division (A) of section 5751.50 of the Revised Code; 6511

(7) The refundable credit for calendar year 2030 for unused 6512
net operating losses under division (C) of section 5751.53 of the 6513
Revised Code. 6514

(B) For any credit except the refundable credits enumerated 6515
in this section, the amount of the credit for a tax period shall 6516
not exceed the tax due after allowing for any other credit that 6517
precedes it in the order required under this section. Any excess 6518
amount of a particular credit may be carried forward if authorized 6519
under the section creating the credit. 6520

Section 2. That existing sections 122.17, 122.171, 122.85, 6521

145.114, 145.116, 149.311, 150.01, 150.07, 150.10, 715.013, 6522
742.114, 742.116, 1311.85, 1311.86, 1311.87, 1311.88, 3307.152, 6523
3307.154, 3309.157, 3309.159, 5505.068, 5505.0610, 5703.052, 6524
5703.053, 5703.70, 5707.03, 5709.76, 5711.22, 5713.03, 5725.02, 6525
5725.14, 5725.16, 5725.26, 5725.33, 5733.01, 5733.02, 5733.021, 6526
5733.06, 5747.01, 5747.98, 5751.01, 5751.011, 5751.012, and 6527
5751.98 of the Revised Code are hereby repealed. 6528

Section 3. That section 757.51 of Am. Sub. H.B. 487 of the 6529
129th General Assembly is hereby repealed. 6530

Section 4. The amendment by this act of division (E) of 6531
section 5751.01 and sections 5751.011 and 5751.012 of the Revised 6532
Code applies to tax periods beginning on or after January 1, 2014 6533
except for a taxpayer that is a corporation or any other person 6534
directly or indirectly owned by one or more insurance companies 6535
subject to the tax imposed by section 5725.18 or Chapter 5729. of 6536
the Revised Code. For such taxpayers, the amendment by this act of 6537
division (E) of section 5751.01 and sections 5751.011 and 5751.012 6538
of the Revised Code applies to tax periods beginning on or after 6539
January 1, 2013. 6540

Section 5. (A) The Tax Commissioner shall not assess or hold 6541
liable for the failure to report or pay the tax imposed by section 6542
5751.02 of the Revised Code for any tax periods ending before 6543
January 1, 2013, a corporation or any other person directly or 6544
indirectly owned by one or more insurance companies that are 6545
subject to the tax imposed by section 5725.18 or Chapter 5729. of 6546
the Revised Code, provided the corporation, but not the other 6547
person or persons, so owned by the insurance company or companies 6548
reported and paid the tax imposed by section 5733.06 of the 6549
Revised Code and not the tax imposed by section 5751.02 of the 6550
Revised Code for taxable periods before January 1, 2013. 6551

(B) For the purposes of this section, division (E)(8)(a),(b), 6552
or (c) of section 5751.01 of the Revised Code as that section 6553
applied to tax periods ending before January 1, 2013, for a 6554
corporation or any other person directly or indirectly owned by 6555
one or more insurance companies that are subject to the tax 6556
imposed by section 5725.18 or Chapter 5729. of the Revised Code, 6557
shall apply in determining whether a person is directly or 6558
indirectly owned. 6559

Section 6. The General Assembly, applying the principle 6560
stated in division (B) of section 1.52 of the Revised Code that 6561
amendments are to be harmonized if reasonably capable of 6562
simultaneous operation, finds that the following sections, 6563
presented in this act as composites of the sections as amended by 6564
the acts indicated, are the resulting versions of the sections in 6565
effect prior to the effective date of the sections as presented in 6566
this act: 6567

Section 5747.01 of the Revised Code as amended by both Am. 6568
Sub. H.B. 153 and Am. H.B. 167 of the 129th General Assembly. 6569

Section 5751.01 of the Revised Code as amended by both Am. 6570
Sub. H.B. 508 and Am. Sub. S.B. 315 of the 129th General Assembly. 6571