

As Passed by the Senate

130th General Assembly

Regular Session

2013-2014

Am. Sub. H. B. No. 533

Representatives McGregor, Mallory

Cosponsors: Representatives Rosenberger, Stautberg, Terhar, Wachtmann,

Pillich, Adams, R., Becker, Beck, Reece, Driehaus, Derickson, Barnes,

Buchy, Maag, Conditt, Green, Hackett, Retherford, Schuring, Sears,

Stebelton Speaker Batchelder

Senators Cafaro, Eklund, Hite, Jones, Kearney, Manning, Seitz, Uecker

—

A B I L L

To amend sections 5501.44, 5501.70, 5501.71, 5501.73, 1
5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 2
5531.15, 5531.16, and 5739.02 and to enact 3
sections 5531.141, 5531.142, 5531.143, 5531.144, 4
5531.145, 5531.146, 5531.147, 5531.148, and 5
5531.149 of the Revised Code to provide that a 6
toll project may include the replacement, 7
improvement, rehabilitation, operation, and 8
maintenance of a bridge or system of bridges at 9
one location that carries two interstate highways 10
over the Ohio River to another state, to amend the 11
law governing public-private agreements relative 12
to transportation facilities, and to provide for 13
the collection of user fees on toll projects by 14
toll project operators. 15

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

Section 1. That sections 5501.44, 5501.70, 5501.71, 5501.73, 16

5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 5531.16, and 17
5739.02 be amended and sections 5531.141, 5531.142, 5531.143, 18
5531.144, 5531.145, 5531.146, 5531.147, 5531.148, and 5531.149 of 19
the Revised Code be enacted to read as follows: 20

Sec. 5501.44. (A)~~(1)~~ Notwithstanding section 5735.27 of the 21
Revised Code, the director of transportation, when the director 22
determines it in the interest of the welfare and safety of the 23
citizens of Ohio, may enter into agreements with other states or 24
subdivisions thereof or the United States relative to the 25
cooperation in the repair, maintenance, or construction of a 26
bridge crossing a stream that forms a boundary line of this state, 27
and may expend state highway funds for said purpose. 28

~~(1) No~~ Except as provided in division (A)(3) of this section, 29
no such agreement shall be made that obligates this state to 30
expend more than the cost of the construction of such portion of 31
said bridge as is located within the state, and not more than 32
fifty per cent of the cost of maintenance of any such bridge, and 33
no such agreement shall be made that obligates the state in excess 34
of three hundred thousand dollars in any one year for maintenance. 35

(2) Notwithstanding division (A)(1) of this section, the 36
director may expend funds for the design, construction, 37
inspection, maintenance, repair, and replacement of bridge and 38
bridge approaches for the bridge that were transferred from the 39
Ohio bridge commission to the control of the state of Ohio, 40
department of transportation, as provided in Section 4 of Amended 41
Substitute House Bill No. 98 of the 114th general assembly. 42
Following the replacement of that bridge, the director may expend 43
funds for the design, construction, inspection, maintenance, 44
repair, and replacement of bridge and bridge approaches. 45

(3) Notwithstanding division (A)(1) of this section, the 46

director may enter into an agreement with another state for the 47
replacement, improvement, rehabilitation, operation, and 48
maintenance of a bridge or system of bridges at one location that 49
carries two interstate highways over the Ohio river to another 50
state, and the replacement, improvement, rehabilitation, 51
operation, and maintenance of roadways providing for ingress to 52
and egress from that bridge or system of bridges. However, no such 53
agreement shall obligate this state to expend more than fifty per 54
cent of the total project costs. 55

(4) Any ~~such agreements~~ agreement that is entered into under 56
this section shall be approved by the governor and attorney 57
general of the state before ~~they become~~ it becomes effective. 58

~~(4)~~(5) Each agreement entered into shall designate 59
responsibility for inspection, provide for annual inspection, and 60
require that a report of each inspection be filed with the 61
department of transportation. The director, with regard to all 62
existing bridges or other bridges on a stream that forms a 63
boundary line of this state, shall take all reasonable measures to 64
obtain and to secure the filing of a copy of each inspection 65
report for each bridge with the department of transportation. 66

~~(5)~~(6) The department, upon hearing that a bridge across the 67
Ohio river is scheduled to be closed by a contiguous state, shall 68
make all reasonable efforts to notify the Ohio residents likely to 69
be adversely affected by that closing. The department also shall 70
cooperate and communicate with contiguous states in trying to 71
resolve bridge closing problems. 72

(B)(1) The director, when the director considers it in the 73
interest of the welfare and safety of the citizens of Ohio, may 74
enter into agreements with other states, subdivisions thereof, 75
metropolitan planning organizations, or the United States, 76
relative to the design, construction, operation, maintenance, and 77
repair of a regional traffic management system, and may expend 78

state and federal highway funds for such purposes, notwithstanding 79
any other provision of the Revised Code. 80

(2) No such agreement shall be made that obligates this state 81
to expend more than the cost of construction of such portion of a 82
regional traffic management system as is located within the state, 83
and not more than a proportional amount, based upon the system 84
presence in this state, for costs of design, operation, 85
maintenance, and repair. 86

(3) Any such agreements shall be approved by the governor and 87
attorney general of the state before they become effective. 88

(4) As used in division (B) of this section, "regional 89
traffic management system" means an integrated, high-technology 90
system to provide remote control center surveillance and 91
monitoring of the regional freeways and main arterial routes in 92
order to reduce and eliminate major backups and delays to 93
motorists in the area. 94

Sec. 5501.70. As used in sections 5501.70 to 5501.83 of the 95
Revised Code: 96

(A) "Affected jurisdiction" means any unit of government 97
within the state in which all or part of a transportation facility 98
is located or any other public entity directly affected by the 99
transportation facility. 100

(B) "Force majeure" means an uncontrollable force or natural 101
disaster not within the power of the operator or the state. 102

(C) "Maintenance" includes routine maintenance, major 103
maintenance, and any other categories of maintenance that may be 104
designated by the department of transportation. 105

(D) "Material default" means any failure of an operator to 106
perform any duties under a public-private agreement that 107
jeopardizes delivery of adequate service to the public and remains 108

unsatisfied after a reasonable period of time and after the 109
operator has received written notice from the department of the 110
failure. 111

(E) "Operate" means any action to maintain, repair, improve, 112
equip, or modify a transportation facility. 113

(F) "Operator" means a private entity that has entered into a 114
public-private agreement under sections 5501.71 to 5501.83 of the 115
Revised Code. 116

(G) "Private entity" means any natural person, corporation, 117
general partnership, limited liability company, limited 118
partnership, joint venture, business trust, public benefit 119
corporation, nonprofit entity, or other business entity. 120

(H) "Public-private agreement" means the agreement between a 121
private entity and the department that relates to the development, 122
financing, maintenance, or operation of a transportation facility 123
subject to sections 5501.70 to 5501.83 of the Revised Code. 124

(I) "Public-private initiative" means an arrangement between 125
the department and one or more private entities, the terms of 126
which are stated in a public-private agreement, that provides for 127
all of the following: 128

(1) Acceptance of a private contribution, including a money 129
payment, for a project or service for a transportation facility; 130

(2) Sharing of resources and the means of providing a project 131
or service for a transportation facility; 132

(3) Cooperation in researching, developing, and implementing 133
projects or services for a transportation facility. 134

(J) "Transportation facility" has the same meaning as in 135
section 5501.01 of the Revised Code and also includes a tunnel, 136
ferry, port facility on navigable waters that are used for 137
commerce, intermodal facility, or similar facility open to the 138

public and used for the transportation of persons or goods, and 139
any building, structure, parking area, or other appurtenances or 140
property needed to operate a transportation facility that is 141
subject to a public-private agreement. 142

(K) "User fee" means a rate, toll, fee, or other charge 143
established under section 5531.14 of the Revised Code and imposed 144
by an operator for use of all or part of a transportation facility 145
in accordance with that section. 146

(L) "Utility" means a privately, publicly, or cooperatively 147
owned line, facility, or system for producing, transmitting, or 148
distributing communications, cable television, power, electricity, 149
light, heat, gas, oil, crude products, water, steam, waste, storm 150
water not connected with highway drainage, alternative or 151
renewable energy sources such as wind or solar, or any other 152
similar commodity, including a fire or police signal system or 153
street lighting system that directly or indirectly serves the 154
public. 155

Sec. 5501.71. (A) The department of transportation may 156
solicit, receive, consider, evaluate, and accept a proposal for a 157
public-private initiative. 158

(B) In soliciting and selecting a private entity with which 159
to enter into a public-private initiative, the department shall 160
use one or both of the following: 161

(1) Sealed bidding; 162

(2) Selection of proposals, with or without negotiations, 163
based on qualifications, best value, or both. 164

(C) The department shall consider the following factors in 165
evaluating and selecting a bid or proposal to enter into a 166
public-private initiative: 167

(1) The ability of the transportation facility to improve 168

safety, reduce congestion, increase capacity, and promote economic growth;	169 170
(2) The extent that the private entity's proposal addresses the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, or enhancing economic efficiency and the private entity's proposal is on the transportation improvement program for the affected metropolitan planning organization or the state transportation improvement program;	171 172 173 174 175 176 177
(3) The proposed cost of and financial plan for the transportation facility;	178 179
(4) The general reputation, qualifications, industry experience, and financial capacity of the private entity;	180 181
(5) The proposed design, operation, and feasibility of the transportation facility;	182 183
(6) Comments from local citizens and affected jurisdictions;	184
(7) Benefits to the public and the affected transportation facility;	185 186
(8) The safety record of the private entity;	187
(9) <u>The inclusion of a teaming agreement in the bid or proposal that identifies the primary designer of record or design firm representing not less than thirty per cent of the estimated design fee, the primary construction contractor representing not less than thirty per cent of the estimated construction dollar value amount, and the primary financier representing not less than fifty per cent of the total project cost.</u>	188 189 190 191 192 193 194
(10) Any other criteria that the department considers appropriate.	195 196
(D) The department may select multiple private entities with which to enter a public-private agreement for a transportation	197 198

facility if it is in the public interest to do so. 199

(E) The department shall select a private entity or entities 200
for a public-private initiative on a competitive basis. 201

(F) Any materials or data submitted to, made available to, or 202
received by the director of transportation, to the extent that the 203
material or data consist of trade secrets, as defined in section 204
1333.61 of the Revised Code, are confidential and are not public 205
records for the purposes of section 149.43 of the Revised Code. 206
Financial information received by the director that is related to 207
a proposal is confidential and not a public record for purposes of 208
section 149.43 of the Revised Code until such time as a proposal 209
is selected. Prior to submission of a solicited proposal, a 210
private entity may request a review by the department of 211
information that the private entity has identified as 212
confidential, to determine whether such information would be 213
subject to disclosure under section 149.43 of the Revised Code. 214

(G)(1) The department may reimburse one or more private 215
entities for a portion of the actual costs each entity incurred in 216
submitting a proposal for a public-private initiative that was 217
solicited by the department under this section. When considering 218
the reimbursement of such costs, the director shall describe in 219
the request for proposals for a specific public-private initiative 220
the specific terms and conditions for reimbursing one or more 221
private entities. The director may include in the terms and 222
conditions a requirement that each private entity execute an 223
agreement to transfer to the department the rights to the use of 224
the work product contained in the proposal in exchange for 225
receiving the reimbursement. 226

(2) The director shall make all decisions related to the 227
reimbursement of a specific private entity and related to the 228
maximum amount of the reimbursement. However, the department shall 229
not reimburse a private entity if that entity enters into the 230

public-private agreement that is the subject of the solicited 231
proposal, except as set forth in the request for proposals or in 232
the public-private agreement. The reimbursement of costs under 233
division (G) of this section is exempt from the requirements of 234
Chapter 125. of the Revised Code and sections 127.16 and 127.162 235
of the Revised Code. 236

(3) If the department, pursuant to division (G)(1) of this 237
section, includes a reimbursement provision in a request for 238
proposals and the department subsequently terminates the 239
solicitation prior to the solicitation expiration date, the 240
department shall prorate the amount of the reimbursement that is 241
to be paid to each private entity participating in the 242
solicitation on the date the department terminates the 243
solicitation. The department shall calculate the proration 244
percentage by determining the number of days from the date the 245
solicitation first was offered until the date the department 246
terminated the solicitation and dividing that number by the number 247
of days of the original solicitation period. 248

(4) Except as otherwise provided in writing by the 249
department, if, pursuant to division (G)(1) of this section, the 250
department includes a reimbursement provision in a request for 251
proposals and subsequently enters into negotiations based on the 252
selection of a desired proposal and the department elects to 253
terminate those negotiations for the convenience of the department 254
and through no fault of the proposer, the proposer is entitled to 255
the full reimbursement amount. 256

Sec. 5501.73. (A) After selecting a solicited or unsolicited 257
proposal for a public-private initiative, the department of 258
transportation shall enter into a public-private agreement for a 259
transportation facility with the selected private entity or any 260
configuration of private entities. An affected jurisdiction may be 261

a party to a public-private agreement entered into by the	262
department and a selected private entity or combination of private	263
entities.	264
(B) A public-private agreement under this section shall	265
provide for all of the following:	266
(1) Planning, acquisition, financing, development, design,	267
construction, reconstruction, replacement, improvement,	268
maintenance, management, repair, leasing, or operation of a	269
transportation facility;	270
(2) Term of the public-private agreement;	271
(3) Type of property interest, if any, the private entity	272
will have in the transportation facility;	273
(4) A specific plan to ensure proper maintenance of the	274
transportation facility throughout the term of the agreement and a	275
return of the facility to the department, if applicable, in good	276
condition and repair;	277
(5) Whether user fees, <u>administrative fees, or other charges</u>	278
will be collected on <u>for use of</u> the transportation facility <u>in</u>	279
<u>accordance with sections 5531.11 to 5531.18 of the Revised Code</u>	280
and the basis by which such user fees, <u>administrative fees, or</u>	281
<u>other charges</u> shall be determined and modified;	282
(6) Compliance with applicable federal, state, and local	283
laws;	284
(7) Grounds for termination of the public-private agreement	285
by the department or operator;	286
(8) Disposition of the facility upon completion of the	287
agreement;	288
(9) Procedures for amendment of the agreement- <u>i</u>	289
<u>(10) A contract performance bond in an amount specified by</u>	290

<u>the director of transportation, conditioned upon the private</u>	291
<u>entity performing the work in accordance with the agreed upon</u>	292
<u>terms, within the time prescribed, and in conformance with any</u>	293
<u>other such terms and conditions as are specified by the director;</u>	294
<u>(11) A payment bond in an amount specified by the director,</u>	295
<u>conditioned upon the payment for all labor, work performed, and</u>	296
<u>materials furnished in connection with the agreement and any other</u>	297
<u>such terms and conditions as are specified by the director.</u>	298
(C) A public-private agreement under this section may provide	299
for any of the following:	300
(1) Review and approval by the department of the operator's	301
plans for the development and operation of the transportation	302
facility;	303
(2) Inspection by the department of construction of or	304
improvements to the transportation facility;	305
(3) Maintenance by the operator of a policy of liability	306
insurance or self-insurance;	307
(4) Filing by the operator, on a periodic basis, of	308
appropriate financial statements in a form acceptable to the	309
department;	310
(5) Filing by the operator, on a periodic basis, of traffic	311
reports in a form acceptable to the department;	312
(6) Financing obligations of the operator and the department;	313
(7) Apportionment of expenses between the operator and the	314
department;	315
(8) Rights and duties of the operator, the department, and	316
other state and local governmental entities with respect to use of	317
the transportation facility;	318
(9) Rights and remedies available in the event of default or	319
delay;	320

(10) Terms and conditions of indemnification of the operator	321
by the department;	322
(11) Assignment, subcontracting, or other delegation of	323
responsibilities of the operator or the department under the	324
agreement to third parties, including other private entities and	325
other state agencies;	326
(12) Sale or lease to the operator of private property	327
related to the transportation facility;	328
(13) Traffic enforcement and other policing issues, including	329
any reimbursement by the private entity for such services.	330
(D)(1) The director of transportation may include in any	331
public-private agreement under sections 5501.70 to 5501.83 of the	332
Revised Code a provision authorizing a binding dispute resolution	333
method for any controversy subsequently arising out of the	334
contract. The binding dispute resolution method may proceed only	335
upon agreement of all parties to the controversy. If all parties	336
do not agree to proceed to a binding dispute resolution, a party	337
having a claim against the department shall exhaust its	338
administrative remedies specified in the public-private agreement	339
prior to filing any action against the department in the court of	340
claims.	341
No appeal from the determination of a technical expert lies	342
to any court, except that the court of common pleas of Franklin	343
County may issue an order vacating such a determination upon the	344
application of any party to the binding dispute resolution if any	345
of the following applies:	346
(a) The determination was procured by corruption, fraud, or	347
undue means.	348
(b) There was evidence of partiality or corruption on the	349
part of the technical expert.	350

(c) The technical expert was guilty of misconduct in refusing 351
to postpone the hearing, upon sufficient cause shown, or in 352
refusing to hear evidence pertinent and material to the 353
controversy, or of any other misbehavior by which the rights of 354
any party have been prejudiced. 355

(2) As used in this division, "binding dispute resolution" 356
means a binding determination after review by a technical expert 357
of all relevant items, which may include documents, and by 358
interviewing appropriate personnel and visiting the project site 359
involved in the controversy. "Binding dispute resolution" does not 360
involve representation by legal counsel or advocacy by any person 361
on behalf of any party to the controversy. 362

(E) No public-private agreement entered into under this 363
section shall be construed to transfer to a private entity the 364
director's authority to appropriate property under Chapters 163., 365
5501., and 5519. of the Revised Code. 366

(F) Money collected by the department pursuant to an 367
agreement entered into under this section shall be deposited into 368
the state treasury to the credit of the highway operating fund 369
unless the agreement is related to a toll project under sections 370
5531.11 to 5531.18 of the Revised Code, in which case the money 371
shall be deposited as specified in the agreement. 372

(G) Chapter 5525. of the Revised Code does not apply to 373
public-private agreements under sections 5501.70 to 5501.83 of the 374
Revised Code. 375

Sec. 5501.78. A transportation facility and any tangible 376
personal property used exclusively with a transportation facility 377
that is owned by the department of transportation and leased, 378
licensed, financed, or otherwise conveyed to an operator, or that 379
is acquired, constructed, or otherwise provided by an operator on 380
behalf of the department, is exempt from all ad valorem property 381

taxes and special assessments levied against property by the state 382
or any political subdivision of the state. Building and 383
construction materials that will be incorporated into a 384
transportation facility pursuant to a public-private agreement are 385
exempt from the taxes imposed under Chapters 5739. and 5741. of 386
the Revised Code. 387

Sec. 5531.11. As used in sections 5531.11 to 5531.18 of the 388
Revised Code: 389

(A) "Administrative fee" means a fee imposed by a toll 390
project operator for toll collection, processing, and related 391
activities. 392

(B) "Cost" means all costs of constructing, improving, 393
repairing, maintaining, administering, financing, and operating 394
the Ohio transportation system, including all costs payable with 395
respect to permanent improvements as described in division (B) of 396
section 133.15 of the Revised Code. 397

(C) "Electronic-monitoring system" means any form of 398
electronic or other vehicle sensor or identifying device that 399
automatically produces one or more photographs, one or more 400
microphotographs, a videotape, recorded images, or other form of 401
identifying data of each vehicle at the time it is used or 402
operated on a toll project. 403

(D) "Governmental agency" means any state agency, federal 404
agency, political subdivision, or other local, interstate, or 405
regional governmental agency, and any combination of those 406
agencies. 407

(E) "Highway project" means any project intended for the 408
highway purpose of supporting the state highway system. A highway 409
project, whether publicly or privately owned, is a state 410
infrastructure project as defined in section 5531.10 of the 411

Revised Code for all purposes of that section and section 5531.09 412
of the Revised Code and also is a transportation facility as 413
defined in section 5501.01 of the Revised Code. 414

~~"State highway system" or "system" means all existing and 415
future transportation projects constructed, operated, repaired,
maintained, administered, and operated under the jurisdiction of 416
the department of transportation, including toll projects and 417
highway projects. 418
highway projects. 419~~

(F) "Motor vehicle certificate of registration issuance 420
prevention order" means, relative to the registered owner of a 421
motor vehicle, an order that prohibits the registrar of motor 422
vehicles and any deputy registrar from doing both of the 423
following: 424

(1) Accepting any application for a new or renewal motor 425
vehicle certificate of registration in the name of the registered 426
owner; 427

(2) Issuing or renewing any motor vehicle certificate of 428
registration for a motor vehicle that utilized a toll project for 429
which the required user fee or associated administrative fee was 430
not paid by the registered owner of that motor vehicle. 431

(G) "Public roads" means all public highways, roads, and 432
streets in the state, whether maintained by a state agency or any 433
other governmental agency. 434

(H) "Public utility facilities" means tracks, pipes, mains, 435
conduits, cables, wires, towers, poles, and other equipment and 436
appliances of any public utility. 437

(I) "Registered owner" means all of the following: 438

(1) Any person or entity identified by the bureau of motor 439
vehicles or any other state motor vehicle bureau, department, or 440
office as the owner of a motor vehicle; 441

(2) The lessee of a motor vehicle pursuant to a lease of six months or longer; 442
443

(3) The renter of a motor vehicle pursuant to a written rental agreement with a motor vehicle renting dealer. 444
445

(J) "Revenues" means all nontax revenues coming into the 446
possession of or under the control of the department by virtue of 447
sections 5531.11 to 5531.18 of the Revised Code. "Revenues" does 448
not include proceeds from the sale of obligations but does include 449
~~tolls~~ user fees, service revenues, investment income on the Ohio 450
toll fund established in section 5531.14 of the Revised Code, 451
rentals, gifts, and grants. 452

(K) "Service facilities" means service stations, restaurants, 453
and other facilities for food service, roadside parks and rest 454
areas, parking, camping, tenting, rest, and sleeping facilities, 455
hotels or motels, and all similar and other facilities providing 456
services to the traveling public in connection with the use of a 457
toll project and owned, leased, licensed, or operated by the 458
department ~~of transportation~~. 459

(L) "Service revenues" means those revenues of the department 460
derived from its ownership, leasing, licensing, or operation of 461
service facilities. 462

(M) "State highway system" or "system" means all existing and future transportation projects constructed, operated, repaired, maintained, administered, and operated under the jurisdiction of the department of transportation, including toll projects and highway projects. 463
464
465
466
467

(N) "Toll project" means ~~any~~ all of the following: 468

(1) Any project for which user fees are charged that adds new 469
capacity, including construction on existing highways, bridges, or 470
tunnels where construction increases the total number of lanes, 471
including toll and nontoll lanes, and does not decrease the total 472

number of nontoll lanes at each mile. ~~"Toll project" also includes~~ 473
~~new;~~ 474

(2) New interchanges constructed for economic development 475
purposes connecting an interstate highway or a multi-lane, ~~fully~~ 476
~~controlled-access~~ highway that was not connected previously with 477
other interstates, state highways and local roads, and any new 478
high occupancy lane or new highways connecting an intermodal 479
facility established, constructed, reconstructed, maintained, 480
repaired, administered, operated, or improved, under the 481
jurisdiction of the department ~~of transportation and pursuant;~~ 482

(3) Pursuant to sections 5531.11 to 5531.18 of the Revised 483
Code, at a location or locations determined by the director of 484
transportation, ~~including~~ all bridges, tunnels, overpasses, 485
underpasses, interchanges, entrance plazas, approaches, and those 486
portions of connecting public roads that serve interchanges and 487
are determined by the director to be necessary for the safe 488
merging of traffic between the toll project and those nontolled 489
public roads, toll booths, service facilities, and administration, 490
storage, and other buildings, property, and facilities that the 491
department considers necessary for the operation or policing of 492
the toll project, together with all property and rights that may 493
be acquired by the department for the construction, maintenance, 494
repair, administration, improvement, or operation of the toll 495
project, ~~and includes any sections or extensions of a toll project~~ 496
~~designated by the department as such for the particular purpose.~~ 497
~~Nothing in this section shall be construed to permit tolls to be~~ 498
~~charged on existing nontoll highways;~~ 499

(4) Notwithstanding division (N)(1) of this section, the 500
replacement, improvement, rehabilitation, operation, and 501
maintenance of a bridge or system of bridges at one location that 502
carries two interstate highways over the Ohio river to another 503
state, and the replacement, improvement, rehabilitation, 504

operation, and maintenance of the roadways that provide ingress to 505
and egress from such a bridge or system of bridges, generally 506
following the route of those interstate highways. 507

(O) "Toll project operator" means the department or any 508
agency, political subdivision, authority, or other entity that 509
operates a toll project, including a private entity that operates 510
a toll project pursuant to a public-private agreement authorized 511
by sections 5501.70 to 5501.83 of the Revised Code. 512

(P) "Tolls User fee" means tolls a rate, special fees or 513
permit fees toll, fee, or other charges by the department to the 514
owners, lessors, lessees, operators of motor vehicles, or other 515
users of charge imposed by a toll project for the operation or use 516
of or the right to operate on operator for use of all or part of a 517
transportation facility, including a toll project. "User fee" also 518
includes any such rate, toll, fee, or other charge imposed by a 519
toll project operator pursuant to a public-private agreement 520
authorized by sections 5501.70 to 5501.83 of the Revised Code. 521

Sec. 5531.12. (A) In order to remove present and anticipated 522
handicaps and potential hazards on the highways in this state, to 523
facilitate vehicular traffic throughout the state, to promote the 524
agricultural, commercial, recreational, tourism, and industrial 525
development of the state, and to provide for the general welfare 526
of its citizens, the director of transportation may approve toll 527
projects. Any revenue derived from toll projects shall be used 528
only for purposes of the toll project, including a toll project or 529
any aspect of a toll project pursuant to a public-private 530
agreement authorized by sections 5501.70 to 5501.83 of the Revised 531
Code, and shall not be expended for any purpose other than as 532
provided in Section 5a of Article XII, Ohio Constitution. The toll 533
projects authorized by sections 5531.11 to 5531.18 of the Revised 534
Code are part of the state highway system. 535

(B) Any toll project shall be developed and submitted for selection in accordance with the policies and procedures of the ~~major new capacity~~ selection process of the transportation review advisory council, created under Chapter 5512. of the Revised Code. Each toll project may be separately designated, by name or number, and may be constructed, improved, or reconstructed as the department of transportation may from time to time determine pursuant to sections 5531.11 to 5531.18 of the Revised Code. A toll project shall be considered a state infrastructure project as defined in section 5531.10 of the Revised Code for all purposes of that section and section 5531.09 of the Revised Code and also is a transportation facility as defined in section 5501.01 of the Revised Code.

(C)(1) Nothing in this chapter shall be construed to permit ~~tolls~~ user fees to be charged on existing nontoll public roads.

(2) Division (C)(1) of this section does not apply to a toll project as described in division (N)(4) of section 5531.11 of the Revised Code.

Sec. 5531.13. (A) The director of transportation may acquire or dispose of any public or private property or interests therein that the director determines to be necessary, convenient, or proper for the construction, improvement, repair, maintenance, administration, or operation of toll projects in the same manner as the director may acquire or dispose of such property for transportation facilities or highway purposes, under sections 5501.311 to 5501.34 and 5501.45 and Chapter 5519. of the Revised Code.

(B) The director may enter into any contracts the director determines to be necessary, convenient, or proper for the construction, improvement, repair, maintenance, administration, or operation of toll projects in the manner provided in Chapter 5525.

of the Revised Code or pursuant to a public-private agreement 567
under sections 5501.70 to 5501.83 of the Revised Code. 568

(C) The director may enter into any professional contracts 569
the director determines to be necessary, convenient, or proper for 570
the construction, improvement, repair, maintenance, 571
administration, or operation of toll projects in the manner 572
provided in Chapter 5526. of the Revised Code or pursuant to a 573
public-private agreement under sections 5501.70 to 5501.83 of the 574
Revised Code. 575

(D) ~~Tolls~~ User fees and accounts within the Ohio toll fund 576
established in section 5531.14 of the Revised Code may be used for 577
the acquisition of property under division (A) of this section or 578
pursuant to contracts entered into under division (B) or (C) of 579
this section to the same extent permitted by section 5531.14 of 580
the Revised Code with respect to obligations. 581

Sec. 5531.14. (A) To the extent permitted by federal law, the 582
director of transportation may fix, revise, charge, and collect 583
~~tolls~~ user fees for each toll project, and contract with any 584
person or governmental agency desiring the use of any part 585
thereof, including the right-of-way adjoining the paved portion, 586
for placing thereon telephone, electric light, or power lines, 587
service facilities, or for any other purpose, and fix the terms, 588
conditions, rents, and rates of charge for such use; provided, 589
that no ~~toll~~ user fee, charge, or rental may be made for placing 590
in, on, along, over, or under the toll project, equipment or 591
public utility facilities that are necessary to serve service 592
facilities or to interconnect any public utility facilities. 593

A toll project operator shall display signs that identify the 594
applicable user fees, including fees for motor vehicles that do 595
not have an active, functioning electronic toll collection device 596
registered for and in use in the vehicle. The toll project 597

operator shall erect or otherwise display signs in advance of the 598
toll project at locations that are of distances that are 599
sufficient to notify motor vehicle operators of the opportunity to 600
exit the street or highway on which they are traveling before the 601
street or highway becomes, becomes part of, or otherwise leads to 602
the toll project and for the use of which user fees apply. 603

(B) In accordance with Chapter 119. of the Revised Code, the 604
director shall establish a plan, schedule, or system of tolls user 605
fees or charges and shall declare the purpose, amount, and 606
duration of the tolls user fees or charges. Any proposal to 607
implement a toll user fee or other charge under this section may 608
include a plan, schedule, or system of tolls or charges that is 609
subject to adjustment by the director within and in accordance 610
with that plan, schedule, or system. As part of the plan, 611
schedule, or system, the director shall develop a written process 612
for setting user fee rates. In developing the process, the 613
director shall seek and consider public comment. In doing so, the 614
director shall hold at least one public hearing within fifty miles 615
of the location of the toll project for which the written process 616
is developed. 617

~~(B) For any toll imposed under this section, the department~~ 618
~~of transportation may use a system for toll collection that is~~ 619
~~capable of charging an account holder the appropriate toll or~~ 620
~~charge by transmission of information from an electronic device on~~ 621
~~a motor vehicle to the toll lane, which information is used to~~ 622
~~charge the account holder the appropriate toll or charge.~~ 623

~~(C) One or more tolls, or a portion of any toll, may be~~ 624
~~pledged to the repayment of obligations in the bond proceedings~~ 625
~~for those obligations and shall be a pledged receipt for those~~ 626
~~obligations to the extent pledged in those bond proceedings.~~ 627

~~(D) Tolls~~ The director, in accordance with Chapter 119. of 628
the Revised Code, also may adopt such additional rules as the 629

director determines necessary for the establishment, collection, 630
and enforcement of user fees and administrative fees, including 631
the purpose, amount, and duration of the fees. 632

(C) One or more user fees, or a portion of any user fees, may 633
be pledged to the repayment of obligations issued for the purpose 634
of financing the toll project and shall be a pledged receipt for 635
those obligations to the extent pledged in the proceedings 636
authorizing such obligations. One or more user fees, or a portion 637
of any user fees, also may be pledged to the repayment of 638
obligations under any public-private agreement or related 639
financing as provided in sections 5501.70 to 5501.83 of the 640
Revised Code. 641

(D) User fees shall be so fixed and adjusted by the director 642
as to provide funds at least sufficient with other revenues of the 643
Ohio transportation system, if any, to pay all of the following: 644

(1) Any ~~bond~~ debt service charges on obligations issued to 645
pay costs of one or more toll projects as such charges become due 646
and payable, taking into account any other amounts available for 647
such purposes; 648

(2) Any obligations under any public-private agreement 649
entered into in connection with a toll project as such amounts 650
become due and payable; 651

(3) The cost of maintaining, improving, repairing, 652
constructing, financing and operating toll projects within the 653
interstate system or the state highway system and its different 654
parts and sections, and to create and maintain any reserves for 655
those purposes. 656

(E) Except as provided in division (F) of this section, money 657
received from ~~tolls imposed under this section~~ user fees, other 658
than those received pursuant to a public-private agreement, which 659
shall be deposited in accordance with such agreement and shall be 660

used for the exclusive benefit of such toll project, shall be 661
deposited to the credit of the Ohio toll fund, which is hereby 662
created in the state treasury. The treasurer of state may 663
establish separate subaccounts within the Ohio toll fund as 664
determined to be necessary or convenient to pay costs of 665
constructing, improving, repairing, maintaining, administering, 666
and operating toll projects within the state highway system. Any 667
remaining money deposited into the Ohio toll fund shall be used at 668
the discretion of the director to support construction, 669
improvement, repair, maintenance, administration, and operation 670
costs for approved toll projects and highway projects within one 671
mile of a toll project. All investment earnings of the fund shall 672
be credited to the fund. 673

(F) The issuing authority ~~shall~~ of obligations issued for the 674
purpose of financing the toll project, by the fifteenth day of 675
July of each fiscal year, ~~shall~~ certify or cause to be certified 676
to the department of transportation and the office of budget and 677
management the total amount of money required during the current 678
fiscal year to meet in full all ~~bond~~ debt service charges and 679
otherwise comply with the requirements of any applicable bond 680
proceedings and all obligations under any public-private agreement 681
relating to a toll project as provided in sections 5501.70 to 682
5501.83 of the Revised Code. The issuing authority shall make or 683
cause to be made supplemental certifications to the department ~~of~~ 684
~~transportation~~ and the office of budget and management for each 685
bond service payment date and at such other times during each 686
fiscal year as may be provided in the applicable bond ~~proceedings~~ 687
proceeding or public-private agreement or required by that 688
department or office. Bond service charges, costs of credit 689
enhancement facilities, other financing costs, and any other 690
amounts required under the applicable bond proceedings and all 691
amounts required under any applicable public-private agreement 692
shall be set forth separately in each certification. Money 693

received from ~~tolls~~ user fees and other pledged receipts shall be 694
deposited to the credit of the bond service fund at such times and 695
in such amounts as are necessary to satisfy all those payment 696
requirements of the applicable bond proceedings. ~~When all or to~~ 697
the credit of any fund established for such purpose under any 698
public-private agreement. At such time that bond service charges 699
on all outstanding bonds issued in connection with any toll 700
project and the interest on the bonds have been paid, or a 701
sufficient amount for the payment of all such bonds and the 702
interest on the bonds to the maturity of the bonds has been set 703
aside in trust for the benefit of the bondholders, as provided in 704
the applicable bond proceedings, and at such time as all amounts 705
due and to become due pursuant to a public-private agreement, 706
which are payable from user fees, have been paid, the project 707
shall be operated, improved, and maintained by the department of 708
transportation as a part of the state highway system and shall be 709
free of ~~tolls~~ user fees. 710

Sec. 5531.141. (A) The department of transportation may 711
collect a user fee by utilizing a system of collection that is 712
capable of charging an account holder the appropriate user fee by 713
transmission of information from an electronic toll collection 714
device on a motor vehicle. In addition, for any motor vehicle that 715
does not use an electronic toll collection device, the department 716
may utilize an electronic-monitoring system for user fee 717
collection. 718

(B)(1) If a motor vehicle uses a toll project and the user 719
fee is not paid through an electronic toll collection device or 720
otherwise, the toll project operator first shall use the 721
electronic-monitoring system for the toll project to determine if 722
the registered owner of the motor vehicle has established an 723
account for the payment of the user fee. If such an account has 724
been established, the toll project operator shall charge the 725

account holder the appropriate user fee. If the toll project 726
operator cannot locate an established account, or if the toll 727
project operator locates an established account but the account 728
cannot be charged the appropriate user fee, the toll project 729
operator may send by regular first class mail an invoice for the 730
unpaid user fee. The toll project operator shall include with the 731
invoice the information described in section 5531.143 of the 732
Revised Code. The toll project operator shall send the invoice to 733
the registered owner of the motor vehicle as shown in the records 734
of either of the following: 735

(a) The bureau of motor vehicles; 736

(b) The department, division, bureau, office, or other unit 737
of government of any other state or jurisdiction that is 738
functionally equivalent to the bureau of motor vehicles. 739

(2) With respect to any user fee and any associated 740
administrative fee, the toll project operator, in the toll project 741
operator's sole discretion, may determine not to pursue collection 742
of that user fee or administrative fee or to terminate collection 743
measures in relation to that user fee or administrative fee. 744

Sec. 5531.142. (A) A person or entity that receives an 745
invoice under section 5531.141 of the Revised Code or a late 746
notice under division (C) of this section shall do one of the 747
following: 748

(1) Pay the user fee and any administrative fee set forth in 749
the invoice or late notice directly to the toll project operator 750
within thirty-five days after the date of mailing of the invoice 751
or late notice; 752

(2) File with the toll project operator a notice to contest 753
liability for the unpaid user fee within thirty-five days after 754
the date of the mailing of the invoice or late notice by utilizing 755

the form provided with the invoice or late notice under section 756
5531.143 of the Revised Code; 757

(3) If the registered owner is a motor vehicle leasing dealer 758
or a motor vehicle renting dealer, notify the toll project 759
operator within thirty-five days after the date of mailing of the 760
invoice or late notice of the name and address of the person who 761
was the lessee or renter of the motor vehicle at the time the user 762
fee was incurred. A motor vehicle leasing dealer or a motor 763
vehicle renting dealer that receives an invoice or late notice 764
shall not pay a user fee or any administrative fee and 765
subsequently attempt to collect a fee or assess the lessee or 766
renter a charge in excess of the amount actually paid on behalf of 767
the lessee or renter. 768

(B) Upon receipt of the name and address of the lessee or 769
renter of a motor vehicle provided by a motor vehicle leasing 770
dealer or motor vehicle renting dealer under division (A)(3) of 771
this section, the toll project operator shall send an invoice to 772
the lessee or renter of the motor vehicle as described in section 773
5531.141 of the Revised Code. The toll project operator shall send 774
all subsequent late notices for the unpaid user fees to the lessee 775
or renter, and the motor vehicle renting or leasing dealer has no 776
further liability for unpaid user fees or administrative fees 777
under this chapter. 778

(C) If a registered owner fails to pay or contest an invoice 779
within thirty-five days after the date of mailing of the invoice, 780
the toll project operator may send to the registered owner by 781
regular first class mail a late notice containing the information 782
described in section 5531.143 of the Revised Code. The toll 783
project operator may charge an administrative fee for each late 784
notice, the purpose of which is to enable the toll project 785
operator to recover the expenses of collecting the unpaid user 786
fee. The director of transportation shall establish the amount of 787

the administrative fee by rule. 788

Sec. 5531.143. A toll project operator shall include with 789
each invoice and late notice all of the following: 790

(A) The registered owner's name and current known address; 791

(B) Descriptions and amounts of all user fees and 792
administrative fees assessed; 793

(C) A request for payment within thirty-five days after the 794
date of mailing of such invoice or late notice; 795

(D) A warning of the potential consequences for failing to 796
pay the total amount due as indicated in such invoice or late 797
notice, including additional fees and penalties, potential court 798
summons, and inability to renew motor vehicle registrations; 799

(E) Information for disputing the invoice or late notice and 800
a form that a person may use to file a notice to contest liability 801
for a user fee or administrative fee; 802

(F) Contact information for the customer service center for 803
the applicable toll project; and 804

(G) Information about obtaining an electronic toll collection 805
device and establishing an electronic toll collection account. 806

Sec. 5531.144. (A) The registered owner of a motor vehicle 807
that utilizes a toll project is liable for payment of the 808
applicable user fee. 809

(B)(1) If the registered owner, in response to an invoice 810
mailed to the registered owner under section 5531.141 of the 811
Revised Code or a late notice mailed under section 5531.142 of the 812
Revised Code, submits a notice to contest liability for the user 813
fee or any administrative fee, the toll project operator shall 814
schedule a hearing at which the registered owner may contest 815
liability for the user fee or administrative fee. The toll project 816

operator shall send written notice by regular first class mail to 817
the registered owner listing the time and date of the hearing. A 818
hearing officer of the toll project operator shall preside over 819
the hearing and shall hold the hearing not later than thirty-five 820
days after the date of mailing of the hearing notice. The hearing 821
officer shall conduct the hearing at a location within the county 822
in which the toll project is located. The registered owner may 823
present evidence at the hearing as to the reasons why the 824
registered owner is not liable for payment of the user fee or 825
administrative fee. 826

At the hearing, the hearing officer shall determine if the 827
registered owner is liable for the payment of any user fee or 828
administrative fee. 829

(2) Upon a finding by the hearing officer that the registered 830
owner is not liable for payment of the user fee or administrative 831
fee, the hearing officer shall enter that finding into the records 832
of the toll project operator and cancel the invoice. 833

(3) If the hearing officer finds that the registered owner is 834
liable for payment of the user fee or any administrative fee, the 835
hearing officer shall enter that finding into the records of the 836
toll project operator. If payment in full is not made upon 837
completion of the hearing, the hearing officer shall notify the 838
registrar of motor vehicles of the hearing officer's decision that 839
the registered owner is liable for payment of the user fee or any 840
administrative fee. The hearing officer also shall include with 841
the notification to the registrar a motor vehicle certificate of 842
registration issuance prevention order. The hearing officer shall 843
give the registered owner a copy of the order. The order remains 844
in effect until the toll project operator notifies the registrar 845
that all unpaid user fees and administrative fees have been paid 846
in full. 847

If the hearing officer finds that the registered owner is 848

liable for payment of the user fee or any administrative fee and 849
the registered owner resides in another state, the hearing officer 850
shall send notice of the hearing officer's decision to the 851
department, division, bureau, office, or other unit of government 852
that is functionally equivalent to the bureau of motor vehicles. 853
The hearing officer shall include with the notice the registration 854
prevention order, which shall have the same effect in another 855
state or jurisdiction as in this state. 856

(4) If the registered owner does not pay all unpaid user fees 857
and administrative fees within thirty-five days after the date of 858
the hearing officer's decision that the registered owner is liable 859
for payment of such fees, and the registered owner does not file 860
an appeal described in division (C) of this section within that 861
same thirty-five-day time period, the toll project operator may 862
file a civil suit against the registered owner in the municipal 863
court or county court having jurisdiction over the location of the 864
toll project as provided in section 5531.146 of the Revised Code. 865

(C)(1) The registered owner may appeal an adverse finding by 866
the hearing officer to the municipal court or county court having 867
jurisdiction over the location of the toll project within 868
thirty-five days after the date of the hearing officer's decision 869
that the registered owner is liable for payment of such fees. If 870
the registered owner fails to file an appeal with the municipal 871
court or county court within that time period, the registered 872
owner is considered to have waived the registered owner's right to 873
appeal the decision of the hearing officer. After that time period 874
has expired, the toll project operator may file a civil suit 875
against the registered owner in the municipal court or county 876
court having jurisdiction over the location of the toll project as 877
provided in section 5531.146 of the Revised Code. 878

Upon the filing of a timely appeal by the registered owner, 879
the clerk of the municipal court or county court shall notify the 880

registrar of the filing of the appeal by the registered owner. The 881
motor vehicle certificate of registration issuance prevention 882
order is automatically stayed pending the results of the appeal in 883
the municipal court or county court. 884

(2) At the appeal hearing, the municipal court or county 885
court shall determine whether the registered owner is liable for 886
the payment of any user fee or administrative fee. If the court 887
finds that the registered owner is not liable for payment of the 888
user fee or administrative fee, the court shall issue a ruling to 889
that effect and cancel the invoice. The toll project operator 890
immediately shall inform the registrar of the ruling and shall 891
direct the registrar to cancel the motor vehicle certificate of 892
registration issuance prevention order issued under division 893
(B)(3) of this section. 894

If the court finds that the registered owner is liable for 895
payment of the user fee or any administrative fee, the court shall 896
issue a ruling to that effect. If the court issues such a ruling 897
and payment in full is not made to the toll project operator upon 898
completion of the appeal hearing, the toll project operator shall 899
inform the registrar of motor vehicles of the ruling and the 900
failure by the registered owner to make payment in full. In that 901
circumstance, the stay of the motor vehicle certificate of 902
registration issuance prevention order described in division 903
(C)(1) of this section terminates and the order becomes effective. 904
In addition, if the registered owner fails to pay in full the user 905
fee and any administrative fee within thirty-five days after the 906
date the court issues the ruling, the toll project operator may 907
file a civil suit against the registered owner in the municipal 908
court or county court having jurisdiction over the location of the 909
toll project as provided in section 5531.146 of the Revised Code. 910

If, upon completion of the appeal hearing, the registered 911
owner makes payment in full to the toll project operator of all 912

user fees and administrative fees that the court ruled the 913
registered owner was liable for payment, the toll project operator 914
shall inform the registrar of motor vehicles of the ruling and the 915
payment in full by the registered owner and direct the registrar 916
to cancel the motor vehicle certificate of registration issuance 917
prevention order. 918

(D) If the registered owner fails to pay an invoice and any 919
administrative fee and fails to submit a notice to contest 920
liability for any of those fees within thirty-five days after the 921
date of mailing of the invoice, the toll project operator may send 922
a late notice to the registered owner as provided in division (C) 923
of section 5531.142 of the Revised Code. If, in response to the 924
late notice, the registered owner submits a notice to contest 925
liability for the user fee and any administrative fee within 926
thirty-five days after the date of mailing of the late notice, the 927
toll project operator shall schedule and hold a hearing as 928
described in division (B)(1) of this section. Divisions (B)(2), 929
(3), and (4) and (C)(1) and (2) of this section apply to such a 930
hearing. 931

Sec. 5531.145. (A) If the toll project operator sends a late 932
notice to the registered owner and the registered owner, within 933
thirty-five days after the date of mailing of the late notice, 934
fails to pay the user fee and any administrative fee contained in 935
the late notice and fails to submit a notice to contest liability 936
for any of those fees, the toll project operator may do either of 937
the following: 938

(1) Issue a motor vehicle certificate of registration 939
issuance prevention order to the registrar of motor vehicles and 940
send a copy of the order to the registered owner. If the 941
registered owner resides in another state or jurisdiction, the 942
toll project operator shall send the order to the department, 943

division, bureau, office, or other unit of government that is 944
functionally equivalent to the bureau of motor vehicles. The order 945
shall have the same effect in another state or jurisdiction as in 946
this state. 947

(2) File a civil suit against the registered owner in the 948
municipal court or county court having jurisdiction over the 949
location of the toll project as provided in section 5531.146 of 950
the Revised Code. 951

(B) If the toll project operator sends a motor vehicle 952
certificate of registration issuance prevention order to the 953
registrar under division (A)(1) of this section, the registered 954
owner may file a request for a hearing in the municipal court or 955
county having jurisdiction over the location of the toll project 956
within thirty-five days after the date the toll project operator 957
sends the order to the registrar. The order shall remain in effect 958
pending the results of the hearing in the municipal court or 959
county court. If the registered owner fails to file an appeal with 960
the municipal court or county court within that thirty-five-day 961
period, the registered owner is considered to have waived the 962
registered owner's right to appeal the issuance of the motor 963
vehicle certificate of registration issuance prevention order. The 964
toll project operator may file a civil suit against the registered 965
owner in the municipal court or county court having jurisdiction 966
over the location of the toll project as provided in section 967
5531.146 of the Revised Code. 968

(C)(1) If an appeal hearing is requested under division (B) 969
of this section, the municipal court or county court shall 970
determine whether the registered owner is liable for the payment 971
of any user fee or administrative fee and whether the issuance by 972
the toll project operator of the motor vehicle certificate of 973
registration issuance prevention order was valid. If the court 974
finds that the registered owner is not liable for payment of the 975

user fee or administrative fee, the court shall issue a ruling to 976
that effect and dismiss the late notice. The toll project operator 977
immediately shall inform the registrar of the ruling and shall 978
direct the registrar to cancel the motor vehicle certificate of 979
registration issuance prevention order issued under division 980
(A)(1) of this section. 981

(2) If the court finds that the registered owner is liable 982
for payment of the user fee or any administrative fee and that the 983
issuance by the toll project operator of the motor vehicle 984
certificate of registration issuance prevention order was valid, 985
the court shall issue a ruling to that effect. If the court issues 986
such a ruling and payment in full is not made to the toll project 987
operator upon completion of the appeal hearing, the toll project 988
operator shall inform the registrar of motor vehicles of the 989
ruling and the failure by the registered owner to make payment in 990
full, and the motor vehicle certificate of registration issuance 991
prevention order issued under division (A)(1) of this section 992
remains in effect. 993

(3) If the court finds that the registered owner is liable 994
for payment of the user fee or any administrative fee but the 995
issuance by the toll project operator of the motor vehicle 996
certificate of registration issuance prevention order was not 997
valid, the court shall issue a ruling to that effect. If the court 998
issues such a ruling, the toll project operator shall inform the 999
registrar of the ruling and direct the registrar to cancel the 1000
motor vehicle certificate of registration issuance prevention 1001
order. The registered owner remains liable for payment of the user 1002
fee or any administrative fee. The toll project operator may 1003
reissue the motor vehicle certificate of registration issuance 1004
prevention order. If the toll project operator reissues the order, 1005
the registered owner may appeal the order as provided in division 1006
(B) of this section. 1007

(4) If, upon completion of the appeal hearing, the registered owner pays in full to the toll project operator all user fees and administrative fees for which the court ruled the registered owner was liable, the toll project operator shall inform the registrar of the ruling and the payment in full by the registered owner. The toll project operator also shall direct the registrar to cancel the motor vehicle certificate of registration issuance prevention order. 1008
1009
1010
1011
1012
1013
1014
1015

(5) If the court rules under division (C)(2) or (3) of this section that the registered owner is liable for payment of the user fee or any administrative fee, and the registered owner does not pay all such fees within thirty-five days after the court issues the ruling, the toll project operator may file a civil suit against the registered owner in the municipal court or county court having jurisdiction over the location of the toll project as provided in section 5531.146 of the Revised Code. 1016
1017
1018
1019
1020
1021
1022
1023

(D) At any time after a toll project operator issues an order under division (A)(1) of this section, the registered owner may pay all user fees and administrative fees owed to the toll project operator. If such payment is made, the toll project operator shall inform the registrar of the payment and shall direct the registrar to cancel the motor vehicle certificate of registration prevention order. 1024
1025
1026
1027
1028
1029
1030

Sec. 5531.146. (A)(1) As provided in sections 5531.144 and 5531.145 of the Revised Code, a toll project operator may file a civil suit against a registered owner in the municipal court or county court having jurisdiction over the location of the toll project. The toll project operator also shall file all related documentation and information described in section 5531.143 of the Revised Code with the clerk of the municipal court or county court. 1031
1032
1033
1034
1035
1036
1037
1038

Except as otherwise provided in division (A)(2) of this 1039
section, the toll project operator shall not file such a suit 1040
earlier than thirty-five days after the date of mailing of a late 1041
notice to the registered owner. 1042

(2) In a circumstance in which a registered owner is liable 1043
for multiple user fees and any associated administrative fees 1044
involving one or more motor vehicles, the toll project operator 1045
may file a civil suit addressing all such user fees and 1046
administrative fees; provided, no such suit shall include fees 1047
incurred more than one hundred twenty-five days prior to the date 1048
of filing of such suit. 1049

(3) The clerk of the municipal court or county court shall 1050
execute a summons regarding a suit filed under division (A)(1) of 1051
this section by sending a copy of the summons in accordance with 1052
the rules of civil procedure to the address of the registered 1053
owner of the vehicle as shown in the records of the bureau of 1054
motor vehicles, as identified and provided by a motor vehicle 1055
leasing dealer or motor vehicle renting dealer, or as shown in the 1056
records of the department, division, bureau, office, or other unit 1057
of government of any other state or jurisdiction that is 1058
functionally equivalent to the bureau of motor vehicles. The 1059
issuance of such a summons constitutes sufficient notice to the 1060
registered owner. 1061

The summons shall compel the appearance of the registered 1062
owner to appear in the municipal court or county court, and shall 1063
include notice of the time and place of the trial as well as the 1064
potential civil penalty and any associated costs. The summons also 1065
shall include a statement that the registered owner's motor 1066
vehicle utilized a toll project and therefore the registered owner 1067
incurred liability for payment of the applicable user fee as 1068
provided in division (A) of section 5531.144 of the Revised Code 1069
and also shall list the Revised Code citation for that section. 1070

The summons constitutes sufficient notice to the registered owner 1071
that the vehicle was used on a toll project and, as a result, the 1072
registered owner is liable for payment of the user fee. 1073

(B) Proof that a motor vehicle utilized a toll project and 1074
therefore the registered owner of the motor vehicle is liable for 1075
payment of the applicable user fee shall be evidenced by either or 1076
both of the following: 1077

(1) Information and documentation obtained from an 1078
electronic-monitoring system or electronic toll collection system; 1079

(2) A certificate confirming the identification of the 1080
vehicle issued by a toll project operator that is based on an 1081
inspection of photographs, microphotographs, videotapes, other 1082
recorded images or identifying data produced by an 1083
electronic-monitoring system, or through electronic data collected 1084
by an electronic toll collection system. 1085

The certificate and the documentation attached thereto are 1086
prima facie evidence of the facts contained therein. The court 1087
shall ensure that the certificate and any photographs, 1088
microphotographs, videotapes, or other recorded images or 1089
electronic data evidencing liability for payment of the applicable 1090
user fee are available for inspection in any proceeding to 1091
adjudicate the liability for payment of the user fee. 1092

(C)(1) A registered owner is not liable for a user fee and it 1093
is a complete defense to a cause of action asserting such 1094
liability if within thirty-five days after the mailing of the 1095
invoice, late notice, or a summons, the registered owner of the 1096
motor vehicle produces for the toll project operator or the court 1097
a certified copy of a report of a law enforcement agency showing 1098
both of the following: 1099

(a) The motor vehicle had been reported stolen prior to the 1100
time that the motor vehicle utilized the toll project. 1101

(b) The motor vehicle had remained stolen at the time of the 1102
alleged violation. 1103

(2) The court shall dismiss the case against a registered 1104
owner when divisions (C)(1)(a) and (b) apply. 1105

(D) The toll project operator may offer to the registered 1106
owner the option to pay the unpaid user fee and any administrative 1107
fee, as specified in the summons, plus a reduced civil penalty, 1108
provided that the registered owner actually pays to the toll 1109
project operator the entire amount so calculated not less than 1110
fourteen days prior to the scheduled trial date. The toll project 1111
operator shall establish a schedule for reduced civil penalties 1112
that are offered to registered owners pursuant to this division, 1113
and the toll project operator shall adhere to the schedule when 1114
making such offers. The toll project operator may revise the 1115
schedule from time to time as the toll project operator determines 1116
necessary. 1117

If the registered owner accepts the offer and the toll 1118
project operator receives the entire amount not less than fourteen 1119
days prior to the scheduled trial date, the toll project operator 1120
shall move the court, not less than five business days prior to 1121
the trial date, to dismiss the summons issued to the registered 1122
owner. Upon such a motion, the court shall dismiss the summons and 1123
dismiss the case. 1124

(E)(1) Upon a finding by the municipal court or county court 1125
that the registered owner is liable for payment of the user fee as 1126
provided in division (A) of section 5531.144 of the Revised Code, 1127
the court shall order the registered owner to pay all applicable 1128
court costs, user fees due, and administrative fees. The court 1129
also shall impose a civil penalty upon the registered owner, as 1130
follows: 1131

(a) For a first instance, as shown in the records of the toll 1132

project operator, in which the registered owner was liable for 1133
payment of a user fee and the registered owner did not pay the 1134
user fee and did not submit a timely notice to contest the user 1135
fee and the toll project operator sent both an invoice and a late 1136
notice to the registered owner, seventy-five dollars; 1137

(b) For a second instance as described in division (E)(1)(a) 1138
of this section within one year of a first such instance, one 1139
hundred fifty dollars; 1140

(c) For a third instance as described in division (E)(1)(a) 1141
of this section within two years of a second such instance, two 1142
hundred fifty dollars; 1143

(d) For a fourth or subsequent instance as described in 1144
division (E)(1)(a) of this section within three years of a third 1145
such instance, five hundred dollars. 1146

(2) The clerk of the municipal court or county court shall 1147
pay all user fees, administrative fees, and penalties the court 1148
assesses and collects under this section to the department of 1149
transportation for deposit into the state treasury to the credit 1150
of the highway operating fund or for payment by the department in 1151
accordance with a public-private agreement pursuant to sections 1152
5501.70 to 5501.83 of the Revised Code. 1153

(F)(1) Upon a finding by a court that the registered owner is 1154
liable for payment of a user fee as provided in division (A) of 1155
section 5531.144 of the Revised Code, the court shall issue a 1156
motor vehicle certificate of registration issuance prevention 1157
order. The order shall remain in effect until the court has 1158
notified the registrar that all unpaid user fees, administrative 1159
fees, and civil penalties have been paid in full and the court has 1160
issued a new order rescinding its previous order. The registrar 1161
and all deputy registrars shall comply with the order. 1162

(2) If the registered owner resides in another state or 1163

jurisdiction, the court shall issue a motor vehicle certificate of 1164
registration issuance prevention order and send a copy of the 1165
order to the department, division, bureau, office, or other unit 1166
of government of another state or jurisdiction that is 1167
functionally equivalent to the bureau of motor vehicles for 1168
enforcement in that other state or jurisdiction. The order shall 1169
have the same effect in another state or jurisdiction as in this 1170
state. 1171

(G)(1) A civil penalty imposed pursuant to this section shall 1172
not be made part of the driving record of the person upon whom 1173
such civil penalty is imposed, nor shall it be considered in any 1174
manner for insurance purposes in the provision of motor vehicle 1175
insurance coverage. 1176

(2) No person shall be subject to both this section and to 1177
criminal prosecution under any provision of the Revised Code or 1178
any rule adopted thereunder for nonpayment of user fees or related 1179
administrative fees. 1180

Sec. 5531.147. A toll project operator shall not initiate 1181
collection procedures that are regulated by federal law against a 1182
registered owner in any of the following circumstances: 1183

(A) During the thirty-five-day period after the date of 1184
mailing of an invoice or a late notice to the registered owner; 1185

(B) The registered owner has timely submitted a notice to 1186
contest liability for a user fee or any administrative fee to the 1187
toll project operator. The toll project operator may initiate 1188
collection procedures that are regulated by federal law against 1189
such a registered owner if, at the hearing conducted by the 1190
hearing officer described in section 5533.144 of the Revised Code, 1191
the hearing officer finds that the registered owner is liable for 1192
payment of the user fee or administrative fee at issue and the 1193
registered owner does not pay the fee at issue in full within 1194

thirty-five days after the hearing officer makes the finding. 1195

(C) The registered owner has filed a request for an appeal 1196
hearing with the municipal court or county court having 1197
jurisdiction over the location of the toll project. The toll 1198
project operator may initiate collection procedures that are 1199
regulated by federal law against such a registered owner if, at 1200
the appeal hearing conducted by the municipal court or county 1201
court described in section 5533.144 of the Revised Code, the court 1202
finds that the registered owner is liable for payment of the user 1203
fee or administrative fee at issue and the registered owner does 1204
not pay the fee at issue in full within thirty-five days after the 1205
court issues a ruling to that effect. 1206

(D) The toll project operator has filed a civil suit against 1207
the registered owner in the municipal court or county court having 1208
jurisdiction over the location of the toll project. 1209

Sec. 5531.148. (A) A toll project operator may enter into an 1210
agreement with the bureau of motor vehicles and the department, 1211
division, bureau, office, or other unit of government of any other 1212
state or jurisdiction that is functionally equivalent to the 1213
bureau of motor vehicles to obtain motor vehicle owner and 1214
registration information that is necessary to conduct electronic 1215
toll collection and electronic monitoring. 1216

(B)(1) A toll project operator shall ensure that information 1217
collected by an electronic toll collection device, an 1218
electronic-monitoring system in conjunction with an electronic 1219
toll collection system, or under division (A) of this section is 1220
limited solely to that information that is necessary for the 1221
collection of unpaid user fees and administrative fees; necessary 1222
to establish liability of the registered owner of a motor vehicle 1223
for payment of a user fee as provided in division (A) of section 1224
5531.144 of the Revised Code; or necessary in any proceeding to 1225

establish or confirm such liability. 1226

(2) A toll project operator shall ensure that all images or other data collected by an electronic toll collection device, an electronic-monitoring system, or under division (A) of this section are: 1227
1228
1229
1230

(a) Maintained in a protected database with security that is at least comparable to the security used for databases operated by the department of transportation; 1231
1232
1233

(b) Used solely for the collection of unpaid user fees and administrative fees. 1234
1235

(3) All of the following apply to the images and other data described in division (B)(2) of this section: 1236
1237

(a) The images and other data are not public records under section 149.43 of the Revised Code. 1238
1239

(b) A toll project operator or any other person shall not sell or use the images and data for sales, solicitation, or marketing purposes. Division (B)(3)(b) of this section does not prohibit the department of transportation or the toll project operator from using the images and data to facilitate collection or payment of user fees and administrative fees. 1240
1241
1242
1243
1244
1245

(c) A toll project operator or any other person shall not disclose the images and data to any other entity except to a registered owner who contests liability for and challenges the imposition of a user fee or administrative fee; or except as may be necessary for the collection of unpaid user fees or administrative fees. 1246
1247
1248
1249
1250
1251

(d) The images and data shall not be used in any court in a pending action or proceeding except upon an order from a court of competent jurisdiction or unless the action or proceeding relates to the liability of the registered owner of a motor vehicle for 1252
1253
1254
1255

payment of a user fee as provided in division (A) of section 1256
5531.144 of the Revised Code. 1257

(4)(a) Except as otherwise provided in this section, a toll 1258
project operator shall not retain any images or other data 1259
collected by an electronic toll collection device, an 1260
electronic-monitoring system, or under division (A) of this 1261
section and shall purge, write over, or otherwise eliminate, from 1262
existence the images or other data not later than one hundred 1263
eighty days after the collection of any unpaid user fees or 1264
administrative fees. Upon request from the director of 1265
transportation, any entity operating an electronic toll collection 1266
system or electronic-monitoring system in conjunction with an 1267
electronic toll collection system shall certify compliance with 1268
this section and, upon request, shall make all records pertaining 1269
to such system available for inspection and audit by the director 1270
or the director's designee. 1271

(b) No entity operating an electronic toll collection system 1272
or electronic-monitoring system in conjunction with an electronic 1273
toll collection system shall fail to certify compliance with this 1274
section or fail, upon request, to make all records pertaining to 1275
such system available for inspection and audit by the director or 1276
the director's designee. 1277

(5) Whoever violates division (B)(4)(b) of this section is 1278
guilty of a minor misdemeanor on a first offense and a misdemeanor 1279
of the fourth degree on each subsequent offense. 1280

Sec. 5531.149. (A) A toll project operator shall compensate 1281
the bureau of motor vehicles for its actions in enforcing sections 1282
5531.11 to 5531.18 of the Revised Code with respect to the 1283
registered owner of a motor vehicle that is titled or registered 1284
in this state. The toll project operator shall provide such 1285
compensation by collecting and paying to the bureau, on a monthly 1286

basis, an administrative fee of five dollars for each certificate 1287
of registration issuance prevention order sent to and processed by 1288
the bureau under sections 5531.11 to 5531.18 of the Revised Code. 1289
The bureau shall deposit all money it collects under this division 1290
in the state treasury to the credit of the state bureau of motor 1291
vehicles fund created in section 4501.25 of the Revised Code. 1292

(B) The director of transportation may enter into an 1293
agreement with the department, division, bureau, office, or other 1294
unit of government of any other state or jurisdiction that is 1295
functionally equivalent to the department of transportation or the 1296
bureau of motor vehicles for the purpose of enforcing sections 1297
5531.11 to 5531.18 of the Revised Code with respect to the 1298
registered owner of a motor vehicle that is titled or registered 1299
in such other state or jurisdiction and utilizes a toll project. 1300
The agreement may provide for the denial in such other state or 1301
jurisdiction of the issuance of a new or renewal motor vehicle 1302
certificate of registration in the name of that person and the 1303
denial of any motor vehicle certificate of registration for the 1304
motor vehicle that utilized a toll project for which the required 1305
user fee or associated administrative fee was not paid by the 1306
registered owner. 1307

Sec. 5531.15. (A) The director of transportation, in 1308
accordance with Chapter 119. of the Revised Code, may adopt such 1309
rules as the director considers advisable for the control and 1310
regulation of traffic on any toll project, for the protection and 1311
preservation of property under the jurisdiction and control of the 1312
department of transportation, for the maintenance and preservation 1313
of good order within the property under its control, and for the 1314
purpose of establishing owner or operator liability for failure to 1315
comply with toll collection rules. 1316

(B) The rules shall provide that ~~public police officers~~ all 1317

of the following persons shall be afforded ready access, while in 1318
the performance of their official duties, to all property under 1319
the jurisdiction of the department of transportation and without 1320
the payment of ~~tolls~~ any user fee: 1321

(1) Public police officers; 1322

(2) Operators of municipal, township, county, and state 1323
maintenance vehicles; 1324

(3) Operators of United States military vehicles traveling in 1325
a convoy; 1326

(4) Operators of official emergency response vehicles. 1327

(C) No person shall violate any such rules of the department 1328
of transportation. 1329

(D)(1) All fines collected for the violation of applicable 1330
laws of the state and the rules of the department of 1331
transportation or money arising from bonds forfeited for such 1332
violation shall be disposed of in accordance with section 5503.04 1333
of the Revised Code. 1334

(2) All fees or charges assessed by the department of 1335
transportation in accordance with this section against an owner or 1336
operator of a vehicle as a civil violation for failure to comply 1337
with toll collection rules shall be revenues of the department. 1338

Sec. 5531.16. (A) Each toll project shall be maintained and 1339
kept in good condition and repair by the department of 1340
transportation or in accordance with the terms of a public-private 1341
agreement pursuant to sections 5501.70 to 5501.83 of the Revised 1342
Code. Toll projects shall be operated by toll collectors and other 1343
employees and agents that the department employs or contracts for. 1344
Toll projects shall be policed by the state highway patrol in 1345
accordance with section 5503.02 of the Revised Code; provided, 1346
that the state highway patrol also shall enforce all rules of the 1347

department adopted under division (A) of section 5531.15 of the 1348
Revised Code that relate to the operation and use of vehicles on a 1349
toll project and that are punishable under division (A) of section 1350
5531.99 of the Revised Code. 1351

(B) An action for damages against the state for any public or 1352
private property damaged or destroyed in carrying out the powers 1353
granted by sections 5531.11 to 5531.18 of the Revised Code shall 1354
be filed in the court of claims pursuant to Chapter 2743. of the 1355
Revised Code. 1356

(C) All governmental agencies may lease, lend, grant, or 1357
convey to the department of transportation at its request, upon 1358
terms that the proper authorities of the governmental agencies 1359
consider reasonable and fair and without the necessity for an 1360
advertisement, order of court, or other action or formality, other 1361
than the regular and formal action of the authorities concerned, 1362
any property that is necessary or convenient to the effectuation 1363
of the purposes of sections 5531.11 to 5531.18 of the Revised 1364
Code, including public roads and other property already devoted to 1365
public use. 1366

(D) Each bridge constituting part of a toll project shall be 1367
considered a bridge on the state highway system for purposes of 1368
sections 5501.47 and 5501.49 of the Revised Code. 1369

(E) In accordance with Chapter 5501. of the Revised Code, the 1370
department of transportation shall make an annual report of its 1371
toll project activities for the preceding calendar year to the 1372
governor and the general assembly. 1373

Sec. 5739.02. For the purpose of providing revenue with which 1374
to meet the needs of the state, for the use of the general revenue 1375
fund of the state, for the purpose of securing a thorough and 1376
efficient system of common schools throughout the state, for the 1377

purpose of affording revenues, in addition to those from general 1378
property taxes, permitted under constitutional limitations, and 1379
from other sources, for the support of local governmental 1380
functions, and for the purpose of reimbursing the state for the 1381
expense of administering this chapter, an excise tax is hereby 1382
levied on each retail sale made in this state. 1383

(A)(1) The tax shall be collected as provided in section 1384
5739.025 of the Revised Code. The rate of the tax shall be five 1385
and three-fourths per cent. The tax applies and is collectible 1386
when the sale is made, regardless of the time when the price is 1387
paid or delivered. 1388

(2) In the case of the lease or rental, with a fixed term of 1389
more than thirty days or an indefinite term with a minimum period 1390
of more than thirty days, of any motor vehicles designed by the 1391
manufacturer to carry a load of not more than one ton, watercraft, 1392
outboard motor, or aircraft, or of any tangible personal property, 1393
other than motor vehicles designed by the manufacturer to carry a 1394
load of more than one ton, to be used by the lessee or renter 1395
primarily for business purposes, the tax shall be collected by the 1396
vendor at the time the lease or rental is consummated and shall be 1397
calculated by the vendor on the basis of the total amount to be 1398
paid by the lessee or renter under the lease agreement. If the 1399
total amount of the consideration for the lease or rental includes 1400
amounts that are not calculated at the time the lease or rental is 1401
executed, the tax shall be calculated and collected by the vendor 1402
at the time such amounts are billed to the lessee or renter. In 1403
the case of an open-end lease or rental, the tax shall be 1404
calculated by the vendor on the basis of the total amount to be 1405
paid during the initial fixed term of the lease or rental, and for 1406
each subsequent renewal period as it comes due. As used in this 1407
division, "motor vehicle" has the same meaning as in section 1408
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1409

unit attached to the watercraft. 1410

A lease with a renewal clause and a termination penalty or 1411
similar provision that applies if the renewal clause is not 1412
exercised is presumed to be a sham transaction. In such a case, 1413
the tax shall be calculated and paid on the basis of the entire 1414
length of the lease period, including any renewal periods, until 1415
the termination penalty or similar provision no longer applies. 1416
The taxpayer shall bear the burden, by a preponderance of the 1417
evidence, that the transaction or series of transactions is not a 1418
sham transaction. 1419

(3) Except as provided in division (A)(2) of this section, in 1420
the case of a sale, the price of which consists in whole or in 1421
part of the lease or rental of tangible personal property, the tax 1422
shall be measured by the installments of that lease or rental. 1423

(4) In the case of a sale of a physical fitness facility 1424
service or recreation and sports club service, the price of which 1425
consists in whole or in part of a membership for the receipt of 1426
the benefit of the service, the tax applicable to the sale shall 1427
be measured by the installments thereof. 1428

(B) The tax does not apply to the following: 1429

(1) Sales to the state or any of its political subdivisions, 1430
or to any other state or its political subdivisions if the laws of 1431
that state exempt from taxation sales made to this state and its 1432
political subdivisions; 1433

(2) Sales of food for human consumption off the premises 1434
where sold; 1435

(3) Sales of food sold to students only in a cafeteria, 1436
dormitory, fraternity, or sorority maintained in a private, 1437
public, or parochial school, college, or university; 1438

(4) Sales of newspapers and sales or transfers of magazines 1439

distributed as controlled circulation publications;	1440
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	1441 1442 1443 1444
(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	1445 1446 1447 1448 1449 1450 1451 1452 1453 1454
(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;	1455 1456 1457 1458 1459 1460
(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;	1461 1462 1463 1464 1465 1466 1467
(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section	1468 1469 1470

501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1471
organizations operated exclusively for charitable purposes as 1472
defined in division (B)(12) of this section, provided that the 1473
number of days on which such tangible personal property or 1474
services, other than items never subject to the tax, are sold does 1475
not exceed six in any calendar year, except as otherwise provided 1476
in division (B)(9)(b) of this section. If the number of days on 1477
which such sales are made exceeds six in any calendar year, the 1478
church or organization shall be considered to be engaged in 1479
business and all subsequent sales by it shall be subject to the 1480
tax. In counting the number of days, all sales by groups within a 1481
church or within an organization shall be considered to be sales 1482
of that church or organization. 1483

(b) The limitation on the number of days on which tax-exempt 1484
sales may be made by a church or organization under division 1485
(B)(9)(a) of this section does not apply to sales made by student 1486
clubs and other groups of students of a primary or secondary 1487
school, or a parent-teacher association, booster group, or similar 1488
organization that raises money to support or fund curricular or 1489
extracurricular activities of a primary or secondary school. 1490

(c) Divisions (B)(9)(a) and (b) of this section do not apply 1491
to sales by a noncommercial educational radio or television 1492
broadcasting station. 1493

(10) Sales not within the taxing power of this state under 1494
the Constitution or laws of the United States or the Constitution 1495
of this state; 1496

(11) Except for transactions that are sales under division 1497
(B)(3)(r) of section 5739.01 of the Revised Code, the 1498
transportation of persons or property, unless the transportation 1499
is by a private investigation and security service; 1500

(12) Sales of tangible personal property or services to 1501

churches, to organizations exempt from taxation under section 1502
501(c)(3) of the Internal Revenue Code of 1986, and to any other 1503
nonprofit organizations operated exclusively for charitable 1504
purposes in this state, no part of the net income of which inures 1505
to the benefit of any private shareholder or individual, and no 1506
substantial part of the activities of which consists of carrying 1507
on propaganda or otherwise attempting to influence legislation; 1508
sales to offices administering one or more homes for the aged or 1509
one or more hospital facilities exempt under section 140.08 of the 1510
Revised Code; and sales to organizations described in division (D) 1511
of section 5709.12 of the Revised Code. 1512

"Charitable purposes" means the relief of poverty; the 1513
improvement of health through the alleviation of illness, disease, 1514
or injury; the operation of an organization exclusively for the 1515
provision of professional, laundry, printing, and purchasing 1516
services to hospitals or charitable institutions; the operation of 1517
a home for the aged, as defined in section 5701.13 of the Revised 1518
Code; the operation of a radio or television broadcasting station 1519
that is licensed by the federal communications commission as a 1520
noncommercial educational radio or television station; the 1521
operation of a nonprofit animal adoption service or a county 1522
humane society; the promotion of education by an institution of 1523
learning that maintains a faculty of qualified instructors, 1524
teaches regular continuous courses of study, and confers a 1525
recognized diploma upon completion of a specific curriculum; the 1526
operation of a parent-teacher association, booster group, or 1527
similar organization primarily engaged in the promotion and 1528
support of the curricular or extracurricular activities of a 1529
primary or secondary school; the operation of a community or area 1530
center in which presentations in music, dramatics, the arts, and 1531
related fields are made in order to foster public interest and 1532
education therein; the production of performances in music, 1533
dramatics, and the arts; or the promotion of education by an 1534

organization engaged in carrying on research in, or the 1535
dissemination of, scientific and technological knowledge and 1536
information primarily for the public. 1537

Nothing in this division shall be deemed to exempt sales to 1538
any organization for use in the operation or carrying on of a 1539
trade or business, or sales to a home for the aged for use in the 1540
operation of independent living facilities as defined in division 1541
(A) of section 5709.12 of the Revised Code. 1542

(13) Building and construction materials and services sold to 1543
construction contractors for incorporation into a structure or 1544
improvement to real property under a construction contract with 1545
this state or a political subdivision of this state, or with the 1546
United States government or any of its agencies; building and 1547
construction materials and services sold to construction 1548
contractors for incorporation into a structure or improvement to 1549
real property that are accepted for ownership by this state or any 1550
of its political subdivisions, or by the United States government 1551
or any of its agencies at the time of completion of the structures 1552
or improvements; building and construction materials sold to 1553
construction contractors for incorporation into a horticulture 1554
structure or livestock structure for a person engaged in the 1555
business of horticulture or producing livestock; building 1556
materials and services sold to a construction contractor for 1557
incorporation into a house of public worship or religious 1558
education, or a building used exclusively for charitable purposes 1559
under a construction contract with an organization whose purpose 1560
is as described in division (B)(12) of this section; building 1561
materials and services sold to a construction contractor for 1562
incorporation into a building under a construction contract with 1563
an organization exempt from taxation under section 501(c)(3) of 1564
the Internal Revenue Code of 1986 when the building is to be used 1565
exclusively for the organization's exempt purposes; building and 1566

construction materials sold for incorporation into the original 1567
construction of a sports facility under section 307.696 of the 1568
Revised Code; building and construction materials and services 1569
sold to a construction contractor for incorporation into real 1570
property outside this state if such materials and services, when 1571
sold to a construction contractor in the state in which the real 1572
property is located for incorporation into real property in that 1573
state, would be exempt from a tax on sales levied by that state; 1574
building and construction materials for incorporation into a 1575
transportation facility pursuant to a public-private agreement 1576
entered into under sections 5501.70 to 5501.83 of the Revised 1577
Code; and, until one calendar year after the construction of a 1578
convention center that qualifies for property tax exemption under 1579
section 5709.084 of the Revised Code is completed, building and 1580
construction materials and services sold to a construction 1581
contractor for incorporation into the real property comprising 1582
that convention center; 1583

(14) Sales of ships or vessels or rail rolling stock used or 1584
to be used principally in interstate or foreign commerce, and 1585
repairs, alterations, fuel, and lubricants for such ships or 1586
vessels or rail rolling stock; 1587

(15) Sales to persons primarily engaged in any of the 1588
activities mentioned in division (B)(42)(a), (g), or (h) of this 1589
section, to persons engaged in making retail sales, or to persons 1590
who purchase for sale from a manufacturer tangible personal 1591
property that was produced by the manufacturer in accordance with 1592
specific designs provided by the purchaser, of packages, including 1593
material, labels, and parts for packages, and of machinery, 1594
equipment, and material for use primarily in packaging tangible 1595
personal property produced for sale, including any machinery, 1596
equipment, and supplies used to make labels or packages, to 1597
prepare packages or products for labeling, or to label packages or 1598

products, by or on the order of the person doing the packaging, or 1599
sold at retail. "Packages" includes bags, baskets, cartons, 1600
crates, boxes, cans, bottles, bindings, wrappings, and other 1601
similar devices and containers, but does not include motor 1602
vehicles or bulk tanks, trailers, or similar devices attached to 1603
motor vehicles. "Packaging" means placing in a package. Division 1604
(B)(15) of this section does not apply to persons engaged in 1605
highway transportation for hire. 1606

(16) Sales of food to persons using supplemental nutrition 1607
assistance program benefits to purchase the food. As used in this 1608
division, "food" has the same meaning as in 7 U.S.C. 2012 and 1609
federal regulations adopted pursuant to the Food and Nutrition Act 1610
of 2008. 1611

(17) Sales to persons engaged in farming, agriculture, 1612
horticulture, or floriculture, of tangible personal property for 1613
use or consumption primarily in the production by farming, 1614
agriculture, horticulture, or floriculture of other tangible 1615
personal property for use or consumption primarily in the 1616
production of tangible personal property for sale by farming, 1617
agriculture, horticulture, or floriculture; or material and parts 1618
for incorporation into any such tangible personal property for use 1619
or consumption in production; and of tangible personal property 1620
for such use or consumption in the conditioning or holding of 1621
products produced by and for such use, consumption, or sale by 1622
persons engaged in farming, agriculture, horticulture, or 1623
floriculture, except where such property is incorporated into real 1624
property; 1625

(18) Sales of drugs for a human being that may be dispensed 1626
only pursuant to a prescription; insulin as recognized in the 1627
official United States pharmacopoeia; urine and blood testing 1628
materials when used by diabetics or persons with hypoglycemia to 1629
test for glucose or acetone; hypodermic syringes and needles when 1630

used by diabetics for insulin injections; epoetin alfa when 1631
purchased for use in the treatment of persons with medical 1632
disease; hospital beds when purchased by hospitals, nursing homes, 1633
or other medical facilities; and medical oxygen and medical 1634
oxygen-dispensing equipment when purchased by hospitals, nursing 1635
homes, or other medical facilities; 1636

(19) Sales of prosthetic devices, durable medical equipment 1637
for home use, or mobility enhancing equipment, when made pursuant 1638
to a prescription and when such devices or equipment are for use 1639
by a human being. 1640

(20) Sales of emergency and fire protection vehicles and 1641
equipment to nonprofit organizations for use solely in providing 1642
fire protection and emergency services, including trauma care and 1643
emergency medical services, for political subdivisions of the 1644
state; 1645

(21) Sales of tangible personal property manufactured in this 1646
state, if sold by the manufacturer in this state to a retailer for 1647
use in the retail business of the retailer outside of this state 1648
and if possession is taken from the manufacturer by the purchaser 1649
within this state for the sole purpose of immediately removing the 1650
same from this state in a vehicle owned by the purchaser; 1651

(22) Sales of services provided by the state or any of its 1652
political subdivisions, agencies, instrumentalities, institutions, 1653
or authorities, or by governmental entities of the state or any of 1654
its political subdivisions, agencies, instrumentalities, 1655
institutions, or authorities; 1656

(23) Sales of motor vehicles to nonresidents of this state 1657
under the circumstances described in division (B) of section 1658
5739.029 of the Revised Code; 1659

(24) Sales to persons engaged in the preparation of eggs for 1660
sale of tangible personal property used or consumed directly in 1661

such preparation, including such tangible personal property used 1662
for cleaning, sanitizing, preserving, grading, sorting, and 1663
classifying by size; packages, including material and parts for 1664
packages, and machinery, equipment, and material for use in 1665
packaging eggs for sale; and handling and transportation equipment 1666
and parts therefor, except motor vehicles licensed to operate on 1667
public highways, used in intraplant or interplant transfers or 1668
shipment of eggs in the process of preparation for sale, when the 1669
plant or plants within or between which such transfers or 1670
shipments occur are operated by the same person. "Packages" 1671
includes containers, cases, baskets, flats, fillers, filler flats, 1672
cartons, closure materials, labels, and labeling materials, and 1673
"packaging" means placing therein. 1674

(25)(a) Sales of water to a consumer for residential use; 1675

(b) Sales of water by a nonprofit corporation engaged 1676
exclusively in the treatment, distribution, and sale of water to 1677
consumers, if such water is delivered to consumers through pipes 1678
or tubing. 1679

(26) Fees charged for inspection or reinspection of motor 1680
vehicles under section 3704.14 of the Revised Code; 1681

(27) Sales to persons licensed to conduct a food service 1682
operation pursuant to section 3717.43 of the Revised Code, of 1683
tangible personal property primarily used directly for the 1684
following: 1685

(a) To prepare food for human consumption for sale; 1686

(b) To preserve food that has been or will be prepared for 1687
human consumption for sale by the food service operator, not 1688
including tangible personal property used to display food for 1689
selection by the consumer; 1690

(c) To clean tangible personal property used to prepare or 1691
serve food for human consumption for sale. 1692

(28) Sales of animals by nonprofit animal adoption services	1693
or county humane societies;	1694
(29) Sales of services to a corporation described in division	1695
(A) of section 5709.72 of the Revised Code, and sales of tangible	1696
personal property that qualifies for exemption from taxation under	1697
section 5709.72 of the Revised Code;	1698
(30) Sales and installation of agricultural land tile, as	1699
defined in division (B)(5)(a) of section 5739.01 of the Revised	1700
Code;	1701
(31) Sales and erection or installation of portable grain	1702
bins, as defined in division (B)(5)(b) of section 5739.01 of the	1703
Revised Code;	1704
(32) The sale, lease, repair, and maintenance of, parts for,	1705
or items attached to or incorporated in, motor vehicles that are	1706
primarily used for transporting tangible personal property	1707
belonging to others by a person engaged in highway transportation	1708
for hire, except for packages and packaging used for the	1709
transportation of tangible personal property;	1710
(33) Sales to the state headquarters of any veterans'	1711
organization in this state that is either incorporated and issued	1712
a charter by the congress of the United States or is recognized by	1713
the United States veterans administration, for use by the	1714
headquarters;	1715
(34) Sales to a telecommunications service vendor, mobile	1716
telecommunications service vendor, or satellite broadcasting	1717
service vendor of tangible personal property and services used	1718
directly and primarily in transmitting, receiving, switching, or	1719
recording any interactive, one- or two-way electromagnetic	1720
communications, including voice, image, data, and information,	1721
through the use of any medium, including, but not limited to,	1722
poles, wires, cables, switching equipment, computers, and record	1723

storage devices and media, and component parts for the tangible 1724
personal property. The exemption provided in this division shall 1725
be in lieu of all other exemptions under division (B)(42)(a) or 1726
(n) of this section to which the vendor may otherwise be entitled, 1727
based upon the use of the thing purchased in providing the 1728
telecommunications, mobile telecommunications, or satellite 1729
broadcasting service. 1730

(35)(a) Sales where the purpose of the consumer is to use or 1731
consume the things transferred in making retail sales and 1732
consisting of newspaper inserts, catalogues, coupons, flyers, gift 1733
certificates, or other advertising material that prices and 1734
describes tangible personal property offered for retail sale. 1735

(b) Sales to direct marketing vendors of preliminary 1736
materials such as photographs, artwork, and typesetting that will 1737
be used in printing advertising material; and of printed matter 1738
that offers free merchandise or chances to win sweepstake prizes 1739
and that is mailed to potential customers with advertising 1740
material described in division (B)(35)(a) of this section; 1741

(c) Sales of equipment such as telephones, computers, 1742
facsimile machines, and similar tangible personal property 1743
primarily used to accept orders for direct marketing retail sales. 1744

(d) Sales of automatic food vending machines that preserve 1745
food with a shelf life of forty-five days or less by refrigeration 1746
and dispense it to the consumer. 1747

For purposes of division (B)(35) of this section, "direct 1748
marketing" means the method of selling where consumers order 1749
tangible personal property by United States mail, delivery 1750
service, or telecommunication and the vendor delivers or ships the 1751
tangible personal property sold to the consumer from a warehouse, 1752
catalogue distribution center, or similar fulfillment facility by 1753
means of the United States mail, delivery service, or common 1754

carrier.	1755
(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;	1756 1757 1758
(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;	1759 1760 1761 1762 1763
(38) Sales to a professional racing team of any of the following:	1764 1765
(a) Motor racing vehicles;	1766
(b) Repair services for motor racing vehicles;	1767
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	1768 1769 1770 1771 1772 1773 1774 1775
(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	1776 1777 1778
(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	1779 1780 1781 1782 1783 1784

tangible personal property after incorporation; fuel or power used 1785
in the production, transmission, or distribution of electricity; 1786
energy conversion equipment as defined in section 5727.01 of the 1787
Revised Code; and tangible personal property and services used in 1788
the repair and maintenance of the production, transmission, or 1789
distribution system, including only those motor vehicles as are 1790
specially designed and equipped for such use. The exemption 1791
provided in this division shall be in lieu of all other exemptions 1792
in division (B)(42)(a) or (n) of this section to which a provider 1793
of electricity may otherwise be entitled based on the use of the 1794
tangible personal property or service purchased in generating, 1795
transmitting, or distributing electricity. 1796

(41) Sales to a person providing services under division 1797
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 1798
personal property and services used directly and primarily in 1799
providing taxable services under that section. 1800

(42) Sales where the purpose of the purchaser is to do any of 1801
the following: 1802

(a) To incorporate the thing transferred as a material or a 1803
part into tangible personal property to be produced for sale by 1804
manufacturing, assembling, processing, or refining; or to use or 1805
consume the thing transferred directly in producing tangible 1806
personal property for sale by mining, including, without 1807
limitation, the extraction from the earth of all substances that 1808
are classed geologically as minerals, production of crude oil and 1809
natural gas, or directly in the rendition of a public utility 1810
service, except that the sales tax levied by this section shall be 1811
collected upon all meals, drinks, and food for human consumption 1812
sold when transporting persons. Persons engaged in rendering 1813
services in the exploration for, and production of, crude oil and 1814
natural gas for others are deemed engaged directly in the 1815
exploration for, and production of, crude oil and natural gas. 1816

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.	1817 1818 1819
(b) To hold the thing transferred as security for the performance of an obligation of the vendor;	1820 1821
(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;	1822 1823
(d) To use or consume the thing directly in commercial fishing;	1824 1825
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	1826 1827 1828 1829
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	1830 1831 1832 1833 1834
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	1835 1836 1837
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	1838 1839 1840 1841 1842 1843
(i) To use the thing transferred as qualified research and development equipment;	1844 1845
(j) To use or consume the thing transferred primarily in	1846

storing, transporting, mailing, or otherwise handling purchased 1847
sales inventory in a warehouse, distribution center, or similar 1848
facility when the inventory is primarily distributed outside this 1849
state to retail stores of the person who owns or controls the 1850
warehouse, distribution center, or similar facility, to retail 1851
stores of an affiliated group of which that person is a member, or 1852
by means of direct marketing. This division does not apply to 1853
motor vehicles registered for operation on the public highways. As 1854
used in this division, "affiliated group" has the same meaning as 1855
in division (B)(3)(e) of section 5739.01 of the Revised Code and 1856
"direct marketing" has the same meaning as in division (B)(35) of 1857
this section. 1858

(k) To use or consume the thing transferred to fulfill a 1859
contractual obligation incurred by a warrantor pursuant to a 1860
warranty provided as a part of the price of the tangible personal 1861
property sold or by a vendor of a warranty, maintenance or service 1862
contract, or similar agreement the provision of which is defined 1863
as a sale under division (B)(7) of section 5739.01 of the Revised 1864
Code; 1865

(l) To use or consume the thing transferred in the production 1866
of a newspaper for distribution to the public; 1867

(m) To use tangible personal property to perform a service 1868
listed in division (B)(3) of section 5739.01 of the Revised Code, 1869
if the property is or is to be permanently transferred to the 1870
consumer of the service as an integral part of the performance of 1871
the service; 1872

(n) To use or consume the thing transferred primarily in 1873
producing tangible personal property for sale by farming, 1874
agriculture, horticulture, or floriculture. Persons engaged in 1875
rendering farming, agriculture, horticulture, or floriculture 1876
services for others are deemed engaged primarily in farming, 1877
agriculture, horticulture, or floriculture. This paragraph does 1878

not exempt from "retail sale" or "sales at retail" the sale of 1879
tangible personal property that is to be incorporated into a 1880
structure or improvement to real property. 1881

(o) To use or consume the thing transferred in acquiring, 1882
formatting, editing, storing, and disseminating data or 1883
information by electronic publishing. 1884

As used in division (B)(42) of this section, "thing" includes 1885
all transactions included in divisions (B)(3)(a), (b), and (e) of 1886
section 5739.01 of the Revised Code. 1887

(43) Sales conducted through a coin operated device that 1888
activates vacuum equipment or equipment that dispenses water, 1889
whether or not in combination with soap or other cleaning agents 1890
or wax, to the consumer for the consumer's use on the premises in 1891
washing, cleaning, or waxing a motor vehicle, provided no other 1892
personal property or personal service is provided as part of the 1893
transaction. 1894

(44) Sales of replacement and modification parts for engines, 1895
airframes, instruments, and interiors in, and paint for, aircraft 1896
used primarily in a fractional aircraft ownership program, and 1897
sales of services for the repair, modification, and maintenance of 1898
such aircraft, and machinery, equipment, and supplies primarily 1899
used to provide those services. 1900

(45) Sales of telecommunications service that is used 1901
directly and primarily to perform the functions of a call center. 1902
As used in this division, "call center" means any physical 1903
location where telephone calls are placed or received in high 1904
volume for the purpose of making sales, marketing, customer 1905
service, technical support, or other specialized business 1906
activity, and that employs at least fifty individuals that engage 1907
in call center activities on a full-time basis, or sufficient 1908
individuals to fill fifty full-time equivalent positions. 1909

(46) Sales by a telecommunications service vendor of 900	1910
service to a subscriber. This division does not apply to	1911
information services, as defined in division (FF) of section	1912
5739.01 of the Revised Code.	1913
(47) Sales of value-added non-voice data service. This	1914
division does not apply to any similar service that is not	1915
otherwise a telecommunications service.	1916
(48)(a) Sales of machinery, equipment, and software to a	1917
qualified direct selling entity for use in a warehouse or	1918
distribution center primarily for storing, transporting, or	1919
otherwise handling inventory that is held for sale to independent	1920
salespersons who operate as direct sellers and that is held	1921
primarily for distribution outside this state;	1922
(b) As used in division (B)(48)(a) of this section:	1923
(i) "Direct seller" means a person selling consumer products	1924
to individuals for personal or household use and not from a fixed	1925
retail location, including selling such product at in-home product	1926
demonstrations, parties, and other one-on-one selling.	1927
(ii) "Qualified direct selling entity" means an entity	1928
selling to direct sellers at the time the entity enters into a tax	1929
credit agreement with the tax credit authority pursuant to section	1930
122.17 of the Revised Code, provided that the agreement was	1931
entered into on or after January 1, 2007. Neither contingencies	1932
relevant to the granting of, nor later developments with respect	1933
to, the tax credit shall impair the status of the qualified direct	1934
selling entity under division (B)(48) of this section after	1935
execution of the tax credit agreement by the tax credit authority.	1936
(c) Division (B)(48) of this section is limited to machinery,	1937
equipment, and software first stored, used, or consumed in this	1938
state within the period commencing June 24, 2008, and ending on	1939
the date that is five years after that date.	1940

(49) Sales of materials, parts, equipment, or engines used in 1941
the repair or maintenance of aircraft or avionics systems of such 1942
aircraft, and sales of repair, remodeling, replacement, or 1943
maintenance services in this state performed on aircraft or on an 1944
aircraft's avionics, engine, or component materials or parts. As 1945
used in division (B)(49) of this section, "aircraft" means 1946
aircraft of more than six thousand pounds maximum certified 1947
takeoff weight or used exclusively in general aviation. 1948

(50) Sales of full flight simulators that are used for pilot 1949
or flight-crew training, sales of repair or replacement parts or 1950
components, and sales of repair or maintenance services for such 1951
full flight simulators. "Full flight simulator" means a replica of 1952
a specific type, or make, model, and series of aircraft cockpit. 1953
It includes the assemblage of equipment and computer programs 1954
necessary to represent aircraft operations in ground and flight 1955
conditions, a visual system providing an out-of-the-cockpit view, 1956
and a system that provides cues at least equivalent to those of a 1957
three-degree-of-freedom motion system, and has the full range of 1958
capabilities of the systems installed in the device as described 1959
in appendices A and B of part 60 of chapter 1 of title 14 of the 1960
Code of Federal Regulations. 1961

(51) Any transfer or lease of tangible personal property 1962
between the state and JobsOhio in accordance with section 4313.02 1963
of the Revised Code. 1964

(52)(a) Sales to a qualifying corporation. 1965

(b) As used in division (B)(52) of this section: 1966

(i) "Qualifying corporation" means a nonprofit corporation 1967
organized in this state that leases from an eligible county land, 1968
buildings, structures, fixtures, and improvements to the land that 1969
are part of or used in a public recreational facility used by a 1970
major league professional athletic team or a class A to class AAA 1971

minor league affiliate of a major league professional athletic 1972
team for a significant portion of the team's home schedule, 1973
provided the following apply: 1974

(I) The facility is leased from the eligible county pursuant 1975
to a lease that requires substantially all of the revenue from the 1976
operation of the business or activity conducted by the nonprofit 1977
corporation at the facility in excess of operating costs, capital 1978
expenditures, and reserves to be paid to the eligible county at 1979
least once per calendar year. 1980

(II) Upon dissolution and liquidation of the nonprofit 1981
corporation, all of its net assets are distributable to the board 1982
of commissioners of the eligible county from which the corporation 1983
leases the facility. 1984

(ii) "Eligible county" has the same meaning as in section 1985
307.695 of the Revised Code. 1986

(53) Sales to or by a cable service provider, video service 1987
provider, or radio or television broadcast station regulated by 1988
the federal government of cable service or programming, video 1989
service or programming, audio service or programming, or 1990
electronically transferred digital audiovisual or audio work. As 1991
used in division (B)(53) of this section, "cable service" and 1992
"cable service provider" have the same meanings as in section 1993
1332.01 of the Revised Code, and "video service," "video service 1994
provider," and "video programming" have the same meanings as in 1995
section 1332.21 of the Revised Code. 1996

(C) For the purpose of the proper administration of this 1997
chapter, and to prevent the evasion of the tax, it is presumed 1998
that all sales made in this state are subject to the tax until the 1999
contrary is established. 2000

(D) The levy of this tax on retail sales of recreation and 2001
sports club service shall not prevent a municipal corporation from 2002

levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

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

Section 2. That existing sections 5501.44, 5501.70, 5501.71, 5501.73, 5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 5531.16, and 5739.02 of the Revised Code are hereby repealed.

Section 3. Section 5739.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 51 and Am. Sub. H.B. 59 of the 130th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.