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Committee**

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**H. B. No. 51**

**Representatives McGregor, Patmon**

**Cosponsors: Representatives Wachtmann, Amstutz**

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**A B I L L**

To amend sections 9.33, 153.65, 718.01, 2937.221,	1
3354.13, 3355.10, 3357.12, 5503.31, 5503.32,	2
5513.01, 5533.31, 5537.01, 5537.02, 5537.03,	3
5537.04, 5537.05, 5537.051, 5537.06, 5537.07,	4
5537.08, 5537.09, 5537.11, 5537.12, 5537.13,	5
5537.14, 5537.15, 5537.16, 5537.17, 5537.19,	6
5537.20, 5537.21, 5537.22, 5537.24, 5537.25,	7
5537.26, 5537.27, 5537.28, 5537.30, 5728.01,	8
5735.05, 5735.23, 5739.02, 5747.01, and 5751.01;	9
to enact section 5537.18; and to repeal sections	10
126.60, 126.601, 126.602, 126.603, 126.604, and	11
126.605 of the Revised Code to authorize the Ohio	12
Turnpike Commission to issue revenue bonds for	13
infrastructure projects, to rename the Ohio	14
Turnpike Commission as the Ohio Turnpike and	15
Infrastructure Commission, to repeal authority	16
allowing the Director of Budget and Management and	17
the Director of Transportation to execute a	18
contract with a private entity for the purpose of	19
outsourcing turnpike-related highway services, to	20
make other changes in the law governing the Ohio	21
Turnpike Commission, and to make an appropriation.	22

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

**Section 101.01.** That sections 9.33, 153.65, 718.01, 2937.221, 23  
3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 5513.01, 5533.31, 24  
5537.01, 5537.02, 5537.03, 5537.04, 5537.05, 5537.051, 5537.06, 25  
5537.07, 5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5537.14, 26  
5537.15, 5537.16, 5537.17, 5537.19, 5537.20, 5537.21, 5537.22, 27  
5537.24, 5537.25, 5537.26, 5537.27, 5537.28, 5537.30, 5728.01, 28  
5735.05, 5735.23, 5739.02, 5747.01, and 5751.01 be amended and 29  
section 5537.18 of the Revised Code be enacted to read as follows: 30  
31

**Sec. 9.33.** As used in sections 9.33 to 9.335 of the Revised 32  
Code: 33

(A) "Construction manager" means a person with substantial 34  
discretion and authority to plan, coordinate, manage, and direct 35  
all phases of a project for the construction, demolition, 36  
alteration, repair, or reconstruction of any public building, 37  
structure, or other improvement, but does not mean the person who 38  
provides the professional design services or who actually performs 39  
the construction, demolition, alteration, repair, or 40  
reconstruction work on the project. 41

(B)(1) "Construction manager at risk" means a person with 42  
substantial discretion and authority to plan, coordinate, manage, 43  
direct, and construct all phases of a project for the 44  
construction, demolition, alteration, repair, or reconstruction of 45  
any public building, structure, or other improvement and who 46  
provides the public authority a guaranteed maximum price as 47  
determined in section 9.334 of the Revised Code. 48

(2) As used in division (B)(1) of this section: 49

(a) "Construct" includes performing, or subcontracting for 50

performing, construction, demolition, alteration, repair, or 51  
reconstruction. 52

(b) "Manage" includes approving bidders and awarding 53  
subcontracts for furnishing materials regarding, or for 54  
performing, construction, demolition, alteration, repair, or 55  
reconstruction. 56

(C) "Construction management contract" means a contract 57  
between a public authority and another person obligating the 58  
person to provide construction management services. 59

(D) "Construction management services" or "management 60  
services" means the range of services that either a construction 61  
manager or a construction manager at risk may provide. 62

(E) "Qualified" means having the following qualifications: 63

(1) Competence to perform the required management services as 64  
indicated by the technical training, education, and experience of 65  
the construction manager's or construction manager at risk's 66  
personnel, especially the technical training, education, and 67  
experience of the construction manager's or construction manager 68  
at risk's employees who would be assigned to perform the services; 69

(2) Ability in terms of workload and the availability of 70  
qualified personnel, equipment, and facilities to perform the 71  
required management services competently and expeditiously; 72

(3) Past performance as reflected by the evaluations of 73  
previous clients with respect to factors such as control of costs, 74  
quality of work, and meeting of deadlines; 75

(4) Financial responsibility as evidenced by the capability 76  
to provide a letter of credit pursuant to Chapter 1305. of the 77  
Revised Code, a surety bond, certified check, or cashier's check 78  
in an amount equal to the value of the construction management 79  
contract, or by other means acceptable to the public authority; 80

(5) Other similar factors.	81
(F)(1) "Public authority" means the state, any state institution of higher education as defined in section 3345.011 of the Revised Code, any county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a political subdivision.	82 83 84 85 86 87
<del>(2) "Public authority" does not include the Ohio turnpike commission.</del>	88 89
(G) "Open book pricing method" means a method in which a construction manager at risk provides the public authority, at the public authority's request, all books, records, documents, and other data in its possession pertaining to the bidding, pricing, or performance of a construction management contract awarded to the construction manager at risk.	90 91 92 93 94 95
<b>Sec. 153.65.</b> As used in sections 153.65 to 153.73 of the Revised Code:	96 97
(A)(1) "Public authority" means the state, a state institution of higher education as defined in section 3345.011 of the Revised Code, a county, township, municipal corporation, school district, or other political subdivision, or any public agency, authority, board, commission, instrumentality, or special purpose district of the state or of a political subdivision.	98 99 100 101 102 103
<del>(2) "Public authority" does not include the Ohio turnpike commission.</del>	104 105
(B) "Professional design firm" means any person legally engaged in rendering professional design services.	106 107
(C) "Professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703. of the Revised Code or a	108 109 110

professional engineer or surveyor registered under Chapter 4733. 111  
of the Revised Code. 112

(D) "Qualifications" means all of the following: 113

(1)(a) For a professional design firm, competence to perform 114  
the required professional design services as indicated by the 115  
technical training, education, and experience of the firm's 116  
personnel, especially the technical training, education, and 117  
experience of the employees within the firm who would be assigned 118  
to perform the services; 119

(b) For a design-build firm, competence to perform the 120  
required design-build services as indicated by the technical 121  
training, education, and experience of the design-build firm's 122  
personnel and key consultants, especially the technical training, 123  
education, and experience of the employees and consultants of the 124  
design-build firm who would be assigned to perform the services, 125  
including the proposed architect or engineer of record. 126

(2) Ability of the firm in terms of its workload and the 127  
availability of qualified personnel, equipment, and facilities to 128  
perform the required professional design services or design-build 129  
services competently and expeditiously; 130

(3) Past performance of the firm as reflected by the 131  
evaluations of previous clients with respect to such factors as 132  
control of costs, quality of work, and meeting of deadlines; 133

(4) Any other relevant factors as determined by the public 134  
authority; 135

(5) With respect to a design-build firm, compliance with 136  
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 137  
including the use of a licensed design professional for all design 138  
services. 139

(E) "Design-build contract" means a contract between a public 140

authority and another person that obligates the person to provide 141  
design-build services. 142

(F) "Design-build firm" means a person capable of providing 143  
design-build services. 144

(G) "Design-build services" means services that form an 145  
integrated delivery system for which a person is responsible to a 146  
public authority for both the design and construction, demolition, 147  
alteration, repair, or reconstruction of a public improvement. 148

(H) "Architect or engineer of record" means the architect or 149  
engineer that serves as the final signatory on the plans and 150  
specifications for the design-build project. 151

(I) "Criteria architect or engineer" means the architect or 152  
engineer retained by a public authority to prepare conceptual 153  
plans and specifications, to assist the public authority in 154  
connection with the establishment of the design criteria for a 155  
design-build project, and, if requested by the public authority, 156  
to serve as the representative of the public authority and 157  
provide, during the design-build project, other design and 158  
construction administration services on behalf of the public 159  
authority, including but not limited to, confirming that the 160  
design prepared by the design-build firm reflects the original 161  
design intent established in the design criteria package. 162

(J) "Open book pricing method" means a method in which a 163  
design-build firm provides the public authority, at the public 164  
authority's request, all books, records, documents, contracts, 165  
subcontracts, purchase orders, and other data in its possession 166  
pertaining to the bidding, pricing, or performance of a contract 167  
for design-build services awarded to the design-build firm. 168

**Sec. 718.01.** (A) As used in this chapter: 169

(1) "Adjusted federal taxable income" means a C corporation's 170

federal taxable income before net operating losses and special 171  
deductions as determined under the Internal Revenue Code, adjusted 172  
as follows: 173

(a) Deduct intangible income to the extent included in 174  
federal taxable income. The deduction shall be allowed regardless 175  
of whether the intangible income relates to assets used in a trade 176  
or business or assets held for the production of income. 177

(b) Add an amount equal to five per cent of intangible income 178  
deducted under division (A)(1)(a) of this section, but excluding 179  
that portion of intangible income directly related to the sale, 180  
exchange, or other disposition of property described in section 181  
1221 of the Internal Revenue Code; 182

(c) Add any losses allowed as a deduction in the computation 183  
of federal taxable income if the losses directly relate to the 184  
sale, exchange, or other disposition of an asset described in 185  
section 1221 or 1231 of the Internal Revenue Code; 186

(d)(i) Except as provided in division (A)(1)(d)(ii) of this 187  
section, deduct income and gain included in federal taxable income 188  
to the extent the income and gain directly relate to the sale, 189  
exchange, or other disposition of an asset described in section 190  
1221 or 1231 of the Internal Revenue Code; 191

(ii) Division (A)(1)(d)(i) of this section does not apply to 192  
the extent the income or gain is income or gain described in 193  
section 1245 or 1250 of the Internal Revenue Code. 194

(e) Add taxes on or measured by net income allowed as a 195  
deduction in the computation of federal taxable income; 196

(f) In the case of a real estate investment trust and 197  
regulated investment company, add all amounts with respect to 198  
dividends to, distributions to, or amounts set aside for or 199  
credited to the benefit of investors and allowed as a deduction in 200  
the computation of federal taxable income; 201

(g) Deduct, to the extent not otherwise deducted or excluded 202  
in computing federal taxable income, any income ~~derived from~~ 203  
~~providing public services under a contract through a project owned~~ 204  
~~by the state, as described in section 126.604 of the Revised Code~~ 205  
~~or~~ derived from a transfer agreement or from the enterprise 206  
transferred under that agreement under section 4313.02 of the 207  
Revised Code. 208

If the taxpayer is not a C corporation and is not an 209  
individual, the taxpayer shall compute adjusted federal taxable 210  
income as if the taxpayer were a C corporation, except guaranteed 211  
payments and other similar amounts paid or accrued to a partner, 212  
former partner, member, or former member shall not be allowed as a 213  
deductible expense; amounts paid or accrued to a qualified 214  
self-employed retirement plan with respect to an owner or 215  
owner-employee of the taxpayer, amounts paid or accrued to or for 216  
health insurance for an owner or owner-employee, and amounts paid 217  
or accrued to or for life insurance for an owner or owner-employee 218  
shall not be allowed as a deduction. 219

Nothing in division (A)(1) of this section shall be construed 220  
as allowing the taxpayer to add or deduct any amount more than 221  
once or shall be construed as allowing any taxpayer to deduct any 222  
amount paid to or accrued for purposes of federal self-employment 223  
tax. 224

Nothing in this chapter shall be construed as limiting or 225  
removing the ability of any municipal corporation to administer, 226  
audit, and enforce the provisions of its municipal income tax. 227

(2) "Internal Revenue Code" means the Internal Revenue Code 228  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 229

(3) "Schedule C" means internal revenue service schedule C 230  
filed by a taxpayer pursuant to the Internal Revenue Code. 231

(4) "Form 2106" means internal revenue service form 2106 232



filed by a taxpayer pursuant to the Internal Revenue Code.	233
(5) "Intangible income" means income of any of the following	234
types: income yield, interest, capital gains, dividends, or other	235
income arising from the ownership, sale, exchange, or other	236
disposition of intangible property including, but not limited to,	237
investments, deposits, money, or credits as those terms are	238
defined in Chapter 5701. of the Revised Code, and patents,	239
copyrights, trademarks, tradenames, investments in real estate	240
investment trusts, investments in regulated investment companies,	241
and appreciation on deferred compensation. "Intangible income"	242
does not include prizes, awards, or other income associated with	243
any lottery winnings or other similar games of chance.	244
(6) "S corporation" means a corporation that has made an	245
election under subchapter S of Chapter 1 of Subtitle A of the	246
Internal Revenue Code for its taxable year.	247
(7) For taxable years beginning on or after January 1, 2004,	248
"net profit" for a taxpayer other than an individual means	249
adjusted federal taxable income and "net profit" for a taxpayer	250
who is an individual means the individual's profit required to be	251
reported on schedule C, schedule E, or schedule F, other than any	252
amount allowed as a deduction under division (E)(2) or (3) of this	253
section or amounts described in division (H) of this section.	254
(8) "Taxpayer" means a person subject to a tax on income	255
levied by a municipal corporation. Except as provided in division	256
(L) of this section, "taxpayer" does not include any person that	257
is a disregarded entity or a qualifying subchapter S subsidiary	258
for federal income tax purposes, but "taxpayer" includes any other	259
person who owns the disregarded entity or qualifying subchapter S	260
subsidiary.	261
(9) "Taxable year" means the corresponding tax reporting	262
period as prescribed for the taxpayer under the Internal Revenue	263

Code.	264
(10) "Tax administrator" means the individual charged with	265
direct responsibility for administration of a tax on income levied	266
by a municipal corporation and includes:	267
(a) The central collection agency and the regional income tax	268
agency and their successors in interest, and other entities	269
organized to perform functions similar to those performed by the	270
central collection agency and the regional income tax agency;	271
(b) A municipal corporation acting as the agent of another	272
municipal corporation; and	273
(c) Persons retained by a municipal corporation to administer	274
a tax levied by the municipal corporation, but only if the	275
municipal corporation does not compensate the person in whole or	276
in part on a contingency basis.	277
(11) "Person" includes individuals, firms, companies,	278
business trusts, estates, trusts, partnerships, limited liability	279
companies, associations, corporations, governmental entities, and	280
any other entity.	281
(12) "Schedule E" means internal revenue service schedule E	282
filed by a taxpayer pursuant to the Internal Revenue Code.	283
(13) "Schedule F" means internal revenue service schedule F	284
filed by a taxpayer pursuant to the Internal Revenue Code.	285
(B) No municipal corporation shall tax income at other than a	286
uniform rate.	287
(C) No municipal corporation shall levy a tax on income at a	288
rate in excess of one per cent without having obtained the	289
approval of the excess by a majority of the electors of the	290
municipality voting on the question at a general, primary, or	291
special election. The legislative authority of the municipal	292
corporation shall file with the board of elections at least ninety	293

days before the day of the election a copy of the ordinance 294  
together with a resolution specifying the date the election is to 295  
be held and directing the board of elections to conduct the 296  
election. The ballot shall be in the following form: "Shall the 297  
Ordinance providing for a ... per cent levy on income for (Brief 298  
description of the purpose of the proposed levy) be passed? 299

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

300  
301  
302  
303  
In the event of an affirmative vote, the proceeds of the levy 304  
may be used only for the specified purpose. 305

(D)(1) Except as otherwise provided in this section, no 306  
municipal corporation shall exempt from a tax on income 307  
compensation for personal services of individuals over eighteen 308  
years of age or the net profit from a business or profession. 309

(2)(a) For taxable years beginning on or after January 1, 310  
2004, no municipal corporation shall tax the net profit from a 311  
business or profession using any base other than the taxpayer's 312  
adjusted federal taxable income. 313

(b) Division (D)(2)(a) of this section does not apply to any 314  
taxpayer required to file a return under section 5745.03 of the 315  
Revised Code or to the net profit from a sole proprietorship. 316

(E)(1) The legislative authority of a municipal corporation 317  
may, by ordinance or resolution, exempt from withholding and from 318  
a tax on income the following: 319

(a) Compensation arising from the sale, exchange, or other 320  
disposition of a stock option, the exercise of a stock option, or 321  
the sale, exchange, or other disposition of stock purchased under 322  
a stock option; or 323

(b) Compensation attributable to a nonqualified deferred 324  
compensation plan or program described in section 3121(v)(2)(C) of 325  
the Internal Revenue Code. 326

(2) The legislative authority of a municipal corporation may 327  
adopt an ordinance or resolution that allows a taxpayer who is an 328  
individual to deduct, in computing the taxpayer's municipal income 329  
tax liability, an amount equal to the aggregate amount the 330  
taxpayer paid in cash during the taxable year to a health savings 331  
account of the taxpayer, to the extent the taxpayer is entitled to 332  
deduct that amount on internal revenue service form 1040. 333

(3) The legislative authority of a municipal corporation may 334  
adopt an ordinance or resolution that allows a taxpayer who has a 335  
net profit from a business or profession that is operated as a 336  
sole proprietorship to deduct from that net profit the amount that 337  
the taxpayer paid during the taxable year for medical care 338  
insurance premiums for the taxpayer, the taxpayer's spouse, and 339  
dependents as defined in section 5747.01 of the Revised Code. The 340  
deduction shall be allowed to the same extent the taxpayer is 341  
entitled to deduct the premiums on internal revenue service form 342  
1040. The deduction allowed under this division shall be net of 343  
any related premium refunds, related premium reimbursements, or 344  
related insurance premium dividends received by the taxpayer 345  
during the taxable year. 346

(F) If an individual's taxable income includes income against 347  
which the taxpayer has taken a deduction for federal income tax 348  
purposes as reportable on the taxpayer's form 2106, and against 349  
which a like deduction has not been allowed by the municipal 350  
corporation, the municipal corporation shall deduct from the 351  
taxpayer's taxable income an amount equal to the deduction shown 352  
on such form allowable against such income, to the extent not 353  
otherwise so allowed as a deduction by the municipal corporation. 354

(G)(1) In the case of a taxpayer who has a net profit from a 355

business or profession that is operated as a sole proprietorship, 356  
no municipal corporation may tax or use as the base for 357  
determining the amount of the net profit that shall be considered 358  
as having a taxable situs in the municipal corporation, an amount 359  
other than the net profit required to be reported by the taxpayer 360  
on schedule C or F from such sole proprietorship for the taxable 361  
year. 362

(2) In the case of a taxpayer who has a net profit from 363  
rental activity required to be reported on schedule E, no 364  
municipal corporation may tax or use as the base for determining 365  
the amount of the net profit that shall be considered as having a 366  
taxable situs in the municipal corporation, an amount other than 367  
the net profit from rental activities required to be reported by 368  
the taxpayer on schedule E for the taxable year. 369

(H) A municipal corporation shall not tax any of the 370  
following: 371

(1) The military pay or allowances of members of the armed 372  
forces of the United States and of members of their reserve 373  
components, including the Ohio national guard; 374

(2) The income of religious, fraternal, charitable, 375  
scientific, literary, or educational institutions to the extent 376  
that such income is derived from tax-exempt real estate, 377  
tax-exempt tangible or intangible property, or tax-exempt 378  
activities; 379

(3) Except as otherwise provided in division (I) of this 380  
section, intangible income; 381

(4) Compensation paid under section 3501.28 or 3501.36 of the 382  
Revised Code to a person serving as a precinct election official, 383  
to the extent that such compensation does not exceed one thousand 384  
dollars annually. Such compensation in excess of one thousand 385  
dollars may be subjected to taxation by a municipal corporation. A 386

municipal corporation shall not require the payer of such 387  
compensation to withhold any tax from that compensation. 388

(5) Compensation paid to an employee of a transit authority, 389  
regional transit authority, or regional transit commission created 390  
under Chapter 306. of the Revised Code for operating a transit bus 391  
or other motor vehicle for the authority or commission in or 392  
through the municipal corporation, unless the bus or vehicle is 393  
operated on a regularly scheduled route, the operator is subject 394  
to such a tax by reason of residence or domicile in the municipal 395  
corporation, or the headquarters of the authority or commission is 396  
located within the municipal corporation; 397

(6) The income of a public utility, when that public utility 398  
is subject to the tax levied under section 5727.24 or 5727.30 of 399  
the Revised Code, except a municipal corporation may tax the 400  
following, subject to Chapter 5745. of the Revised Code: 401

(a) Beginning January 1, 2002, the income of an electric 402  
company or combined company; 403

(b) Beginning January 1, 2004, the income of a telephone 404  
company. 405

As used in division (H)(6) of this section, "combined 406  
company," "electric company," and "telephone company" have the 407  
same meanings as in section 5727.01 of the Revised Code. 408

(7) On and after January 1, 2003, items excluded from federal 409  
gross income pursuant to section 107 of the Internal Revenue Code; 410

(8) On and after January 1, 2001, compensation paid to a 411  
nonresident individual to the extent prohibited under section 412  
718.011 of the Revised Code; 413

(9)(a) Except as provided in division (H)(9)(b) and (c) of 414  
this section, an S corporation shareholder's distributive share of 415  
net profits of the S corporation, other than any part of the 416

distributive share of net profits that represents wages as defined 417  
in section 3121(a) of the Internal Revenue Code or net earnings 418  
from self-employment as defined in section 1402(a) of the Internal 419  
Revenue Code. 420

(b) If, pursuant to division (H) of former section 718.01 of 421  
the Revised Code as it existed before March 11, 2004, a majority 422  
of the electors of a municipal corporation voted in favor of the 423  
question at an election held on November 4, 2003, the municipal 424  
corporation may continue after 2002 to tax an S corporation 425  
shareholder's distributive share of net profits of an S 426  
corporation. 427

(c) If, on December 6, 2002, a municipal corporation was 428  
imposing, assessing, and collecting a tax on an S corporation 429  
shareholder's distributive share of net profits of the S 430  
corporation to the extent the distributive share would be 431  
allocated or apportioned to this state under divisions (B)(1) and 432  
(2) of section 5733.05 of the Revised Code if the S corporation 433  
were a corporation subject to taxes imposed under Chapter 5733. of 434  
the Revised Code, the municipal corporation may continue to impose 435  
the tax on such distributive shares to the extent such shares 436  
would be so allocated or apportioned to this state only until 437  
December 31, 2004, unless a majority of the electors of the 438  
municipal corporation voting on the question of continuing to tax 439  
such shares after that date vote in favor of that question at an 440  
election held November 2, 2004. If a majority of those electors 441  
vote in favor of the question, the municipal corporation may 442  
continue after December 31, 2004, to impose the tax on such 443  
distributive shares only to the extent such shares would be so 444  
allocated or apportioned to this state. 445

(d) For the purposes of division (D) of section 718.14 of the 446  
Revised Code, a municipal corporation shall be deemed to have 447  
elected to tax S corporation shareholders' distributive shares of 448

net profits of the S corporation in the hands of the shareholders 449  
if a majority of the electors of a municipal corporation vote in 450  
favor of a question at an election held under division (H)(9)(b) 451  
or (c) of this section. The municipal corporation shall specify by 452  
ordinance or rule that the tax applies to the distributive share 453  
of a shareholder of an S corporation in the hands of the 454  
shareholder of the S corporation. 455

(10) Employee compensation that is not "qualifying wages" as 456  
defined in section 718.03 of the Revised Code; 457

(11) Beginning August 1, 2007, compensation paid to a person 458  
employed within the boundaries of a United States air force base 459  
under the jurisdiction of the United States air force that is used 460  
for the housing of members of the United States air force and is a 461  
center for air force operations, unless the person is subject to 462  
taxation because of residence or domicile. If the compensation is 463  
subject to taxation because of residence or domicile, municipal 464  
income tax shall be payable only to the municipal corporation of 465  
residence or domicile. 466

(I) Any municipal corporation that taxes any type of 467  
intangible income on March 29, 1988, pursuant to Section 3 of 468  
Amended Substitute Senate Bill No. 238 of the 116th general 469  
assembly, may continue to tax that type of income after 1988 if a 470  
majority of the electors of the municipal corporation voting on 471  
the question of whether to permit the taxation of that type of 472  
intangible income after 1988 vote in favor thereof at an election 473  
held on November 8, 1988. 474

(J) Nothing in this section or section 718.02 of the Revised 475  
Code shall authorize the levy of any tax on income that a 476  
municipal corporation is not authorized to levy under existing 477  
laws or shall require a municipal corporation to allow a deduction 478  
from taxable income for losses incurred from a sole proprietorship 479  
or partnership. 480



(K)(1) Nothing in this chapter prohibits a municipal corporation from allowing, by resolution or ordinance, a net operating loss carryforward.

(2) Nothing in this chapter requires a municipal corporation to allow a net operating loss carryforward.

(L)(1) A single member limited liability company that is a disregarded entity for federal tax purposes may elect to be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company;

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004;

(c) Not later than December 31, 2004, the limited liability company and its single member each make an election to be treated as a separate taxpayer under division (L) of this section;

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member;

(e) The Ohio municipal corporation that is the primary place of business of the sole member of the limited liability company consents to the election.

(2) For purposes of division (L)(1)(e) of this section, a municipal corporation is the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability is greater

in that municipal corporation than in any other municipal 511  
corporation in Ohio, and that tax liability to that municipal 512  
corporation for its taxable year ending in 2003 is at least four 513  
hundred thousand dollars. 514

**Sec. 2937.221.** (A) A person arrested without warrant for any 515  
violation listed in division (B) of this section, and having a 516  
current valid Ohio driver's or commercial driver's license, if the 517  
person has been notified of the possible consequences of the 518  
person's actions as required by division (C) of this section, may 519  
post bond by depositing the license with the arresting officer if 520  
the officer and person so choose, or with the local court having 521  
jurisdiction if the court and person so choose. The license may be 522  
used as bond only during the period for which it is valid. 523

When an arresting officer accepts the driver's or commercial 524  
driver's license as bond, the officer shall note the date, time, 525  
and place of the court appearance on "the violator's notice to 526  
appear," and the notice shall serve as a valid Ohio driver's or 527  
commercial driver's license until the date and time appearing 528  
thereon. The arresting officer immediately shall forward the 529  
license to the appropriate court. 530

When a local court accepts the license as bond or continues 531  
the case to another date and time, it shall provide the person 532  
with a card in a form approved by the registrar of motor vehicles 533  
setting forth the license number, name, address, the date and time 534  
of the court appearance, and a statement that the license is being 535  
held as bond. The card shall serve as a valid license until the 536  
date and time contained in the card. 537

The court may accept other bond at any time and return the 538  
license to the person. The court shall return the license to the 539  
person when judgment is satisfied, including, but not limited to, 540  
compliance with any court orders, unless a suspension or 541

cancellation is part of the penalty imposed. 542

Neither "the violator's notice to appear" nor a court- 543  
granted card shall continue driving privileges beyond the 544  
expiration date of the license. 545

If the person arrested fails to appear in court at the date 546  
and time set by the court or fails to satisfy the judgment of the 547  
court, including, but not limited to, compliance with all court 548  
orders within the time allowed by the court, the court may declare 549  
the forfeiture of the person's license. Thirty days after the 550  
declaration of the forfeiture, the court shall forward the 551  
person's license to the registrar. The court also shall enter 552  
information relative to the forfeiture on a form approved and 553  
furnished by the registrar and send the form to the registrar. The 554  
registrar shall suspend the person's license and send written 555  
notification of the suspension to the person at the person's last 556  
known address. No valid driver's or commercial driver's license 557  
shall be granted to the person until the court having jurisdiction 558  
orders that the forfeiture be terminated. The court shall inform 559  
the registrar of the termination of the forfeiture by entering 560  
information relative to the termination on a form approved and 561  
furnished by the registrar and sending the form to the registrar. 562  
Upon the termination, the person shall pay to the bureau of motor 563  
vehicles a reinstatement fee of fifteen dollars to cover the costs 564  
of the bureau in administering this section. The registrar shall 565  
deposit the fees so paid into the state bureau of motor vehicles 566  
fund created by section 4501.25 of the Revised Code. 567

In addition, upon receipt from the court of the copy of the 568  
declaration of forfeiture, neither the registrar nor any deputy 569  
registrar shall accept any application for the registration or 570  
transfer of registration of any motor vehicle owned by or leased 571  
in the name of the person named in the declaration of forfeiture 572  
until the court having jurisdiction over the offense that led to 573

the suspension issues an order terminating the forfeiture. 574  
However, for a motor vehicle leased in the name of a person named 575  
in a declaration of forfeiture, the registrar shall not implement 576  
the preceding sentence until the registrar adopts procedures for 577  
that implementation under section 4503.39 of the Revised Code. 578  
Upon receipt by the registrar of such an order, the registrar also 579  
shall take the measures necessary to permit the person to register 580  
a motor vehicle the person owns or leases or to transfer the 581  
registration of a motor vehicle the person owns or leases if the 582  
person later makes a proper application and otherwise is eligible 583  
to be issued or to transfer a motor vehicle registration. 584

(B) Division (A) of this section applies to persons arrested 585  
for violation of: 586

(1) Any of the provisions of Chapter 4511. or 4513. of the 587  
Revised Code, except sections 4511.19, 4511.20, 4511.251, and 588  
4513.36 of the Revised Code; 589

(2) Any municipal ordinance substantially similar to a 590  
section included in division (B)(1) of this section; 591

(3) Any bylaw, rule, or regulation of the Ohio turnpike and 592  
infrastructure commission substantially similar to a section 593  
included in division (B)(1) of this section. 594

Division (A) of this section does not apply to those persons 595  
issued a citation for the commission of a minor misdemeanor under 596  
section 2935.26 of the Revised Code. 597

(C) No license shall be accepted as bond by an arresting 598  
officer or by a court under this section until the officer or 599  
court has notified the person that, if the person deposits the 600  
license with the officer or court and either does not appear on 601  
the date and at the time set by the officer or the court, if the 602  
court sets a time, or does not satisfy any judgment rendered, 603  
including, but not limited to, compliance with all court orders, 604

the license will be suspended, and the person will not be eligible 605  
for reissuance of the license or issuance of a new license, or the 606  
issuance of a certificate of registration for a motor vehicle 607  
owned or leased by the person until the person appears and 608  
complies with any order issued by the court. The person also is 609  
subject to any criminal penalties that may apply to the person. 610

(D) The registrar shall not restore the person's driving or 611  
vehicle registration privileges until the person pays the 612  
reinstatement fee as provided in this section. 613

**Sec. 3354.13.** The ownership of a community college created 614  
and established pursuant to provisions of sections 3354.02 and 615  
3354.04 of the Revised Code, including all right, title, and 616  
interest in and to all property, both real and personal, 617  
pertaining thereto, shall be vested in the board of trustees of 618  
the community college district in which such college is situated, 619  
except as may be provided in a contract entered into under the 620  
authority of division (A) of section 3354.09 of the Revised Code. 621  
The board may acquire by appropriation any land, rights, rights of 622  
way, franchises, easements, or other property necessary or proper 623  
for the construction or the efficient operation of any facility of 624  
the community college district, pursuant to the procedure provided 625  
in section 5537.06 of the Revised Code, with respect to the Ohio 626  
turnpike and infrastructure commission, and insofar as such 627  
procedure is applicable. 628

Any instrument by which real property is acquired pursuant to 629  
this section shall identify the agency of the state that has the 630  
use and benefit of the real property as specified in section 631  
5301.012 of the Revised Code. 632

**Sec. 3355.10.** The ownership of the university branch campus, 633  
created and established pursuant to sections 3355.01 to 3355.14 of 634

the Revised Code, including all right, title, and interest in and 635  
to all property, both real and personal, pertaining thereto, shall 636  
be vested in the managing authority of the university branch 637  
district. The board may acquire by appropriation any land, rights, 638  
rights of way, franchises, easements, or other property necessary 639  
or proper for the construction or the efficient operation of any 640  
facility of the university branch district, pursuant to section 641  
5537.06 of the Revised Code, with respect to the Ohio turnpike and 642  
infrastructure commission, and insofar as such procedure is 643  
applicable. 644

University branch district bonds, issued pursuant to section 645  
3355.08 of the Revised Code, are lawful investments of banks, 646  
savings banks, trust companies, trustees, boards of trustees of 647  
sinking funds of municipal corporations, school districts, 648  
counties, the administrator of workers' compensation, the state 649  
teachers retirement system, the public employees retirement 650  
system, and the school employees retirement system, and also are 651  
acceptable as security for the deposit of public moneys. 652

Any instrument by which real property is acquired pursuant to 653  
this section shall identify the agency of the state that has the 654  
use and benefit of the real property as specified in section 655  
5301.012 of the Revised Code. 656

**Sec. 3357.12.** The ownership of a technical college, created 657  
and established pursuant to section 3357.07 of the Revised Code, 658  
including all right, title, and interest in and to all property, 659  
both real and personal, pertaining thereto, shall be vested in the 660  
board of trustees of the technical college district in which such 661  
college is situated. The board may acquire by appropriation any 662  
land, rights, rights-of-way, franchises, easements, or other 663  
property necessary or proper for the construction or the efficient 664  
operation of any facility of the technical college district, 665

pursuant to the procedure provided in section 5537.06 of the 666  
Revised Code, with respect to the Ohio turnpike and infrastructure 667  
commission, and insofar as such procedure is applicable. 668

Any instrument by which real property is acquired pursuant to 669  
this section shall identify the agency of the state that has the 670  
use and benefit of the real property as specified in section 671  
5301.012 of the Revised Code. 672

**Sec. 5503.31.** The state highway patrol shall have the same 673  
authority as is conferred upon it by section 5503.02 of the 674  
Revised Code with respect to the enforcement of state laws on 675  
other roads and highways and on other state properties, to enforce 676  
on all turnpike projects the laws of the state and the bylaws, 677  
rules, and regulations of the Ohio turnpike and infrastructure 678  
commission. The patrol, the superintendent of the patrol, and all 679  
state highway patrol troopers shall have the same authority to 680  
make arrests on all turnpike projects for violations of state laws 681  
and of bylaws, rules, and regulations of the Ohio turnpike and 682  
infrastructure commission as is conferred upon them by section 683  
5503.02 of the Revised Code to make arrests on, and in connection 684  
with offenses committed on, other roads and highways and on other 685  
state properties. 686

**Sec. 5503.32.** The director of public safety may from time to 687  
time enter into contracts with the Ohio turnpike and 688  
infrastructure commission with respect to the policing of turnpike 689  
projects by the state highway patrol. The contracts shall provide 690  
for the reimbursement of the state by the commission for the costs 691  
incurred by the patrol in policing turnpike projects, including, 692  
but not limited to, the salaries of employees of the patrol 693  
assigned to the policing, the current costs of funding retirement 694  
pensions for the employees of the patrol and of providing workers' 695  
compensation for them, the cost of training state highway patrol 696

troopers and radio operators assigned to turnpike projects, and 697  
the cost of equipment and supplies used by the patrol in such 698  
policing, and of housing for such troopers and radio operators, to 699  
the extent that the equipment, supplies, and housing are not 700  
directly furnished by the commission. Each contract may provide 701  
for the ascertainment of such costs, and shall be of any duration, 702  
not in excess of five years, and may contain any other terms, that 703  
the director and the commission may agree upon. The patrol shall 704  
not be obligated to furnish policing services on any turnpike 705  
project beyond the extent required by the contract. All payments 706  
pursuant to any contract in reimbursement of the costs of the 707  
policing shall be deposited in the state treasury to the credit of 708  
the turnpike policing fund, which is hereby created. All 709  
investment earnings of the fund shall be credited to the fund. 710

**Sec. 5513.01.** (A) All purchases of machinery, materials, 711  
supplies, or other articles that the director of transportation 712  
makes shall be in the manner provided in this section. In all 713  
cases except those in which the director provides written 714  
authorization for purchases by district deputy directors of 715  
transportation, all such purchases shall be made at the central 716  
office of the department of transportation in Columbus. Before 717  
making any purchase at that office, the director, as provided in 718  
this section, shall give notice to bidders of the director's 719  
intention to purchase. Where the expenditure does not exceed the 720  
amount applicable to the purchase of supplies specified in 721  
division (B) of section 125.05 of the Revised Code, as adjusted 722  
pursuant to division (D) of that section, the director shall give 723  
such notice as the director considers proper, or the director may 724  
make the purchase without notice. Where the expenditure exceeds 725  
the amount applicable to the purchase of supplies specified in 726  
division (B) of section 125.05 of the Revised Code, as adjusted 727  
pursuant to division (D) of that section, the director shall give 728



notice by posting for not less than ten days a written, typed, or 729  
printed invitation to bidders on a bulletin board, which shall be 730  
located in a place in the offices assigned to the department and 731  
open to the public during business hours. Producers or 732  
distributors of any product may notify the director, in writing, 733  
of the class of articles for the furnishing of which they desire 734  
to bid and their post-office addresses, in which case copies of 735  
all invitations to bidders relating to the purchase of such 736  
articles shall be mailed to such persons by the director by 737  
regular first class mail at least ten days prior to the time fixed 738  
for taking bids. The director also may mail copies of all 739  
invitations to bidders to news agencies or other agencies or 740  
organizations distributing information of this character. Requests 741  
for invitations shall not be valid nor require action by the 742  
director unless renewed, either annually or after such shorter 743  
period as the director may prescribe by a general rule. The 744  
invitation to bidders shall contain a brief statement of the 745  
general character of the article that it is intended to purchase, 746  
the approximate quantity desired, and a statement of the time and 747  
place where bids will be received, and may relate to and describe 748  
as many different articles as the director thinks proper, it being 749  
the intent and purpose of this section to authorize the inclusion 750  
in a single invitation of as many different articles as the 751  
director desires to invite bids upon at any given time. 752  
Invitations issued during each calendar year shall be given 753  
consecutive numbers, and the number assigned to each invitation 754  
shall appear on all copies thereof. In all cases where notice is 755  
required by this section, sealed bids shall be taken, on forms 756  
prescribed and furnished by the director, and modification of bids 757  
after they have been opened shall not be permitted. 758

(B) The director may permit the Ohio turnpike and 759  
infrastructure commission, any political subdivision, and any 760  
state university or college to participate in contracts into which 761

the director has entered for the purchase of machinery, materials, 762  
supplies, or other articles. The turnpike and infrastructure 763  
commission and any political subdivision or state university or 764  
college desiring to participate in such purchase contracts shall 765  
file with the director a certified copy of the bylaws or rules of 766  
the turnpike and infrastructure commission or the ordinance or 767  
resolution of the legislative authority, board of trustees, or 768  
other governing board requesting authorization to participate in 769  
such contracts and agreeing to be bound by such terms and 770  
conditions as the director prescribes. Purchases made by the 771  
turnpike and infrastructure commission, political subdivisions, or 772  
state universities or colleges under this division are exempt from 773  
any competitive bidding required by law for the purchase of 774  
machinery, materials, supplies, or other articles. 775

(C) As used in this section: 776

(1) "Political subdivision" means any county, township, 777  
municipal corporation, conservancy district, township park 778  
district, park district created under Chapter 1545. of the Revised 779  
Code, port authority, regional transit authority, regional airport 780  
authority, regional water and sewer district, county transit 781  
board, or school district as defined in section 5513.04 of the 782  
Revised Code. 783

(2) "State university or college" has the same meaning as in 784  
division (A)(1) of section 3345.32 of the Revised Code. 785

(3) "Ohio turnpike and infrastructure commission" means the 786  
commission created by section 5537.02 of the Revised Code. 787

**Sec. 5533.31.** The road known as interstate route eighty, 788  
extending across Ohio from the Pennsylvania border in Trumbull 789  
county to the Indiana border in Williams county, shall be known as 790  
the "Christopher Columbus highway." 791

The director of transportation may erect suitable markers 792  
upon the portions of such highway under ~~his~~ the director's 793  
jurisdiction indicating its name, and the Ohio turnpike and 794  
infrastructure commission may erect suitable markers on the 795  
portions of such highway under its jurisdiction indicating its 796  
name. 797

**Sec. 5537.01.** As used in this chapter: 798

(A) "Commission" means the Ohio turnpike and infrastructure 799  
commission created by section 5537.02 of the Revised Code or, if 800  
that commission is abolished, the board, body, officer, or 801  
commission succeeding to the principal functions thereof or to 802  
which the powers given by this chapter to the commission are given 803  
by law. 804

(B) "~~Project~~ or "~~turnpike~~ Turnpike project" means any 805  
express or limited access highway, super highway, or motorway 806  
constructed, operated, or improved, under the jurisdiction of the 807  
commission and pursuant to this chapter, at a location or 808  
locations reviewed by the turnpike legislative review committee 809  
and approved by the governor, including all bridges, tunnels, 810  
overpasses, underpasses, interchanges, entrance plazas, 811  
approaches, those portions of connecting public roads that serve 812  
interchanges and are determined by the commission and the director 813  
of transportation to be necessary for the safe merging of traffic 814  
between the turnpike project and those public roads, toll booths, 815  
service facilities, and administration, storage, and other 816  
buildings, property, and facilities that the commission considers 817  
necessary for the operation or policing of the turnpike project, 818  
together with all property and rights which may be acquired by the 819  
commission for the construction, maintenance, or operation of the 820  
turnpike project, and includes any sections or extensions of a 821  
turnpike project designated by the commission as such for the 822

particular purpose. Each turnpike project shall be separately 823  
designated, by name or number, and may be constructed, improved, 824  
or extended in such sections as the commission may from time to 825  
time determine. Construction includes the improvement and 826  
renovation of a previously constructed turnpike project, including 827  
additional interchanges, whether or not the turnpike project was 828  
initially constructed by the commission. 829

(C) "Infrastructure project" means any public express or 830  
limited access highway, super highway, or motorway, including all 831  
bridges, tunnels, overpasses, underpasses, interchanges, entrance 832  
plazas, approaches, and those portions of connecting public roads 833  
that serve interchanges, that is constructed or improved, in whole 834  
or in part, with infrastructure funding approved pursuant to 835  
criteria established under section 5537.18 of the Revised Code. 836

(D) "Cost," as applied to construction of a turnpike project 837  
or an infrastructure project, includes the cost of construction, 838  
including bridges over or under existing highways and railroads, 839  
acquisition of all property acquired either by the commission or 840  
by the owner of the infrastructure project for the construction, 841  
demolishing or removing any buildings or structures on land so 842  
acquired, including the cost of acquiring any lands to which the 843  
buildings or structures may be moved, site clearance, improvement, 844  
and preparation, diverting public roads, interchanges with public 845  
roads, access roads to private property, including the cost of 846  
land or easements therefor, all machinery, furnishings, and 847  
equipment, communications facilities, financing expenses, interest 848  
prior to and during construction and for one year after completion 849  
of construction, traffic estimates, indemnity and surety bonds and 850  
premiums on insurance, title work and title commitments, 851  
insurance, and guarantees, engineering, feasibility studies, and 852  
legal expenses, plans, specifications, surveys, estimates of cost 853  
and revenues, other expenses necessary or incident to determining 854

the feasibility or practicability of constructing or operating a 855  
turnpike project or an infrastructure project, administrative 856  
expenses, and any other expense that may be necessary or incident 857  
to the construction of the turnpike project or an infrastructure 858  
project, the financing of the construction, and the placing of the 859  
turnpike project or an infrastructure project in operation. Any 860  
obligation or expense incurred by the department of transportation 861  
with the approval of the commission for surveys, borings, 862  
preparation of plans and specifications, and other engineering 863  
services in connection with the construction of a turnpike project 864  
or an infrastructure project, or by the federal government with 865  
the approval of the commission for any public road projects which 866  
must be reimbursed as a condition to the exercise of any of the 867  
powers of the commission under this chapter, shall be regarded as 868  
a part of the cost of the turnpike project or an infrastructure 869  
project and shall be reimbursed to the state or the federal 870  
government, as the case may be, from revenues, state taxes, or the 871  
proceeds of bonds as authorized by this chapter. 872

~~(D)~~(E) "Owner" includes all persons having any title or 873  
interest in any property authorized to be acquired by the 874  
commission for turnpike projects under this chapter, or the public 875  
entity for whom an infrastructure project is funded, in whole or 876  
in part, by the commission under this chapter. 877

~~(E)~~(F) "Revenues" means all tolls, service revenues, 878  
investment income on special funds, rentals, gifts, grants, and 879  
all other moneys coming into the possession of or under the 880  
control of the commission by virtue of this chapter, except the 881  
proceeds from the sale of bonds. "Revenues" does not include state 882  
taxes. 883

~~(F)~~(G) "Public roads" means all public highways, roads, and 884  
streets in the state, whether maintained by a state agency or any 885  
other governmental agency. 886

~~(G)~~(H) "Public utility facilities" means tracks, pipes, 887  
mains, conduits, cables, wires, towers, poles, and other equipment 888  
and appliances of any public utility. 889

~~(H)~~(I) "Financing expenses" means all costs and expenses 890  
relating to the authorization, issuance, sale, delivery, 891  
authentication, deposit, custody, clearing, registration, 892  
transfer, exchange, fractionalization, replacement, payment, and 893  
servicing of bonds including, without limitation, costs and 894  
expenses for or relating to publication and printing, postage, 895  
delivery, preliminary and final official statements, offering 896  
circulars, and informational statements, travel and 897  
transportation, underwriters, placement agents, investment 898  
bankers, paying agents, registrars, authenticating agents, 899  
remarketing agents, custodians, clearing agencies or corporations, 900  
securities depositories, financial advisory services, 901  
certifications, audits, federal or state regulatory agencies, 902  
accounting and computation services, legal services and obtaining 903  
approving legal opinions and other legal opinions, credit ratings, 904  
redemption premiums, and credit enhancement facilities. 905

~~(I)~~(J) "Bond proceedings" means the resolutions, trust 906  
agreements, certifications, notices, sale proceedings, leases, 907  
lease-purchase agreements, assignments, credit enhancement 908  
facility agreements, and other agreements, instruments, and 909  
documents, as amended and supplemented, or any one or more or any 910  
combination thereof, authorizing, or authorizing or providing for 911  
the terms and conditions applicable to, or providing for the 912  
security or sale or award or liquidity of, bonds, and includes the 913  
provisions set forth or incorporated in those bonds and bond 914  
proceedings. 915

~~(J)~~(K) "Bond service charges" means principal, including any 916  
mandatory sinking fund or mandatory redemption requirements for 917  
the retirement of bonds, and interest and any redemption premium 918

payable on bonds, as those payments come due and are payable to 919  
the bondholder or to a person making payment under a credit 920  
enhancement facility of those bond service charges to a 921  
bondholder. 922

~~(K)~~(L) "Bond service fund" means the applicable fund created 923  
by the bond proceedings for and pledged to the payment of bond 924  
service charges on bonds provided for by those proceedings, 925  
including all moneys and investments, and earnings from 926  
investments, credited and to be credited to that fund as provided 927  
in the bond proceedings. 928

~~(L)~~(M) "Bonds" means bonds, notes, including notes 929  
anticipating bonds or other notes, commercial paper, certificates 930  
of participation, or other evidences of obligation, including any 931  
interest coupons pertaining thereto, issued by the commission 932  
pursuant to this chapter. 933

~~(M)~~(N) "Infrastructure fund" means the applicable fund or 934  
funds created by the bond proceedings, which shall be used to pay 935  
or defray the cost of infrastructure projects recommended by the 936  
director of transportation and evaluated and approved by the 937  
commission. 938

(O) "Net revenues" means revenues lawfully available to pay 939  
both current operating expenses of the commission and bond service 940  
charges in any fiscal year or other specified period, less current 941  
operating expenses of the commission and any amount necessary to 942  
maintain a working capital reserve for that period. 943

~~(N)~~(P) "Pledged revenues" means net revenues, moneys and 944  
investments, and earnings on those investments, in the applicable 945  
bond service fund and any other special funds, and the proceeds of 946  
any bonds issued for the purpose of refunding prior bonds, all as 947  
lawfully available and by resolution of the commission committed 948  
for application as pledged revenues to the payment of bond service 949

charges on particular issues of bonds. 950

~~(O)~~(O) "Service facilities" means service stations, 951  
restaurants, and other facilities for food service, roadside parks 952  
and rest areas, parking, camping, tenting, rest, and sleeping 953  
facilities, hotels or motels, and all similar and other facilities 954  
providing services to the traveling public in connection with the 955  
use of a turnpike project and owned, leased, licensed, or operated 956  
by the commission. 957

~~(P)~~(R) "Service revenues" means those revenues of the 958  
commission derived from its ownership, leasing, licensing, or 959  
operation of service facilities. 960

~~(Q)~~(S) "Special funds" means the applicable bond service fund 961  
and any accounts and subaccounts in that fund, any other funds or 962  
accounts permitted by and established under, and identified as a 963  
"special fund" or "special account" in, the bond proceedings, 964  
including any special fund or account established for purposes of 965  
rebate or other requirements under federal income tax laws. 966

~~(R)~~(T) "State agencies" means the state, officers of the 967  
state, and boards, departments, branches, divisions, or other 968  
units or agencies of the state. 969

~~(S)~~(U) "State taxes" means receipts of the commission from 970  
the proceeds of state taxes or excises levied and collected, or 971  
appropriated by the general assembly to the commission, for the 972  
purposes and functions of the commission. State taxes do not 973  
include tolls, or investment earnings on state taxes except on 974  
those state taxes referred to in Section 5a of Article XII, Ohio 975  
Constitution. 976

~~(T)~~(V) "Tolls" means tolls, special fees or permit fees, or 977  
other charges by the commission to the owners, lessors, lessees, 978  
or operators of motor vehicles for the operation of or the right 979  
to operate those vehicles on a turnpike project. 980



~~(U)~~(W) "Credit enhancement facilities" means letters of 981  
credit, lines of credit, standby, contingent, or firm securities 982  
purchase agreements, insurance, or surety arrangements, 983  
guarantees, and other arrangements that provide for direct or 984  
contingent payment of bond service charges, for security or 985  
additional security in the event of nonpayment or default in 986  
respect of bonds, or for making payment of bond service charges 987  
and at the option and on demand of bondholders or at the option of 988  
the commission or upon certain conditions occurring under put or 989  
similar arrangements, or for otherwise supporting the credit or 990  
liquidity of the bonds, and includes credit, reimbursement, 991  
marketing, remarketing, indexing, carrying, interest rate hedge, 992  
and subrogation agreements, and other agreements and arrangements 993  
for payment and reimbursement of the person providing the credit 994  
enhancement facility and the security for that payment and 995  
reimbursement. 996

~~(V)~~(X) "Person" has the same meaning as in section 1.59 of 997  
the Revised Code and, unless the context otherwise provides, also 998  
includes any governmental agency and any combination of those 999  
persons. 1000

~~(W)~~(Y) "Refund" means to fund and retire outstanding bonds, 1001  
including advance refunding with or without payment or redemption 1002  
prior to stated maturity. 1003

~~(X)~~(Z) "Governmental agency" means any state agency, federal 1004  
agency, political subdivision, or other local, interstate, or 1005  
regional governmental agency, and any combination of those 1006  
agencies. 1007

~~(Y)~~(AA) "Property" has the same meaning as in section 1.59 of 1008  
the Revised Code, and includes interests in property. 1009

~~(Z)~~(BB) "Administrative agent," "agent," "commercial paper," 1010  
"floating rate interest structure," "indexing agent," "interest 1011

rate hedge," "interest rate period," "put arrangement," and 1012  
"remarketing agent" have the same meanings as in section 9.98 of 1013  
the Revised Code. 1014

~~(AA)~~(CC) "Outstanding," as applied to bonds, means 1015  
outstanding in accordance with the terms of the bonds and the 1016  
applicable bond proceedings. 1017

~~(BB)~~(DD) "Ohio turnpike system" or "system" means all 1018  
existing and future turnpike projects constructed, operated, and 1019  
maintained under the jurisdiction of the commission. 1020

(EE) "Ohio turnpike and infrastructure system" means turnpike 1021  
projects and infrastructure projects funded by the commission 1022  
existing on and after July 1, 2013. 1023

**Sec. 5537.02.** (A) There is hereby created a commission to be 1024  
known on and after July 1, 2013, as the "Ohio turnpike and 1025  
infrastructure commission." The commission is a body both 1026  
corporate and politic, constituting an instrumentality of the 1027  
state, and the exercise by it of the powers conferred by this 1028  
chapter in the construction, operation, and maintenance of the 1029  
Ohio turnpike system, and also in entering into agreements with 1030  
the department of transportation to pay the cost or a portion of 1031  
the costs of infrastructure projects, are and shall be held to be 1032  
essential governmental functions of the state, but the commission 1033  
shall not be immune from liability by reason thereof. Chapter 1034  
2744. of the Revised Code applies to the commission and the 1035  
commission is a political subdivision of the state for purposes of 1036  
that chapter. The commission is subject to all provisions of law 1037  
generally applicable to state agencies which do not conflict with 1038  
this chapter. 1039

(B)(1) The commission shall consist of ~~nine~~ ten members as 1040  
follows: 1041

(a) ~~Four~~ Six members appointed by the governor with the 1042  
advice and consent of the senate, no more than ~~two~~ three of whom 1043  
shall be members of the same political party; 1044

(b) The director of transportation, who shall be a voting 1045  
member, and the director of budget and management, ~~and the~~ 1046  
~~director of development, each~~ both of whom shall ~~be a member~~ serve 1047  
as ex officio members, without compensation; 1048

(c) One member of the senate, appointed by the president of 1049  
the senate, who shall represent either a district in which is 1050  
located or through which passes a portion of a turnpike project 1051  
that is part of the Ohio turnpike system or a district located in 1052  
the vicinity of a turnpike project that is part of the Ohio 1053  
turnpike system; 1054

(d) One member of the house of representatives, appointed by 1055  
the speaker of the house of representatives, who shall represent 1056  
either a district in which is located or through which passes a 1057  
portion of a turnpike project that is part of the Ohio turnpike 1058  
system or a district located in the vicinity of a turnpike project 1059  
that is part of the Ohio turnpike system. 1060

(2) The members appointed by the governor shall be residents 1061  
of the state, shall have been qualified electors therein for a 1062  
period of at least five years next preceding their appointment, 1063  
~~and~~. In making the appointments, the governor may appoint persons 1064  
who reside in different geographic areas of the state, taking into 1065  
consideration the various turnpike and infrastructure projects in 1066  
the state. Members appointed to the commission prior to July 1, 1067  
2013, shall serve terms of eight years commencing on the first day 1068  
of July and ending on the thirtieth day of June. Thereafter, 1069  
members appointed by the governor shall serve terms of three years 1070  
commencing on the first day of July and ending on the thirtieth 1071  
day of June. Those members appointed by the president of the 1072  
senate or the speaker of the house of representatives shall serve 1073

a term of the remainder of the general assembly during which the senator or representative is appointed. Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. If a commission member dies or resigns, or if a senator or representative who is a member of the commission ceases to be a senator or representative, or if an ex officio member ceases to hold the applicable office, the vacancy shall be filled in the same manner as provided in division (B)(1) of this section. Any member who fills a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall, if appointed by the governor, hold office for the remainder of such term or, if appointed by the president of the senate or the speaker of the house of representatives, shall hold office for the remainder of the term or for a shorter period of time as determined by the president or the speaker. Any member appointed by the governor shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A member of the commission is eligible for reappointment. Each member of the commission appointed by the governor, before entering upon the member's duties, shall take an oath as provided by Section 7 of Article XV, Ohio Constitution. The governor, the president of the senate, or the speaker of the house of representatives, may at any time remove their respective appointees to the commission for misfeasance, nonfeasance, or malfeasance in office.

(3)(a) A member of the commission who is appointed by the president of the senate or the speaker of the house of representatives shall not participate in any vote of the commission. Serving as an appointed member of the commission under divisions (B)(1)(c), (1)(d), or (2) of this section does not constitute grounds for resignation from the senate or the house of representatives under section 101.26 of the Revised Code.

(b) The director of budget and management ~~and the director of~~ 1107  
~~development~~ shall not participate in any vote of the commission. 1108

(C) The voting members of the commission shall elect one of 1109  
the ~~appointed~~ voting members as chairperson and another as 1110  
vice-chairperson, and shall appoint a secretary-treasurer who need 1111  
not be a member of the commission. ~~Three~~ Four of the voting 1112  
members of the commission constitute a quorum, and the affirmative 1113  
vote of ~~three~~ four voting members is necessary for any action 1114  
taken by the commission. No vacancy in the membership of the 1115  
commission impairs the rights of a quorum to exercise all the 1116  
rights and perform all the duties of the commission. 1117

(D) Each member of the commission appointed by the governor 1118  
shall give a surety bond to the commission in the penal sum of 1119  
twenty-five thousand dollars and the secretary-treasurer shall 1120  
give such a bond in at least the penal sum of fifty thousand 1121  
dollars. The commission may require any of its officers or 1122  
employees to file surety bonds including a blanket bond as 1123  
provided in section 3.06 of the Revised Code. Each such bond shall 1124  
be in favor of the commission and shall be conditioned upon the 1125  
faithful performance of the duties of the office, executed by a 1126  
surety company authorized to transact business in this state, 1127  
approved by the governor, and filed in the office of the secretary 1128  
of state. The costs of the surety bonds shall be paid or 1129  
reimbursed by the commission from revenues. Each member of the 1130  
commission appointed by the governor shall receive an annual 1131  
salary of five thousand dollars, payable in monthly installments. 1132  
Each member shall be reimbursed for the member's actual expenses 1133  
necessarily incurred in the performance of the member's duties. 1134  
All costs and expenses incurred by the commission in carrying out 1135  
this chapter shall be payable solely from revenues and state 1136  
taxes, and no liability or obligation shall be incurred by the 1137  
commission beyond the extent to which revenues have been provided 1138

for pursuant to this chapter. 1139

**Sec. 5537.03.** In order to remove present and anticipated 1140  
handicaps and potential hazards on the congested highways in this 1141  
state, to facilitate vehicular traffic throughout the state, to 1142  
finance infrastructure projects that enhance mobility and economic 1143  
development in Ohio, to promote the agricultural, commercial, 1144  
recreational, tourism, and industrial development of the state, 1145  
and to provide for the general welfare by the construction, 1146  
improvement, and maintenance of modern express highways embodying 1147  
safety devices, including without limitation center divisions, 1148  
ample shoulder widths, long sight distances, multiple lanes in each 1149  
direction, and grade separations at intersections with other 1150  
public roads and railroads, the Ohio turnpike and infrastructure 1151  
commission, ~~subject~~ may do the following: 1152

(A) Subject to section 5537.26 of the Revised Code, ~~may~~ 1153  
construct, maintain, repair, and operate a system of turnpike 1154  
projects at locations that are reviewed by the turnpike 1155  
legislative review committee and approved by the governor, and in 1156  
accordance with alignment and design standards that are approved 1157  
by the director of transportation, and issue revenue bonds of this 1158  
state, payable solely from pledged revenues, to pay the cost of 1159  
those projects. The turnpikes and turnpike projects authorized by 1160  
this chapter are hereby or shall be made part of the Ohio turnpike 1161  
system. 1162

(B) Provide the infrastructure funds to pay the cost or a 1163  
portion of the cost of infrastructure projects as recommended by 1164  
the director of transportation pursuant to a determination made by 1165  
the commission based on criteria set forth in rules adopted by the 1166  
commission under section 5537.18 of the Revised Code. A 1167  
determination by the commission to provide infrastructure funds 1168  
for an infrastructure project shall be conclusive and 1169

incontestable. 1170

**Sec. 5537.04.** (A) The Ohio turnpike and infrastructure 1171  
commission may do any of the following: 1172

(1) Adopt bylaws for the regulation of its affairs and the 1173  
conduct of its business; 1174

(2) Adopt an official seal, which shall not be the great seal 1175  
of the state and which need not be in compliance with section 5.10 1176  
of the Revised Code; 1177

(3) Maintain a principal office and suboffices at such places 1178  
within the state as it designates; 1179

(4) Sue With respect to the Ohio turnpike system and turnpike 1180  
projects, sue and be sued in its own name, plead and be impleaded, 1181  
provided any actions against the commission shall be brought in 1182  
the court of common pleas of the county in which the principal 1183  
office of the commission is located, or in the court of common 1184  
pleas of the county in which the cause of action arose if that 1185  
county is located within this state, and all summonses, 1186  
exceptions, and notices of every kind shall be served on the 1187  
commission by leaving a copy thereof at its principal office with 1188  
the secretary-treasurer or executive director of the commission; 1189

(5) With respect to infrastructure projects only, sue and be 1190  
sued in its own name, plead and be impleaded, provided any actions 1191  
against the commission shall be brought in the court of common 1192  
pleas of Franklin county, and all summonses, exceptions, and 1193  
notices of every kind shall be served on the commission by leaving 1194  
a copy thereof at its principal office with the 1195  
secretary-treasurer or executive director of the commission. 1196

(6) Construct, maintain, repair, police, and operate the 1197  
turnpike system, and establish rules for the use of any turnpike 1198  
project; 1199

~~(6)~~(7) Issue revenue bonds of the state, payable solely from 1200  
pledged revenues, as provided in this chapter, for the purpose of 1201  
paying any part of the cost of constructing any one or more 1202  
turnpike projects or infrastructure projects; 1203

~~(7)~~(8) Fix, and revise from time to time, and charge and 1204  
collect tolls by any method approved by the commission, including, 1205  
but not limited to, manual methods or through electronic 1206  
technology accepted within the tolling industry; 1207

~~(8)~~(9) Acquire, hold, and dispose of property in the exercise 1208  
of its powers and the performance of its duties under this 1209  
chapter; 1210

~~(9)~~(10) Designate the locations and establish, limit, and 1211  
control such points of ingress to and egress from each turnpike 1212  
project as are necessary or desirable in the judgment of the 1213  
commission and of the director of transportation to ensure the 1214  
proper operation and maintenance of that turnpike project, and 1215  
prohibit entrance to such a turnpike project from any point not so 1216  
designated; 1217

~~(10)~~(11) Make and enter into all contracts and agreements 1218  
necessary or incidental to the performance of its duties and the 1219  
execution of its powers under this chapter, including 1220  
participation in a multi-jurisdiction electronic toll collection 1221  
agreement and collection or remittance of tolls, fees, or other 1222  
charges to or from entities or agencies that participate in such 1223  
an agreement; 1224

~~(11)~~(12) Employ or retain or contract for the services of 1225  
consulting engineers, superintendents, managers, and any other 1226  
engineers, construction and accounting experts, financial 1227  
advisers, trustees, marketing, remarketing, and administrative 1228  
agents, attorneys, and other employees, independent contractors, 1229  
or agents that are necessary in its judgment and fix their 1230



compensation, provided all such expenses shall be payable solely 1231  
from the proceeds of bonds or from revenues of the Ohio turnpike 1232  
system; 1233

~~(12)~~(13) Receive and accept from any federal agency, subject 1234  
to the approval of the governor, and from any other governmental 1235  
agency grants for or in aid of the construction, reconstruction, 1236  
repair, renovation, maintenance, or operation of any turnpike 1237  
project, and receive and accept aid or contributions from any 1238  
source or person of money, property, labor, or other things of 1239  
value, to be held, used, and applied only for the purposes for 1240  
which such grants and contributions are made; 1241

~~(13)~~(14) Provide coverage for its employees under Chapters 1242  
4123. and 4141. of the Revised Code; 1243

~~(14)~~(15) Fix and revise by rule, from time to time, such 1244  
permit fees, processing fees, or administrative charges for the 1245  
prepayment, deferred payment, or nonpayment of tolls and use of 1246  
electronic tolling equipment or other commission property; 1247

(16) Adopt rules for the issuance of citations either by a 1248  
policing authority or through administrative means to individuals 1249  
or corporations that evade the payment of tolls established for 1250  
the use of any turnpike project; 1251

(17) Approve funding and authorize agreements with the 1252  
department of transportation for the funding of infrastructure 1253  
projects recommended by the director of transportation pursuant to 1254  
the criteria established by rule under section 5537.18 of the 1255  
Revised Code. 1256

(B) The commission may do all acts necessary or proper to 1257  
carry out the powers expressly granted in this chapter. 1258

**Sec. 5537.05.** (A) The Ohio turnpike and infrastructure 1259  
commission may construct grade separations at intersections of any 1260

turnpike project with public roads and railroads, and change and 1261  
adjust the lines and grades of those roads and railroads, and of 1262  
public utility facilities, which change and adjustment of lines 1263  
and grades of those roads shall be subject to the approval of the 1264  
governmental agency having jurisdiction over the road, so as to 1265  
accommodate them to the design of the grade separation. The cost 1266  
of the grade separation and any damage incurred in changing and 1267  
adjusting the lines and grades of roads, railroads, and public 1268  
utility facilities shall be ascertained and paid by the commission 1269  
as a part of the cost of the turnpike project or from revenues or 1270  
state taxes. 1271

(1) If the commission finds it necessary to change the 1272  
location of any portion of any public road, railroad, or public 1273  
utility facility, it shall cause the same to be reconstructed at 1274  
the location the governmental agency having jurisdiction over such 1275  
road, railroad, or public utility facility considers most 1276  
favorable. The construction shall be of substantially the same 1277  
type and in as good condition as the original road, railroad, or 1278  
public utility facility. The cost of the reconstruction, 1279  
relocation, or removal and any damage incurred in changing the 1280  
location shall be ascertained and paid by the commission as a part 1281  
of the cost of the turnpike project or from revenues or state 1282  
taxes. 1283

(2) The commission may petition the board of county 1284  
commissioners of the county in which is situated any public road 1285  
or part thereof affected by the location therein of any turnpike 1286  
project, for the vacation or relocation of the road or any part 1287  
thereof, in the same manner and with the same force and effect as 1288  
is given to the director of transportation pursuant to sections 1289  
5553.04 to 5553.11 of the Revised Code. 1290

(B) The commission and its authorized agents and employees, 1291  
after proper notice, may enter upon any lands, waters, and 1292

premises in the state for the purpose of making surveys, 1293  
soundings, drillings, and examinations that are necessary or 1294  
proper for the purposes of this chapter, and the entry shall not 1295  
be deemed a trespass, nor shall an entry for those purposes be 1296  
deemed an entry under any appropriation proceedings which may then 1297  
be pending, provided that before entering upon the premises of any 1298  
railroad notice shall be given to the superintendent of the 1299  
railroad involved at least five days in advance of entry, and 1300  
provided that no survey, sounding, drilling, and examination shall 1301  
be made between the rails or so close to a railroad track as would 1302  
render the track unusable. The commission shall make reimbursement 1303  
for any actual damage resulting to such lands, waters, and 1304  
premises and to private property located in, on, along, over, or 1305  
under such lands, waters, and premises, as a result of such 1306  
activities. The state, subject to the approval of the governor, 1307  
hereby consents to the use of all lands owned by it, including 1308  
lands lying under water, that are necessary or proper for the 1309  
construction, maintenance, or operation of any turnpike project, 1310  
provided adequate consideration is provided for the use. 1311

(C) The commission may make reasonable provisions or rules 1312  
for the installation, construction, maintenance, repair, renewal, 1313  
relocation, and removal of public utility facilities in, on, 1314  
along, over, or under any turnpike project. Whenever the 1315  
commission determines that it is necessary that any public utility 1316  
facilities located in, on, along, over, or under any turnpike 1317  
project should be relocated in or removed from the turnpike 1318  
project, the public utility owning or operating the facilities 1319  
shall relocate or remove them in accordance with the order of the 1320  
commission. Except as otherwise provided in any license or other 1321  
agreement with the commission, the cost and expenses of such 1322  
relocation or removal, including the cost of installing the 1323  
facilities in a new location, the cost of any lands, or any rights 1324  
or interests in lands, and any other rights, acquired to 1325

accomplish the relocation or removal, shall be ascertained and 1326  
paid by the commission as part of the cost of the turnpike project 1327  
or from revenues of the Ohio turnpike system. In case of any such 1328  
relocation or removal of facilities, the public utility owning or 1329  
operating them and its successors or assigns may maintain and 1330  
operate the facilities, with the necessary appurtenances, in the 1331  
new location, for as long a period, and upon the same terms, as it 1332  
had the right to maintain and operate the facilities in their 1333  
former location. 1334

(D) The commission is subject to Chapters 1515., 6131., 1335  
6133., 6135., and 6137. of the Revised Code and shall pay any 1336  
assessments levied under those chapters for an improvement or 1337  
maintenance of an improvement on land under the control or 1338  
ownership of the commission. 1339

**Sec. 5537.051.** (A)(1) In any county that as of January 1, 1340  
2011, had closed one or more roads as a result of grade separation 1341  
failure at intersections of a turnpike project with a county or 1342  
township road, the Ohio turnpike and infrastructure commission is 1343  
responsible for the major maintenance and repair and replacement 1344  
of failed grade separations. The governmental entity with 1345  
jurisdiction over the county or township road is responsible for 1346  
routine maintenance of such failed grade separations. 1347

(2) This section does not apply to any grade separation at 1348  
intersections of a turnpike project with a county or township road 1349  
except as described in division (A)(1) of this section. 1350

(3) Major maintenance and repair and replacement of 1351  
aforementioned failed grade separations shall commence not later 1352  
than July 1, 2011, and be completed before December 31, 2014. 1353

(B) As used in this section: 1354

(1) "Major maintenance and repair and replacement" relates to 1355

all elements constructed as part of or required for a grade 1356  
separation, including bridges, pile, foundations, substructures, 1357  
abutments, piers, superstructures, approach slabs, slopes, 1358  
embankments, fences, and appurtenances. 1359

(2) "Routine maintenance" includes, without limitation, 1360  
clearing debris, sweeping, snow and ice removal, wearing surface 1361  
improvements, marking for traffic control, box culverts, drainage 1362  
facilities including headwalls and underdrains, inlets, catch 1363  
basins and grates, guardrails, minor and emergency repairs to 1364  
railing and appurtenances, and emergency patching. 1365

**Sec. 5537.06.** (A) The Ohio turnpike and infrastructure 1366  
commission may acquire by purchase, lease, lease-purchase, lease 1367  
with option to purchase, appropriation, or otherwise and in such 1368  
manner and for such consideration as it considers proper, any 1369  
public or private property necessary, convenient, or proper for 1370  
the construction, maintenance, or efficient operation of the Ohio 1371  
turnpike system. The commission may pledge net revenues, to the 1372  
extent permitted by this chapter with respect to bonds, to secure 1373  
payments to be made by the commission under any such lease, 1374  
lease-purchase agreement, or lease with option to purchase. Title 1375  
to personal property, and interests less than a fee in real 1376  
property, shall be held in the name of the commission. Title to 1377  
real property held in fee shall be held in the name of the state 1378  
for the use of the commission. In any proceedings for 1379  
appropriation under this section, the procedure to be followed 1380  
shall be in accordance with the procedure provided in sections 1381  
163.01 to 163.22 of the Revised Code, including division (B) of 1382  
section 163.06 of the Revised Code notwithstanding the limitation 1383  
in that division of its applicability to roads open to the public 1384  
without charge. Except as otherwise agreed upon by the owner, full 1385  
compensation shall be paid for public property so taken. 1386

(B) This section does not authorize the commission to take or 1387  
disturb property or facilities belonging to any public utility or 1388  
to a common carrier engaged in interstate commerce, which property 1389  
or facilities are required for the proper and convenient operation 1390  
of the public utility or common carrier, unless provision is made 1391  
for the restoration, relocation, replication, or duplication of 1392  
the property or facilities elsewhere at the sole cost of the 1393  
commission. 1394

(C) Disposition of real property shall be by the commission 1395  
in the manner and for the consideration it determines if to a 1396  
state agency or other governmental agency, and otherwise in the 1397  
manner provided in section 5501.45 of the Revised Code for the 1398  
disposition of property by the director of transportation. 1399  
Disposition of personal property shall be in the manner and for 1400  
the consideration the commission determines. 1401

(D) Any instrument by which real property is acquired 1402  
pursuant to this section shall identify the agency of the state 1403  
that has the use and benefit of the real property as specified in 1404  
section 5301.012 of the Revised Code. 1405

**Sec. 5537.07.** (A) When the cost to the Ohio turnpike and 1406  
infrastructure commission under any contract with a person other 1407  
than a governmental agency involves an expenditure of more than 1408  
fifty thousand dollars, the commission shall make a written 1409  
contract with the lowest responsive and responsible bidder in 1410  
accordance with section 9.312 of the Revised Code after 1411  
advertisement for not less than two consecutive weeks in a 1412  
newspaper of general circulation in Franklin county, and in such 1413  
other publications as the commission determines, which notice 1414  
shall state the general character of the work and the general 1415  
character of the materials to be furnished, the place where plans 1416  
and specifications therefor may be examined, and the time and 1417

place of receiving bids. The commission may require that the cost 1418  
estimate for the construction, demolition, alteration, repair, 1419  
improvement, renovation, or reconstruction of roadways and bridges 1420  
for which the commission is required to receive bids be kept 1421  
confidential and remain confidential until after all bids for the 1422  
public improvement have been received or the deadline for 1423  
receiving bids has passed. Thereafter, and before opening the bids 1424  
submitted for the roadways and bridges, the commission shall make 1425  
the cost estimate public knowledge by reading the cost estimate in 1426  
a public place. The commission may reject any and all bids. The 1427  
requirements of this division do not apply to contracts for the 1428  
acquisition of real property or compensation for professional or 1429  
other personal services. 1430

(B) Each bid for a contract for construction, demolition, 1431  
alteration, repair, improvement, renovation, or reconstruction 1432  
shall contain the full name of every person interested in it and 1433  
shall meet the requirements of section 153.54 of the Revised Code. 1434

(C) Other than for a contract referred to in division (B) of 1435  
this section, each bid for a contract that involves an expenditure 1436  
in excess of one hundred fifty thousand dollars or any contract 1437  
with a service facility operator shall contain the full name of 1438  
every person interested in it and shall be accompanied by a 1439  
sufficient bond or certified check on a solvent bank that if the 1440  
bid is accepted a contract will be entered into and the 1441  
performance of its proposal secured. 1442

(D) Other than a contract referred to in division (B) of this 1443  
section, a bond with good and sufficient surety, in a form as 1444  
prescribed and approved by the commission, shall be required of 1445  
every contractor awarded a contract that involves an expenditure 1446  
in excess of one hundred fifty thousand dollars or any contract 1447  
with a service facility operator. The bond shall be in an amount 1448  
equal to at least fifty per cent of the contract price and shall 1449

be conditioned upon the faithful performance of the contract. 1450

(E) Notwithstanding any other provisions of this section, the 1451  
commission may establish a program to expedite special turnpike 1452  
projects by combining the design and construction elements of any 1453  
public improvement project into a single contract. The commission 1454  
shall prepare and distribute a scope of work document upon which 1455  
the bidders shall base their bids. At a minimum, bidders shall 1456  
meet the requirements of section 4733.161 of the Revised Code. 1457  
Except in regard to those requirements relating to providing 1458  
plans, the commission shall award contracts following the 1459  
requirements set forth in divisions (A), (B), (C), and (D) of this 1460  
section. 1461

**Sec. 5537.08.** (A) The Ohio turnpike and infrastructure 1462  
commission may provide by resolution for the issuance, at one time 1463  
or from time to time, of revenue bonds of the state for the 1464  
purpose of paying all or any part of the cost of any one or more 1465  
turnpike projects or infrastructure projects. The bond service 1466  
charges shall be payable solely from pledged revenues pledged for 1467  
such payment pursuant to the applicable bond proceedings. The 1468  
bonds of each issue shall be dated, shall bear interest at a rate 1469  
or rates or at variable rates, and shall mature or be payable at 1470  
such time or times, with a final maturity not to exceed forty 1471  
years from their date or dates, all as determined by the 1472  
commission in the bond proceedings. The commission shall determine 1473  
the form of the bonds, including any interest coupons to be 1474  
attached thereto, and shall fix the denomination or denominations 1475  
of the bonds and the place or places of payment of bond service 1476  
charges. 1477

(B) The bonds shall be signed by the chairperson or 1478  
vice-chairperson of the commission or by the facsimile signature 1479  
of that officer, the official seal of the commission or a 1480



facsimile thereof shall be affixed thereto or printed thereon and 1481  
attested by the secretary-treasurer of the commission, which may 1482  
be by facsimile signature, and any coupons attached thereto shall 1483  
bear the facsimile signature of the chairperson or 1484  
vice-chairperson of the commission. In case any officer whose 1485  
signature, or a facsimile of whose signature, appears on any bonds 1486  
or coupons ceases to be such officer before delivery of bonds, 1487  
such signature or facsimile shall nevertheless be valid and 1488  
sufficient for all purposes the same as if the officer had 1489  
remained in office until such delivery. 1490

(C) Subject to the bond proceedings and provisions for 1491  
registration, the bonds shall have all the qualities and incidents 1492  
of negotiable instruments under Title XIII of the Revised Code. 1493  
The bonds may be issued in such form or forms as the commission 1494  
determines, including without limitation coupon, book entry, and 1495  
fully registered form, and provision may be made for the 1496  
registration of any coupon bonds as to principal alone and also as 1497  
to both principal and interest, and for the exchange of bonds 1498  
between forms. The commission may sell such bonds by competitive 1499  
bid on the best bid after advertisement or request for bids or by 1500  
private sale in the manner, and for the price, it determines to be 1501  
for the best interest of the state. ~~The determination of the 1502  
commission as to the manner of sale, by competitive bid or by 1503  
private sale, shall be approved by the controlling board.~~ 1504

(D) The proceeds of the bonds of each issue shall be used 1505  
solely for the payment of the costs of the turnpike project or 1506  
projects for which such bonds were issued, and or for the payment 1507  
of the costs of the infrastructure project or projects as approved 1508  
by the commission under section 5537.18 of the Revised Code. The 1509  
proceeds shall be disbursed in such manner and under such 1510  
restrictions as the commission provides in the applicable bond 1511  
proceedings. 1512

(E) Prior to the preparation of definitive bonds, the 1513  
commission may, under like restrictions, issue interim receipts or 1514  
temporary bonds or bond anticipation notes, with or without 1515  
coupons, exchangeable for definitive bonds when such bonds have 1516  
been executed and are available for delivery. The commission may 1517  
provide for the replacement of any mutilated, stolen, destroyed, 1518  
or lost bonds. Bonds may be issued by the commission under this 1519  
chapter without obtaining the consent of any state agency, and 1520  
without any other proceedings or the happening of any other 1521  
conditions or things than those proceedings, conditions, or things 1522  
that are specifically required by this chapter or those 1523  
proceedings. 1524

(F) Sections 9.98 to 9.983 of the Revised Code apply to the 1525  
bonds. 1526

(G) The bond proceedings shall provide, subject to the 1527  
provisions of any other applicable bond proceedings, for the 1528  
pledge to the payment of bond service charges and of any costs of 1529  
or relating to credit enhancement facilities of all, or such part 1530  
as the commission may determine, of the pledged revenues and the 1531  
applicable special fund or funds, which pledges may be made to 1532  
secure the bonds on a parity with bonds theretofore or thereafter 1533  
issued if and to the extent provided in the bond proceedings. 1534  
Every pledge, and every covenant and agreement with respect 1535  
thereto, made in the bond proceedings may in the bond proceedings 1536  
be extended to the benefit of the owners and holders of bonds and 1537  
to any trustee and any person providing a credit enhancement 1538  
facility for those bonds, for the further security for the payment 1539  
of the bond service charges and credit enhancement facility costs. 1540

(H) The bond proceedings may contain additional provisions as 1541  
to: 1542

(1) The redemption of bonds prior to maturity at the option 1543  
of the commission or of the bondholders or upon the occurrence of 1544

certain stated conditions, and at such price or prices and under	1545
such terms and conditions as are provided in the bond proceedings;	1546
(2) Other terms of the bonds;	1547
(3) Limitations on the issuance of additional bonds;	1548
(4) The terms of any trust agreement securing the bonds or	1549
under which the same may be issued;	1550
(5) Any or every provision of the bond proceedings being	1551
binding upon the commission and state agencies, or other person as	1552
may from time to time have the authority under law to take such	1553
actions as may be necessary to perform all or any part of the duty	1554
required by such provision;	1555
(6) Any provision that may be made in a trust agreement;	1556
(7) Any other or additional agreements with the holders of	1557
the bonds, or the trustee therefor, relating to the bonds or the	1558
security for the bonds, including agreements for credit	1559
enhancement facilities.	1560
(I) Any holder of bonds or a trustee under the bond	1561
proceedings, except to the extent that the holder's or trustee's	1562
rights are restricted by the bond proceedings, may by any suitable	1563
form of legal proceedings, protect and enforce any rights under	1564
the laws of this state or granted by the bond proceedings. Those	1565
rights include the right to compel the performance of all duties	1566
of the commission and state agencies required by this chapter or	1567
the bond proceedings; to enjoin unlawful activities; and in the	1568
event of default with respect to the payment of any bond service	1569
charges on any bonds or in the performance of any covenant or	1570
agreement on the part of the commission contained in the bond	1571
proceedings, to apply to a court having jurisdiction of the cause	1572
to appoint a receiver to receive and administer the revenues and	1573
the pledged revenues which are pledged to the payment of the bond	1574
service charges on such bonds or which are the subject of the	1575

covenant or agreement, with full power to pay, and to provide for 1576  
payment of, bond service charges on such bonds, and with such 1577  
powers, subject to the direction of the court, as are accorded 1578  
receivers in general equity cases, excluding any power to pledge 1579  
additional revenues or receipts or other income, funds, or moneys 1580  
of the commission or state agencies to the payment of such bond 1581  
service charges and excluding the power to take possession of, 1582  
mortgage, or cause the sale or otherwise dispose of any turnpike 1583  
project or other property of the commission. 1584

(J) Each duty of the commission and the commission's officers 1585  
and employees, undertaken pursuant to the bond proceedings, is 1586  
hereby established as a duty of the commission, and of each such 1587  
officer, member, or employee having authority to perform the duty, 1588  
specifically enjoined by law resulting from an office, trust, or 1589  
station within the meaning of section 2731.01 of the Revised Code. 1590

(K) The commission's officers or employees are not liable in 1591  
their personal capacities on any bonds issued by the commission or 1592  
any agreements of or with the commission relating to those bonds. 1593

(L) The bonds are lawful investments for banks, savings and 1594  
loan associations, credit union share guaranty corporations, trust 1595  
companies, trustees, fiduciaries, insurance companies, including 1596  
domestic for life and domestic not for life, trustees or other 1597  
officers having charge of sinking and bond retirement or other 1598  
funds of the state or its political subdivisions and taxing 1599  
districts, the commissioners of the sinking fund of the state, the 1600  
administrator of workers' compensation, the state teachers 1601  
retirement system, the public employees retirement system, the 1602  
school employees retirement system, and the Ohio police and fire 1603  
pension fund, notwithstanding any other provisions of the Revised 1604  
Code or rules adopted pursuant thereto by any state agency with 1605  
respect to investments by them, and are also acceptable as 1606  
security for the repayment of the deposit of public moneys. 1607

(M) Provision may be made in the applicable bond proceedings 1608  
for the establishment of separate accounts in the bond service 1609  
fund and for the application of such accounts only to the 1610  
specified bond service charges pertinent to such accounts and bond 1611  
service fund, and for other accounts therein within the general 1612  
purposes of such fund. 1613

(N) The commission may pledge all, or such portion as it 1614  
determines, of the pledged revenues to the payment of bond service 1615  
charges, and for the establishment and maintenance of any reserves 1616  
and special funds, as provided in the bond proceedings, and make 1617  
other provisions therein with respect to pledged revenues, 1618  
revenues, and net revenues as authorized by this chapter, which 1619  
provisions are controlling notwithstanding any other provisions of 1620  
law pertaining thereto. 1621

**Sec. 5537.09.** The Ohio turnpike and infrastructure commission 1622  
may provide by resolution for the issuance of revenue bonds of the 1623  
state, payable solely from pledged revenues, for the purpose of 1624  
refunding any bonds then outstanding, including the payment of 1625  
related financing expenses and, if considered advisable by the 1626  
commission, for the additional purpose of paying costs of 1627  
improvements, extensions, renovations, or enlargements of any 1628  
turnpike project or any infrastructure project. The issuance of 1629  
refunding bonds, the maturities and other details thereof, the 1630  
rights of the holders thereof, and the rights, duties, and 1631  
obligations of the commission in respect to such bonds shall be 1632  
governed by the provisions of this chapter insofar as they are 1633  
applicable and by the applicable bond proceedings. 1634

**Sec. 5537.11.** (A) The bonds do not constitute a debt, or a 1635  
pledge of the faith and credit, of the state or of any political 1636  
subdivision of the state. Bond service charges on outstanding 1637  
bonds are payable solely from the pledged revenues pledged for 1638

their payment as authorized by this chapter and as provided in the 1639  
bond proceedings. All turnpike and infrastructure revenue bonds 1640  
shall contain on their face a statement to that effect. 1641

(B) All expenses incurred in carrying out this chapter shall 1642  
be payable solely from revenues provided under this chapter and 1643  
from state taxes. This chapter does not authorize the Ohio 1644  
turnpike and infrastructure commission to incur indebtedness or 1645  
liability on behalf of or payable by the state or any political 1646  
subdivision of the state. 1647

**Sec. 5537.12.** (A) In the discretion of the Ohio turnpike and 1648  
infrastructure commission any bonds may be secured by a trust 1649  
agreement between the commission and a corporate trustee, which 1650  
may be any trust company or bank having the powers of a trust 1651  
company within or without the state but authorized to exercise 1652  
trust powers within this state. 1653

(B) Any trust agreement may pledge or assign the revenues to 1654  
be received, but shall not convey or mortgage any turnpike project 1655  
or infrastructure project, any part of a turnpike project or 1656  
infrastructure project, or any part of the Ohio turnpike system or 1657  
the Ohio turnpike and infrastructure system. Any such trust 1658  
agreement or other bond proceedings may contain provisions for 1659  
protecting and enforcing the rights and remedies of the 1660  
bondholders that are reasonable and proper and not in violation of 1661  
law, including covenants setting forth the duties of the 1662  
commission in relation to the acquisition of property, and the 1663  
construction, maintenance, repair, operation, and insurance of the 1664  
turnpike project or projects in connection with which the bonds 1665  
are authorized, the rates of toll to be charged, and the custody, 1666  
safeguarding, and application of all moneys, and provisions for 1667  
the employment or retention of the services of consulting 1668  
engineers in connection with the construction, maintenance, or 1669

operation of the turnpike project or projects. Any bank or trust 1670  
company incorporated under the laws of this state which may act as 1671  
depository of the proceeds of bonds or of revenues may furnish 1672  
such indemnifying bonds or may pledge such securities as are 1673  
required by the commission. Any such trust agreement may set forth 1674  
the rights and remedies of the bondholders and of the trustee, may 1675  
restrict the individual right of action by bondholders as is 1676  
customary in revenue bond trust agreements of public bodies, and 1677  
may contain other provisions that the commission considers 1678  
reasonable and proper for the security of the bondholders. All 1679  
expenses incurred in entering into or carrying out the provisions 1680  
of such a trust agreement may be treated as a part of the cost, or 1681  
of the cost of the operation, of the turnpike project or projects. 1682

**Sec. 5537.13.** (A) Subject to section 5537.26 of the Revised 1683  
Code, the Ohio turnpike and infrastructure commission may fix, 1684  
revise, charge, and collect tolls for each turnpike project, and 1685  
contract in the manner provided by this section with any person 1686  
desiring the use of any part thereof, including the right-of-way 1687  
adjoining the paved portion, for placing thereon telephone, 1688  
electric light, or power lines, service facilities, or for any 1689  
other purpose, and fix the terms, conditions, rents, and rates of 1690  
charge for such use, provided that no toll, charge, or rental may 1691  
be made by the commission for placing in, on, along, over, or 1692  
under the turnpike project, equipment or public utility facilities 1693  
that are necessary to serve service facilities or to interconnect 1694  
any public utility facilities. 1695

(B) Contracts for the operation of service facilities shall 1696  
be made in writing. Such contracts, except contracts with state 1697  
agencies or other governmental agencies, shall be made with the 1698  
bidder whose bid is determined by the commission to be the best 1699  
bid received, after advertisement for two consecutive weeks in a 1700  
newspaper of general circulation in Franklin county, and in other 1701

publications that the commission determines. The notice shall 1702  
state the general character of the service facilities operation 1703  
proposed, the place where plans and specifications may be 1704  
examined, and the time and place of receiving bids. Bids shall 1705  
contain the full name of each person interested in them, and shall 1706  
be in such form as the commission requires. The commission may 1707  
reject any and all bids. All contracts for service facilities 1708  
shall be preserved in the principal office of the commission. 1709

(C) Tolls shall be so fixed and adjusted as to provide funds 1710  
at least sufficient with other revenues of the Ohio turnpike 1711  
system, if any, to pay: 1712

(1) The cost of maintaining, improving, repairing, 1713  
constructing, and operating the Ohio turnpike system and its 1714  
different parts and sections, and to create and maintain any 1715  
reserves for those purposes; 1716

(2) Any unpaid bond service charges on outstanding bonds 1717  
payable from pledged revenues as such charges become due and 1718  
payable, and to create and maintain any reserves for that purpose. 1719

(D) Tolls are not subject to supervision, approval, or 1720  
regulation by any state agency other than the turnpike and 1721  
infrastructure commission. 1722

(E) Revenues derived from each turnpike project ~~in connection~~ 1723  
~~with which any bonds are outstanding~~ shall be first applied to pay 1724  
the cost of maintenance, improvement, repair, and operation and to 1725  
provide any reserves therefor that are provided for in the bond 1726  
proceedings authorizing the issuance of those outstanding bonds, 1727  
and otherwise as provided by the commission, ~~and the balance. The~~ 1728  
bond proceedings also shall provide, subject to the provisions of 1729  
any other applicable bond proceedings, for the pledge of all, or 1730  
such part as the commission may determine of the pledged revenues 1731  
~~shall be set aside, at such regular intervals as are provided in~~ 1732



~~the bond proceedings, in a bond service fund, which is hereby~~ 1733  
~~pledged to and charged with and the applicable special fund or~~ 1734  
~~funds to the payment of the bond service charges on any such~~ 1735  
~~outstanding bonds as provided in the applicable, which pledge may~~ 1736  
~~be made to secure the bonds senior or subordinate to or on a~~ 1737  
~~parity with bonds theretofore or thereafter issued, if and to the~~ 1738  
~~extent provided in the~~ bond proceedings. The pledge shall be valid 1739  
and binding from the time the pledge is made; the revenues and the 1740  
pledged revenues thereafter received by the commission immediately 1741  
shall be subject to the lien of the pledge without any physical 1742  
delivery thereof or further act, and the lien of the pledge shall 1743  
be valid and binding as against all parties having claims of any 1744  
kind in tort, contract, or otherwise against the commission, 1745  
whether or not those parties have notice thereof. The bond 1746  
proceedings by which a pledge is created need not be filed or 1747  
recorded except in the records of the commission. The use and 1748  
disposition of moneys to the credit of a bond service fund shall 1749  
be subject to the applicable bond proceedings. ~~Except as is~~ 1750  
~~otherwise provided in such bond proceedings, such a bond service~~ 1751  
~~fund shall be a fund for all such bonds, without distinction or~~ 1752  
~~priority of one over another.~~ 1753

(F) The proceeds of bonds issued for the payment of the costs 1754  
of infrastructure projects, net of the payment of all financing 1755  
expenses and deposits into debt service reserves or other special 1756  
funds as may be required in the applicable bond proceedings, shall 1757  
be deposited to the infrastructure fund or funds and shall be 1758  
exclusively used to pay the cost of infrastructure projects 1759  
approved by the commission, except that income earned by the 1760  
infrastructure fund may be used by the commission towards the 1761  
payment of bond service charges. 1762

**Sec. 5537.14.** All moneys received by the Ohio turnpike and 1763  
infrastructure commission under this chapter, whether as proceeds 1764

from the sale of bonds or as revenues, are to be held and applied 1765  
solely as provided in this chapter and in any applicable bond 1766  
proceedings. Such moneys shall be kept in depositories as selected 1767  
by the commission in the manner provided in sections 135.01 to 1768  
135.21 of the Revised Code, insofar as such sections are 1769  
applicable, and the deposits shall be secured as provided in 1770  
sections 135.01 to 135.21 of the Revised Code. The bond 1771  
proceedings shall provide that any officer to whom, or any bank or 1772  
trust company to which, revenues or pledged revenues are paid 1773  
shall act as trustee of such moneys and hold and apply them for 1774  
the purposes thereof, subject to applicable provisions of this 1775  
chapter and the bond proceedings. 1776

**Sec. 5537.15.** Any holder of bonds issued and outstanding 1777  
under this chapter, or any of the coupons appertaining thereto, 1778  
and the trustee under any trust agreement, except to the extent 1779  
the rights given by this chapter may be restricted or modified by 1780  
the bond proceedings, may by suit, action, mandamus, or other 1781  
proceedings, protect and enforce any rights under the laws of the 1782  
state or granted under this chapter or the bond proceedings, and 1783  
may enforce and compel the performance of all duties required by 1784  
this chapter or the bond proceedings, to be performed by the Ohio 1785  
turnpike and infrastructure commission or any officer of the 1786  
commission, including the fixing, charging, collecting, and 1787  
application of tolls. 1788

**Sec. 5537.16.** (A) The Ohio turnpike and infrastructure 1789  
commission may adopt such bylaws and rules as it considers 1790  
advisable for the control and regulation of traffic on any 1791  
turnpike project, for the protection and preservation of property 1792  
under its jurisdiction and control, for the maintenance and 1793  
preservation of good order within the property under its control, 1794  
and for the purpose of establishing owner or operator liability 1795

for failure to comply with toll collection rules. The rules of the 1796  
commission with respect to the speed, use of special engine 1797  
brakes, axle loads, vehicle loads, and vehicle dimensions of 1798  
vehicles on turnpike projects, including the issuance of a special 1799  
permit by the commission to allow the operation on any turnpike 1800  
project of a motor vehicle transporting two or fewer steel coils, 1801  
shall apply notwithstanding sections 4511.21 to 4511.24, 4513.34, 1802  
and Chapter 5577. of the Revised Code. Such bylaws and rules shall 1803  
be published in a newspaper of general circulation in Franklin 1804  
county, and in such other manner as the commission prescribes. 1805

(B) Such rules shall provide that public police officers 1806  
shall be afforded ready access, while in the performance of their 1807  
official duty, to all property under the jurisdiction of the 1808  
commission and without the payment of tolls. 1809

(C) No person shall violate any such bylaws or rules of the 1810  
commission. 1811

(D)(1) All fines collected for the violation of applicable 1812  
laws of the state and the bylaws and rules of the commission or 1813  
moneys arising from bonds forfeited for such violation shall be 1814  
disposed of in accordance with section 5503.04 of the Revised 1815  
Code. 1816

(2) All fees or charges assessed by the commission against an 1817  
owner or operator of a vehicle as a civil violation for failure to 1818  
comply with toll collection or toll evasion rules shall be 1819  
revenues of the commission. 1820

**Sec. 5537.17.** (A) Each turnpike project open to traffic shall 1821  
be maintained and kept in good condition and repair by the Ohio 1822  
turnpike and infrastructure commission. The Ohio turnpike system 1823  
shall be policed and operated by a force of police, toll 1824  
collectors, and other employees and agents that the commission 1825  
employs or contracts for. 1826

(B) All public or private property damaged or destroyed in 1827  
carrying out the powers granted by this chapter shall be restored 1828  
or repaired and placed in its original condition, as nearly as 1829  
practicable, or adequate compensation or consideration made 1830  
therefor out of moneys provided under this chapter. 1831

(C) All governmental agencies may lease, lend, grant, or 1832  
convey to the commission at its request, upon terms that the 1833  
proper authorities of the governmental agencies consider 1834  
reasonable and fair and without the necessity for an 1835  
advertisement, order of court, or other action or formality, other 1836  
than the regular and formal action of the authorities concerned, 1837  
any property that is necessary or convenient to the effectuation 1838  
of the purposes of the commission, including public roads and 1839  
other property already devoted to public use. 1840

(D) Each bridge constituting part of a turnpike project shall 1841  
be inspected at least once each year by a professional engineer 1842  
employed or retained by the commission. 1843

(E) On or before the first day of July in each year, the 1844  
commission shall make an annual report of its activities for the 1845  
preceding calendar year to the governor and the general assembly. 1846  
Each such report shall set forth a complete operating and 1847  
financial statement covering the commission's operations and 1848  
funding of any turnpike projects and infrastructure projects 1849  
during the year. The commission shall cause an audit of its books 1850  
and accounts to be made at least once each year by certified 1851  
public accountants, and the cost thereof may be treated as a part 1852  
of the cost of operations of the commission. The auditor of state, 1853  
at least once a year and without previous notice to the 1854  
commission, shall audit the accounts and transactions of the 1855  
commission. 1856

(F) The commission shall submit a copy of its annual audit by 1857  
the auditor of state and its proposed annual budget for each 1858

calendar or fiscal year to the governor, the presiding officers of 1859  
each house of the general assembly, the director of budget and 1860  
management, and the legislative service commission no later than 1861  
the first day of that calendar or fiscal year. 1862

(G) Upon request of the chairperson of the appropriate 1863  
standing committee or subcommittee of the senate and house of 1864  
representatives that is primarily responsible for considering 1865  
transportation budget matters, the commission shall appear at 1866  
least one time before each committee or subcommittee during the 1867  
period when that committee or subcommittee is considering the 1868  
biennial appropriations for the department of transportation and 1869  
shall provide testimony outlining its budgetary results for the 1870  
last two calendar years, including a comparison of budget and 1871  
actual revenue and expenditure amounts. The commission also shall 1872  
address its current budget and long-term capital plan. 1873

(H) Not more than sixty nor less than thirty days before 1874  
adopting its annual budget, the commission shall submit a copy of 1875  
its proposed annual budget to the governor, the presiding officers 1876  
of each house of the general assembly, the director of budget and 1877  
management, and the legislative service commission. The office of 1878  
budget and management shall review the proposed budget and may 1879  
provide recommendations to the commission for its consideration. 1880

Sec. 5537.18. (A) The Ohio turnpike and infrastructure 1881  
commission shall adopt rules establishing the procedures and 1882  
criteria under which the commission may approve an application 1883  
received from the director of transportation for infrastructure 1884  
project funding under division (B) of this section. The rules 1885  
shall require an infrastructure project to have an anticipated 1886  
economic or transportation-related impact on the Ohio turnpike and 1887  
infrastructure system. 1888

(B) The director of transportation may submit an application 1889

to the commission for infrastructure project funding. An 1890  
application to the commission for infrastructure project funding, 1891  
as submitted by the director, shall include only infrastructure 1892  
projects that previously have been reviewed and recommended by the 1893  
transportation review advisory council pursuant to the selection 1894  
process followed by the council under Chapter 5512. of the Revised 1895  
Code. 1896

(C) The commission shall evaluate each application for 1897  
infrastructure project funding submitted under division (B) of 1898  
this section in accordance with the procedures and criteria 1899  
established in rules adopted under division (A) of this section. A 1900  
determination or approval made under this section is conclusive 1901  
and incontestable. 1902

**Sec. 5537.19.** The Ohio turnpike and infrastructure commission 1903  
shall expend such moneys as the commission considers necessary for 1904  
studies of any turnpike project or infrastructure project, whether 1905  
proposed, under construction, or in operation, and may employ 1906  
consulting engineers, traffic engineers, and any other individuals 1907  
or firms that the commission considers necessary to properly 1908  
implement the studies. The cost of the studies may be paid from 1909  
revenues, eligible state and federal grants, state taxes available 1910  
to the commission and permitted by law to be spent for such 1911  
purposes, or the proceeds of bonds. 1912

**Sec. 5537.20.** The exercise of the powers granted by this 1913  
chapter is in all respects for the benefit of the people of the 1914  
state, for the increase of their commerce and prosperity, and for 1915  
the improvement of their health and living conditions, and as the 1916  
construction, operation, and maintenance of the Ohio turnpike 1917  
system by the Ohio turnpike and infrastructure commission 1918  
constitute the performance of essential governmental functions, 1919  
the commission, except as provided in division (D) of section 1920

5537.05 of the Revised Code, shall not be required to pay any 1921  
state or local taxes or assessments upon any turnpike project or 1922  
infrastructure project funded by it, or upon revenues or any 1923  
property acquired or used by the commission under this chapter, or 1924  
upon the income therefrom. The bonds issued under this chapter, 1925  
their transfer, and the income therefrom, including any profit 1926  
made on the sale thereof, shall at all times be free from taxation 1927  
within the state. 1928

**Sec. 5537.21.** (A) When bond service charges on all 1929  
outstanding bonds issued in connection with any turnpike project 1930  
have been paid or provision for that payment has been made, as 1931  
provided in the applicable bond proceedings, or in the case of a 1932  
turnpike project in connection with which no bonds have been 1933  
issued, the project shall continue to be or be operated, and 1934  
improved and maintained, by the Ohio turnpike and infrastructure 1935  
commission as a part of the Ohio turnpike system and as a toll 1936  
road, and all revenues received by the commission relating to that 1937  
project shall be applied as provided in division (B) of this 1938  
section. 1939

(B) Subject to the bond proceedings for bonds relating to any 1940  
turnpike project or infrastructure project, tolls relating to a 1941  
turnpike project as referred to in division (A) of this section 1942  
shall be so fixed and adjusted such that the aggregate of 1943  
available revenues relating to that turnpike project ~~and available~~ 1944  
~~for the purpose~~ are in amounts ~~to provide moneys~~ at least 1945  
sufficient, ~~and those revenues shall be used,~~ to pay the costs 1946  
described in division (C)(1) of section 5537.13 of the Revised 1947  
Code. 1948

**Sec. 5537.22.** All final actions of the Ohio turnpike and 1949  
infrastructure commission shall be journalized and such journal 1950  
shall be open to the inspection of the public at all reasonable 1951

times. 1952

**Sec. 5537.24.** (A) There is hereby created a turnpike 1953  
legislative review committee consisting of six members as follows: 1954

(1) Three members of the senate, no more than two of whom 1955  
shall be members of the same political party, one of whom shall be 1956  
the chairperson of the committee dealing primarily with highway 1957  
matters, one of whom shall be appointed by the president of the 1958  
senate, and one of whom shall be appointed by the minority leader 1959  
of the senate. 1960

Both the senate member who is appointed by the president of 1961  
the senate and the senate member appointed by the minority leader 1962  
of the senate shall represent either districts in which is located 1963  
or through which passes a portion of a turnpike project that is 1964  
part of the Ohio turnpike system or districts located in the 1965  
vicinity of a turnpike project that is part of the Ohio turnpike 1966  
system. 1967

The president of the senate shall make the president of the 1968  
senate's appointment to the committee first, followed by the 1969  
minority leader of the senate, and they shall make their 1970  
appointments in such a manner that their two appointees represent 1971  
districts that are located in different areas of the state. If the 1972  
chairperson of the senate committee dealing primarily with highway 1973  
matters represents a district in which is located or through which 1974  
passes a portion of a turnpike project that is part of the Ohio 1975  
turnpike system or a district located in the vicinity of a 1976  
turnpike project that is part of the Ohio turnpike system, the 1977  
president of the senate and the minority leader of the senate 1978  
shall make their appointments in such a manner that their two 1979  
appointees and the chairperson of the senate committee dealing 1980  
primarily with highway matters all represent districts that are 1981  
located in different areas of the state. 1982



(2) Three members of the house of representatives, no more  
than two of whom shall be members of the same political party, one  
of whom shall be the chairperson of the house of representatives  
committee dealing primarily with highway matters, one of whom  
shall be appointed by the speaker of the house of representatives,  
and one of whom shall be appointed by the minority leader of the  
house of representatives.

Both the house of representatives member who is appointed by  
the speaker of the house of representatives and the house of  
representatives member appointed by the minority leader of the  
house of representatives shall represent either districts in which  
is located or through which passes a portion of a turnpike project  
that is part of the Ohio turnpike system or districts located in  
the vicinity of a turnpike project that is part of the Ohio  
turnpike system.

The speaker of the house of representatives shall make the  
speaker of the house of representative's appointment to the  
committee first, followed by the minority leader of the house of  
representatives, and they shall make their appointments in such a  
manner that their two appointees represent districts that are  
located in different areas of the state. If the chairperson of the  
house of representatives committee dealing primarily with highway  
matters represents a district in which is located or through which  
passes a portion of a turnpike project that is part of the Ohio  
turnpike system or a district located in the vicinity of a  
turnpike project that is part of the Ohio turnpike system, the  
speaker of the house of representatives and the minority leader of  
the house of representatives shall make their appointments in such  
a manner that their two appointees and the chairperson of the  
house of representatives committee dealing primarily with highway  
matters all represent districts that are located in different  
areas of the state.

The chairperson of the house of representatives committee 2015  
shall serve as the chairperson of the turnpike legislative review 2016  
committee for the year 1996. Thereafter, the chair annually shall 2017  
alternate between, first, the chairperson of the senate committee 2018  
and then the chairperson of the house of representatives 2019  
committee. 2020

(B) Each member of the turnpike legislative review committee 2021  
who is a member of the general assembly shall serve a term of the 2022  
remainder of the general assembly during which the member is 2023  
appointed or is serving as chairperson of the specified senate or 2024  
house committee. In the event of the death or resignation of a 2025  
committee member who is a member of the general assembly, or in 2026  
the event that a member ceases to be a senator or representative, 2027  
or in the event that the chairperson of the senate committee 2028  
dealing primarily with highway matters or the chairperson of the 2029  
house of representatives committee dealing primarily with highway 2030  
matters ceases to hold that position, the vacancy shall be filled 2031  
through an appointment by the president of the senate or the 2032  
speaker of the house of representatives or minority leader of the 2033  
senate or house of representatives, as applicable. Any member 2034  
appointed to fill a vacancy occurring prior to the end of the term 2035  
for which the member's predecessor was appointed shall hold office 2036  
for the remainder of the term or for a shorter period of time as 2037  
determined by the president or the speaker. A member of the 2038  
committee is eligible for reappointment. 2039

(C) The turnpike legislative review committee shall meet at 2040  
least quarterly and may meet at the call of its chairperson, or 2041  
upon the written request to the chairperson of not fewer than four 2042  
members of the committee. Meetings shall be held at sites that are 2043  
determined solely by the chairperson of the committee. At each 2044  
meeting, the Ohio turnpike and infrastructure commission shall 2045  
make a report to the committee on commission matters, including 2046

but not limited to financial and budgetary matters and proposed 2047  
and on-going construction, maintenance, repair, and operational 2048  
projects of the commission. 2049

The committee, by the affirmative vote of at least four of 2050  
its members, may submit written recommendations to the commission, 2051  
either at meetings held pursuant to this section or at any other 2052  
time, describing new turnpike projects or new interchanges located 2053  
on existing projects that the committee believes the commission 2054  
should consider constructing. 2055

(D) At least annually the commission shall make a report to 2056  
the committee of those infrastructure projects approved and paid 2057  
for by the commission. 2058

(E) The members of the turnpike legislative review committee 2059  
who are members of the general assembly shall serve without 2060  
compensation, but shall be reimbursed by the commission for their 2061  
actual and necessary expenses incurred in the discharge of their 2062  
official duties as committee members. Serving as a member of the 2063  
turnpike legislative review committee does not constitute grounds 2064  
for resignation from the senate or house of representatives under 2065  
section 101.26 of the Revised Code. 2066

**Sec. 5537.25.** (A) Notwithstanding any provision of law to the 2067  
contrary, the Ohio turnpike and infrastructure commission shall 2068  
make no expenditure to engage the services of any person to 2069  
influence either of the following: 2070

(1) Administrative actions or decisions of the governor, the 2071  
director of any department listed in section 121.02 of the Revised 2072  
Code, any member of the staff of any public officer or employee 2073  
listed in this section, the president of the United States, or any 2074  
federal officer or employee; 2075

(2) Legislation pending in this state or any other state, a 2076

subdivision of this state or any other state, or the federal 2077  
government, including the executive approval or veto of any such 2078  
pending legislation. 2079

(B) This section shall not be interpreted to prohibit the 2080  
commission from designating officers or members of the commission, 2081  
or full-time, permanent employees of the commission, to act as 2082  
administrative or legislative agents for the commission. 2083

**Sec. 5537.26.** (A) Except as provided in division (D) of this 2084  
section, no increase by the Ohio turnpike and infrastructure 2085  
commission in the toll rate structure that is applicable to 2086  
vehicles operating on a turnpike project shall become effective 2087  
unless the commission complies with the notice and hearing 2088  
requirements prescribed in division (B) of this section, and the 2089  
commission shall not take any action that expands, has the effect 2090  
of expanding, or will to any degree at any time in the future have 2091  
the effect of expanding the sphere of responsibility of the 2092  
commission beyond the Ohio turnpike, unless the commission 2093  
complies with the notice and hearing requirements prescribed in 2094  
division (B) of this section. 2095

(B) Not less than ninety days prior to the date on which the 2096  
commission votes to increase any part of the toll rate structure 2097  
that is applicable to vehicles operating on a turnpike project, 2098  
and not less than ninety days prior to the date on which the 2099  
commission votes to take an action that expands, has the effect of 2100  
expanding, or will to any degree at any time in the future have 2101  
the effect of expanding the sphere of responsibility of the 2102  
commission beyond the Ohio turnpike, the commission shall do both 2103  
of the following: 2104

(1) Send notice to the governor and the presiding officers 2105  
and minority leaders of the senate and house of representatives 2106  
that details the proposed increase to the toll rate structure or 2107

the expansion of the sphere of responsibility of the commission 2108  
beyond the Ohio turnpike, including a description of and a 2109  
justification for the increase or expansion; 2110

(2) Commence holding public hearings on the proposed increase 2111  
in the toll rate structure or the proposed action. If the 2112  
commission is proposing an increase in the toll rate structure 2113  
that is applicable to vehicles operating on a turnpike project, it 2114  
shall hold not less than three public hearings in three 2115  
geographically diverse locations in this state that are in the 2116  
immediate vicinity of the affected project. If the commission is 2117  
proposing to take an action that expands, has the effect of 2118  
expanding, or will to any degree at any time in the future have 2119  
the effect of expanding the sphere of responsibility of the 2120  
commission beyond the Ohio turnpike, it shall hold not less than 2121  
three public hearings in three locations in the immediate vicinity 2122  
where the expanded responsibilities would arise. 2123

The commission shall hold the third or, if it holds more than 2124  
three hearings, the last hearing of any set of hearings required 2125  
to be held under this section not less than thirty days prior to 2126  
the date on which it votes to increase part of the toll rate 2127  
structure that is applicable to vehicles operating on a turnpike 2128  
project or to take an action that expands, has the effect of 2129  
expanding, or will to any degree at any time in the future have 2130  
the effect of expanding the sphere of responsibility of the 2131  
commission beyond the Ohio turnpike. 2132

The commission shall inform the public of all the hearings 2133  
required to be held under this section by causing a notice to be 2134  
published in a newspaper of general circulation in the county in 2135  
which each hearing is to be held, not less than once per week for 2136  
two weeks prior to the date of the hearing. 2137

(C) If the commission does not comply with the notice and 2138  
hearing requirements contained in division (B) of this section and 2139

votes for an increase in the toll rate structure that is 2140  
applicable to vehicles operating on a turnpike project, the 2141  
increase in the toll rate structure shall not take effect, any 2142  
attempt by the commission to implement the increase in the toll 2143  
rate structure is void, and, if necessary, the attorney general 2144  
shall file an action in the court of common pleas of the county in 2145  
which the principal office of the commission is located to enjoin 2146  
the commission from implementing the increase. The commission 2147  
shall not implement any increase until it complies with division 2148  
(B) of this section. 2149

If the commission does not comply with the notice and hearing 2150  
requirements contained in division (B) of this section and votes 2151  
to take an action that expands, has the effect of expanding, or 2152  
will to any degree at any time in the future have the effect of 2153  
expanding the sphere of responsibility of the commission beyond 2154  
the Ohio turnpike, the commission shall not take the proposed 2155  
action and, if necessary, the attorney general shall file an 2156  
action in the court of common pleas of the county in which the 2157  
principal office of the commission is located to enjoin the 2158  
commission from taking the proposed action. The commission shall 2159  
not take the proposed action until it complies with the notice and 2160  
hearing requirements prescribed in division (B) of this section. 2161

(D) Divisions (A) to (C) of this section do not apply to any 2162  
decrease made to the toll rate structure by the commission. The 2163  
commission may implement a temporary decrease in the toll rate 2164  
structure only if it does not exceed eighteen months in duration. 2165  
Prior to instituting any decrease to the toll rate structure, the 2166  
commission shall do both of the following: 2167

(1) Not less than five days prior to any public meeting under 2168  
division (D)(2) of this section, send notice to the governor and 2169  
the presiding officers and minority leaders of the senate and 2170  
house of representatives that details the proposed decrease to the 2171

toll rate structure; 2172

(2) Hold a public meeting to explain to members of the 2173  
traveling public the reasons for the upcoming decrease, to inform 2174  
them of any benefits and any negative consequences, and to give 2175  
them the opportunity to express their opinions as to the relative 2176  
merits or drawbacks of each toll decrease. The commission shall 2177  
inform the public of the meeting by causing a notice to be 2178  
published in newspapers of general circulation in Cuyahoga, Lucas, 2179  
Mahoning, Trumbull, Williams, and Summit counties not less than 2180  
five days prior to the meeting. The commission shall not be 2181  
required to hold any public hearing or meeting upon the expiration 2182  
of any temporary decrease in the toll rate structure, so long as 2183  
it implements the same toll rate structure that was in effect 2184  
immediately prior to the temporary decrease. 2185

(E) As used in this section, "Ohio turnpike" means the toll 2186  
freeway that is under the jurisdiction of the commission and runs 2187  
in an easterly and westerly direction across the entire northern 2188  
portion of this state between its borders with the state of 2189  
Pennsylvania in the east and the state of Indiana in the west, and 2190  
carries the interstate highway designations of interstate 2191  
seventy-six, interstate eighty, and interstate eighty-ninety. 2192

**Sec. 5537.27.** The Ohio turnpike and infrastructure 2193  
commission, the director of transportation or the director's 2194  
designee, and another person designated by the governor shall 2195  
establish a procedure whereby a political subdivision or other 2196  
government agency or agencies may submit a written application to 2197  
the commission, requesting the commission to construct and operate 2198  
a turnpike project within the boundaries of the subdivision, 2199  
agency, or agencies making the request. The procedure shall 2200  
include a requirement that the commission send a written reply to 2201  
the subdivision, agency, or agencies, explaining the disposition 2202

of the request. The procedure established pursuant to this section 2203  
shall not become effective unless it is approved by the commission 2204  
and by the director or the director's designee and the designee of 2205  
the governor, and shall require submission of the proposed 2206  
turnpike project to the turnpike legislative review committee if 2207  
the project must be approved by the governor. 2208

**Sec. 5537.28.** (A) ~~Notwithstanding any other provision of law,~~ 2209  
~~on and after the effective date of this section, the Ohio turnpike~~ 2210  
~~commission shall not expend any toll revenues that are generated~~ 2211  
~~by an existing turnpike project to fund in any manner or to any~~ 2212  
~~degree the construction, operation, maintenance, or repair of~~ 2213  
~~another turnpike project the location of which must be reviewed by~~ 2214  
~~the turnpike legislative review committee and approved by the~~ 2215  
~~governor.~~ 2216

In paying the cost of ~~such a~~ any turnpike project, the Ohio 2217  
turnpike and infrastructure commission may issue bonds and bond 2218  
anticipation notes as permitted by this chapter, and may accept 2219  
moneys from any source to pay the cost of any portion of the 2220  
turnpike project, including, but not limited to, the federal 2221  
government, any department or agency of this state, and any 2222  
political subdivision or other government agency. Each such 2223  
project shall be constructed, operated, maintained, and repaired 2224  
entirely with funds ~~generated by that project or otherwise~~ 2225  
~~specifically acquired for that project or~~ from sources permitted 2226  
~~by this chapter~~ excess funds available from any other turnpike 2227  
project. 2228

(B) ~~The commission shall not expend any toll revenues~~ 2229  
~~generated by the Ohio turnpike to pay any amount of the principal~~ 2230  
~~amount of, or interest due on, any bonds or bond anticipation~~ 2231  
~~notes issued by the commission to pay any portion of the cost of~~ 2232  
~~another turnpike project the location of which must be reviewed by~~ 2233



~~the turnpike legislative review committee and approved by the~~ 2234  
~~governor. The commission shall not expend any toll revenues~~ 2235  
~~generated by any turnpike project to pay any amount of the~~ 2236  
~~principal amount of, or interest due on, any bonds or bond~~ 2237  
~~anticipation notes issued by the commission to pay any portion of~~ 2238  
~~the cost of a new turnpike project the location of which must be~~ 2239  
~~reviewed by the turnpike legislative review committee and approved~~ 2240  
~~by the governor or the cost of the operation, repair, improvement,~~ 2241  
~~maintenance, or reconstruction of any turnpike project other than~~ 2242  
~~the project that generated those toll revenues.~~ 2243

~~(C) As used in this section:~~ 2244

~~(1) "Ohio turnpike" has the same meaning as in division (E)~~ 2245  
~~of section 5537.26 of the Revised Code;~~ 2246

~~(2) "Another "any turnpike project" does not include~~ 2247  
~~infrastructure improvements on the Ohio turnpike or on connecting~~ 2248  
~~roadways within one mile of an Ohio turnpike interchange projects.~~ 2249  
~~The costs of infrastructure projects approved under section~~ 2250  
~~5537.18 of the Revised Code shall be funded exclusively out of the~~ 2251  
~~infrastructure fund or funds.~~ 2252

**Sec. 5537.30.** (A) Not later than December 31, 2009, the Ohio 2253  
turnpike and infrastructure commission shall establish a program 2254  
for the placement of business logos for identification purposes on 2255  
directional signs within the turnpike right-of-way. 2256

(B)(1) The commission shall establish, and may revise at any 2257  
time, a fee for participation in the business logo sign program. 2258  
All direct and indirect costs of the business logo sign program 2259  
established pursuant to this section shall be fully paid by the 2260  
businesses applying for participation in the program. The direct 2261  
and indirect costs of the program shall include, but not be 2262  
limited to, the cost of capital, directional signs, blanks, posts, 2263  
logos, installation, repair, engineering, design, insurance, 2264

removal, replacement, and administration. 2265

(2) Money generated from participating businesses in excess 2266  
of the direct and indirect costs and any reasonable profit earned 2267  
by a person awarded a contract ~~under division (C) of this section~~ 2268  
to operate, maintain, or market the business logo sign program 2269  
shall be remitted to the commission. 2270

(3) If the commission operates such a program and does not 2271  
contract with a private person to operate it, all money collected 2272  
from participating businesses shall be retained by the commission. 2273

~~(C) The commission, in accordance with rules adopted pursuant 2274  
to section 111.15 of the Revised Code, may contract with any 2275  
private person to operate, maintain, or market the business logo 2276  
sign program. The contract may allow for a reasonable profit to be 2277  
earned by the successful applicant. In awarding the contract, the 2278  
commission shall consider the skill, expertise, prior experience, 2279  
and other qualifications of each applicant. 2280~~

~~(D)~~ The program shall permit the business logo signs of a 2281  
seller of motor vehicle fuel to include on the seller's signs a 2282  
marking or symbol indicating that the seller sells one or more 2283  
types of alternative fuel so long as the seller in fact sells that 2284  
fuel. As used in this division, "alternative fuel" has the same 2285  
meaning as in section 125.831 of the Revised Code. 2286

**Sec. 5728.01.** As used in sections 5728.02 to 5728.14 of the 2287  
Revised Code: 2288

(A) "Motor vehicle" means everything on wheels that is 2289  
self-propelled, other than by muscular power or power collected 2290  
from electric trolley wires and other than vehicles or machinery 2291  
not designed for or employed in general highway transportation, 2292  
used to transport or propel persons or property over a public 2293  
highway. 2294

(B) "Commercial car" means any motor vehicle used for 2295  
transporting persons or property, wholly on its own structure on a 2296  
public highway. 2297

(C) "Commercial tractor" means any motor vehicle designed and 2298  
used to propel or draw a trailer or semi-trailer or both on a 2299  
public highway without having any provision for carrying loads 2300  
independently of such trailer or semi-trailer. 2301

(D) "Trailer" means everything on wheels that is not 2302  
self-propelled, except vehicles or machinery not designed for or 2303  
employed in general highway transportation, used for carrying 2304  
property wholly on its own structure and for being drawn by a 2305  
motor vehicle on a public highway, including any such vehicle when 2306  
formed by or operated as a combination of a semi-trailer and a 2307  
vehicle of the dolly type such as that commonly known as a trailer 2308  
dolly. "Trailer" does not include manufactured homes as defined in 2309  
division (C)(4) of section 3781.06 of the Revised Code or mobile 2310  
homes as defined in division (O) of section 4501.01 of the Revised 2311  
Code. 2312

(E) "Semi-trailer" means everything on wheels that is not 2313  
self-propelled, except vehicles or machinery not designed for or 2314  
employed in general highway transportation, designed and used for 2315  
carrying property on a public highway when being propelled or 2316  
drawn by a commercial tractor when part of its own weight or the 2317  
weight of its load, or both, rest upon and is carried by a 2318  
commercial tractor. 2319

(F) "Commercial tandem" means any commercial car and trailer 2320  
or any commercial tractor, semi-trailer, and trailer when fastened 2321  
together and used as one unit. 2322

(G) "Commercial tractor combination" means any commercial 2323  
tractor and semi-trailer when fastened together and used as one 2324  
unit. 2325

(H) "Axle" means two or more load carrying wheels mounted in 2326  
a single transverse vertical plane. 2327

(I) "Public highway" means any highway, road, or street 2328  
dedicated to public use, including a highway under the control and 2329  
jurisdiction of the Ohio turnpike and infrastructure commission 2330  
created by the provisions of section 5537.02 of the Revised Code 2331  
and land and lots over which the public, either as user or owner, 2332  
generally has a right to pass even though such land or lots are 2333  
closed temporarily by public authorities for the purpose of 2334  
construction, reconstruction, maintenance, or repair. 2335

(J) "Jurisdiction" means a state of the United States, the 2336  
District of Columbia, or a province or territory of Canada. 2337

**Sec. 5735.05.** (A) To provide revenue for maintaining the 2338  
state highway system; to widen existing surfaces on such highways; 2339  
to resurface such highways; to pay that portion of the 2340  
construction cost of a highway project which a county, township, 2341  
or municipal corporation normally would be required to pay, but 2342  
which the director of transportation, pursuant to division (B) of 2343  
section 5531.08 of the Revised Code, determines instead will be 2344  
paid from moneys in the highway operating fund; to enable the 2345  
counties of the state properly to plan, maintain, and repair their 2346  
roads and to pay principal, interest, and charges on bonds and 2347  
other obligations issued pursuant to Chapter 133. of the Revised 2348  
Code or incurred pursuant to section 5531.09 of the Revised Code 2349  
for highway improvements; to enable the municipal corporations to 2350  
plan, construct, reconstruct, repave, widen, maintain, repair, 2351  
clear, and clean public highways, roads, and streets, and to pay 2352  
the principal, interest, and charges on bonds and other 2353  
obligations issued pursuant to Chapter 133. of the Revised Code or 2354  
incurred pursuant to section 5531.09 of the Revised Code for 2355  
highway improvements; to enable the Ohio turnpike and 2356

infrastructure commission to construct, reconstruct, maintain, and 2357  
repair turnpike projects; to maintain and repair bridges and 2358  
viaducts; to purchase, erect, and maintain street and traffic 2359  
signs and markers; to purchase, erect, and maintain traffic lights 2360  
and signals; to pay the costs apportioned to the public under 2361  
sections 4907.47 and 4907.471 of the Revised Code and to 2362  
supplement revenue already available for such purposes; to pay the 2363  
costs incurred by the public utilities commission in administering 2364  
sections 4907.47 to 4907.476 of the Revised Code; to distribute 2365  
equitably among those persons using the privilege of driving motor 2366  
vehicles upon such highways and streets the cost of maintaining 2367  
and repairing them; to pay the interest, principal, and charges on 2368  
highway capital improvements bonds and other obligations issued 2369  
pursuant to Section 2m of Article VIII, Ohio Constitution, and 2370  
section 151.06 of the Revised Code; to pay the interest, 2371  
principal, and charges on highway obligations issued pursuant to 2372  
Section 2i of Article VIII, Ohio Constitution, and sections 2373  
5528.30 and 5528.31 of the Revised Code; to pay the interest, 2374  
principal, and charges on major new state infrastructure bonds and 2375  
other obligations of the state issued pursuant to Section 13 of 2376  
Article VIII, Ohio Constitution, and section 5531.10 of the 2377  
Revised Code; to provide revenue for the purposes of sections 2378  
1547.71 to 1547.78 of the Revised Code; and to pay the expenses of 2379  
the department of taxation incident to the administration of the 2380  
motor fuel laws, a motor fuel excise tax is hereby imposed on all 2381  
motor fuel dealers upon receipt of motor fuel within this state at 2382  
the rate of two cents plus the cents per gallon rate on each 2383  
gallon so received, to be computed in the manner set forth in 2384  
section 5735.06 of the Revised Code; provided that no tax is 2385  
hereby imposed upon the following transactions: 2386

(1) The sale of dyed diesel fuel by a licensed motor fuel 2387  
dealer from a location other than a retail service station 2388  
provided the licensed motor fuel dealer places on the face of the 2389

delivery document or invoice, or both if both are used, a 2390  
conspicuous notice stating that the fuel is dyed and is not for 2391  
taxable use, and that taxable use of that fuel is subject to a 2392  
penalty. The tax commissioner, by rule, may provide that any 2393  
notice conforming to rules or regulations issued by the United 2394  
States department of the treasury or the Internal Revenue Service 2395  
is sufficient notice for the purposes of division (A)(1) of this 2396  
section. 2397

(2) The sale of K-1 kerosene to a retail service station, 2398  
except when placed directly in the fuel supply tank of a motor 2399  
vehicle. Such sale shall be rebuttably presumed to not be 2400  
distributed or sold for use or used to generate power for the 2401  
operation of motor vehicles upon the public highways or upon the 2402  
waters within the boundaries of this state. 2403

(3) The sale of motor fuel by a licensed motor fuel dealer to 2404  
another licensed motor fuel dealer; 2405

(4) The exportation of motor fuel by a licensed motor fuel 2406  
dealer from this state to any other state or foreign country; 2407

(5) The sale of motor fuel to the United States government or 2408  
any of its agencies, except such tax as is permitted by it, where 2409  
such sale is evidenced by an exemption certificate, in a form 2410  
approved by the tax commissioner, executed by the United States 2411  
government or an agency thereof certifying that the motor fuel 2412  
therein identified has been purchased for the exclusive use of the 2413  
United States government or its agency; 2414

(6) The sale of motor fuel that is in the process of 2415  
transportation in foreign or interstate commerce, except insofar 2416  
as it may be taxable under the Constitution and statutes of the 2417  
United States, and except as may be agreed upon in writing by the 2418  
dealer and the commissioner; 2419

(7) The sale of motor fuel when sold exclusively for use in 2420

the operation of aircraft, where such sale is evidenced by an 2421  
exemption certificate prescribed by the commissioner and executed 2422  
by the purchaser certifying that the motor fuel purchased has been 2423  
purchased for exclusive use in the operation of aircraft; 2424

(8) The sale for exportation of motor fuel by a licensed 2425  
motor fuel dealer to a licensed exporter type A; 2426

(9) The sale for exportation of motor fuel by a licensed 2427  
motor fuel dealer to a licensed exporter type B, provided that the 2428  
destination state motor fuel tax has been paid or will be accrued 2429  
and paid by the licensed motor fuel dealer. 2430

(10) The sale to a consumer of diesel fuel, by a motor fuel 2431  
dealer for delivery from a bulk lot vehicle, for consumption in 2432  
operating a vessel when the use of such fuel in a vessel would 2433  
otherwise qualify for a refund under section 5735.14 of the 2434  
Revised Code. 2435

Division (A)(1) of this section does not apply to the sale or 2436  
distribution of dyed diesel fuel used to operate a motor vehicle 2437  
on the public highways or upon water within the boundaries of this 2438  
state by persons permitted under regulations of the United States 2439  
department of the treasury or of the Internal Revenue Service to 2440  
so use dyed diesel fuel. 2441

(B) The two cent motor fuel tax levied by this section is 2442  
also for the purpose of paying the expenses of administering and 2443  
enforcing the state law relating to the registration and operation 2444  
of motor vehicles. 2445

(C) After the tax provided for by this section on the receipt 2446  
of any motor fuel has been paid by the motor fuel dealer, the 2447  
motor fuel may thereafter be used, sold, or resold by any person 2448  
having lawful title to it, without incurring liability for such 2449  
tax. 2450

If a licensed motor fuel dealer sells motor fuel received by 2451

the licensed motor fuel dealer to another licensed motor fuel 2452  
dealer, the seller may deduct on the report required by section 2453  
5735.06 of the Revised Code the number of gallons so sold for the 2454  
month within which the motor fuel was sold or delivered. In this 2455  
event the number of gallons is deemed to have been received by the 2456  
purchaser, who shall report and pay the tax imposed thereon. 2457

**Sec. 5735.23.** (A) Out of receipts from the tax levied by 2458  
section 5735.05 of the Revised Code, the treasurer of state shall 2459  
place to the credit of the tax refund fund established by section 2460  
5703.052 of the Revised Code amounts equal to the refunds 2461  
certified by the tax commissioner pursuant to sections 5735.13, 2462  
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 2463  
treasurer of state shall then transfer the amount required by 2464  
section 5735.051 of the Revised Code to the waterways safety fund, 2465  
the amount required by section 4907.472 of the Revised Code to the 2466  
grade crossing protection fund, and the amount required by section 2467  
5735.053 of the Revised Code to the motor fuel tax administration 2468  
fund. 2469

(B) Except as provided in division (D) of this section, each 2470  
month the balance of the receipts from the tax levied by section 2471  
5735.05 of the Revised Code shall be credited, after receipt by 2472  
the treasurer of state of certification from the commissioners of 2473  
the sinking fund, as required by section 5528.35 of the Revised 2474  
Code, that there are sufficient moneys to the credit of the 2475  
highway obligations bond retirement fund to meet in full all 2476  
payments of interest, principal, and charges for the retirement of 2477  
highway obligations issued pursuant to Section 2i of Article VIII, 2478  
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 2479  
Code due and payable during the current calendar year, as follows: 2480

(1) To the state and local government highway distribution 2481  
fund, which is hereby created in the state treasury, an amount 2482



that is the same percentage of the balance to be credited as that 2483  
portion of the tax per gallon determined under division (B)(2)(a) 2484  
of section 5735.06 of the Revised Code is of the total tax per 2485  
gallon determined under divisions (B)(2)(a) and (b) of that 2486  
section. 2487

(2) After making the distribution to the state and local 2488  
government highway distribution fund, the remainder shall be 2489  
credited as follows: 2490

(a) Thirty per cent to the gasoline excise tax fund for 2491  
distribution pursuant to division (A)(1) of section 5735.27 of the 2492  
Revised Code; 2493

(b) Twenty-five per cent to the gasoline excise tax fund for 2494  
distribution pursuant to division (A)(3) of section 5735.27 of the 2495  
Revised Code; 2496

(c) Except as provided in division (D) of this section, 2497  
forty-five per cent to the highway operating fund for distribution 2498  
pursuant to division (B)(1) of section 5735.27 of the Revised 2499  
Code. 2500

(C) From the balance in the state and local government 2501  
highway distribution fund on the last day of each month there 2502  
shall be paid the following amounts: 2503

(1) To the local transportation improvement program fund 2504  
created by section 164.14 of the Revised Code, an amount equal to 2505  
a fraction of the balance in the state and local government 2506  
highway distribution fund, the numerator of which fraction is one 2507  
and the denominator of which fraction is that portion of the tax 2508  
per gallon determined under division (B)(2)(a) of section 5735.06 2509  
of the Revised Code; 2510

(2) An amount equal to five cents multiplied by the number of 2511  
gallons of motor fuel sold at stations operated by the Ohio 2512  
turnpike and infrastructure commission, such gallonage to be 2513

certified by the commission to the treasurer of state not later 2514  
than the last day of the month following. The funds paid to the 2515  
commission pursuant to this section shall be expended for the 2516  
construction, reconstruction, maintenance, and repair of turnpike 2517  
projects, except that the funds may not be expended for the 2518  
construction of new interchanges. The funds also may be expended 2519  
for the construction, reconstruction, maintenance, and repair of 2520  
those portions of connecting public roads that serve existing 2521  
interchanges and are determined by the commission and the director 2522  
of transportation to be necessary for the safe merging of traffic 2523  
between the turnpike and those public roads. 2524

The remainder of the balance shall be distributed as follows 2525  
on the fifteenth day of the following month: 2526

(a) Ten and seven-tenths per cent shall be paid to municipal 2527  
corporations for distribution pursuant to division (A)(1) of 2528  
section 5735.27 of the Revised Code and may be used for any 2529  
purpose for which payments received under that division may be 2530  
used. Through July 15, 2005, the sum of two hundred forty-eight 2531  
thousand six hundred twenty-five dollars shall be monthly 2532  
subtracted from the amount so computed and credited to the highway 2533  
operating fund. Beginning August 15, 2005, the sum of seven 2534  
hundred forty-five thousand eight hundred seventy-five dollars 2535  
shall be monthly subtracted from the amount so computed and 2536  
credited to the highway operating fund. 2537

(b) Five per cent shall be paid to townships for distribution 2538  
pursuant to division (A)(5) of section 5735.27 of the Revised Code 2539  
and may be used for any purpose for which payments received under 2540  
that division may be used. Through July 15, 2005, the sum of 2541  
eighty-seven thousand seven hundred fifty dollars shall be monthly 2542  
subtracted from the amount so computed and credited to the highway 2543  
operating fund. Beginning August 15, 2005, the sum of two hundred 2544  
sixty-three thousand two hundred fifty dollars shall be monthly 2545

subtracted from the amount so computed and credited to the highway operating fund. 2546  
2547

(c) Nine and three-tenths per cent shall be paid to counties 2548  
for distribution pursuant to division (A)(3) of section 5735.27 of 2549  
the Revised Code and may be used for any purpose for which 2550  
payments received under that division may be used. Through July 2551  
15, 2005, the sum of two hundred forty-eight thousand six hundred 2552  
twenty-five dollars shall be monthly subtracted from the amount so 2553  
computed and credited to the highway operating fund. Beginning 2554  
August 15, 2005, the sum of seven hundred forty-five thousand 2555  
eight hundred seventy-five dollars shall be monthly subtracted 2556  
from the amount so computed and credited to the highway operating 2557  
fund. 2558

(d) Except as provided in division (D) of this section, the 2559  
balance shall be transferred to the highway operating fund and 2560  
used for the purposes set forth in division (B)(1) of section 2561  
5735.27 of the Revised Code. 2562

(D) Monthly from September to February of each fiscal year, 2563  
an amount equal to one-sixth of the amount certified in July of 2564  
that year by the treasurer of state pursuant to division (Q) of 2565  
section 151.01 of the Revised Code shall, from amounts required to 2566  
be credited or transferred to the highway operating fund pursuant 2567  
to division (B)(2)(c) or (C)(2)(d) of this section, be credited or 2568  
transferred to the highway capital improvement bond service fund 2569  
created in section 151.06 of the Revised Code. If, in any of those 2570  
months, the amount available to be credited or transferred to the 2571  
bond service fund is less than one-sixth of the amount so 2572  
certified, the shortfall shall be added to the amount due the next 2573  
succeeding month. Any amount still due at the end of the six-month 2574  
period shall be credited or transferred as the money becomes 2575  
available, until such time as the office of budget and management 2576  
receives certification from the treasurer of state or the 2577

treasurer of state's designee that sufficient money has been 2578  
credited or transferred to the bond service fund to meet in full 2579  
all payments of debt service and financing costs due during the 2580  
fiscal year from that fund. 2581

**Sec. 5739.02.** For the purpose of providing revenue with which 2582  
to meet the needs of the state, for the use of the general revenue 2583  
fund of the state, for the purpose of securing a thorough and 2584  
efficient system of common schools throughout the state, for the 2585  
purpose of affording revenues, in addition to those from general 2586  
property taxes, permitted under constitutional limitations, and 2587  
from other sources, for the support of local governmental 2588  
functions, and for the purpose of reimbursing the state for the 2589  
expense of administering this chapter, an excise tax is hereby 2590  
levied on each retail sale made in this state. 2591

(A)(1) The tax shall be collected as provided in section 2592  
5739.025 of the Revised Code. The rate of the tax shall be five 2593  
and one-half per cent. The tax applies and is collectible when the 2594  
sale is made, regardless of the time when the price is paid or 2595  
delivered. 2596

(2) In the case of the lease or rental, with a fixed term of 2597  
more than thirty days or an indefinite term with a minimum period 2598  
of more than thirty days, of any motor vehicles designed by the 2599  
manufacturer to carry a load of not more than one ton, watercraft, 2600  
outboard motor, or aircraft, or of any tangible personal property, 2601  
other than motor vehicles designed by the manufacturer to carry a 2602  
load of more than one ton, to be used by the lessee or renter 2603  
primarily for business purposes, the tax shall be collected by the 2604  
vendor at the time the lease or rental is consummated and shall be 2605  
calculated by the vendor on the basis of the total amount to be 2606  
paid by the lessee or renter under the lease agreement. If the 2607  
total amount of the consideration for the lease or rental includes 2608

amounts that are not calculated at the time the lease or rental is 2609  
executed, the tax shall be calculated and collected by the vendor 2610  
at the time such amounts are billed to the lessee or renter. In 2611  
the case of an open-end lease or rental, the tax shall be 2612  
calculated by the vendor on the basis of the total amount to be 2613  
paid during the initial fixed term of the lease or rental, and for 2614  
each subsequent renewal period as it comes due. As used in this 2615  
division, "motor vehicle" has the same meaning as in section 2616  
4501.01 of the Revised Code, and "watercraft" includes an outdrive 2617  
unit attached to the watercraft. 2618

A lease with a renewal clause and a termination penalty or 2619  
similar provision that applies if the renewal clause is not 2620  
exercised is presumed to be a sham transaction. In such a case, 2621  
the tax shall be calculated and paid on the basis of the entire 2622  
length of the lease period, including any renewal periods, until 2623  
the termination penalty or similar provision no longer applies. 2624  
The taxpayer shall bear the burden, by a preponderance of the 2625  
evidence, that the transaction or series of transactions is not a 2626  
sham transaction. 2627

(3) Except as provided in division (A)(2) of this section, in 2628  
the case of a sale, the price of which consists in whole or in 2629  
part of the lease or rental of tangible personal property, the tax 2630  
shall be measured by the installments of that lease or rental. 2631

(4) In the case of a sale of a physical fitness facility 2632  
service or recreation and sports club service, the price of which 2633  
consists in whole or in part of a membership for the receipt of 2634  
the benefit of the service, the tax applicable to the sale shall 2635  
be measured by the installments thereof. 2636

(B) The tax does not apply to the following: 2637

(1) Sales to the state or any of its political subdivisions, 2638  
or to any other state or its political subdivisions if the laws of 2639

that state exempt from taxation sales made to this state and its	2640
political subdivisions;	2641
(2) Sales of food for human consumption off the premises	2642
where sold;	2643
(3) Sales of food sold to students only in a cafeteria,	2644
dormitory, fraternity, or sorority maintained in a private,	2645
public, or parochial school, college, or university;	2646
(4) Sales of newspapers and of magazine subscriptions and	2647
sales or transfers of magazines distributed as controlled	2648
circulation publications;	2649
(5) The furnishing, preparing, or serving of meals without	2650
charge by an employer to an employee provided the employer records	2651
the meals as part compensation for services performed or work	2652
done;	2653
(6) Sales of motor fuel upon receipt, use, distribution, or	2654
sale of which in this state a tax is imposed by the law of this	2655
state, but this exemption shall not apply to the sale of motor	2656
fuel on which a refund of the tax is allowable under division (A)	2657
of section 5735.14 of the Revised Code; and the tax commissioner	2658
may deduct the amount of tax levied by this section applicable to	2659
the price of motor fuel when granting a refund of motor fuel tax	2660
pursuant to division (A) of section 5735.14 of the Revised Code	2661
and shall cause the amount deducted to be paid into the general	2662
revenue fund of this state;	2663
(7) Sales of natural gas by a natural gas company, of water	2664
by a water-works company, or of steam by a heating company, if in	2665
each case the thing sold is delivered to consumers through pipes	2666
or conduits, and all sales of communications services by a	2667
telegraph company, all terms as defined in section 5727.01 of the	2668
Revised Code, and sales of electricity delivered through wires;	2669
(8) Casual sales by a person, or auctioneer employed directly	2670

by the person to conduct such sales, except as to such sales of 2671  
motor vehicles, watercraft or outboard motors required to be 2672  
titled under section 1548.06 of the Revised Code, watercraft 2673  
documented with the United States coast guard, snowmobiles, and 2674  
all-purpose vehicles as defined in section 4519.01 of the Revised 2675  
Code; 2676

(9)(a) Sales of services or tangible personal property, other 2677  
than motor vehicles, mobile homes, and manufactured homes, by 2678  
churches, organizations exempt from taxation under section 2679  
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 2680  
organizations operated exclusively for charitable purposes as 2681  
defined in division (B)(12) of this section, provided that the 2682  
number of days on which such tangible personal property or 2683  
services, other than items never subject to the tax, are sold does 2684  
not exceed six in any calendar year, except as otherwise provided 2685  
in division (B)(9)(b) of this section. If the number of days on 2686  
which such sales are made exceeds six in any calendar year, the 2687  
church or organization shall be considered to be engaged in 2688  
business and all subsequent sales by it shall be subject to the 2689  
tax. In counting the number of days, all sales by groups within a 2690  
church or within an organization shall be considered to be sales 2691  
of that church or organization. 2692

(b) The limitation on the number of days on which tax-exempt 2693  
sales may be made by a church or organization under division 2694  
(B)(9)(a) of this section does not apply to sales made by student 2695  
clubs and other groups of students of a primary or secondary 2696  
school, or a parent-teacher association, booster group, or similar 2697  
organization that raises money to support or fund curricular or 2698  
extracurricular activities of a primary or secondary school. 2699

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2700  
to sales by a noncommercial educational radio or television 2701  
broadcasting station. 2702

(10) Sales not within the taxing power of this state under the Constitution of the United States;	2703 2704
(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;	2705 2706 2707 2708
(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.	2709 2710 2711 2712 2713 2714 2715 2716 2717 2718 2719 2720
"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the	2721 2722 2723 2724 2725 2726 2727 2728 2729 2730 2731 2732 2733 2734



operation of a parent-teacher association, booster group, or 2735  
similar organization primarily engaged in the promotion and 2736  
support of the curricular or extracurricular activities of a 2737  
primary or secondary school; the operation of a community or area 2738  
center in which presentations in music, dramatics, the arts, and 2739  
related fields are made in order to foster public interest and 2740  
education therein; the production of performances in music, 2741  
dramatics, and the arts; or the promotion of education by an 2742  
organization engaged in carrying on research in, or the 2743  
dissemination of, scientific and technological knowledge and 2744  
information primarily for the public. 2745

Nothing in this division shall be deemed to exempt sales to 2746  
any organization for use in the operation or carrying on of a 2747  
trade or business, or sales to a home for the aged for use in the 2748  
operation of independent living facilities as defined in division 2749  
(A) of section 5709.12 of the Revised Code. 2750

(13) Building and construction materials and services sold to 2751  
construction contractors for incorporation into a structure or 2752  
improvement to real property under a construction contract with 2753  
this state or a political subdivision of this state, or with the 2754  
United States government or any of its agencies; building and 2755  
construction materials and services sold to construction 2756  
contractors for incorporation into a structure or improvement to 2757  
real property that are accepted for ownership by this state or any 2758  
of its political subdivisions, or by the United States government 2759  
or any of its agencies at the time of completion of the structures 2760  
or improvements; building and construction materials sold to 2761  
construction contractors for incorporation into a horticulture 2762  
structure or livestock structure for a person engaged in the 2763  
business of horticulture or producing livestock; building 2764  
materials and services sold to a construction contractor for 2765  
incorporation into a house of public worship or religious 2766

education, or a building used exclusively for charitable purposes 2767  
under a construction contract with an organization whose purpose 2768  
is as described in division (B)(12) of this section; building 2769  
materials and services sold to a construction contractor for 2770  
incorporation into a building under a construction contract with 2771  
an organization exempt from taxation under section 501(c)(3) of 2772  
the Internal Revenue Code of 1986 when the building is to be used 2773  
exclusively for the organization's exempt purposes; building and 2774  
construction materials sold for incorporation into the original 2775  
construction of a sports facility under section 307.696 of the 2776  
Revised Code; building and construction materials and services 2777  
sold to a construction contractor for incorporation into real 2778  
property outside this state if such materials and services, when 2779  
sold to a construction contractor in the state in which the real 2780  
property is located for incorporation into real property in that 2781  
state, would be exempt from a tax on sales levied by that state; 2782  
and, until one calendar year after the construction of a 2783  
convention center that qualifies for property tax exemption under 2784  
section 5709.084 of the Revised Code is completed, building and 2785  
construction materials and services sold to a construction 2786  
contractor for incorporation into the real property comprising 2787  
that convention center; 2788

(14) Sales of ships or vessels or rail rolling stock used or 2789  
to be used principally in interstate or foreign commerce, and 2790  
repairs, alterations, fuel, and lubricants for such ships or 2791  
vessels or rail rolling stock; 2792

(15) Sales to persons primarily engaged in any of the 2793  
activities mentioned in division (B)(42)(a), (g), or (h) of this 2794  
section, to persons engaged in making retail sales, or to persons 2795  
who purchase for sale from a manufacturer tangible personal 2796  
property that was produced by the manufacturer in accordance with 2797  
specific designs provided by the purchaser, of packages, including 2798

material, labels, and parts for packages, and of machinery, 2799  
equipment, and material for use primarily in packaging tangible 2800  
personal property produced for sale, including any machinery, 2801  
equipment, and supplies used to make labels or packages, to 2802  
prepare packages or products for labeling, or to label packages or 2803  
products, by or on the order of the person doing the packaging, or 2804  
sold at retail. "Packages" includes bags, baskets, cartons, 2805  
crates, boxes, cans, bottles, bindings, wrappings, and other 2806  
similar devices and containers, but does not include motor 2807  
vehicles or bulk tanks, trailers, or similar devices attached to 2808  
motor vehicles. "Packaging" means placing in a package. Division 2809  
(B)(15) of this section does not apply to persons engaged in 2810  
highway transportation for hire. 2811

(16) Sales of food to persons using supplemental nutrition 2812  
assistance program benefits to purchase the food. As used in this 2813  
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2814  
federal regulations adopted pursuant to the Food and Nutrition Act 2815  
of 2008. 2816

(17) Sales to persons engaged in farming, agriculture, 2817  
horticulture, or floriculture, of tangible personal property for 2818  
use or consumption primarily in the production by farming, 2819  
agriculture, horticulture, or floriculture of other tangible 2820  
personal property for use or consumption primarily in the 2821  
production of tangible personal property for sale by farming, 2822  
agriculture, horticulture, or floriculture; or material and parts 2823  
for incorporation into any such tangible personal property for use 2824  
or consumption in production; and of tangible personal property 2825  
for such use or consumption in the conditioning or holding of 2826  
products produced by and for such use, consumption, or sale by 2827  
persons engaged in farming, agriculture, horticulture, or 2828  
floriculture, except where such property is incorporated into real 2829  
property; 2830

(18) Sales of drugs for a human being that may be dispensed	2831
only pursuant to a prescription; insulin as recognized in the	2832
official United States pharmacopoeia; urine and blood testing	2833
materials when used by diabetics or persons with hypoglycemia to	2834
test for glucose or acetone; hypodermic syringes and needles when	2835
used by diabetics for insulin injections; epoetin alfa when	2836
purchased for use in the treatment of persons with medical	2837
disease; hospital beds when purchased by hospitals, nursing homes,	2838
or other medical facilities; and medical oxygen and medical	2839
oxygen-dispensing equipment when purchased by hospitals, nursing	2840
homes, or other medical facilities;	2841
(19) Sales of prosthetic devices, durable medical equipment	2842
for home use, or mobility enhancing equipment, when made pursuant	2843
to a prescription and when such devices or equipment are for use	2844
by a human being.	2845
(20) Sales of emergency and fire protection vehicles and	2846
equipment to nonprofit organizations for use solely in providing	2847
fire protection and emergency services, including trauma care and	2848
emergency medical services, for political subdivisions of the	2849
state;	2850
(21) Sales of tangible personal property manufactured in this	2851
state, if sold by the manufacturer in this state to a retailer for	2852
use in the retail business of the retailer outside of this state	2853
and if possession is taken from the manufacturer by the purchaser	2854
within this state for the sole purpose of immediately removing the	2855
same from this state in a vehicle owned by the purchaser;	2856
(22) Sales of services provided by the state or any of its	2857
political subdivisions, agencies, instrumentalities, institutions,	2858
or authorities, or by governmental entities of the state or any of	2859
its political subdivisions, agencies, instrumentalities,	2860
institutions, or authorities;	2861

(23) Sales of motor vehicles to nonresidents of this state	2862
under the circumstances described in division (B) of section	2863
5739.029 of the Revised Code;	2864
(24) Sales to persons engaged in the preparation of eggs for	2865
sale of tangible personal property used or consumed directly in	2866
such preparation, including such tangible personal property used	2867
for cleaning, sanitizing, preserving, grading, sorting, and	2868
classifying by size; packages, including material and parts for	2869
packages, and machinery, equipment, and material for use in	2870
packaging eggs for sale; and handling and transportation equipment	2871
and parts therefor, except motor vehicles licensed to operate on	2872
public highways, used in intraplant or interplant transfers or	2873
shipment of eggs in the process of preparation for sale, when the	2874
plant or plants within or between which such transfers or	2875
shipments occur are operated by the same person. "Packages"	2876
includes containers, cases, baskets, flats, fillers, filler flats,	2877
cartons, closure materials, labels, and labeling materials, and	2878
"packaging" means placing therein.	2879
(25)(a) Sales of water to a consumer for residential use;	2880
(b) Sales of water by a nonprofit corporation engaged	2881
exclusively in the treatment, distribution, and sale of water to	2882
consumers, if such water is delivered to consumers through pipes	2883
or tubing.	2884
(26) Fees charged for inspection or reinspection of motor	2885
vehicles under section 3704.14 of the Revised Code;	2886
(27) Sales to persons licensed to conduct a food service	2887
operation pursuant to section 3717.43 of the Revised Code, of	2888
tangible personal property primarily used directly for the	2889
following:	2890
(a) To prepare food for human consumption for sale;	2891
(b) To preserve food that has been or will be prepared for	2892

human consumption for sale by the food service operator, not	2893
including tangible personal property used to display food for	2894
selection by the consumer;	2895
(c) To clean tangible personal property used to prepare or	2896
serve food for human consumption for sale.	2897
(28) Sales of animals by nonprofit animal adoption services	2898
or county humane societies;	2899
(29) Sales of services to a corporation described in division	2900
(A) of section 5709.72 of the Revised Code, and sales of tangible	2901
personal property that qualifies for exemption from taxation under	2902
section 5709.72 of the Revised Code;	2903
(30) Sales and installation of agricultural land tile, as	2904
defined in division (B)(5)(a) of section 5739.01 of the Revised	2905
Code;	2906
(31) Sales and erection or installation of portable grain	2907
bins, as defined in division (B)(5)(b) of section 5739.01 of the	2908
Revised Code;	2909
(32) The sale, lease, repair, and maintenance of, parts for,	2910
or items attached to or incorporated in, motor vehicles that are	2911
primarily used for transporting tangible personal property	2912
belonging to others by a person engaged in highway transportation	2913
for hire, except for packages and packaging used for the	2914
transportation of tangible personal property;	2915
(33) Sales to the state headquarters of any veterans'	2916
organization in this state that is either incorporated and issued	2917
a charter by the congress of the United States or is recognized by	2918
the United States veterans administration, for use by the	2919
headquarters;	2920
(34) Sales to a telecommunications service vendor, mobile	2921
telecommunications service vendor, or satellite broadcasting	2922

service vendor of tangible personal property and services used 2923  
directly and primarily in transmitting, receiving, switching, or 2924  
recording any interactive, one- or two-way electromagnetic 2925  
communications, including voice, image, data, and information, 2926  
through the use of any medium, including, but not limited to, 2927  
poles, wires, cables, switching equipment, computers, and record 2928  
storage devices and media, and component parts for the tangible 2929  
personal property. The exemption provided in this division shall 2930  
be in lieu of all other exemptions under division (B)(42)(a) or 2931  
(n) of this section to which the vendor may otherwise be entitled, 2932  
based upon the use of the thing purchased in providing the 2933  
telecommunications, mobile telecommunications, or satellite 2934  
broadcasting service. 2935

(35)(a) Sales where the purpose of the consumer is to use or 2936  
consume the things transferred in making retail sales and 2937  
consisting of newspaper inserts, catalogues, coupons, flyers, gift 2938  
certificates, or other advertising material that prices and 2939  
describes tangible personal property offered for retail sale. 2940

(b) Sales to direct marketing vendors of preliminary 2941  
materials such as photographs, artwork, and typesetting that will 2942  
be used in printing advertising material; and of printed matter 2943  
that offers free merchandise or chances to win sweepstake prizes 2944  
and that is mailed to potential customers with advertising 2945  
material described in division (B)(35)(a) of this section; 2946

(c) Sales of equipment such as telephones, computers, 2947  
facsimile machines, and similar tangible personal property 2948  
primarily used to accept orders for direct marketing retail sales. 2949

(d) Sales of automatic food vending machines that preserve 2950  
food with a shelf life of forty-five days or less by refrigeration 2951  
and dispense it to the consumer. 2952

For purposes of division (B)(35) of this section, "direct 2953

marketing" means the method of selling where consumers order 2954  
tangible personal property by United States mail, delivery 2955  
service, or telecommunication and the vendor delivers or ships the 2956  
tangible personal property sold to the consumer from a warehouse, 2957  
catalogue distribution center, or similar fulfillment facility by 2958  
means of the United States mail, delivery service, or common 2959  
carrier. 2960

(36) Sales to a person engaged in the business of 2961  
horticulture or producing livestock of materials to be 2962  
incorporated into a horticulture structure or livestock structure; 2963

(37) Sales of personal computers, computer monitors, computer 2964  
keyboards, modems, and other peripheral computer equipment to an 2965  
individual who is licensed or certified to teach in an elementary 2966  
or a secondary school in this state for use by that individual in 2967  
preparation for teaching elementary or secondary school students; 2968

(38) Sales to a professional racing team of any of the 2969  
following: 2970

(a) Motor racing vehicles; 2971

(b) Repair services for motor racing vehicles; 2972

(c) Items of property that are attached to or incorporated in 2973  
motor racing vehicles, including engines, chassis, and all other 2974  
components of the vehicles, and all spare, replacement, and 2975  
rebuilt parts or components of the vehicles; except not including 2976  
tires, consumable fluids, paint, and accessories consisting of 2977  
instrumentation sensors and related items added to the vehicle to 2978  
collect and transmit data by means of telemetry and other forms of 2979  
communication. 2980

(39) Sales of used manufactured homes and used mobile homes, 2981  
as defined in section 5739.0210 of the Revised Code, made on or 2982  
after January 1, 2000; 2983



(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

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

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

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, or directly in the rendition of a public utility

service, except that the sales tax levied by this section shall be 3016  
collected upon all meals, drinks, and food for human consumption 3017  
sold when transporting persons. Persons engaged in rendering 3018  
services in the exploration for, and production of, crude oil and 3019  
natural gas for others are deemed engaged directly in the 3020  
exploration for, and production of, crude oil and natural gas. 3021  
This paragraph does not exempt from "retail sale" or "sales at 3022  
retail" the sale of tangible personal property that is to be 3023  
incorporated into a structure or improvement to real property. 3024

(b) To hold the thing transferred as security for the 3025  
performance of an obligation of the vendor; 3026

(c) To resell, hold, use, or consume the thing transferred as 3027  
evidence of a contract of insurance; 3028

(d) To use or consume the thing directly in commercial 3029  
fishing; 3030

(e) To incorporate the thing transferred as a material or a 3031  
part into, or to use or consume the thing transferred directly in 3032  
the production of, magazines distributed as controlled circulation 3033  
publications; 3034

(f) To use or consume the thing transferred in the production 3035  
and preparation in suitable condition for market and sale of 3036  
printed, imprinted, overprinted, lithographic, multilithic, 3037  
blueprinted, photostatic, or other productions or reproductions of 3038  
written or graphic matter; 3039

(g) To use the thing transferred, as described in section 3040  
5739.011 of the Revised Code, primarily in a manufacturing 3041  
operation to produce tangible personal property for sale; 3042

(h) To use the benefit of a warranty, maintenance or service 3043  
contract, or similar agreement, as described in division (B)(7) of 3044  
section 5739.01 of the Revised Code, to repair or maintain 3045  
tangible personal property, if all of the property that is the 3046

subject of the warranty, contract, or agreement would not be 3047  
subject to the tax imposed by this section; 3048

(i) To use the thing transferred as qualified research and 3049  
development equipment; 3050

(j) To use or consume the thing transferred primarily in 3051  
storing, transporting, mailing, or otherwise handling purchased 3052  
sales inventory in a warehouse, distribution center, or similar 3053  
facility when the inventory is primarily distributed outside this 3054  
state to retail stores of the person who owns or controls the 3055  
warehouse, distribution center, or similar facility, to retail 3056  
stores of an affiliated group of which that person is a member, or 3057  
by means of direct marketing. This division does not apply to 3058  
motor vehicles registered for operation on the public highways. As 3059  
used in this division, "affiliated group" has the same meaning as 3060  
in division (B)(3)(e) of section 5739.01 of the Revised Code and 3061  
"direct marketing" has the same meaning as in division (B)(35) of 3062  
this section. 3063

(k) To use or consume the thing transferred to fulfill a 3064  
contractual obligation incurred by a warrantor pursuant to a 3065  
warranty provided as a part of the price of the tangible personal 3066  
property sold or by a vendor of a warranty, maintenance or service 3067  
contract, or similar agreement the provision of which is defined 3068  
as a sale under division (B)(7) of section 5739.01 of the Revised 3069  
Code; 3070

(l) To use or consume the thing transferred in the production 3071  
of a newspaper for distribution to the public; 3072

(m) To use tangible personal property to perform a service 3073  
listed in division (B)(3) of section 5739.01 of the Revised Code, 3074  
if the property is or is to be permanently transferred to the 3075  
consumer of the service as an integral part of the performance of 3076  
the service; 3077

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

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

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

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

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

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical

location where telephone calls are placed or received in high 3109  
volume for the purpose of making sales, marketing, customer 3110  
service, technical support, or other specialized business 3111  
activity, and that employs at least fifty individuals that engage 3112  
in call center activities on a full-time basis, or sufficient 3113  
individuals to fill fifty full-time equivalent positions. 3114

(46) Sales by a telecommunications service vendor of 900 3115  
service to a subscriber. This division does not apply to 3116  
information services, as defined in division (FF) of section 3117  
5739.01 of the Revised Code. 3118

(47) Sales of value-added non-voice data service. This 3119  
division does not apply to any similar service that is not 3120  
otherwise a telecommunications service. 3121

(48)(a) Sales of machinery, equipment, and software to a 3122  
qualified direct selling entity for use in a warehouse or 3123  
distribution center primarily for storing, transporting, or 3124  
otherwise handling inventory that is held for sale to independent 3125  
salespersons who operate as direct sellers and that is held 3126  
primarily for distribution outside this state; 3127

(b) As used in division (B)(48)(a) of this section: 3128

(i) "Direct seller" means a person selling consumer products 3129  
to individuals for personal or household use and not from a fixed 3130  
retail location, including selling such product at in-home product 3131  
demonstrations, parties, and other one-on-one selling. 3132

(ii) "Qualified direct selling entity" means an entity 3133  
selling to direct sellers at the time the entity enters into a tax 3134  
credit agreement with the tax credit authority pursuant to section 3135  
122.17 of the Revised Code, provided that the agreement was 3136  
entered into on or after January 1, 2007. Neither contingencies 3137  
relevant to the granting of, nor later developments with respect 3138  
to, the tax credit shall impair the status of the qualified direct 3139

selling entity under division (B)(48) of this section after 3140  
execution of the tax credit agreement by the tax credit authority. 3141

(c) Division (B)(48) of this section is limited to machinery, 3142  
equipment, and software first stored, used, or consumed in this 3143  
state within the period commencing June 24, 2008, and ending on 3144  
the date that is five years after that date. 3145

(49) Sales of materials, parts, equipment, or engines used in 3146  
the repair or maintenance of aircraft or avionics systems of such 3147  
aircraft, and sales of repair, remodeling, replacement, or 3148  
maintenance services in this state performed on aircraft or on an 3149  
aircraft's avionics, engine, or component materials or parts. As 3150  
used in division (B)(49) of this section, "aircraft" means 3151  
aircraft of more than six thousand pounds maximum certified 3152  
takeoff weight or used exclusively in general aviation. 3153

(50) Sales of full flight simulators that are used for pilot 3154  
or flight-crew training, sales of repair or replacement parts or 3155  
components, and sales of repair or maintenance services for such 3156  
full flight simulators. "Full flight simulator" means a replica of 3157  
a specific type, or make, model, and series of aircraft cockpit. 3158  
It includes the assemblage of equipment and computer programs 3159  
necessary to represent aircraft operations in ground and flight 3160  
conditions, a visual system providing an out-of-the-cockpit view, 3161  
and a system that provides cues at least equivalent to those of a 3162  
three-degree-of-freedom motion system, and has the full range of 3163  
capabilities of the systems installed in the device as described 3164  
in appendices A and B of part 60 of chapter 1 of title 14 of the 3165  
Code of Federal Regulations. 3166

(51) Any transfer or lease of tangible personal property 3167  
~~between the state and a successful proposer in accordance with~~ 3168  
~~sections 126.60 to 126.605 of the Revised Code, provided the~~ 3169  
~~property is part of a project as defined in section 126.60 of the~~ 3170  
~~Revised Code and the state retains ownership of the project or~~ 3171

~~part thereof that is being transferred or leased,~~ between the 3172  
state and JobsOhio in accordance with section 4313.02 of the 3173  
Revised Code. 3174

(C) For the purpose of the proper administration of this 3175  
chapter, and to prevent the evasion of the tax, it is presumed 3176  
that all sales made in this state are subject to the tax until the 3177  
contrary is established. 3178

(D) The levy of this tax on retail sales of recreation and 3179  
sports club service shall not prevent a municipal corporation from 3180  
levying any tax on recreation and sports club dues or on any 3181  
income generated by recreation and sports club dues. 3182

(E) The tax collected by the vendor from the consumer under 3183  
this chapter is not part of the price, but is a tax collection for 3184  
the benefit of the state, and of counties levying an additional 3185  
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 3186  
Code and of transit authorities levying an additional sales tax 3187  
pursuant to section 5739.023 of the Revised Code. Except for the 3188  
discount authorized under section 5739.12 of the Revised Code and 3189  
the effects of any rounding pursuant to section 5703.055 of the 3190  
Revised Code, no person other than the state or such a county or 3191  
transit authority shall derive any benefit from the collection or 3192  
payment of the tax levied by this section or section 5739.021, 3193  
5739.023, or 5739.026 of the Revised Code. 3194

**Sec. 5747.01.** Except as otherwise expressly provided or 3195  
clearly appearing from the context, any term used in this chapter 3196  
that is not otherwise defined in this section has the same meaning 3197  
as when used in a comparable context in the laws of the United 3198  
States relating to federal income taxes or if not used in a 3199  
comparable context in those laws, has the same meaning as in 3200  
section 5733.40 of the Revised Code. Any reference in this chapter 3201  
to the Internal Revenue Code includes other laws of the United 3202

States relating to federal income taxes.	3203
As used in this chapter:	3204
(A) "Adjusted gross income" or "Ohio adjusted gross income"	3205
means federal adjusted gross income, as defined and used in the	3206
Internal Revenue Code, adjusted as provided in this section:	3207
(1) Add interest or dividends on obligations or securities of	3208
any state or of any political subdivision or authority of any	3209
state, other than this state and its subdivisions and authorities.	3210
(2) Add interest or dividends on obligations of any	3211
authority, commission, instrumentality, territory, or possession	3212
of the United States to the extent that the interest or dividends	3213
are exempt from federal income taxes but not from state income	3214
taxes.	3215
(3) Deduct interest or dividends on obligations of the United	3216
States and its territories and possessions or of any authority,	3217
commission, or instrumentality of the United States to the extent	3218
that the interest or dividends are included in federal adjusted	3219
gross income but exempt from state income taxes under the laws of	3220
the United States.	3221
(4) Deduct disability and survivor's benefits to the extent	3222
included in federal adjusted gross income.	3223
(5) Deduct benefits under Title II of the Social Security Act	3224
and tier 1 railroad retirement benefits to the extent included in	3225
federal adjusted gross income under section 86 of the Internal	3226
Revenue Code.	3227
(6) In the case of a taxpayer who is a beneficiary of a trust	3228
that makes an accumulation distribution as defined in section 665	3229
of the Internal Revenue Code, add, for the beneficiary's taxable	3230
years beginning before 2002, the portion, if any, of such	3231
distribution that does not exceed the undistributed net income of	3232



the trust for the three taxable years preceding the taxable year 3233  
in which the distribution is made to the extent that the portion 3234  
was not included in the trust's taxable income for any of the 3235  
trust's taxable years beginning in 2002 or thereafter. 3236

"Undistributed net income of a trust" means the taxable income of 3237  
the trust increased by (a)(i) the additions to adjusted gross 3238  
income required under division (A) of this section and (ii) the 3239  
personal exemptions allowed to the trust pursuant to section 3240  
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 3241  
deductions to adjusted gross income required under division (A) of 3242  
this section, (ii) the amount of federal income taxes attributable 3243  
to such income, and (iii) the amount of taxable income that has 3244  
been included in the adjusted gross income of a beneficiary by 3245  
reason of a prior accumulation distribution. Any undistributed net 3246  
income included in the adjusted gross income of a beneficiary 3247  
shall reduce the undistributed net income of the trust commencing 3248  
with the earliest years of the accumulation period. 3249

(7) Deduct the amount of wages and salaries, if any, not 3250  
otherwise allowable as a deduction but that would have been 3251  
allowable as a deduction in computing federal adjusted gross 3252  
income for the taxable year, had the targeted jobs credit allowed 3253  
and determined under sections 38, 51, and 52 of the Internal 3254  
Revenue Code not been in effect. 3255

(8) Deduct any interest or interest equivalent on public 3256  
obligations and purchase obligations to the extent that the 3257  
interest or interest equivalent is included in federal adjusted 3258  
gross income. 3259

(9) Add any loss or deduct any gain resulting from the sale, 3260  
exchange, or other disposition of public obligations to the extent 3261  
that the loss has been deducted or the gain has been included in 3262  
computing federal adjusted gross income. 3263

(10) Deduct or add amounts, as provided under section 5747.70 3264

of the Revised Code, related to contributions to variable college 3265  
savings program accounts made or tuition units purchased pursuant 3266  
to Chapter 3334. of the Revised Code. 3267

(11)(a) Deduct, to the extent not otherwise allowable as a 3268  
deduction or exclusion in computing federal or Ohio adjusted gross 3269  
income for the taxable year, the amount the taxpayer paid during 3270  
the taxable year for medical care insurance and qualified 3271  
long-term care insurance for the taxpayer, the taxpayer's spouse, 3272  
and dependents. No deduction for medical care insurance under 3273  
division (A)(11) of this section shall be allowed either to any 3274  
taxpayer who is eligible to participate in any subsidized health 3275  
plan maintained by any employer of the taxpayer or of the 3276  
taxpayer's spouse, or to any taxpayer who is entitled to, or on 3277  
application would be entitled to, benefits under part A of Title 3278  
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 3279  
301, as amended. For the purposes of division (A)(11)(a) of this 3280  
section, "subsidized health plan" means a health plan for which 3281  
the employer pays any portion of the plan's cost. The deduction 3282  
allowed under division (A)(11)(a) of this section shall be the net 3283  
of any related premium refunds, related premium reimbursements, or 3284  
related insurance premium dividends received during the taxable 3285  
year. 3286

(b) Deduct, to the extent not otherwise deducted or excluded 3287  
in computing federal or Ohio adjusted gross income during the 3288  
taxable year, the amount the taxpayer paid during the taxable 3289  
year, not compensated for by any insurance or otherwise, for 3290  
medical care of the taxpayer, the taxpayer's spouse, and 3291  
dependents, to the extent the expenses exceed seven and one-half 3292  
per cent of the taxpayer's federal adjusted gross income. 3293

(c) Deduct, to the extent not otherwise deducted or excluded 3294  
in computing federal or Ohio adjusted gross income, any amount 3295  
included in federal adjusted gross income under section 105 or not 3296

excluded under section 106 of the Internal Revenue Code solely 3297  
because it relates to an accident and health plan for a person who 3298  
otherwise would be a "qualifying relative" and thus a "dependent" 3299  
under section 152 of the Internal Revenue Code but for the fact 3300  
that the person fails to meet the income and support limitations 3301  
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 3302

(d) For purposes of division (A)(11) of this section, 3303  
"medical care" has the meaning given in section 213 of the 3304  
Internal Revenue Code, subject to the special rules, limitations, 3305  
and exclusions set forth therein, and "qualified long-term care" 3306  
has the same meaning given in section 7702B(c) of the Internal 3307  
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 3308  
of this section, "dependent" includes a person who otherwise would 3309  
be a "qualifying relative" and thus a "dependent" under section 3310  
152 of the Internal Revenue Code but for the fact that the person 3311  
fails to meet the income and support limitations under section 3312  
152(d)(1)(B) and (C) of the Internal Revenue Code. 3313

(12)(a) Deduct any amount included in federal adjusted gross 3314  
income solely because the amount represents a reimbursement or 3315  
refund of expenses that in any year the taxpayer had deducted as 3316  
an itemized deduction pursuant to section 63 of the Internal 3317  
Revenue Code and applicable United States department of the 3318  
treasury regulations. The deduction otherwise allowed under 3319  
division (A)(12)(a) of this section shall be reduced to the extent 3320  
the reimbursement is attributable to an amount the taxpayer 3321  
deducted under this section in any taxable year. 3322

(b) Add any amount not otherwise included in Ohio adjusted 3323  
gross income for any taxable year to the extent that the amount is 3324  
attributable to the recovery during the taxable year of any amount 3325  
deducted or excluded in computing federal or Ohio adjusted gross 3326  
income in any taxable year. 3327

(13) Deduct any portion of the deduction described in section 3328

1341(a)(2) of the Internal Revenue Code, for repaying previously 3329  
reported income received under a claim of right, that meets both 3330  
of the following requirements: 3331

(a) It is allowable for repayment of an item that was 3332  
included in the taxpayer's adjusted gross income for a prior 3333  
taxable year and did not qualify for a credit under division (A) 3334  
or (B) of section 5747.05 of the Revised Code for that year; 3335

(b) It does not otherwise reduce the taxpayer's adjusted 3336  
gross income for the current or any other taxable year. 3337

(14) Deduct an amount equal to the deposits made to, and net 3338  
investment earnings of, a medical savings account during the 3339  
taxable year, in accordance with section 3924.66 of the Revised 3340  
Code. The deduction allowed by division (A)(14) of this section 3341  
does not apply to medical savings account deposits and earnings 3342  
otherwise deducted or excluded for the current or any other 3343  
taxable year from the taxpayer's federal adjusted gross income. 3344

(15)(a) Add an amount equal to the funds withdrawn from a 3345  
medical savings account during the taxable year, and the net 3346  
investment earnings on those funds, when the funds withdrawn were 3347  
used for any purpose other than to reimburse an account holder 3348  
for, or to pay, eligible medical expenses, in accordance with 3349  
section 3924.66 of the Revised Code; 3350

(b) Add the amounts distributed from a medical savings 3351  
account under division (A)(2) of section 3924.68 of the Revised 3352  
Code during the taxable year. 3353

(16) Add any amount claimed as a credit under section 3354  
5747.059 or 5747.65 of the Revised Code to the extent that such 3355  
amount satisfies either of the following: 3356

(a) The amount was deducted or excluded from the computation 3357  
of the taxpayer's federal adjusted gross income as required to be 3358  
reported for the taxpayer's taxable year under the Internal 3359

Revenue Code; 3360

(b) The amount resulted in a reduction of the taxpayer's 3361  
federal adjusted gross income as required to be reported for any 3362  
of the taxpayer's taxable years under the Internal Revenue Code. 3363

(17) Deduct the amount contributed by the taxpayer to an 3364  
individual development account program established by a county 3365  
department of job and family services pursuant to sections 329.11 3366  
to 329.14 of the Revised Code for the purpose of matching funds 3367  
deposited by program participants. On request of the tax 3368  
commissioner, the taxpayer shall provide any information that, in 3369  
the tax commissioner's opinion, is necessary to establish the 3370  
amount deducted under division (A)(17) of this section. 3371

(18) Beginning in taxable year 2001 but not for any taxable 3372  
year beginning after December 31, 2005, if the taxpayer is married 3373  
and files a joint return and the combined federal adjusted gross 3374  
income of the taxpayer and the taxpayer's spouse for the taxable 3375  
year does not exceed one hundred thousand dollars, or if the 3376  
taxpayer is single and has a federal adjusted gross income for the 3377  
taxable year not exceeding fifty thousand dollars, deduct amounts 3378  
paid during the taxable year for qualified tuition and fees paid 3379  
to an eligible institution for the taxpayer, the taxpayer's 3380  
spouse, or any dependent of the taxpayer, who is a resident of 3381  
this state and is enrolled in or attending a program that 3382  
culminates in a degree or diploma at an eligible institution. The 3383  
deduction may be claimed only to the extent that qualified tuition 3384  
and fees are not otherwise deducted or excluded for any taxable 3385  
year from federal or Ohio adjusted gross income. The deduction may 3386  
not be claimed for educational expenses for which the taxpayer 3387  
claims a credit under section 5747.27 of the Revised Code. 3388

(19) Add any reimbursement received during the taxable year 3389  
of any amount the taxpayer deducted under division (A)(18) of this 3390  
section in any previous taxable year to the extent the amount is 3391

not otherwise included in Ohio adjusted gross income. 3392

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 3393  
(v) of this section, add five-sixths of the amount of depreciation 3394  
expense allowed by subsection (k) of section 168 of the Internal 3395  
Revenue Code, including the taxpayer's proportionate or 3396  
distributive share of the amount of depreciation expense allowed 3397  
by that subsection to a pass-through entity in which the taxpayer 3398  
has a direct or indirect ownership interest. 3399

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 3400  
this section, add five-sixths of the amount of qualifying section 3401  
179 depreciation expense, including the taxpayer's proportionate 3402  
or distributive share of the amount of qualifying section 179 3403  
depreciation expense allowed to any pass-through entity in which 3404  
the taxpayer has a direct or indirect ownership interest. 3405

(iii) Subject to division (A)(20)(a)(v) of this section, for 3406  
taxable years beginning in 2012 or thereafter, if the increase in 3407  
income taxes withheld by the taxpayer is equal to or greater than 3408  
ten per cent of income taxes withheld by the taxpayer during the 3409  
taxpayer's immediately preceding taxable year, "two-thirds" shall 3410  
be substituted for "five-sixths" for the purpose of divisions 3411  
(A)(20)(a)(i) and (ii) of this section. 3412

(iv) Subject to division (A)(20)(a)(v) of this section, for 3413  
taxable years beginning in 2012 or thereafter, a taxpayer is not 3414  
required to add an amount under division (A)(20) of this section 3415  
if the increase in income taxes withheld by the taxpayer and by 3416  
any pass-through entity in which the taxpayer has a direct or 3417  
indirect ownership interest is equal to or greater than the sum of 3418  
(I) the amount of qualifying section 179 depreciation expense and 3419  
(II) the amount of depreciation expense allowed to the taxpayer by 3420  
subsection (k) of section 168 of the Internal Revenue Code, and 3421  
including the taxpayer's proportionate or distributive shares of 3422  
such amounts allowed to any such pass-through entities. 3423

(v) If a taxpayer directly or indirectly incurs a net 3424  
operating loss for the taxable year for federal income tax 3425  
purposes, to the extent such loss resulted from depreciation 3426  
expense allowed by subsection (k) of section 168 of the Internal 3427  
Revenue Code and by qualifying section 179 depreciation expense, 3428  
"the entire" shall be substituted for "five-sixths of the" for the 3429  
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 3430

The tax commissioner, under procedures established by the 3431  
commissioner, may waive the add-backs related to a pass-through 3432  
entity if the taxpayer owns, directly or indirectly, less than 3433  
five per cent of the pass-through entity. 3434

(b) Nothing in division (A)(20) of this section shall be 3435  
construed to adjust or modify the adjusted basis of any asset. 3436

(c) To the extent the add-back required under division 3437  
(A)(20)(a) of this section is attributable to property generating 3438  
nonbusiness income or loss allocated under section 5747.20 of the 3439  
Revised Code, the add-back shall be situated to the same location 3440  
as the nonbusiness income or loss generated by the property for 3441  
the purpose of determining the credit under division (A) of 3442  
section 5747.05 of the Revised Code. Otherwise, the add-back shall 3443  
be apportioned, subject to one or more of the four alternative 3444  
methods of apportionment enumerated in section 5747.21 of the 3445  
Revised Code. 3446

(d) For the purposes of division (A)(20)(a)(v) of this 3447  
section, net operating loss carryback and carryforward shall not 3448  
include the allowance of any net operating loss deduction 3449  
carryback or carryforward to the taxable year to the extent such 3450  
loss resulted from depreciation allowed by section 168(k) of the 3451  
Internal Revenue Code and by the qualifying section 179 3452  
depreciation expense amount. 3453

(e) For the purposes of divisions (A)(20) and (21) of this 3454

section: 3455

(i) "Income taxes withheld" means the total amount withheld 3456  
and remitted under sections 5747.06 and 5747.07 of the Revised 3457  
Code by an employer during the employer's taxable year. 3458

(ii) "Increase in income taxes withheld" means the amount by 3459  
which the amount of income taxes withheld by an employer during 3460  
the employer's current taxable year exceeds the amount of income 3461  
taxes withheld by that employer during the employer's immediately 3462  
preceding taxable year. 3463

(iii) "Qualifying section 179 depreciation expense" means the 3464  
difference between (I) the amount of depreciation expense directly 3465  
or indirectly allowed to a taxpayer under section 179 of the 3466  
Internal Revised Code, and (II) the amount of depreciation expense 3467  
directly or indirectly allowed to the taxpayer under section 179 3468  
of the Internal Revenue Code as that section existed on December 3469  
31, 2002. 3470

(21)(a) If the taxpayer was required to add an amount under 3471  
division (A)(20)(a) of this section for a taxable year, deduct one 3472  
of the following: 3473

(i) One-fifth of the amount so added for each of the five 3474  
succeeding taxable years if the amount so added was five-sixths of 3475  
qualifying section 179 depreciation expense or depreciation 3476  
expense allowed by subsection (k) of section 168 of the Internal 3477  
Revenue Code; 3478

(ii) One-half of the amount so added for each of the two 3479  
succeeding taxable years if the amount so added was two-thirds of 3480  
such depreciation expense; 3481

(iii) One-sixth of the amount so added for each of the six 3482  
succeeding taxable years if the entire amount of such depreciation 3483  
expense was so added. 3484



(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 results in or increases a federal net operating loss carryback or carryforward. If no such deduction is available for a taxable year, the taxpayer may carry forward the amount not deducted in such taxable year to the next taxable year and add that amount to any deduction otherwise available under division (A)(21)(a) of this section for that next taxable year. The carryforward of amounts not so deducted shall continue until the entire addition required by division (A)(20)(a) of this section has been deducted.

(d) No refund shall be allowed as a result of adjustments made by division (A)(21) of this section.

(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 in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33

of the Revised Code. 3517

(24) Deduct, to the extent included in federal adjusted gross 3518  
income and not otherwise allowable as a deduction or exclusion in 3519  
computing federal or Ohio adjusted gross income for the taxable 3520  
year, military pay and allowances received by the taxpayer during 3521  
the taxable year for active duty service in the United States 3522  
army, air force, navy, marine corps, or coast guard or reserve 3523  
components thereof or the national guard. The deduction may not be 3524  
claimed for military pay and allowances received by the taxpayer 3525  
while the taxpayer is stationed in this state. 3526

(25) Deduct, to the extent not otherwise allowable as a 3527  
deduction or exclusion in computing federal or Ohio adjusted gross 3528  
income for the taxable year and not otherwise compensated for by 3529  
any other source, the amount of qualified organ donation expenses 3530  
incurred by the taxpayer during the taxable year, not to exceed 3531  
ten thousand dollars. A taxpayer may deduct qualified organ 3532  
donation expenses only once for all taxable years beginning with 3533  
taxable years beginning in 2007. 3534

For the purposes of division (A)(25) of this section: 3535

(a) "Human organ" means all or any portion of a human liver, 3536  
pancreas, kidney, intestine, or lung, and any portion of human 3537  
bone marrow. 3538

(b) "Qualified organ donation expenses" means travel 3539  
expenses, lodging expenses, and wages and salary forgone by a 3540  
taxpayer in connection with the taxpayer's donation, while living, 3541  
of one or more of the taxpayer's human organs to another human 3542  
being. 3543

(26) Deduct, to the extent not otherwise deducted or excluded 3544  
in computing federal or Ohio adjusted gross income for the taxable 3545  
year, amounts received by the taxpayer as retired military 3546  
personnel pay for service in the United States army, navy, air 3547

force, coast guard, or marine corps or reserve components thereof, 3548  
or the national guard, or received by the surviving spouse or 3549  
former spouse of such a taxpayer under the survivor benefit plan 3550  
on account of such a taxpayer's death. If the taxpayer receives 3551  
income on account of retirement paid under the federal civil 3552  
service retirement system or federal employees retirement system, 3553  
or under any successor retirement program enacted by the congress 3554  
of the United States that is established and maintained for 3555  
retired employees of the United States government, and such 3556  
retirement income is based, in whole or in part, on credit for the 3557  
taxpayer's military service, the deduction allowed under this 3558  
division shall include only that portion of such retirement income 3559  
that is attributable to the taxpayer's military service, to the 3560  
extent that portion of such retirement income is otherwise 3561  
included in federal adjusted gross income and is not otherwise 3562  
deducted under this section. Any amount deducted under division 3563  
(A)(26) of this section is not included in a taxpayer's adjusted 3564  
gross income for the purposes of section 5747.055 of the Revised 3565  
Code. No amount may be deducted under division (A)(26) of this 3566  
section on the basis of which a credit was claimed under section 3567  
5747.055 of the Revised Code. 3568

(27) Deduct, to the extent not otherwise deducted or excluded 3569  
in computing federal or Ohio adjusted gross income for the taxable 3570  
year, the amount the taxpayer received during the taxable year 3571  
from the military injury relief fund created in section 5101.98 of 3572  
the Revised Code. 3573

(28) Deduct, to the extent not otherwise deducted or excluded 3574  
in computing federal or Ohio adjusted gross income for the taxable 3575  
year, the amount the taxpayer received as a veterans bonus during 3576  
the taxable year from the Ohio department of veterans services as 3577  
authorized by Section 2r of Article VIII, Ohio Constitution. 3578

(29) Deduct, to the extent not otherwise deducted or excluded 3579

in computing federal or Ohio adjusted gross income for the taxable 3580  
year, any loss from wagering transactions that is allowed as an 3581  
itemized deduction under section 165 of the Internal Revenue Code 3582  
and that the taxpayer deducted in computing federal taxable 3583  
income. 3584

(30) Deduct, to the extent not otherwise deducted or excluded 3585  
in computing federal or Ohio adjusted gross income for the taxable 3586  
year, any income ~~derived from providing public services under a~~ 3587  
~~contract through a project owned by the state, as described in~~ 3588  
~~section 126.604 of the Revised Code or~~ derived from a transfer 3589  
agreement or from the enterprise transferred under that agreement 3590  
under section 4313.02 of the Revised Code. 3591

(31) Deduct, to the extent not otherwise deducted or excluded 3592  
in computing federal or Ohio adjusted gross income for the taxable 3593  
year, Ohio college opportunity or federal Pell grant amounts 3594  
received by the taxpayer or the taxpayer's spouse or dependent 3595  
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 3596  
1070a, et seq., and used to pay room or board furnished by the 3597  
educational institution for which the grant was awarded at the 3598  
institution's facilities, including meal plans administered by the 3599  
institution. For the purposes of this division, receipt of a grant 3600  
includes the distribution of a grant directly to an educational 3601  
institution and the crediting of the grant to the enrollee's 3602  
account with the institution. 3603

(B) "Business income" means income, including gain or loss, 3604  
arising from transactions, activities, and sources in the regular 3605  
course of a trade or business and includes income, gain, or loss 3606  
from real property, tangible property, and intangible property if 3607  
the acquisition, rental, management, and disposition of the 3608  
property constitute integral parts of the regular course of a 3609  
trade or business operation. "Business income" includes income, 3610  
including gain or loss, from a partial or complete liquidation of 3611

a business, including, but not limited to, gain or loss from the 3612  
sale or other disposition of goodwill. 3613

(C) "Nonbusiness income" means all income other than business 3614  
income and may include, but is not limited to, compensation, rents 3615  
and royalties from real or tangible personal property, capital 3616  
gains, interest, dividends and distributions, patent or copyright 3617  
royalties, or lottery winnings, prizes, and awards. 3618

(D) "Compensation" means any form of remuneration paid to an 3619  
employee for personal services. 3620

(E) "Fiduciary" means a guardian, trustee, executor, 3621  
administrator, receiver, conservator, or any other person acting 3622  
in any fiduciary capacity for any individual, trust, or estate. 3623

(F) "Fiscal year" means an accounting period of twelve months 3624  
ending on the last day of any month other than December. 3625

(G) "Individual" means any natural person. 3626

(H) "Internal Revenue Code" means the "Internal Revenue Code 3627  
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 3628

(I) "Resident" means any of the following, provided that 3629  
division (I)(3) of this section applies only to taxable years of a 3630  
trust beginning in 2002 or thereafter: 3631

(1) An individual who is domiciled in this state, subject to 3632  
section 5747.24 of the Revised Code; 3633

(2) The estate of a decedent who at the time of death was 3634  
domiciled in this state. The domicile tests of section 5747.24 of 3635  
the Revised Code are not controlling for purposes of division 3636  
(I)(2) of this section. 3637

(3) A trust that, in whole or part, resides in this state. If 3638  
only part of a trust resides in this state, the trust is a 3639  
resident only with respect to that part. 3640

For the purposes of division (I)(3) of this section: 3641

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential

current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the

fair market value of all the trust's assets immediately after the 3705  
subsequent transfer, net of any related liabilities. 3706

(iii) Whether a transfer to the trust is by or from any of 3707  
the sources enumerated in division (I)(3)(a) of this section shall 3708  
be ascertained without regard to the domicile of the trust's 3709  
beneficiaries. 3710

(e) For the purposes of division (I)(3)(a)(i) of this 3711  
section: 3712

(i) A trust is described in division (I)(3)(e)(i) of this 3713  
section if the trust is a testamentary trust and the testator of 3714  
that testamentary trust was domiciled in this state at the time of 3715  
the testator's death for purposes of the taxes levied under 3716  
Chapter 5731. of the Revised Code. 3717

(ii) A trust is described in division (I)(3)(e)(ii) of this 3718  
section if the transfer is a qualifying transfer described in any 3719  
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 3720  
irrevocable inter vivos trust, and at least one of the trust's 3721  
qualifying beneficiaries is domiciled in this state for purposes 3722  
of this chapter during all or some portion of the trust's current 3723  
taxable year. 3724

(f) For the purposes of division (I)(3)(e)(ii) of this 3725  
section, a "qualifying transfer" is a transfer of assets, net of 3726  
any related liabilities, directly or indirectly to a trust, if the 3727  
transfer is described in any of the following: 3728

(i) The transfer is made to a trust, created by the decedent 3729  
before the decedent's death and while the decedent was domiciled 3730  
in this state for the purposes of this chapter, and, prior to the 3731  
death of the decedent, the trust became irrevocable while the 3732  
decedent was domiciled in this state for the purposes of this 3733  
chapter. 3734

(ii) The transfer is made to a trust to which the decedent, 3735



prior to the decedent's death, had directly or indirectly 3736  
transferred assets, net of any related liabilities, while the 3737  
decedent was domiciled in this state for the purposes of this 3738  
chapter, and prior to the death of the decedent the trust became 3739  
irrevocable while the decedent was domiciled in this state for the 3740  
purposes of this chapter. 3741

(iii) The transfer is made on account of a contractual 3742  
relationship existing directly or indirectly between the 3743  
transferor and either the decedent or the estate of the decedent 3744  
at any time prior to the date of the decedent's death, and the 3745  
decedent was domiciled in this state at the time of death for 3746  
purposes of the taxes levied under Chapter 5731. of the Revised 3747  
Code. 3748

(iv) The transfer is made to a trust on account of a 3749  
contractual relationship existing directly or indirectly between 3750  
the transferor and another person who at the time of the 3751  
decedent's death was domiciled in this state for purposes of this 3752  
chapter. 3753

(v) The transfer is made to a trust on account of the will of 3754  
a testator who was domiciled in this state at the time of the 3755  
testator's death for purposes of the taxes levied under Chapter 3756  
5731. of the Revised Code. 3757

(vi) The transfer is made to a trust created by or caused to 3758  
be created by a court, and the trust was directly or indirectly 3759  
created in connection with or as a result of the death of an 3760  
individual who, for purposes of the taxes levied under Chapter 3761  
5731. of the Revised Code, was domiciled in this state at the time 3762  
of the individual's death. 3763

(g) The tax commissioner may adopt rules to ascertain the 3764  
part of a trust residing in this state. 3765

(J) "Nonresident" means an individual or estate that is not a 3766

resident. An individual who is a resident for only part of a 3767  
taxable year is a nonresident for the remainder of that taxable 3768  
year. 3769

(K) "Pass-through entity" has the same meaning as in section 3770  
5733.04 of the Revised Code. 3771

(L) "Return" means the notifications and reports required to 3772  
be filed pursuant to this chapter for the purpose of reporting the 3773  
tax due and includes declarations of estimated tax when so 3774  
required. 3775

(M) "Taxable year" means the calendar year or the taxpayer's 3776  
fiscal year ending during the calendar year, or fractional part 3777  
thereof, upon which the adjusted gross income is calculated 3778  
pursuant to this chapter. 3779

(N) "Taxpayer" means any person subject to the tax imposed by 3780  
section 5747.02 of the Revised Code or any pass-through entity 3781  
that makes the election under division (D) of section 5747.08 of 3782  
the Revised Code. 3783

(O) "Dependents" means dependents as defined in the Internal 3784  
Revenue Code and as claimed in the taxpayer's federal income tax 3785  
return for the taxable year or which the taxpayer would have been 3786  
permitted to claim had the taxpayer filed a federal income tax 3787  
return. 3788

(P) "Principal county of employment" means, in the case of a 3789  
nonresident, the county within the state in which a taxpayer 3790  
performs services for an employer or, if those services are 3791  
performed in more than one county, the county in which the major 3792  
portion of the services are performed. 3793

(Q) As used in sections 5747.50 to 5747.55 of the Revised 3794  
Code: 3795

(1) "Subdivision" means any county, municipal corporation, 3796

park district, or township.	3797
(2) "Essential local government purposes" includes all	3798
functions that any subdivision is required by general law to	3799
exercise, including like functions that are exercised under a	3800
charter adopted pursuant to the Ohio Constitution.	3801
(R) "Overpayment" means any amount already paid that exceeds	3802
the figure determined to be the correct amount of the tax.	3803
(S) "Taxable income" or "Ohio taxable income" applies only to	3804
estates and trusts, and means federal taxable income, as defined	3805
and used in the Internal Revenue Code, adjusted as follows:	3806
(1) Add interest or dividends, net of ordinary, necessary,	3807
and reasonable expenses not deducted in computing federal taxable	3808
income, on obligations or securities of any state or of any	3809
political subdivision or authority of any state, other than this	3810
state and its subdivisions and authorities, but only to the extent	3811
that such net amount is not otherwise includible in Ohio taxable	3812
income and is described in either division (S)(1)(a) or (b) of	3813
this section:	3814
(a) The net amount is not attributable to the S portion of an	3815
electing small business trust and has not been distributed to	3816
beneficiaries for the taxable year;	3817
(b) The net amount is attributable to the S portion of an	3818
electing small business trust for the taxable year.	3819
(2) Add interest or dividends, net of ordinary, necessary,	3820
and reasonable expenses not deducted in computing federal taxable	3821
income, on obligations of any authority, commission,	3822
instrumentality, territory, or possession of the United States to	3823
the extent that the interest or dividends are exempt from federal	3824
income taxes but not from state income taxes, but only to the	3825
extent that such net amount is not otherwise includible in Ohio	3826
taxable income and is described in either division (S)(1)(a) or	3827

(b) of this section;	3828
(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;	3829 3830
(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;	3831 3832 3833 3834 3835 3836 3837 3838
(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;	3839 3840 3841 3842 3843 3844 3845 3846 3847
(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;	3848 3849 3850 3851 3852 3853
(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;	3854 3855 3856 3857 3858

(8) Except in the case of the final return of an estate, add 3859  
any amount deducted by the taxpayer on both its Ohio estate tax 3860  
return pursuant to section 5731.14 of the Revised Code, and on its 3861  
federal income tax return in determining federal taxable income; 3862

(9)(a) Deduct any amount included in federal taxable income 3863  
solely because the amount represents a reimbursement or refund of 3864  
expenses that in a previous year the decedent had deducted as an 3865  
itemized deduction pursuant to section 63 of the Internal Revenue 3866  
Code and applicable treasury regulations. The deduction otherwise 3867  
allowed under division (S)(9)(a) of this section shall be reduced 3868  
to the extent the reimbursement is attributable to an amount the 3869  
taxpayer or decedent deducted under this section in any taxable 3870  
year. 3871

(b) Add any amount not otherwise included in Ohio taxable 3872  
income for any taxable year to the extent that the amount is 3873  
attributable to the recovery during the taxable year of any amount 3874  
deducted or excluded in computing federal or Ohio taxable income 3875  
in any taxable year, but only to the extent such amount has not 3876  
been distributed to beneficiaries for the taxable year. 3877

(10) Deduct any portion of the deduction described in section 3878  
1341(a)(2) of the Internal Revenue Code, for repaying previously 3879  
reported income received under a claim of right, that meets both 3880  
of the following requirements: 3881

(a) It is allowable for repayment of an item that was 3882  
included in the taxpayer's taxable income or the decedent's 3883  
adjusted gross income for a prior taxable year and did not qualify 3884  
for a credit under division (A) or (B) of section 5747.05 of the 3885  
Revised Code for that year. 3886

(b) It does not otherwise reduce the taxpayer's taxable 3887  
income or the decedent's adjusted gross income for the current or 3888  
any other taxable year. 3889

(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 3921  
to add or deduct under division (A)(20) or (21) of this section if 3922  
the taxpayer's Ohio taxable income were computed in the same 3923  
manner as an individual's Ohio adjusted gross income is computed 3924  
under this section. In the case of a trust, division (S)(14) of 3925  
this section applies only to any of the trust's taxable years 3926  
beginning in 2002 or thereafter. 3927

(T) "School district income" and "school district income tax" 3928  
have the same meanings as in section 5748.01 of the Revised Code. 3929

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 3930  
of this section, "public obligations," "purchase obligations," and 3931  
"interest or interest equivalent" have the same meanings as in 3932  
section 5709.76 of the Revised Code. 3933

(V) "Limited liability company" means any limited liability 3934  
company formed under Chapter 1705. of the Revised Code or under 3935  
the laws of any other state. 3936

(W) "Pass-through entity investor" means any person who, 3937  
during any portion of a taxable year of a pass-through entity, is 3938  
a partner, member, shareholder, or equity investor in that 3939  
pass-through entity. 3940

(X) "Banking day" has the same meaning as in section 1304.01 3941  
of the Revised Code. 3942

(Y) "Month" means a calendar month. 3943

(Z) "Quarter" means the first three months, the second three 3944  
months, the third three months, or the last three months of the 3945  
taxpayer's taxable year. 3946

(AA)(1) "Eligible institution" means a state university or 3947  
state institution of higher education as defined in section 3948  
3345.011 of the Revised Code, or a private, nonprofit college, 3949  
university, or other post-secondary institution located in this 3950

state that possesses a certificate of authorization issued by the 3951  
Ohio board of regents pursuant to Chapter 1713. of the Revised 3952  
Code or a certificate of registration issued by the state board of 3953  
career colleges and schools under Chapter 3332. of the Revised 3954  
Code. 3955

(2) "Qualified tuition and fees" means tuition and fees 3956  
imposed by an eligible institution as a condition of enrollment or 3957  
attendance, not exceeding two thousand five hundred dollars in 3958  
each of the individual's first two years of post-secondary 3959  
education. If the individual is a part-time student, "qualified 3960  
tuition and fees" includes tuition and fees paid for the academic 3961  
equivalent of the first two years of post-secondary education 3962  
during a maximum of five taxable years, not exceeding a total of 3963  
five thousand dollars. "Qualified tuition and fees" does not 3964  
include: 3965

(a) Expenses for any course or activity involving sports, 3966  
games, or hobbies unless the course or activity is part of the 3967  
individual's degree or diploma program; 3968

(b) The cost of books, room and board, student activity fees, 3969  
athletic fees, insurance expenses, or other expenses unrelated to 3970  
the individual's academic course of instruction; 3971

(c) Tuition, fees, or other expenses paid or reimbursed 3972  
through an employer, scholarship, grant in aid, or other 3973  
educational benefit program. 3974

(BB)(1) "Modified business income" means the business income 3975  
included in a trust's Ohio taxable income after such taxable 3976  
income is first reduced by the qualifying trust amount, if any. 3977

(2) "Qualifying trust amount" of a trust means capital gains 3978  
and losses from the sale, exchange, or other disposition of equity 3979  
or ownership interests in, or debt obligations of, a qualifying 3980  
investee to the extent included in the trust's Ohio taxable 3981



income, but only if the following requirements are satisfied: 3982

(a) The book value of the qualifying investee's physical 3983  
assets in this state and everywhere, as of the last day of the 3984  
qualifying investee's fiscal or calendar year ending immediately 3985  
prior to the date on which the trust recognizes the gain or loss, 3986  
is available to the trust. 3987

(b) The requirements of section 5747.011 of the Revised Code 3988  
are satisfied for the trust's taxable year in which the trust 3989  
recognizes the gain or loss. 3990

Any gain or loss that is not a qualifying trust amount is 3991  
modified business income, qualifying investment income, or 3992  
modified nonbusiness income, as the case may be. 3993

(3) "Modified nonbusiness income" means a trust's Ohio 3994  
taxable income other than modified business income, other than the 3995  
qualifying trust amount, and other than qualifying investment 3996  
income, as defined in section 5747.012 of the Revised Code, to the 3997  
extent such qualifying investment income is not otherwise part of 3998  
modified business income. 3999

(4) "Modified Ohio taxable income" applies only to trusts, 4000  
and means the sum of the amounts described in divisions (BB)(4)(a) 4001  
to (c) of this section: 4002

(a) The fraction, calculated under section 5747.013, and 4003  
applying section 5747.231 of the Revised Code, multiplied by the 4004  
sum of the following amounts: 4005

(i) The trust's modified business income; 4006

(ii) The trust's qualifying investment income, as defined in 4007  
section 5747.012 of the Revised Code, but only to the extent the 4008  
qualifying investment income does not otherwise constitute 4009  
modified business income and does not otherwise constitute a 4010  
qualifying trust amount. 4011

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in accordance with division (B) of section 5747.212

of the Revised Code without regard to division (A) of that 4044  
section. 4045

If the allocation and apportionment of a trust's income under 4046  
divisions (BB)(4)(a) and (c) of this section do not fairly 4047  
represent the modified Ohio taxable income of the trust in this 4048  
state, the alternative methods described in division (C) of 4049  
section 5747.21 of the Revised Code may be applied in the manner 4050  
and to the same extent provided in that section. 4051

(5)(a) Except as set forth in division (BB)(5)(b) of this 4052  
section, "qualifying investee" means a person in which a trust has 4053  
an equity or ownership interest, or a person or unit of government 4054  
the debt obligations of either of which are owned by a trust. For 4055  
the purposes of division (BB)(2)(a) of this section and for the 4056  
purpose of computing the fraction described in division (BB)(4)(b) 4057  
of this section, all of the following apply: 4058

(i) If the qualifying investee is a member of a qualifying 4059  
controlled group on the last day of the qualifying investee's 4060  
fiscal or calendar year ending immediately prior to the date on 4061  
which the trust recognizes the gain or loss, then "qualifying 4062  
investee" includes all persons in the qualifying controlled group 4063  
on such last day. 4064

(ii) If the qualifying investee, or if the qualifying 4065  
investee and any members of the qualifying controlled group of 4066  
which the qualifying investee is a member on the last day of the 4067  
qualifying investee's fiscal or calendar year ending immediately 4068  
prior to the date on which the trust recognizes the gain or loss, 4069  
separately or cumulatively own, directly or indirectly, on the 4070  
last day of the qualifying investee's fiscal or calendar year 4071  
ending immediately prior to the date on which the trust recognizes 4072  
the qualifying trust amount, more than fifty per cent of the 4073  
equity of a pass-through entity, then the qualifying investee and 4074  
the other members are deemed to own the proportionate share of the 4075

pass-through entity's physical assets which the pass-through 4076  
entity directly or indirectly owns on the last day of the 4077  
pass-through entity's calendar or fiscal year ending within or 4078  
with the last day of the qualifying investee's fiscal or calendar 4079  
year ending immediately prior to the date on which the trust 4080  
recognizes the qualifying trust amount. 4081

(iii) For the purposes of division (BB)(5)(a)(iii) of this 4082  
section, "upper level pass-through entity" means a pass-through 4083  
entity directly or indirectly owning any equity of another 4084  
pass-through entity, and "lower level pass-through entity" means 4085  
that other pass-through entity. 4086

An upper level pass-through entity, whether or not it is also 4087  
a qualifying investee, is deemed to own, on the last day of the 4088  
upper level pass-through entity's calendar or fiscal year, the 4089  
proportionate share of the lower level pass-through entity's 4090  
physical assets that the lower level pass-through entity directly 4091  
or indirectly owns on the last day of the lower level pass-through 4092  
entity's calendar or fiscal year ending within or with the last 4093  
day of the upper level pass-through entity's fiscal or calendar 4094  
year. If the upper level pass-through entity directly and 4095  
indirectly owns less than fifty per cent of the equity of the 4096  
lower level pass-through entity on each day of the upper level 4097  
pass-through entity's calendar or fiscal year in which or with 4098  
which ends the calendar or fiscal year of the lower level 4099  
pass-through entity and if, based upon clear and convincing 4100  
evidence, complete information about the location and cost of the 4101  
physical assets of the lower pass-through entity is not available 4102  
to the upper level pass-through entity, then solely for purposes 4103  
of ascertaining if a gain or loss constitutes a qualifying trust 4104  
amount, the upper level pass-through entity shall be deemed as 4105  
owning no equity of the lower level pass-through entity for each 4106  
day during the upper level pass-through entity's calendar or 4107

fiscal year in which or with which ends the lower level 4108  
pass-through entity's calendar or fiscal year. Nothing in division 4109  
(BB)(5)(a)(iii) of this section shall be construed to provide for 4110  
any deduction or exclusion in computing any trust's Ohio taxable 4111  
income. 4112

(b) With respect to a trust that is not a resident for the 4113  
taxable year and with respect to a part of a trust that is not a 4114  
resident for the taxable year, "qualifying investee" for that 4115  
taxable year does not include a C corporation if both of the 4116  
following apply: 4117

(i) During the taxable year the trust or part of the trust 4118  
recognizes a gain or loss from the sale, exchange, or other 4119  
disposition of equity or ownership interests in, or debt 4120  
obligations of, the C corporation. 4121

(ii) Such gain or loss constitutes nonbusiness income. 4122

(6) "Available" means information is such that a person is 4123  
able to learn of the information by the due date plus extensions, 4124  
if any, for filing the return for the taxable year in which the 4125  
trust recognizes the gain or loss. 4126

(CC) "Qualifying controlled group" has the same meaning as in 4127  
section 5733.04 of the Revised Code. 4128

(DD) "Related member" has the same meaning as in section 4129  
5733.042 of the Revised Code. 4130

(EE)(1) For the purposes of division (EE) of this section: 4131

(a) "Qualifying person" means any person other than a 4132  
qualifying corporation. 4133

(b) "Qualifying corporation" means any person classified for 4134  
federal income tax purposes as an association taxable as a 4135  
corporation, except either of the following: 4136

(i) A corporation that has made an election under subchapter 4137

S, chapter one, subtitle A, of the Internal Revenue Code for its 4138  
taxable year ending within, or on the last day of, the investor's 4139  
taxable year; 4140

(ii) A subsidiary that is wholly owned by any corporation 4141  
that has made an election under subchapter S, chapter one, 4142  
subtitle A of the Internal Revenue Code for its taxable year 4143  
ending within, or on the last day of, the investor's taxable year. 4144

(2) For the purposes of this chapter, unless expressly stated 4145  
otherwise, no qualifying person indirectly owns any asset directly 4146  
or indirectly owned by any qualifying corporation. 4147

(FF) For purposes of this chapter and Chapter 5751. of the 4148  
Revised Code: 4149

(1) "Trust" does not include a qualified pre-income tax 4150  
trust. 4151

(2) A "qualified pre-income tax trust" is any pre-income tax 4152  
trust that makes a qualifying pre-income tax trust election as 4153  
described in division (FF)(3) of this section. 4154

(3) A "qualifying pre-income tax trust election" is an 4155  
election by a pre-income tax trust to subject to the tax imposed 4156  
by section 5751.02 of the Revised Code the pre-income tax trust 4157  
and all pass-through entities of which the trust owns or controls, 4158  
directly, indirectly, or constructively through related interests, 4159  
five per cent or more of the ownership or equity interests. The 4160  
trustee shall notify the tax commissioner in writing of the 4161  
election on or before April 15, 2006. The election, if timely 4162  
made, shall be effective on and after January 1, 2006, and shall 4163  
apply for all tax periods and tax years until revoked by the 4164  
trustee of the trust. 4165

(4) A "pre-income tax trust" is a trust that satisfies all of 4166  
the following requirements: 4167

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;	4168 4169
(b) The trust became irrevocable upon the creation of the trust; and	4170 4171
(c) The grantor was domiciled in this state at the time the trust was created.	4172 4173
<b>Sec. 5751.01.</b> As used in this chapter:	4174
(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.	4175 4176 4177 4178 4179 4180 4181 4182 4183
(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 of the Revised Code.	4184 4185 4186 4187
(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.	4188 4189 4190
(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.	4191 4192 4193 4194
(E) "Excluded person" means any of the following:	4195
(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year.	4196 4197

Division (E)(1) of this section does not apply to a person that is 4198  
a member of a consolidated elected taxpayer; 4199

(2) A public utility that paid the excise tax imposed by 4200  
section 5727.24 or 5727.30 of the Revised Code based on one or 4201  
more measurement periods that include the entire tax period under 4202  
this chapter, except that a public utility that is a combined 4203  
company is a taxpayer with regard to the following gross receipts: 4204

(a) Taxable gross receipts directly attributed to a public 4205  
utility activity, but not directly attributed to an activity that 4206  
is subject to the excise tax imposed by section 5727.24 or 5727.30 4207  
of the Revised Code; 4208

(b) Taxable gross receipts that cannot be directly attributed 4209  
to any activity, multiplied by a fraction whose numerator is the 4210  
taxable gross receipts described in division (E)(2)(a) of this 4211  
section and whose denominator is the total taxable gross receipts 4212  
that can be directly attributed to any activity; 4213

(c) Except for any differences resulting from the use of an 4214  
accrual basis method of accounting for purposes of determining 4215  
gross receipts under this chapter and the use of the cash basis 4216  
method of accounting for purposes of determining gross receipts 4217  
under section 5727.24 of the Revised Code, the gross receipts 4218  
directly attributed to the activity of a natural gas company shall 4219  
be determined in a manner consistent with division (D) of section 4220  
5727.03 of the Revised Code. 4221

As used in division (E)(2) of this section, "combined 4222  
company" and "public utility" have the same meanings as in section 4223  
5727.01 of the Revised Code. 4224

(3) A financial institution, as defined in section 5726.01 of 4225  
the Revised Code, that paid the tax imposed by section 5726.02 of 4226  
the Revised Code based on one or more taxable years that include 4227  
the entire tax period under this chapter; 4228



(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other

disposition of the taxpayer's property to or with another;	4291
(b) Amounts realized from the taxpayer's performance of services for another;	4292 4293
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	4294 4295
(d) Any combination of the foregoing amounts.	4296
(2) "Gross receipts" excludes the following amounts:	4297
(a) Interest income except interest on credit sales;	4298
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	4299 4300 4301 4302
(c) Receipts from the sale, exchange, or other disposition of 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.	4303 4304 4305 4306 4307 4308 4309 4310 4311 4312 4313 4314 4315 4316 4317 4318 4319 4320

(d) Proceeds received attributable to the repayment,	4321
maturity, or redemption of the principal of a loan, bond, mutual	4322
fund, certificate of deposit, or marketable instrument;	4323
(e) The principal amount received under a repurchase	4324
agreement or on account of any transaction properly characterized	4325
as a loan to the person;	4326
(f) Contributions received by a trust, plan, or other	4327
arrangement, any of which is described in section 501(a) of the	4328
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter	4329
1, Subchapter (D) of the Internal Revenue Code applies;	4330
(g) Compensation, whether current or deferred, and whether in	4331
cash or in kind, received or to be received by an employee, former	4332
employee, or the employee's legal successor for services rendered	4333
to or for an employer, including reimbursements received by or for	4334
an individual for medical or education expenses, health insurance	4335
premiums, or employee expenses, or on account of a dependent care	4336
spending account, legal services plan, any cafeteria plan	4337
described in section 125 of the Internal Revenue Code, or any	4338
similar employee reimbursement;	4339
(h) Proceeds received from the issuance of the taxpayer's own	4340
stock, options, warrants, puts, or calls, or from the sale of the	4341
taxpayer's treasury stock;	4342
(i) Proceeds received on the account of payments from	4343
insurance policies, except those proceeds received for the loss of	4344
business revenue;	4345
(j) Gifts or charitable contributions received; membership	4346
dues received by trade, professional, homeowners', or condominium	4347
associations; and payments received for educational courses,	4348
meetings, meals, or similar payments to a trade, professional, or	4349
other similar association; and fundraising receipts received by	4350
any person when any excess receipts are donated or used	4351

exclusively for charitable purposes;	4352
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	4353 4354 4355
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;	4356 4357 4358
(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;	4359 4360 4361 4362 4363 4364 4365 4366 4367 4368
(n) Pension reversions;	4369
(o) Contributions to capital;	4370
(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;	4371 4372 4373 4374 4375
(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;	4376 4377 4378 4379 4380 4381 4382

(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(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. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.

(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 4446  
the qualified distribution center to another location in this 4447  
state or elsewhere or, in the case of gold, silver, platinum, or 4448  
palladium delivered to a refining facility solely for refining to 4449  
a grade and fineness acceptable for delivery to a registered 4450  
commodities exchange. "Further shipping" includes storing and 4451  
repackaging property into smaller or larger bundles, so long as 4452  
the property is not subject to further manufacturing or 4453  
processing. "Refining" is limited to extracting impurities from 4454  
gold, silver, platinum, or palladium through smelting or some 4455  
other process at a refining facility. 4456

(III) "Qualified distribution center" means a warehouse, a 4457  
facility similar to a warehouse, or a refining facility in this 4458  
state that, for the qualifying year, is operated by a person that 4459  
is not part of a combined taxpayer group and that has a qualifying 4460  
certificate. All warehouses or facilities similar to warehouses 4461  
that are operated by persons in the same taxpayer group and that 4462  
are located within one mile of each other shall be treated as one 4463  
qualified distribution center. All refining facilities that are 4464  
operated by persons in the same taxpayer group and that are 4465  
located in the same or adjacent counties may be treated as one 4466  
qualified distribution center. 4467

(IV) "Qualifying year" means the calendar year to which the 4468  
qualifying certificate applies. 4469

(V) "Qualifying period" means the period of the first day of 4470  
July of the second year preceding the qualifying year through the 4471  
thirtieth day of June of the year preceding the qualifying year. 4472

(VI) "Qualifying certificate" means the certificate issued by 4473  
the tax commissioner after the operator of a distribution center 4474  
files an annual application with the commissioner. The application 4475  
and annual fee shall be filed and paid for each qualified 4476  
distribution center on or before the first day of September before 4477



the qualifying year or within forty-five days after the 4478  
distribution center opens, whichever is later. 4479

The applicant must substantiate to the commissioner's 4480  
satisfaction that, for the qualifying period, all persons 4481  
operating the distribution center have more than fifty per cent of 4482  
the cost of the qualified property shipped to a location such that 4483  
it would be situated outside this state under the provisions of 4484  
division (E) of section 5751.033 of the Revised Code. The 4485  
applicant must also substantiate that the distribution center 4486  
cumulatively had costs from its suppliers equal to or exceeding 4487  
five hundred million dollars during the qualifying period. (For 4488  
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 4489  
excludes any person that is part of the consolidated elected 4490  
taxpayer group, if applicable, of the operator of the qualified 4491  
distribution center.) The commissioner may require the applicant 4492  
to have an independent certified public accountant certify that 4493  
the calculation of the minimum thresholds required for a qualified 4494  
distribution center by the operator of a distribution center has 4495  
been made in accordance with generally accepted accounting 4496  
principles. The commissioner shall issue or deny the issuance of a 4497  
certificate within sixty days after the receipt of the 4498  
application. A denial is subject to appeal under section 5717.02 4499  
of the Revised Code. If the operator files a timely appeal under 4500  
section 5717.02 of the Revised Code, the operator shall be granted 4501  
a qualifying certificate, provided that the operator is liable for 4502  
any tax, interest, or penalty upon amounts claimed as qualifying 4503  
distribution center receipts, other than those receipts exempt 4504  
under division (C)(1) of section 5751.011 of the Revised Code, 4505  
that would have otherwise not been owed by its suppliers if the 4506  
qualifying certificate was valid. 4507

(VII) "Ohio delivery percentage" means the proportion of the 4508  
total property delivered to a destination inside Ohio from the 4509

qualified distribution center during the qualifying period 4510  
compared with total deliveries from such distribution center 4511  
everywhere during the qualifying period. 4512

(VIII) "Refining facility" means one or more buildings 4513  
located in a county in the Appalachian region of this state as 4514  
defined by section 107.21 of the Revised Code and utilized for 4515  
refining or smelting gold, silver, platinum, or palladium to a 4516  
grade and fineness acceptable for delivery to a registered 4517  
commodities exchange. 4518

(IX) "Registered commodities exchange" means a board of 4519  
trade, such as New York mercantile exchange, inc. or commodity 4520  
exchange, inc., designated as a contract market by the commodity 4521  
futures trading commission under the "Commodity Exchange Act," 7 4522  
U.S.C. 1 et seq., as amended. 4523

(ii) If the distribution center is new and was not open for 4524  
the entire qualifying period, the operator of the distribution 4525  
center may request that the commissioner grant a qualifying 4526  
certificate. If the certificate is granted and it is later 4527  
determined that more than fifty per cent of the qualified property 4528  
during that year was not shipped to a location such that it would 4529  
be situated outside of this state under the provisions of division 4530  
(E) of section 5751.033 of the Revised Code or if it is later 4531  
determined that the person that operates the distribution center 4532  
had average monthly costs from its suppliers of less than forty 4533  
million dollars during that year, then the operator of the 4534  
distribution center shall be liable for any tax, interest, or 4535  
penalty upon amounts claimed as qualifying distribution center 4536  
receipts, other than those receipts exempt under division (C)(1) 4537  
of section 5751.011 of the Revised Code, that would have not 4538  
otherwise been owed by its suppliers during the qualifying year if 4539  
the qualifying certificate was valid. (For purposes of division 4540  
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 4541

is part of the consolidated elected taxpayer group, if applicable, 4542  
of the operator of the qualified distribution center.) 4543

(iii) When filing an application for a qualifying certificate 4544  
under division (F)(2)(z)(i)(VI) of this section, the operator of a 4545  
qualified distribution center also shall provide documentation, as 4546  
the commissioner requires, for the commissioner to ascertain the 4547  
Ohio delivery percentage. The commissioner, upon issuing the 4548  
qualifying certificate, also shall certify the Ohio delivery 4549  
percentage. The operator of the qualified distribution center may 4550  
appeal the commissioner's certification of the Ohio delivery 4551  
percentage in the same manner as an appeal is taken from the 4552  
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 4553  
of this section. 4554

Within thirty days after all appeals have been exhausted, the 4555  
operator of the qualified distribution center shall notify the 4556  
affected suppliers of qualified property that such suppliers are 4557  
required to file, within sixty days after receiving notice from 4558  
the operator of the qualified distribution center, amended reports 4559  
for the impacted calendar quarter or quarters or calendar year, 4560  
whichever the case may be. Any additional tax liability or tax 4561  
overpayment shall be subject to interest but shall not be subject 4562  
to the imposition of any penalty so long as the amended returns 4563  
are timely filed. The supplier of tangible personal property 4564  
delivered to the qualified distribution center shall include in 4565  
its report of taxable gross receipts the receipts from the total 4566  
sales of property delivered to the qualified distribution center 4567  
for the calendar quarter or calendar year, whichever the case may 4568  
be, multiplied by the Ohio delivery percentage for the qualifying 4569  
year. Nothing in division (F)(2)(z)(iii) of this section shall be 4570  
construed as imposing liability on the operator of a qualified 4571  
distribution center for the tax imposed by this chapter arising 4572  
from any change to the Ohio delivery percentage. 4573

(iv) In the case where the distribution center is new and not 4574  
open for the entire qualifying period, the operator shall make a 4575  
good faith estimate of an Ohio delivery percentage for use by 4576  
suppliers in their reports of taxable gross receipts for the 4577  
remainder of the qualifying period. The operator of the facility 4578  
shall disclose to the suppliers that such Ohio delivery percentage 4579  
is an estimate and is subject to recalculation. By the due date of 4580  
the next application for a qualifying certificate, the operator 4581  
shall determine the actual Ohio delivery percentage for the 4582  
estimated qualifying period and proceed as provided in division 4583  
(F)(2)(z)(iii) of this section with respect to the calculation and 4584  
recalculation of the Ohio delivery percentage. The supplier is 4585  
required to file, within sixty days after receiving notice from 4586  
the operator of the qualified distribution center, amended reports 4587  
for the impacted calendar quarter or quarters or calendar year, 4588  
whichever the case may be. Any additional tax liability or tax 4589  
overpayment shall be subject to interest but shall not be subject 4590  
to the imposition of any penalty so long as the amended returns 4591  
are timely filed. 4592

(v) Qualifying certificates and Ohio delivery percentages 4593  
issued by the commissioner shall be open to public inspection and 4594  
shall be timely published by the commissioner. A supplier relying 4595  
in good faith on a certificate issued under this division shall 4596  
not be subject to tax on the qualifying distribution center 4597  
receipts under division (F)(2)(z) of this section. A person 4598  
receiving a qualifying certificate is responsible for paying the 4599  
tax, interest, and penalty upon amounts claimed as qualifying 4600  
distribution center receipts that would not otherwise have been 4601  
owed by the supplier if the qualifying certificate were available 4602  
when it is later determined that the qualifying certificate should 4603  
not have been issued because the statutory requirements were in 4604  
fact not met. 4605

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis.

"Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed ~~to providing public services pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed~~ to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have

the uranium enrichment zone certified for the purpose of excluding 4668  
qualified uranium receipts under division (F)(2)(gg) of this 4669  
section. The application shall include such information that the 4670  
tax commissioner prescribes. Within sixty days after receiving the 4671  
application, the tax commissioner shall certify the zone for that 4672  
purpose if the commissioner determines that the property qualifies 4673  
as a uranium enrichment zone as defined in division (F)(2)(gg) of 4674  
this section, or, if the tax commissioner determines that the 4675  
property does not qualify, the commissioner shall deny the 4676  
application or request additional information from the applicant. 4677  
If the tax commissioner denies an application, the commissioner 4678  
shall state the reasons for the denial. The applicant may appeal 4679  
the denial of an application to the board of tax appeals pursuant 4680  
to section 5717.02 of the Revised Code. If the applicant files a 4681  
timely appeal, the tax commissioner shall conditionally certify 4682  
the applicant's property. The conditional certification shall 4683  
expire when all of the applicant's appeals are exhausted. Until 4684  
final resolution of the appeal, the applicant shall retain the 4685  
applicant's records in accordance with section 5751.12 of the 4686  
Revised Code, notwithstanding any time limit on the preservation 4687  
of records under that section. 4688

(hh) Amounts realized by licensed motor fuel dealers or 4689  
licensed permissive motor fuel dealers from the exchange of 4690  
petroleum products, including motor fuel, between such dealers, 4691  
provided that delivery of the petroleum products occurs at a 4692  
refinery, terminal, pipeline, or marine vessel and that the 4693  
exchanging dealers agree neither dealer shall require monetary 4694  
compensation from the other for the value of the exchanged 4695  
petroleum products other than such compensation for differences in 4696  
product location or grade. Division (F)(2)(hh) of this section 4697  
does not apply to amounts realized as a result of differences in 4698  
location or grade of exchanged petroleum products or from 4699  
handling, lubricity, dye, or other additive injections fees, 4700

pipeline security fees, or similar fees. As used in this division, 4701  
"motor fuel," "licensed motor fuel dealer," "licensed permissive 4702  
motor fuel dealer," and "terminal" have the same meanings as in 4703  
section 5735.01 of the Revised Code. 4704

(ii) In the case of amounts collected by a licensed casino 4705  
operator from casino gaming, amounts in excess of the casino 4706  
operator's gross casino revenue. In this division, "casino 4707  
operator" and "casino gaming" have the meanings defined in section 4708  
3772.01 of the Revised Code, and "gross casino revenue" has the 4709  
meaning defined in section 5753.01 of the Revised Code. 4710

(jj) Any receipts for which the tax imposed by this chapter 4711  
is prohibited by the constitution or laws of the United States or 4712  
the constitution of this state. 4713

(3) In the case of a taxpayer when acting as a real estate 4714  
broker, "gross receipts" includes only the portion of any fee for 4715  
the service of a real estate broker, or service of a real estate 4716  
salesperson associated with that broker, that is retained by the 4717  
broker and not paid to an associated real estate salesperson or 4718  
another real estate broker. For the purposes of this division, 4719  
"real estate broker" and "real estate salesperson" have the same 4720  
meanings as in section 4735.01 of the Revised Code. 4721

(4) A taxpayer's method of accounting for gross receipts for 4722  
a tax period shall be the same as the taxpayer's method of 4723  
accounting for federal income tax purposes for the taxpayer's 4724  
federal taxable year that includes the tax period. If a taxpayer's 4725  
method of accounting for federal income tax purposes changes, its 4726  
method of accounting for gross receipts under this chapter shall 4727  
be changed accordingly. 4728

(G) "Taxable gross receipts" means gross receipts sitused to 4729  
this state under section 5751.033 of the Revised Code. 4730

(H) A person has "substantial nexus with this state" if any 4731



of the following applies. The person:	4732
(1) Owns or uses a part or all of its capital in this state;	4733
(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;	4734 4735
(3) Has bright-line presence in this state;	4736
(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.	4737 4738 4739
(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:	4740 4741 4742
(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.	4743 4744 4745 4746 4747
(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:	4748 4749 4750
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	4751 4752
(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	4753 4754 4755
(c) Any amount the person pays for services performed in this state on its behalf by another.	4756 4757
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	4758 4759
(4) Has at any time during the calendar year within this	4760

state at least twenty-five per cent of the person's total 4761  
property, total payroll, or total gross receipts. 4762

(5) Is domiciled in this state as an individual or for 4763  
corporate, commercial, or other business purposes. 4764

(J) "Tangible personal property" has the same meaning as in 4765  
section 5739.01 of the Revised Code. 4766

(K) "Internal Revenue Code" means the Internal Revenue Code 4767  
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 4768  
this chapter that is not otherwise defined has the same meaning as 4769  
when used in a comparable context in the laws of the United States 4770  
relating to federal income taxes unless a different meaning is 4771  
clearly required. Any reference in this chapter to the Internal 4772  
Revenue Code includes other laws of the United States relating to 4773  
federal income taxes. 4774

(L) "Calendar quarter" means a three-month period ending on 4775  
the thirty-first day of March, the thirtieth day of June, the 4776  
thirtieth day of September, or the thirty-first day of December. 4777

(M) "Tax period" means the calendar quarter or calendar year 4778  
on the basis of which a taxpayer is required to pay the tax 4779  
imposed under this chapter. 4780

(N) "Calendar year taxpayer" means a taxpayer for which the 4781  
tax period is a calendar year. 4782

(O) "Calendar quarter taxpayer" means a taxpayer for which 4783  
the tax period is a calendar quarter. 4784

(P) "Agent" means a person authorized by another person to 4785  
act on its behalf to undertake a transaction for the other, 4786  
including any of the following: 4787

(1) A person receiving a fee to sell financial instruments; 4788

(2) A person retaining only a commission from a transaction 4789  
with the other proceeds from the transaction being remitted to 4790

another person;	4791
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	4792 4793
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	4794 4795
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	4796 4797
(Q) "Received" includes amounts accrued under the accrual method of accounting.	4798 4799
(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.	4800 4801 4802 4803 4804 4805 4806
<b>Section 101.02.</b> That existing sections 9.33, 153.65, 718.01, 2937.221, 3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 5513.01, 5533.31, 5537.01, 5537.02, 5537.03, 5537.04, 5537.05, 5537.051, 5537.06, 5537.07, 5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5537.14, 5537.15, 5537.16, 5537.17, 5537.19, 5537.20, 5537.21, 5537.22, 5537.24, 5537.25, 5537.26, 5537.27, 5537.28, 5537.30, 5728.01, 5735.05, 5735.23, 5739.02, 5747.01, and 5751.01 and sections 126.60, 126.601, 126.602, 126.603, 126.604, and 126.605 of the Revised Code are hereby repealed.	4807 4808 4809 4810 4811 4812 4813 4814 4815
<b>Section 203.10.</b> All items in this section are hereby appropriated as designated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2014 and those in the second column are for fiscal year 2015. The	4816 4817 4818 4819 4820

appropriations made in this act are in addition to any other 4821  
appropriations made for the FY 2014-FY 2015 biennium. 4822

Appropriations

DOT DEPARTMENT OF TRANSPORTATION 4823

Highway Operating Fund Group 4824

7002 772425 Highway Construction \$ 200,000,000 \$ 300,000,000 4825

- Turnpike

TOTAL HOF Highway Operating Fund \$ 200,000,000 \$ 300,000,000 4826

Group

TOTAL ALL BUDGET FUND GROUPS \$ 200,000,000 \$ 300,000,000 4827

Within the limits set forth in this act, the Director of 4828  
Budget and Management shall establish accounts indicating the 4829  
source and amount of funds for each appropriation made in this 4830  
act, and shall determine the form and manner in which 4831  
appropriation accounts shall be maintained. Expenditures from 4832  
appropriations contained in this act shall be accounted for as 4833  
though made in the transportation budget act of the 130th General 4834  
Assembly. 4835

The appropriations made in this act are subject to all 4836  
provisions of the transportation budget act of the 130th General 4837  
Assembly that are generally applicable to such appropriations. 4838

**Section 815.10.** The General Assembly, applying the principle 4839  
stated in division (B) of section 1.52 of the Revised Code that 4840  
amendments are to be harmonized if reasonably capable of 4841  
simultaneous operation, finds that the following sections, 4842  
presented in this act as composites of the sections as amended by 4843  
the acts indicated, are the resulting versions of the sections in 4844  
effect prior to the effective date of the sections as presented in 4845  
this act: 4846

Section 5739.02 of the Revised Code as amended by both Am. 4847  
Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly. 4848

Section 5747.01 of the Revised Code as amended by Am. H.B. 4849  
167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th 4850  
General Assembly. 4851

Section 5751.01 of the Revised Code as amended by both Am. 4852  
Sub. H.B. 472 and Am. Sub. H.B. 510 of the 129th General Assembly. 4853