

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

**130th General Assembly
Regular Session
2013-2014**

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**

—

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 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 169

growth;	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 facility if it is in the public interest to do so.	197 198 199

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

(2) The director shall make all decisions related to the 226
reimbursement of a specific private entity and related to the 227
maximum amount of the reimbursement. However, the department shall 228
not reimburse a private entity if that entity enters into the 229
public-private agreement that is the subject of the solicited 230
proposal. The reimbursement of costs under division (G) of this 231

section is exempt from the requirements of Chapter 125. of the 232
Revised Code and sections 127.16 and 127.162 of the Revised Code. 233

(3) If the department, pursuant to division (G)(1) of this 234
section, includes a reimbursement provision in a request for 235
proposals and the department subsequently terminates the 236
solicitation prior to the solicitation expiration date, the 237
department shall prorate the amount of the reimbursement that is 238
to be paid to each private entity participating in the 239
solicitation on the date the department terminates the 240
solicitation. The department shall calculate the proration 241
percentage by determining the number of days from the date the 242
solicitation first was offered until the date the department 243
terminated the solicitation and dividing that number by the number 244
of days of the original solicitation period. 245

(4) Except as otherwise provided in writing by the 246
department, if, pursuant to division (G)(1) of this section, the 247
department includes a reimbursement provision in a request for 248
proposals and subsequently enters into negotiations based on the 249
selection of a desired proposal and the department elects to 250
terminate those negotiations for the convenience of the department 251
and through no fault of the proposer, the proposer is entitled to 252
the full reimbursement amount. 253

Sec. 5501.73. (A) After selecting a solicited or unsolicited 254
proposal for a public-private initiative, the department of 255
transportation shall enter into a public-private agreement for a 256
transportation facility with the selected private entity or any 257
configuration of private entities. An affected jurisdiction may be 258
a party to a public-private agreement entered into by the 259
department and a selected private entity or combination of private 260
entities. 261

(B) A public-private agreement under this section shall 262

provide for all of the following:	263
(1) Planning, acquisition, financing, development, design,	264
construction, reconstruction, replacement, improvement,	265
maintenance, management, repair, leasing, or operation of a	266
transportation facility;	267
(2) Term of the public-private agreement;	268
(3) Type of property interest, if any, the private entity	269
will have in the transportation facility;	270
(4) A specific plan to ensure proper maintenance of the	271
transportation facility throughout the term of the agreement and a	272
return of the facility to the department, if applicable, in good	273
condition and repair;	274
(5) Whether user fees, <u>administrative fees, or other charges</u>	275
will be collected on <u>for use of</u> the transportation facility <u>in</u>	276
<u>accordance with sections 5531.11 to 5531.18 of the Revised Code</u>	277
and the basis by which such user fees, <u>administrative fees, or</u>	278
<u>other charges</u> shall be determined and modified;	279
(6) Compliance with applicable federal, state, and local	280
laws;	281
(7) Grounds for termination of the public-private agreement	282
by the department or operator;	283
(8) Disposition of the facility upon completion of the	284
agreement;	285
(9) Procedures for amendment of the agreement-;	286
<u>(10) A contract performance bond in an amount specified by</u>	287
<u>the director of transportation, conditioned upon the private</u>	288
<u>entity performing the work in accordance with the agreed upon</u>	289
<u>terms, within the time prescribed, and in conformance with any</u>	290
<u>other such terms and conditions as are specified by the director;</u>	291
<u>(11) A payment bond in an amount specified by the director,</u>	292

<u>conditioned upon the payment for all labor, work performed, and</u>	293
<u>materials furnished in connection with the agreement and any other</u>	294
<u>such terms and conditions as are specified by the director.</u>	295
(C) A public-private agreement under this section may provide	296
for any of the following:	297
(1) Review and approval by the department of the operator's	298
plans for the development and operation of the transportation	299
facility;	300
(2) Inspection by the department of construction of or	301
improvements to the transportation facility;	302
(3) Maintenance by the operator of a policy of liability	303
insurance or self-insurance;	304
(4) Filing by the operator, on a periodic basis, of	305
appropriate financial statements in a form acceptable to the	306
department;	307
(5) Filing by the operator, on a periodic basis, of traffic	308
reports in a form acceptable to the department;	309
(6) Financing obligations of the operator and the department;	310
(7) Apportionment of expenses between the operator and the	311
department;	312
(8) Rights and duties of the operator, the department, and	313
other state and local governmental entities with respect to use of	314
the transportation facility;	315
(9) Rights and remedies available in the event of default or	316
delay;	317
(10) Terms and conditions of indemnification of the operator	318
by the department;	319
(11) Assignment, subcontracting, or other delegation of	320
responsibilities of the operator or the department under the	321

agreement to third parties, including other private entities and 322
other state agencies; 323

(12) Sale or lease to the operator of private property 324
related to the transportation facility; 325

(13) Traffic enforcement and other policing issues, including 326
any reimbursement by the private entity for such services. 327

(D)(1) The director of transportation may include in any 328
public-private agreement under sections 5501.70 to 5501.83 of the 329
Revised Code a provision authorizing a binding dispute resolution 330
method for any controversy subsequently arising out of the 331
contract. The binding dispute resolution method may proceed only 332
upon agreement of all parties to the controversy. If all parties 333
do not agree to proceed to a binding dispute resolution, a party 334
having a claim against the department shall exhaust its 335
administrative remedies specified in the public-private agreement 336
prior to filing any action against the department in the court of 337
claims. 338

No appeal from the determination of a technical expert lies 339
to any court, except that the court of common pleas of Franklin 340
County may issue an order vacating such a determination upon the 341
application of any party to the binding dispute resolution if any 342
of the following applies: 343

(a) The determination was procured by corruption, fraud, or 344
undue means. 345

(b) There was evidence of partiality or corruption on the 346
part of the technical expert. 347

(c) The technical expert was guilty of misconduct in refusing 348
to postpone the hearing, upon sufficient cause shown, or in 349
refusing to hear evidence pertinent and material to the 350
controversy, or of any other misbehavior by which the rights of 351
any party have been prejudiced. 352

(2) As used in this division, "binding dispute resolution" 353
means a binding determination after review by a technical expert 354
of all relevant items, which may include documents, and by 355
interviewing appropriate personnel and visiting the project site 356
involved in the controversy. "Binding dispute resolution" does not 357
involve representation by legal counsel or advocacy by any person 358
on behalf of any party to the controversy. 359

(E) No public-private agreement entered into under this 360
section shall be construed to transfer to a private entity the 361
director's authority to appropriate property under Chapters 163., 362
5501., and 5519. of the Revised Code. 363

(F) Money collected by the department pursuant to an 364
agreement entered into under this section shall be deposited into 365
the state treasury to the credit of the highway operating fund 366
unless the agreement is related to a toll project under sections 367
5531.11 to 5531.18 of the Revised Code, in which case the money 368
shall be deposited as specified in the agreement. 369

(G) Chapter 5525. of the Revised Code does not apply to 370
public-private agreements under sections 5501.70 to 5501.83 of the 371
Revised Code. 372

Sec. 5501.78. A transportation facility and any tangible 373
personal property used exclusively with a transportation facility 374
that is owned by the department of transportation and leased, 375
licensed, financed, or otherwise conveyed to an operator, or that 376
is acquired, constructed, or otherwise provided by an operator on 377
behalf of the department, is exempt from all ad valorem property 378
taxes and special assessments levied against property by the state 379
or any political subdivision of the state. Building and 380
construction materials that will be incorporated into a 381
transportation facility pursuant to a public-private agreement are 382
exempt from the taxes imposed under Chapters 5739. and 5741. of 383

the Revised Code. 384

Sec. 5531.11. As used in sections 5531.11 to 5531.18 of the 385
Revised Code: 386

(A) "Administrative fee" means a fee imposed by a toll 387
project operator for toll collection, processing, and related 388
activities. 389

(B) "Cost" means all costs of constructing, improving, 390
repairing, maintaining, administering, financing, and operating 391
the Ohio transportation system, including all costs payable with 392
respect to permanent improvements as described in division (B) of 393
section 133.15 of the Revised Code. 394

(C) "Electronic-monitoring system" means any form of 395
electronic or other vehicle sensor or identifying device that 396
automatically produces one or more photographs, one or more 397
microphotographs, a videotape, recorded images, or other form of 398
identifying data of each vehicle at the time it is used or 399
operated on a toll project. 400

(D) "Governmental agency" means any state agency, federal 401
agency, political subdivision, or other local, interstate, or 402
regional governmental agency, and any combination of those 403
agencies. 404

(E) "Highway project" means any project intended for the 405
highway purpose of supporting the state highway system. A highway 406
project, whether publicly or privately owned, is a state 407
infrastructure project as defined in section 5531.10 of the 408
Revised Code for all purposes of that section and section 5531.09 409
of the Revised Code and also is a transportation facility as 410
defined in section 5501.01 of the Revised Code. 411

~~"State highway system" or "system" means all existing and 412~~
~~future transportation projects constructed, operated, repaired,~~ 413

~~maintained, administered, and operated under the jurisdiction of~~ 414
~~the department of transportation, including toll projects and~~ 415
~~highway projects.~~ 416

(F) "Motor vehicle certificate of registration issuance 417
prevention order" means, relative to the registered owner of a 418
motor vehicle, an order that prohibits the registrar of motor 419
vehicles and any deputy registrar from doing both of the 420
following: 421

(1) Accepting any application for a new or renewal motor 422
vehicle certificate of registration in the name of the registered 423
owner; 424

(2) Issuing or renewing any motor vehicle certificate of 425
registration for a motor vehicle that utilized a toll project for 426
which the required user fee or associated administrative fee was 427
not paid by the registered owner of that motor vehicle. 428

(G) "Public roads" means all public highways, roads, and 429
streets in the state, whether maintained by a state agency or any 430
other governmental agency. 431

(H) "Public utility facilities" means tracks, pipes, mains, 432
conduits, cables, wires, towers, poles, and other equipment and 433
appliances of any public utility. 434

(I) "Registered owner" means all of the following: 435

(1) Any person or entity identified by the bureau of motor 436
vehicles or any other state motor vehicle bureau, department, or 437
office as the owner of a motor vehicle; 438

(2) The lessee of a motor vehicle pursuant to a lease of six 439
months or longer; 440

(3) The renter of a motor vehicle pursuant to a written 441
rental agreement with a motor vehicle renting dealer. 442

(J) "Revenues" means all nontax revenues coming into the 443

possession of or under the control of the department by virtue of 444
sections 5531.11 to 5531.18 of the Revised Code. "Revenues" does 445
not include proceeds from the sale of obligations but does include 446
~~tolls~~ user fees, service revenues, investment income on the Ohio 447
toll fund established in section 5531.14 of the Revised Code, 448
rentals, gifts, and grants. 449

(K) "Service facilities" means service stations, restaurants, 450
and other facilities for food service, roadside parks and rest 451
areas, parking, camping, tenting, rest, and sleeping facilities, 452
hotels or motels, and all similar and other facilities providing 453
services to the traveling public in connection with the use of a 454
toll project and owned, leased, licensed, or operated by the 455
department ~~of transportation~~. 456

(L) "Service revenues" means those revenues of the department 457
derived from its ownership, leasing, licensing, or operation of 458
service facilities. 459

(M) "State highway system" or "system" means all existing and 460
future transportation projects constructed, operated, repaired, 461
maintained, administered, and operated under the jurisdiction of 462
the department of transportation, including toll projects and 463
highway projects. 464

(N) "Toll project" means ~~any~~ all of the following: 465

(1) Any project that adds new capacity, including 466
construction on existing highways, bridges, or tunnels where 467
construction increases the total number of lanes, including toll 468
and nontoll lanes, and does not decrease the total number of 469
nontoll lanes at each mile. ~~"Toll project" also includes new;~~ 470

(2) New interchanges constructed for economic development 471
purposes connecting an interstate highway or a multi-lane, ~~fully~~ 472
~~controlled-access~~ highway that was not connected previously with 473
other interstates, state highways and local roads, and any new 474

high occupancy lane or new highways connecting an intermodal 475
facility established, constructed, reconstructed, maintained, 476
repaired, administered, operated, or improved, under the 477
jurisdiction of the department ~~of transportation and pursuant;~~ 478

(3) Pursuant to sections 5531.11 to 5531.18 of the Revised 479
Code, at a location or locations determined by the director of 480
transportation, ~~including~~ all bridges, tunnels, overpasses, 481
underpasses, interchanges, entrance plazas, approaches, and those 482
portions of connecting public roads that serve interchanges and 483
are determined by the director to be necessary for the safe 484
merging of traffic between the toll project and those nontolled 485
public roads, toll booths, service facilities, and administration, 486
storage, and other buildings, property, and facilities that the 487
department considers necessary for the operation or policing of 488
the toll project, together with all property and rights that may 489
be acquired by the department for the construction, maintenance, 490
repair, administration, improvement, or operation of the toll 491
project, ~~and includes any sections or extensions of a toll project~~ 492
~~designated by the department as such for the particular purpose.~~ 493
~~Nothing in this section shall be construed to permit tolls to be~~ 494
~~charged on existing nontoll highways;~~ 495

(4) Notwithstanding division (N)(1) of this section, the 496
replacement, improvement, rehabilitation, operation, and 497
maintenance of a bridge or system of bridges at one location that 498
carries two interstate highways over the Ohio river to another 499
state, and the replacement, improvement, rehabilitation, 500
operation, and maintenance of the roadways that provide ingress to 501
and egress from such a bridge or system of bridges, generally 502
following the route of those interstate highways. 503

(0) "Toll project operator" means the department or any 504
agency, political subdivision, authority, or other entity that 505
operates a toll project, including a private entity that operates 506

a toll project pursuant to a public-private agreement authorized 507
by sections 5501.70 to 5501.83 of the Revised Code. 508

(P) "Tolls User fee" means tolls a rate, special fees or 509
permit fees toll, fee, or other charges by the department to the 510
owners, lessors, lessees, operators of motor vehicles, or other 511
users of charge imposed by a toll project for the operation or use 512
of or the right to operate on operator for use of all or part of a 513
transportation facility, including a toll project. "User fee" also 514
includes any such rate, toll, fee, or other charge imposed by a 515
toll project operator pursuant to a public-private agreement 516
authorized by sections 5501.70 to 5501.83 of the Revised Code. 517

Sec. 5531.12. (A) In order to remove present and anticipated 518
handicaps and potential hazards on the highways in this state, to 519
facilitate vehicular traffic throughout the state, to promote the 520
agricultural, commercial, recreational, tourism, and industrial 521
development of the state, and to provide for the general welfare 522
of its citizens, the director of transportation may approve toll 523
projects. Any revenue derived from toll projects shall be used 524
only for purposes of the toll project, including a toll project or 525
any aspect of a toll project pursuant to a public-private 526
agreement authorized by sections 5501.70 to 5501.83 of the Revised 527
Code, and shall not be expended for any purpose other than as 528
provided in Section 5a of Article XII, Ohio Constitution. The toll 529
projects authorized by sections 5531.11 to 5531.18 of the Revised 530
Code are part of the state highway system. 531

(B) Any toll project shall be developed and submitted for 532
selection in accordance with the policies and procedures of the 533
~~major new capacity~~ selection process of the transportation review 534
advisory council, created under Chapter 5512. of the Revised Code. 535
Each toll project may be separately designated, by name or number, 536
and may be constructed, improved, or reconstructed as the 537

department of transportation may from time to time determine 538
pursuant to sections 5531.11 to 5531.18 of the Revised Code. A 539
toll project shall be considered a state infrastructure project as 540
defined in section 5531.10 of the Revised Code for all purposes of 541
that section and section 5531.09 of the Revised Code and also is a 542
transportation facility as defined in section 5501.01 of the 543
Revised Code. 544

(C)(1) Nothing in this chapter shall be construed to permit 545
~~tolls~~ user fees to be charged on existing nontoll public roads. 546

(2) Division (C)(1) of this section does not apply to a toll 547
project as described in division (N)(4) of section 5531.11 of the 548
Revised Code. 549

Sec. 5531.13. (A) The director of transportation may acquire 550
or dispose of any public or private property or interests therein 551
that the director determines to be necessary, convenient, or 552
proper for the construction, improvement, repair, maintenance, 553
administration, or operation of toll projects in the same manner 554
as the director may acquire or dispose of such property for 555
transportation facilities or highway purposes, under sections 556
5501.311 to 5501.34 and 5501.45 and Chapter 5519. of the Revised 557
Code. 558

(B) The director may enter into any contracts the director 559
determines to be necessary, convenient, or proper for the 560
construction, improvement, repair, maintenance, administration, or 561
operation of toll projects in the manner provided in Chapter 5525. 562
of the Revised Code or pursuant to a public-private agreement 563
under sections 5501.70 to 5501.83 of the Revised Code. 564

(C) The director may enter into any professional contracts 565
the director determines to be necessary, convenient, or proper for 566
the construction, improvement, repair, maintenance, 567
administration, or operation of toll projects in the manner 568

provided in Chapter 5526. of the Revised Code or pursuant to a 569
public-private agreement under sections 5501.70 to 5501.83 of the 570
Revised Code. 571

(D) ~~Tolls~~ User fees and accounts within the Ohio toll fund 572
established in section 5531.14 of the Revised Code may be used for 573
the acquisition of property under division (A) of this section or 574
pursuant to contracts entered into under division (B) or (C) of 575
this section to the same extent permitted by section 5531.14 of 576
the Revised Code with respect to obligations. 577

Sec. 5531.14. (A) To the extent permitted by federal law, the 578
director of transportation may fix, revise, charge, and collect 579
~~tolls~~ user fees for each toll project, and contract with any 580
person or governmental agency desiring the use of any part 581
thereof, including the right-of-way adjoining the paved portion, 582
for placing thereon telephone, electric light, or power lines, 583
service facilities, or for any other purpose, and fix the terms, 584
conditions, rents, and rates of charge for such use; provided, 585
that no ~~toll~~ user fee, charge, or rental may be made for placing 586
in, on, along, over, or under the toll project, equipment or 587
public utility facilities that are necessary to serve service 588
facilities or to interconnect any public utility facilities. 589

A toll project operator shall display signs that identify the 590
applicable user fees, including fees for motor vehicles that do 591
not have an active, functioning electronic toll collection device 592
registered for and in use in the vehicle. The toll project 593
operator shall erect or otherwise display signs in advance of the 594
toll project at locations that are of distances that are 595
sufficient to notify motor vehicle operators of the opportunity to 596
exit the street or highway on which they are traveling before the 597
street or highway becomes, becomes part of, or otherwise leads to 598
the toll project and for the use of which user fees apply. 599

(B) In accordance with Chapter 119. of the Revised Code, the director shall establish a plan, schedule, or system of ~~tolls~~ user fees or charges and shall declare the purpose, amount, and duration of the ~~tolls~~ user fees or charges. Any proposal to implement a ~~toll~~ user fee or other charge under this section may include a plan, schedule, or system of tolls or charges that is subject to adjustment by the director within and in accordance with that plan, schedule, or system. As part of the plan, schedule, or system, the director shall develop a written process for setting user fee rates. In developing the process, the director shall seek and consider public comment. In doing so, the director may hold public hearings in various locations around the state.

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

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

~~(D) Tolls~~ The director, in accordance with Chapter 119. of the Revised Code, also may adopt such additional rules as the director determines necessary for the establishment, collection, and enforcement of user fees and administrative fees, including the purpose, amount, and duration of the fees.

(C) One or more user fees, or a portion of any user fees, may be pledged to the repayment of obligations in the bond proceedings for those obligations and shall be a pledged receipt for those obligations to the extent pledged in those bond proceedings. One

or more user fees, or a portion of any user fees, also may be 632
pledged to the repayment of obligations under any public-private 633
agreement or related financing as provided in sections 5501.70 to 634
5501.83 of the Revised Code. 635

(D) User fees shall be so fixed and adjusted by the director 636
as to provide funds at least sufficient with other revenues of the 637
Ohio transportation system, if any, to pay all of the following: 638

(1) Any ~~bond~~ debt service charges on obligations issued to 639
pay costs of one or more toll projects as such charges become due 640
and payable; 641

(2) Together with any other amounts available for such 642
purpose, any obligations under any public-private agreement 643
entered into in connection with a toll project as such amounts 644
become due and payable; 645

(3) The cost of maintaining, improving, repairing, 646
constructing, financing and operating toll projects within the 647
interstate system or the state highway system and its different 648
parts and sections, and to create and maintain any reserves for 649
those purposes. 650

(E) Except as provided in division (F) of this section, money 651
received from ~~tolls imposed under this section~~ user fees, other 652
than those received pursuant to a public-private agreement, which 653
shall be deposited in accordance with such agreement, shall be 654
deposited to the credit of the Ohio toll fund, which is hereby 655
created in the state treasury. The treasurer of state may 656
establish separate subaccounts within the Ohio toll fund as 657
determined to be necessary or convenient to pay costs of 658
constructing, improving, repairing, maintaining, administering, 659
and operating toll projects within the state highway system. Any 660
remaining money deposited into the Ohio toll fund shall be used at 661
the discretion of the director to support construction, 662

improvement, repair, maintenance, administration, and operation 663
costs for approved toll projects and highway projects within one 664
mile of a toll project. All investment earnings of the fund shall 665
be credited to the fund. 666

(F) The issuing authority ~~shall~~, by the fifteenth day of July 667
of each fiscal year, shall certify or cause to be certified to the 668
department of transportation and the office of budget and 669
management the total amount of money required during the current 670
fiscal year to meet in full all ~~bond~~ debt service charges and 671
otherwise comply with the requirements of any applicable bond 672
proceedings and all obligations under any public-private agreement 673
relating to a toll project as provided in sections 5501.70 to 674
5501.83 of the Revised Code. The issuing authority shall make or 675
cause to be made supplemental certifications to the department ~~of~~ 676
~~transportation~~ and the office of budget and management for each 677
bond service payment date and at such other times during each 678
fiscal year as may be provided in the applicable bond ~~proceedings~~ 679
proceeding or public-private agreement or required by that 680
department or office. Bond service charges, costs of credit 681
enhancement facilities, other financing costs, and any other 682
amounts required under the applicable bond proceedings and all 683
amounts required under any applicable public-private agreement 684
shall be set forth separately in each certification. Money 685
received from ~~tolls~~ user fees and other pledged receipts shall be 686
deposited to the credit of the bond service fund at such times and 687
in such amounts as are necessary to satisfy all those payment 688
requirements of the applicable bond proceedings. ~~When all or to~~ 689
the credit of any fund established for such purpose under any 690
public-private agreement. At such time that bond service charges 691
on all outstanding bonds issued in connection with any toll 692
project and the interest on the bonds have been paid, or a 693
sufficient amount for the payment of all such bonds and the 694
interest on the bonds to the maturity of the bonds has been set 695

aside in trust for the benefit of the bondholders, as provided in 696
the applicable bond proceedings, and at such time as all amounts 697
due and to become due pursuant to a public-private agreement, 698
which are payable from user fees, have been paid, the project 699
shall be operated, improved, and maintained by the department of 700
transportation as a part of the state highway system and shall be 701
free of ~~tolls~~ user fees. 702

Sec. 5531.141. (A) The department of transportation may 703
collect a user fee by utilizing a system of collection that is 704
capable of charging an account holder the appropriate user fee by 705
transmission of information from an electronic toll collection 706
device on a motor vehicle. In addition, for any motor vehicle that 707
does not use an electronic toll collection device, the department 708
may utilize an electronic-monitoring system for user fee 709
collection. 710

(B)(1) If a motor vehicle uses a toll project and the user 711
fee is not paid through an electronic toll collection device or 712
otherwise, the toll project operator first shall use the 713
electronic-monitoring system for the toll project to determine if 714
the registered owner of the motor vehicle has established an 715
account for the payment of the user fee. If such an account has 716
been established, the toll project operator shall charge the 717
account holder the appropriate user fee. If the toll project 718
operator cannot locate an established account, or if the toll 719
project operator locates an established account but the account 720
cannot be charged the appropriate user fee, the toll project 721
operator may send by regular first class mail an invoice for the 722
unpaid user fee. The toll project operator shall include with the 723
invoice the information described in section 5531.143 of the 724
Revised Code. The toll project operator shall send the invoice to 725
the registered owner of the motor vehicle as shown in the records 726
of either of the following: 727

<u>(a) The bureau of motor vehicles;</u>	728
<u>(b) The department, division, bureau, office, or other unit of government of any other state or jurisdiction that is functionally equivalent to the bureau of motor vehicles.</u>	729 730 731
<u>(2) With respect to any user fee and any associated administrative fee, the toll project operator, in the toll project operator's sole discretion, may determine not to pursue collection of that user fee or administrative fee or to terminate collection measures in relation to that user fee or administrative fee.</u>	732 733 734 735 736
<u>Sec. 5531.142. (A) A person or entity that receives an invoice under section 5531.141 of the Revised Code or a late notice under division (C) of this section shall do one of the following:</u>	737 738 739 740
<u>(1) Pay the user fee and any administrative fee set forth in the invoice or late notice directly to the toll project operator within thirty-five days after the date of mailing of the invoice or late notice;</u>	741 742 743 744
<u>(2) File with the toll project operator a notice to contest liability for the unpaid user fee within thirty-five days after the date of the mailing of the invoice or late notice by utilizing the form provided with the invoice or late notice under section 5531.143 of the Revised Code;</u>	745 746 747 748 749
<u>(3) If the registered owner is a motor vehicle leasing dealer or a motor vehicle renting dealer, notify the toll project operator within thirty-five days after the date of mailing of the invoice or late notice of the name and address of the person who was the lessee or renter of the motor vehicle at the time the user fee was incurred. A motor vehicle leasing dealer or a motor vehicle renting dealer that receives an invoice or late notice shall not pay a user fee or any administrative fee and</u>	750 751 752 753 754 755 756 757

subsequently attempt to collect a fee or assess the lessee or 758
renter a charge in excess of the amount actually paid on behalf of 759
the lessee or renter. 760

(B) Upon receipt of the name and address of the lessee or 761
renter of a motor vehicle provided by a motor vehicle leasing 762
dealer or motor vehicle renting dealer under division (A)(3) of 763
this section, the toll project operator shall send an invoice to 764
the lessee or renter of the motor vehicle as described in section 765
5531.141 of the Revised Code. The toll project operator shall send 766
all subsequent late notices for the unpaid user fees to the lessee 767
or renter, and the motor vehicle renting or leasing dealer has no 768
further liability for unpaid user fees or administrative fees 769
under this chapter. 770

(C) If a registered owner fails to pay or contest an invoice 771
within thirty-five days after the date of mailing of the invoice, 772
the toll project operator may send to the registered owner by 773
regular first class mail a late notice containing the information 774
described in section 5531.143 of the Revised Code. The toll 775
project operator may charge an administrative fee for each late 776
notice, the purpose of which is to enable the toll project 777
operator to recover the expenses of collecting the unpaid user 778
fee. The director of transportation shall establish the amount of 779
the administrative fee by rule. 780

Sec. 5531.143. A toll project operator shall include with 781
each invoice and late notice all of the following: 782

(A) The registered owner's name and current known address; 783

(B) Descriptions and amounts of all user fees and 784
administrative fees assessed; 785

(C) A request for payment within thirty-five days after the 786
date of mailing of such invoice or late notice; 787

(D) A warning of the potential consequences for failing to pay the total amount due as indicated in such invoice or late notice, including additional fees and penalties, potential court summons, and inability to renew motor vehicle registrations; 788
789
790
791

(E) Information for disputing the invoice or late notice and a form that a person may use to file a notice to contest liability for a user fee or administrative fee; 792
793
794

(F) Contact information for the customer service center for the applicable toll project; and 795
796

(G) Information about obtaining an electronic toll collection device and establishing an electronic toll collection account. 797
798

Sec. 5531.144. (A) The registered owner of a motor vehicle that utilizes a toll project is liable for payment of the applicable user fee. 799
800
801

(B)(1) If the registered owner, in response to an invoice mailed to the registered owner under section 5531.141 of the Revised Code or a late notice mailed under section 5531.142 of the Revised Code, submits a notice to contest liability for the user fee or any administrative fee, the toll project operator shall schedule a hearing at which the registered owner may contest liability for the user fee or administrative fee. The toll project operator shall send written notice by regular first class mail to the registered owner listing the time and date of the hearing. A hearing officer of the toll project operator shall preside over the hearing and shall hold the hearing not later than thirty-five days after the date of mailing of the hearing notice. The hearing officer shall conduct the hearing at a location within the county in which the toll project is located. The registered owner may present evidence at the hearing as to the reasons why the registered owner is not liable for payment of the user fee or administrative fee. 802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818

At the hearing, the hearing officer shall determine if the registered owner is liable for the payment of any user fee or administrative fee. 819
820
821

(2) Upon a finding by the hearing officer that the registered owner is not liable for payment of the user fee or administrative fee, the hearing officer shall enter that finding into the records of the toll project operator and cancel the invoice. 822
823
824
825

(3) If the hearing officer finds that the registered owner is liable for payment of the user fee or any administrative fee, the hearing officer shall enter that finding into the records of the toll project operator. If payment in full is not made upon completion of the hearing, the hearing officer shall notify the registrar of motor vehicles of the hearing officer's decision that the registered owner is liable for payment of the user fee or any administrative fee. The hearing officer also shall include with the notification to the registrar a motor vehicle certificate of registration issuance prevention order. The hearing officer shall give the registered owner a copy of the order. The order remains in effect until the toll project operator notifies the registrar that all unpaid user fees and administrative fees have been paid in full. 826
827
828
829
830
831
832
833
834
835
836
837
838
839

If the hearing officer finds that the registered owner is liable for payment of the user fee or any administrative fee and the registered owner resides in another state, the hearing officer shall send notice of the hearing officer's decision to the department, division, bureau, office, or other unit of government that is functionally equivalent to the bureau of motor vehicles. The hearing officer shall include with the notice the registration prevention order, which shall have the same effect in another state or jurisdiction as in this state. 840
841
842
843
844
845
846
847
848

(4) If the registered owner does not pay all unpaid user fees and administrative fees within thirty-five days after the date of 849
850

the hearing officer's decision that the registered owner is liable 851
for payment of such fees, and the registered owner does not file 852
an appeal described in division (C) of this section within that 853
same thirty-five-day time period, the toll project operator may 854
file a civil suit against the registered owner in the municipal 855
court or county court having jurisdiction over the location of the 856
toll project as provided in section 5531.146 of the Revised Code. 857

(C)(1) The registered owner may appeal an adverse finding by 858
the hearing officer to the municipal court or county court having 859
jurisdiction over the location of the toll project within 860
thirty-five days after the date of the hearing officer's decision 861
that the registered owner is liable for payment of such fees. If 862
the registered owner fails to file an appeal with the municipal 863
court or county court within that time period, the registered 864
owner is considered to have waived the registered owner's right to 865
appeal the decision of the hearing officer. After that time period 866
has expired, the toll project operator may file a civil suit 867
against the registered owner in the municipal court or county 868
court having jurisdiction over the location of the toll project as 869
provided in section 5531.146 of the Revised Code. 870

Upon the filing of a timely appeal by the registered owner, 871
the clerk of the municipal court or county court shall notify the 872
registrar of the filing of the appeal by the registered owner. The 873
motor vehicle certificate of registration issuance prevention 874
order is automatically stayed pending the results of the appeal in 875
the municipal court or county court. 876

(2) At the appeal hearing, the municipal court or county 877
court shall determine whether the registered owner is liable for 878
the payment of any user fee or administrative fee. If the court 879
finds that the registered owner is not liable for payment of the 880
user fee or administrative fee, the court shall issue a ruling to 881
that effect and cancel the invoice. The toll project operator 882

immediately shall inform the registrar of the ruling and shall 883
direct the registrar to cancel the motor vehicle certificate of 884
registration issuance prevention order issued under division 885
(B)(3) of this section. 886

If the court finds that the registered owner is liable for 887
payment of the user fee or any administrative fee, the court shall 888
issue a ruling to that effect. If the court issues such a ruling 889
and payment in full is not made to the toll project operator upon 890
completion of the appeal hearing, the toll project operator shall 891
inform the registrar of motor vehicles of the ruling and the 892
failure by the registered owner to make payment in full. In that 893
circumstance, the stay of the motor vehicle certificate of 894
registration issuance prevention order described in division 895
(C)(1) of this section terminates and the order becomes effective. 896
In addition, if the registered owner fails to pay in full the user 897
fee and any administrative fee within thirty-five days after the 898
date the court issues the ruling, the toll project operator may 899
file a civil suit against the registered owner in the municipal 900
court or county court having jurisdiction over the location of the 901
toll project as provided in section 5531.146 of the Revised Code. 902

If, upon completion of the appeal hearing, the registered 903
owner makes payment in full to the toll project operator of all 904
user fees and administrative fees that the court ruled the 905
registered owner was liable for payment, the toll project operator 906
shall inform the registrar of motor vehicles of the ruling and the 907
payment in full by the registered owner and direct the registrar 908
to cancel the motor vehicle certificate of registration issuance 909
prevention order. 910

(D) If the registered owner fails to pay an invoice and any 911
administrative fee and fails to submit a notice to contest 912
liability for any of those fees within thirty-five days after the 913
date of mailing of the invoice, the toll project operator may send 914

a late notice to the registered owner as provided in division (C) 915
of section 5531.142 of the Revised Code. If, in response to the 916
late notice, the registered owner submits a notice to contest 917
liability for the user fee and any administrative fee within 918
thirty-five days after the date of mailing of the late notice, the 919
toll project operator shall schedule and hold a hearing as 920
described in division (B)(1) of this section. Divisions (B)(2), 921
(3), and (4) and (C)(1) and (2) of this section apply to such a 922
hearing. 923

Sec. 5531.145. (A) If the toll project operator sends a late 924
notice to the registered owner and the registered owner, within 925
thirty-five days after the date of mailing of the late notice, 926
fails to pay the user fee and any administrative fee contained in 927
the late notice and fails to submit a notice to contest liability 928
for any of those fees, the toll project operator may do either of 929
the following: 930

(1) Issue a motor vehicle certificate of registration 931
issuance prevention order to the registrar of motor vehicles and 932
send a copy of the order to the registered owner. If the 933
registered owner resides in another state or jurisdiction, the 934
toll project operator shall send the order to the department, 935
division, bureau, office, or other unit of government that is 936
functionally equivalent to the bureau of motor vehicles. The order 937
shall have the same effect in another state or jurisdiction as in 938
this state. 939

(2) File a civil suit against the registered owner in the 940
municipal court or county court having jurisdiction over the 941
location of the toll project as provided in section 5531.146 of 942
the Revised Code. 943

(B) If the toll project operator sends a motor vehicle 944
certificate of registration issuance prevention order to the 945

registrar under division (A)(1) of this section, the registered 946
owner may file a request for a hearing in the municipal court or 947
county having jurisdiction over the location of the toll project 948
within thirty-five days after the date the toll project operator 949
sends the order to the registrar. The order shall remain in effect 950
pending the results of the hearing in the municipal court or 951
county court. If the registered owner fails to file an appeal with 952
the municipal court or county court within that thirty-five-day 953
period, the registered owner is considered to have waived the 954
registered owner's right to appeal the issuance of the motor 955
vehicle certificate of registration issuance prevention order. The 956
toll project operator may file a civil suit against the registered 957
owner in the municipal court or county court having jurisdiction 958
over the location of the toll project as provided in section 959
5531.146 of the Revised Code. 960

(C)(1) If an appeal hearing is requested under division (B) 961
of this section, the municipal court or county court shall 962
determine whether the registered owner is liable for the payment 963
of any user fee or administrative fee and whether the issuance by 964
the toll project operator of the motor vehicle certificate of 965
registration issuance prevention order was valid. If the court 966
finds that the registered owner is not liable for payment of the 967
user fee or administrative fee, the court shall issue a ruling to 968
that effect and dismiss the late notice. The toll project operator 969
immediately shall inform the registrar of the ruling and shall 970
direct the registrar to cancel the motor vehicle certificate of 971
registration issuance prevention order issued under division 972
(A)(1) of this section. 973

(2) If the court finds that the registered owner is liable 974
for payment of the user fee or any administrative fee and that the 975
issuance by the toll project operator of the motor vehicle 976
certificate of registration issuance prevention order was valid, 977

the court shall issue a ruling to that effect. If the court issues 978
such a ruling and payment in full is not made to the toll project 979
operator upon completion of the appeal hearing, the toll project 980
operator shall inform the registrar of motor vehicles of the 981
ruling and the failure by the registered owner to make payment in 982
full, and the motor vehicle certificate of registration issuance 983
prevention order issued under division (A)(1) of this section 984
remains in effect. 985

(3) If the court finds that the registered owner is liable 986
for payment of the user fee or any administrative fee but the 987
issuance by the toll project operator of the motor vehicle 988
certificate of registration issuance prevention order was not 989
valid, the court shall issue a ruling to that effect. If the court 990
issues such a ruling, the toll project operator shall inform the 991
registrar of the ruling and direct the registrar to cancel the 992
motor vehicle certificate of registration issuance prevention 993
order. The registered owner remains liable for payment of the user 994
fee or any administrative fee. The toll project operator may 995
reissue the motor vehicle certificate of registration issuance 996
prevention order. If the toll project operator reissues the order, 997
the registered owner may appeal the order as provided in division 998
(B) of this section. 999

(4) If, upon completion of the appeal hearing, the registered 1000
owner pays in full to the toll project operator all user fees and 1001
administrative fees for which the court ruled the registered owner 1002
was liable, the toll project operator shall inform the registrar 1003
of the ruling and the payment in full by the registered owner. The 1004
toll project operator also shall direct the registrar to cancel 1005
the motor vehicle certificate of registration issuance prevention 1006
order. 1007

(5) If the court rules under division (C)(2) or (3) of this 1008
section that the registered owner is liable for payment of the 1009

user fee or any administrative fee, and the registered owner does 1010
not pay all such fees within thirty-five days after the court 1011
issues the ruling, the toll project operator may file a civil suit 1012
against the registered owner in the municipal court or county 1013
court having jurisdiction over the location of the toll project as 1014
provided in section 5531.146 of the Revised Code. 1015

(D) At any time after a toll project operator issues an order 1016
under division (A)(1) of this section, the registered owner may 1017
pay all user fees and administrative fees owed to the toll project 1018
operator. If such payment is made, the toll project operator shall 1019
inform the registrar of the payment and shall direct the registrar 1020
to cancel the motor vehicle certificate of registration prevention 1021
order. 1022

Sec. 5531.146. (A)(1) As provided in sections 5531.144 and 1023
5531.145 of the Revised Code, a toll project operator may file a 1024
civil suit against a registered owner in the municipal court or 1025
county court having jurisdiction over the location of the toll 1026
project. The toll project operator also shall file all related 1027
documentation and information described in section 5531.143 of the 1028
Revised Code with the clerk of the municipal court or county 1029
court. 1030

Except as otherwise provided in division (A)(2) of this 1031
section, the toll project operator shall not file such a suit 1032
earlier than thirty-five days after the date of mailing of a late 1033
notice to the registered owner. 1034

(2) In a circumstance in which a registered owner is liable 1035
for multiple user fees and any associated administrative fees 1036
involving one or more motor vehicles, the toll project operator 1037
may file a civil suit addressing all such user fees and 1038
administrative fees; provided, no such suit shall include fees 1039
incurred more than one hundred twenty-five days prior to the date 1040

of filing of such suit. 1041

(3) The clerk of the municipal court or county court shall 1042
execute a summons regarding a suit filed under division (A)(1) of 1043
this section by sending a copy of the summons in accordance with 1044
the rules of civil procedure to the address of the registered 1045
owner of the vehicle as shown in the records of the bureau of 1046
motor vehicles, as identified and provided by a motor vehicle 1047
leasing dealer or motor vehicle renting dealer, or as shown in the 1048
records of the department, division, bureau, office, or other unit 1049
of government of any other state or jurisdiction that is 1050
functionally equivalent to the bureau of motor vehicles. The 1051
issuance of such a summons constitutes sufficient notice to the 1052
registered owner. 1053

The summons shall compel the appearance of the registered 1054
owner to appear in the municipal court or county court, and shall 1055
include notice of the time and place of the trial as well as the 1056
potential civil penalty and any associated costs. The summons also 1057
shall include a statement that the registered owner's motor 1058
vehicle utilized a toll project and therefore the registered owner 1059
incurred liability for payment of the applicable user fee as 1060
provided in division (A) of section 5531.144 of the Revised Code 1061
and also shall list the Revised Code citation for that section. 1062
The summons constitutes sufficient notice to the registered owner 1063
that the vehicle was used on a toll project and, as a result, the 1064
registered owner is liable for payment of the user fee. 1065

(B) Proof that a motor vehicle utilized a toll project and 1066
therefore the registered owner of the motor vehicle is liable for 1067
payment of the applicable user fee shall be evidenced by either or 1068
both of the following: 1069

(1) Information and documentation obtained from an 1070
electronic-monitoring system or electronic toll collection system; 1071

(2) A certificate confirming the identification of the 1072
vehicle issued by a toll project operator that is based on an 1073
inspection of photographs, microphotographs, videotapes, other 1074
recorded images or identifying data produced by an 1075
electronic-monitoring system, or through electronic data collected 1076
by an electronic toll collection system. 1077

The certificate and the documentation attached thereto are 1078
prima facie evidence of the facts contained therein. The court 1079
shall ensure that the certificate and any photographs, 1080
microphotographs, videotapes, or other recorded images or 1081
electronic data evidencing liability for payment of the applicable 1082
user fee are available for inspection in any proceeding to 1083
adjudicate the liability for payment of the user fee. 1084

(C)(1) A registered owner is not liable for a user fee and it 1085
is a complete defense to a cause of action asserting such 1086
liability if within thirty-five days after the mailing of the 1087
invoice, late notice, or a summons, the registered owner of the 1088
motor vehicle produces for the toll project operator or the court 1089
a certified copy of a report of a law enforcement agency showing 1090
both of the following: 1091

(a) The motor vehicle had been reported stolen prior to the 1092
time that the motor vehicle utilized the toll project. 1093

(b) The motor vehicle had remained stolen at the time of the 1094
alleged violation. 1095

(2) The court shall dismiss the case against a registered 1096
owner when divisions (C)(1)(a) and (b) apply. 1097

(D) The toll project operator may offer to the registered 1098
owner the option to pay the unpaid user fee and any administrative 1099
fee, as specified in the summons, plus a reduced civil penalty, 1100
provided that the registered owner actually pays to the toll 1101
project operator the entire amount so calculated not less than 1102

fourteen days prior to the scheduled trial date. The toll project operator shall establish a schedule for reduced civil penalties that are offered to registered owners pursuant to this division, and the toll project operator shall adhere to the schedule when making such offers. The toll project operator may revise the schedule from time to time as the toll project operator determines necessary. 1103
1104
1105
1106
1107
1108
1109

If the registered owner accepts the offer and the toll project operator receives the entire amount not less than fourteen days prior to the scheduled trial date, the toll project operator shall move the court, not less than five business days prior to the trial date, to dismiss the summons issued to the registered owner. Upon such a motion, the court shall dismiss the summons and dismiss the case. 1110
1111
1112
1113
1114
1115
1116

(E)(1) Upon a finding by the municipal court or county court that the registered owner is liable for payment of the user fee as provided in division (A) of section 5531.144 of the Revised Code, the court shall order the registered owner to pay all applicable court costs, user fees due, and administrative fees. The court also shall impose a civil penalty upon the registered owner, as follows: 1117
1118
1119
1120
1121
1122
1123

(a) For a first instance, as shown in the records of the toll project operator, in which the registered owner was liable for payment of a user fee and the registered owner did not pay the user fee and did not submit a timely notice to contest the user fee and the toll project operator sent both an invoice and a late notice to the registered owner, seventy-five dollars; 1124
1125
1126
1127
1128
1129

(b) For a second instance as described in division (E)(1)(a) of this section within one year of a first such instance, one hundred fifty dollars; 1130
1131
1132

(c) For a third instance as described in division (E)(1)(a) 1133

of this section within two years of a second such instance, two 1134
hundred fifty dollars; 1135

(d) For a fourth or subsequent instance as described in 1136
division (E)(1)(a) of this section within three years of a third 1137
such instance, five hundred dollars. 1138

(2) The clerk of the municipal court or county court shall 1139
pay all user fees, administrative fees, and penalties the court 1140
assesses and collects under this section to the department of 1141
transportation for deposit into the state treasury to the credit 1142
of the highway operating fund or for payment by the department in 1143
accordance with a public-private agreement pursuant to sections 1144
5501.70 to 5501.83 of the Revised Code. 1145

(F)(1) Upon a finding by a court that the registered owner is 1146
liable for payment of a user fee as provided in division (A) of 1147
section 5531.144 of the Revised Code, the court shall issue a 1148
motor vehicle certificate of registration issuance prevention 1149
order. The order shall remain in effect until the court has 1150
notified the registrar that all unpaid user fees, administrative 1151
fees, and civil penalties have been paid in full and the court has 1152
issued a new order rescinding its previous order. The registrar 1153
and all deputy registrars shall comply with the order. 1154

(2) If the registered owner resides in another state or 1155
jurisdiction, the court shall issue a motor vehicle certificate of 1156
registration issuance prevention order and send a copy of the 1157
order to the department, division, bureau, office, or other unit 1158
of government of another state or jurisdiction that is 1159
functionally equivalent to the bureau of motor vehicles for 1160
enforcement in that other state or jurisdiction. The order shall 1161
have the same effect in another state or jurisdiction as in this 1162
state. 1163

(G)(1) A civil penalty imposed pursuant to this section shall 1164

not be made part of the driving record of the person upon whom 1165
such civil penalty is imposed, nor shall it be considered in any 1166
manner for insurance purposes in the provision of motor vehicle 1167
insurance coverage. 1168

(2) No person shall be subject to both this section and to 1169
criminal prosecution under any provision of the Revised Code or 1170
any rule adopted thereunder for nonpayment of user fees or related 1171
administrative fees. 1172

Sec. 5531.147. A toll project operator shall not initiate 1173
collection procedures that are regulated by federal law against a 1174
registered owner in any of the following circumstances: 1175

(A) During the thirty-five-day period after the date of 1176
mailing of an invoice or a late notice to the registered owner; 1177

(B) The registered owner has timely submitted a notice to 1178
contest liability for a user fee or any administrative fee to the 1179
toll project operator. The toll project operator may initiate 1180
collection procedures that are regulated by federal law against 1181
such a registered owner if, at the hearing conducted by the 1182
hearing officer described in section 5533.144 of the Revised Code, 1183
the hearing officer finds that the registered owner is liable for 1184
payment of the user fee or administrative fee at issue and the 1185
registered owner does not pay the fee at issue in full within 1186
thirty-five days after the hearing officer makes the finding. 1187

(C) The registered owner has filed a request for an appeal 1188
hearing with the municipal court or county court having 1189
jurisdiction over the location of the toll project. The toll 1190
project operator may initiate collection procedures that are 1191
regulated by federal law against such a registered owner if, at 1192
the appeal hearing conducted by the municipal court or county 1193
court described in section 5533.144 of the Revised Code, the court 1194
finds that the registered owner is liable for payment of the user 1195

fee or administrative fee at issue and the registered owner does 1196
not pay the fee at issue in full within thirty-five days after the 1197
court issues a ruling to that effect. 1198

(D) The toll project operator has filed a civil suit against 1199
the registered owner in the municipal court or county court having 1200
jurisdiction over the location of the toll project. 1201

Sec. 5531.148. (A) A toll project operator may enter into an 1202
agreement with the bureau of motor vehicles and the department, 1203
division, bureau, office, or other unit of government of any other 1204
state or jurisdiction that is functionally equivalent to the 1205
bureau of motor vehicles to obtain motor vehicle owner and 1206
registration information that is necessary to conduct electronic 1207
toll collection and electronic monitoring. 1208

(B)(1) A toll project operator shall ensure that information 1209
collected by an electronic toll collection device, an 1210
electronic-monitoring system in conjunction with an electronic 1211
toll collection system, or under division (A) of this section is 1212
limited solely to that information that is necessary for the 1213
collection of unpaid user fees and administrative fees; necessary 1214
to establish liability of the registered owner of a motor vehicle 1215
for payment of a user fee as provided in division (A) of section 1216
5531.144 of the Revised Code; or necessary in any proceeding to 1217
establish or confirm such liability. 1218

(2) A toll project operator shall ensure that all images or 1219
other data collected by an electronic toll collection device, an 1220
electronic-monitoring system, or under division (A) of this 1221
section are: 1222

(a) Maintained in a protected database with security that is 1223
at least comparable to the security used for databases operated by 1224
the department of transportation; 1225

<u>(b) Used solely for the collection of unpaid user fees and administrative fees.</u>	1226
	1227
<u>(3) All of the following apply to the images and other data described in division (B)(2) of this section:</u>	1228
	1229
<u>(a) The images and other data are not public records under section 149.43 of the Revised Code.</u>	1230
	1231
<u>(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.</u>	1232
	1233
	1234
	1235
	1236
	1237
<u>(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.</u>	1238
	1239
	1240
	1241
	1242
	1243
<u>(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 payment of a user fee as provided in division (A) of section 5531.144 of the Revised Code.</u>	1244
	1245
	1246
	1247
	1248
	1249
<u>(4)(a) Except as otherwise provided in this section, a toll project operator shall not retain any images or other data collected by an electronic toll collection device, an electronic-monitoring system, or under division (A) of this section and shall purge, write over, or otherwise eliminate, from existence the images or other data not later than one hundred eighty days after the collection of any unpaid user fees or</u>	1250
	1251
	1252
	1253
	1254
	1255
	1256

administrative fees. Upon request from the director of 1257
transportation, any entity operating an electronic toll collection 1258
system or electronic-monitoring system in conjunction with an 1259
electronic toll collection system shall certify compliance with 1260
this section and, upon request, shall make all records pertaining 1261
to such system available for inspection and audit by the director 1262
or the director's designee. 1263

(b) No entity operating an electronic toll collection system 1264
or electronic-monitoring system in conjunction with an electronic 1265
toll collection system shall fail to certify compliance with this 1266
section or fail, upon request, to make all records pertaining to 1267
such system available for inspection and audit by the director or 1268
the director's designee. 1269

(5) Whoever violates division (B)(4)(b) of this section is 1270
guilty of a minor misdemeanor on a first offense and a misdemeanor 1271
of the fourth degree on each subsequent offense. 1272

Sec. 5531.149. (A) A toll project operator shall compensate 1273
the bureau of motor vehicles for its actions in enforcing sections 1274
5531.11 to 5531.18 of the Revised Code with respect to the 1275
registered owner of a motor vehicle that is titled or registered 1276
in this state. The toll project operator shall provide such 1277
compensation by collecting and paying to the bureau, on a monthly 1278
basis, an administrative fee of five dollars for each certificate 1279
of registration issuance prevention order sent to and processed by 1280
the bureau under sections 5531.11 to 5531.18 of the Revised Code. 1281
The bureau shall deposit all money it collects under this division 1282
in the state treasury to the credit of the state bureau of motor 1283
vehicles fund created in section 4501.25 of the Revised Code. 1284

(B) The director of transportation may enter into an 1285
agreement with the department, division, bureau, office, or other 1286
unit of government of any other state or jurisdiction that is 1287

functionally equivalent to the department of transportation or the 1288
bureau of motor vehicles for the purpose of enforcing sections 1289
5531.11 to 5531.18 of the Revised Code with respect to the 1290
registered owner of a motor vehicle that is titled or registered 1291
in such other state or jurisdiction and utilizes a toll project. 1292
The agreement may provide for the denial in such other state or 1293
jurisdiction of the issuance of a new or renewal motor vehicle 1294
certificate of registration in the name of that person and the 1295
denial of any motor vehicle certificate of registration for the 1296
motor vehicle that utilized a toll project for which the required 1297
user fee or associated administrative fee was not paid by the 1298
registered owner. 1299

Sec. 5531.15. (A) The director of transportation, in 1300
accordance with Chapter 119. of the Revised Code, may adopt such 1301
rules as the director considers advisable for the control and 1302
regulation of traffic on any toll project, for the protection and 1303
preservation of property under the jurisdiction and control of the 1304
department of transportation, for the maintenance and preservation 1305
of good order within the property under its control, and for the 1306
purpose of establishing owner or operator liability for failure to 1307
comply with toll collection rules. 1308

(B) The rules shall provide that ~~public police officers~~ all 1309
of the following persons shall be afforded ready access, while in 1310
the performance of their official duties, to all property under 1311
the jurisdiction of the department of transportation and without 1312
the payment of ~~tolls~~ any user fee: 1313

(1) Public police officers; 1314

(2) Operators of municipal, township, county, and state 1315
maintenance vehicles; 1316

(3) Operators of United States military vehicles traveling in 1317
a convoy; 1318

<u>(4) Operators of official emergency response vehicles.</u>	1319
(C) No person shall violate any such rules of the department of transportation.	1320 1321
(D)(1) All fines collected for the violation of applicable laws of the state and the rules of the department of transportation or money arising from bonds forfeited for such violation shall be disposed of in accordance with section 5503.04 of the Revised Code.	1322 1323 1324 1325 1326
(2) All fees or charges assessed by the department of transportation in accordance with this section against an owner or operator of a vehicle as a civil violation for failure to comply with toll collection rules shall be revenues of the department.	1327 1328 1329 1330
Sec. 5531.16. (A) Each toll project shall be maintained and kept in good condition and repair by the department of transportation <u>or in accordance with the terms of a public-private agreement pursuant to sections 5501.70 to 5501.83 of the Revised Code.</u> Toll projects shall be operated by toll collectors and other employees and agents that the department employs or contracts for. Toll projects shall be policed by the state highway patrol in accordance with section 5503.02 of the Revised Code; provided, that the state highway patrol also shall enforce all rules of the department adopted under division (A) of section 5531.15 of the Revised Code that relate to the operation and use of vehicles on a toll project and that are punishable under division (A) of section 5531.99 of the Revised Code.	1331 1332 1333 1334 1335 1336 1337 1338 1339 1340 1341 1342 1343
(B) An action for damages against the state for any public or private property damaged or destroyed in carrying out the powers granted by sections 5531.11 to 5531.18 of the Revised Code shall be filed in the court of claims pursuant to Chapter 2743. of the Revised Code.	1344 1345 1346 1347 1348

(C) All governmental agencies may lease, lend, grant, or 1349
convey to the department of transportation at its request, upon 1350
terms that the proper authorities of the governmental agencies 1351
consider reasonable and fair and without the necessity for an 1352
advertisement, order of court, or other action or formality, other 1353
than the regular and formal action of the authorities concerned, 1354
any property that is necessary or convenient to the effectuation 1355
of the purposes of sections 5531.11 to 5531.18 of the Revised 1356
Code, including public roads and other property already devoted to 1357
public use. 1358

(D) Each bridge constituting part of a toll project shall be 1359
considered a bridge on the state highway system for purposes of 1360
sections 5501.47 and 5501.49 of the Revised Code. 1361

(E) In accordance with Chapter 5501. of the Revised Code, the 1362
department of transportation shall make an annual report of its 1363
toll project activities for the preceding calendar year to the 1364
governor and the general assembly. 1365

Sec. 5739.02. For the purpose of providing revenue with which 1366
to meet the needs of the state, for the use of the general revenue 1367
fund of the state, for the purpose of securing a thorough and 1368
efficient system of common schools throughout the state, for the 1369
purpose of affording revenues, in addition to those from general 1370
property taxes, permitted under constitutional limitations, and 1371
from other sources, for the support of local governmental 1372
functions, and for the purpose of reimbursing the state for the 1373
expense of administering this chapter, an excise tax is hereby 1374
levied on each retail sale made in this state. 1375

(A)(1) The tax shall be collected as provided in section 1376
5739.025 of the Revised Code. The rate of the tax shall be five 1377
and three-fourths per cent. The tax applies and is collectible 1378
when the sale is made, regardless of the time when the price is 1379

paid or delivered. 1380

(2) In the case of the lease or rental, with a fixed term of 1381
more than thirty days or an indefinite term with a minimum period 1382
of more than thirty days, of any motor vehicles designed by the 1383
manufacturer to carry a load of not more than one ton, watercraft, 1384
outboard motor, or aircraft, or of any tangible personal property, 1385
other than motor vehicles designed by the manufacturer to carry a 1386
load of more than one ton, to be used by the lessee or renter 1387
primarily for business purposes, the tax shall be collected by the 1388
vendor at the time the lease or rental is consummated and shall be 1389
calculated by the vendor on the basis of the total amount to be 1390
paid by the lessee or renter under the lease agreement. If the 1391
total amount of the consideration for the lease or rental includes 1392
amounts that are not calculated at the time the lease or rental is 1393
executed, the tax shall be calculated and collected by the vendor 1394
at the time such amounts are billed to the lessee or renter. In 1395
the case of an open-end lease or rental, the tax shall be 1396
calculated by the vendor on the basis of the total amount to be 1397
paid during the initial fixed term of the lease or rental, and for 1398
each subsequent renewal period as it comes due. As used in this 1399
division, "motor vehicle" has the same meaning as in section 1400
4501.01 of the Revised Code, and "watercraft" includes an outdrive 1401
unit attached to the watercraft. 1402

A lease with a renewal clause and a termination penalty or 1403
similar provision that applies if the renewal clause is not 1404
exercised is presumed to be a sham transaction. In such a case, 1405
the tax shall be calculated and paid on the basis of the entire 1406
length of the lease period, including any renewal periods, until 1407
the termination penalty or similar provision no longer applies. 1408
The taxpayer shall bear the burden, by a preponderance of the 1409
evidence, that the transaction or series of transactions is not a 1410
sham transaction. 1411

(3) Except as provided in division (A)(2) of this section, in 1412
the case of a sale, the price of which consists in whole or in 1413
part of the lease or rental of tangible personal property, the tax 1414
shall be measured by the installments of that lease or rental. 1415

(4) In the case of a sale of a physical fitness facility 1416
service or recreation and sports club service, the price of which 1417
consists in whole or in part of a membership for the receipt of 1418
the benefit of the service, the tax applicable to the sale shall 1419
be measured by the installments thereof. 1420

(B) The tax does not apply to the following: 1421

(1) Sales to the state or any of its political subdivisions, 1422
or to any other state or its political subdivisions if the laws of 1423
that state exempt from taxation sales made to this state and its 1424
political subdivisions; 1425

(2) Sales of food for human consumption off the premises 1426
where sold; 1427

(3) Sales of food sold to students only in a cafeteria, 1428
dormitory, fraternity, or sorority maintained in a private, 1429
public, or parochial school, college, or university; 1430

(4) Sales of newspapers and sales or transfers of magazines 1431
distributed as controlled circulation publications; 1432

(5) The furnishing, preparing, or serving of meals without 1433
charge by an employer to an employee provided the employer records 1434
the meals as part compensation for services performed or work 1435
done; 1436

(6) Sales of motor fuel upon receipt, use, distribution, or 1437
sale of which in this state a tax is imposed by the law of this 1438
state, but this exemption shall not apply to the sale of motor 1439
fuel on which a refund of the tax is allowable under division (A) 1440
of section 5735.14 of the Revised Code; and the tax commissioner 1441

may deduct the amount of tax levied by this section applicable to 1442
the price of motor fuel when granting a refund of motor fuel tax 1443
pursuant to division (A) of section 5735.14 of the Revised Code 1444
and shall cause the amount deducted to be paid into the general 1445
revenue fund of this state; 1446

(7) Sales of natural gas by a natural gas company, of water 1447
by a water-works company, or of steam by a heating company, if in 1448
each case the thing sold is delivered to consumers through pipes 1449
or conduits, and all sales of communications services by a 1450
telegraph company, all terms as defined in section 5727.01 of the 1451
Revised Code, and sales of electricity delivered through wires; 1452

(8) Casual sales by a person, or auctioneer employed directly 1453
by the person to conduct such sales, except as to such sales of 1454
motor vehicles, watercraft or outboard motors required to be 1455
titled under section 1548.06 of the Revised Code, watercraft 1456
documented with the United States coast guard, snowmobiles, and 1457
all-purpose vehicles as defined in section 4519.01 of the Revised 1458
Code; 1459

(9)(a) Sales of services or tangible personal property, other 1460
than motor vehicles, mobile homes, and manufactured homes, by 1461
churches, organizations exempt from taxation under section 1462
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 1463
organizations operated exclusively for charitable purposes as 1464
defined in division (B)(12) of this section, provided that the 1465
number of days on which such tangible personal property or 1466
services, other than items never subject to the tax, are sold does 1467
not exceed six in any calendar year, except as otherwise provided 1468
in division (B)(9)(b) of this section. If the number of days on 1469
which such sales are made exceeds six in any calendar year, the 1470
church or organization shall be considered to be engaged in 1471
business and all subsequent sales by it shall be subject to the 1472
tax. In counting the number of days, all sales by groups within a 1473

church or within an organization shall be considered to be sales 1474
of that church or organization. 1475

(b) The limitation on the number of days on which tax-exempt 1476
sales may be made by a church or organization under division 1477
(B)(9)(a) of this section does not apply to sales made by student 1478
clubs and other groups of students of a primary or secondary 1479
school, or a parent-teacher association, booster group, or similar 1480
organization that raises money to support or fund curricular or 1481
extracurricular activities of a primary or secondary school. 1482

(c) Divisions (B)(9)(a) and (b) of this section do not apply 1483
to sales by a noncommercial educational radio or television 1484
broadcasting station. 1485

(10) Sales not within the taxing power of this state under 1486
the Constitution or laws of the United States or the Constitution 1487
of this state; 1488

(11) Except for transactions that are sales under division 1489
(B)(3)(r) of section 5739.01 of the Revised Code, the 1490
transportation of persons or property, unless the transportation 1491
is by a private investigation and security service; 1492

(12) Sales of tangible personal property or services to 1493
churches, to organizations exempt from taxation under section 1494
501(c)(3) of the Internal Revenue Code of 1986, and to any other 1495
nonprofit organizations operated exclusively for charitable 1496
purposes in this state, no part of the net income of which inures 1497
to the benefit of any private shareholder or individual, and no 1498
substantial part of the activities of which consists of carrying 1499
on propaganda or otherwise attempting to influence legislation; 1500
sales to offices administering one or more homes for the aged or 1501
one or more hospital facilities exempt under section 140.08 of the 1502
Revised Code; and sales to organizations described in division (D) 1503
of section 5709.12 of the Revised Code. 1504

"Charitable purposes" means the relief of poverty; the 1505
improvement of health through the alleviation of illness, disease, 1506
or injury; the operation of an organization exclusively for the 1507
provision of professional, laundry, printing, and purchasing 1508
services to hospitals or charitable institutions; the operation of 1509
a home for the aged, as defined in section 5701.13 of the Revised 1510
Code; the operation of a radio or television broadcasting station 1511
that is licensed by the federal communications commission as a 1512
noncommercial educational radio or television station; the 1513
operation of a nonprofit animal adoption service or a county 1514
humane society; the promotion of education by an institution of 1515
learning that maintains a faculty of qualified instructors, 1516
teaches regular continuous courses of study, and confers a 1517
recognized diploma upon completion of a specific curriculum; the 1518
operation of a parent-teacher association, booster group, or 1519
similar organization primarily engaged in the promotion and 1520
support of the curricular or extracurricular activities of a 1521
primary or secondary school; the operation of a community or area 1522
center in which presentations in music, dramatics, the arts, and 1523
related fields are made in order to foster public interest and 1524
education therein; the production of performances in music, 1525
dramatics, and the arts; or the promotion of education by an 1526
organization engaged in carrying on research in, or the 1527
dissemination of, scientific and technological knowledge and 1528
information primarily for the public. 1529

Nothing in this division shall be deemed to exempt sales to 1530
any organization for use in the operation or carrying on of a 1531
trade or business, or sales to a home for the aged for use in the 1532
operation of independent living facilities as defined in division 1533
(A) of section 5709.12 of the Revised Code. 1534

(13) Building and construction materials and services sold to 1535
construction contractors for incorporation into a structure or 1536

improvement to real property under a construction contract with 1537
this state or a political subdivision of this state, or with the 1538
United States government or any of its agencies; building and 1539
construction materials and services sold to construction 1540
contractors for incorporation into a structure or improvement to 1541
real property that are accepted for ownership by this state or any 1542
of its political subdivisions, or by the United States government 1543
or any of its agencies at the time of completion of the structures 1544
or improvements; building and construction materials sold to 1545
construction contractors for incorporation into a horticulture 1546
structure or livestock structure for a person engaged in the 1547
business of horticulture or producing livestock; building 1548
materials and services sold to a construction contractor for 1549
incorporation into a house of public worship or religious 1550
education, or a building used exclusively for charitable purposes 1551
under a construction contract with an organization whose purpose 1552
is as described in division (B)(12) of this section; building 1553
materials and services sold to a construction contractor for 1554
incorporation into a building under a construction contract with 1555
an organization exempt from taxation under section 501(c)(3) of 1556
the Internal Revenue Code of 1986 when the building is to be used 1557
exclusively for the organization's exempt purposes; building and 1558
construction materials sold for incorporation into the original 1559
construction of a sports facility under section 307.696 of the 1560
Revised Code; building and construction materials and services 1561
sold to a construction contractor for incorporation into real 1562
property outside this state if such materials and services, when 1563
sold to a construction contractor in the state in which the real 1564
property is located for incorporation into real property in that 1565
state, would be exempt from a tax on sales levied by that state; 1566
building and construction materials for incorporation into a 1567
transportation facility pursuant to a public-private agreement 1568
entered into under sections 5501.70 to 5501.83 of the Revised 1569

Code; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

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

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

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and

federal regulations adopted pursuant to the Food and Nutrition Act 1602
of 2008. 1603

(17) Sales to persons engaged in farming, agriculture, 1604
horticulture, or floriculture, of tangible personal property for 1605
use or consumption primarily in the production by farming, 1606
agriculture, horticulture, or floriculture of other tangible 1607
personal property for use or consumption primarily in the 1608
production of tangible personal property for sale by farming, 1609
agriculture, horticulture, or floriculture; or material and parts 1610
for incorporation into any such tangible personal property for use 1611
or consumption in production; and of tangible personal property 1612
for such use or consumption in the conditioning or holding of 1613
products produced by and for such use, consumption, or sale by 1614
persons engaged in farming, agriculture, horticulture, or 1615
floriculture, except where such property is incorporated into real 1616
property; 1617

(18) Sales of drugs for a human being that may be dispensed 1618
only pursuant to a prescription; insulin as recognized in the 1619
official United States pharmacopoeia; urine and blood testing 1620
materials when used by diabetics or persons with hypoglycemia to 1621
test for glucose or acetone; hypodermic syringes and needles when 1622
used by diabetics for insulin injections; epoetin alfa when 1623
purchased for use in the treatment of persons with medical 1624
disease; hospital beds when purchased by hospitals, nursing homes, 1625
or other medical facilities; and medical oxygen and medical 1626
oxygen-dispensing equipment when purchased by hospitals, nursing 1627
homes, or other medical facilities; 1628

(19) Sales of prosthetic devices, durable medical equipment 1629
for home use, or mobility enhancing equipment, when made pursuant 1630
to a prescription and when such devices or equipment are for use 1631
by a human being. 1632

(20) Sales of emergency and fire protection vehicles and 1633

equipment to nonprofit organizations for use solely in providing 1634
fire protection and emergency services, including trauma care and 1635
emergency medical services, for political subdivisions of the 1636
state; 1637

(21) Sales of tangible personal property manufactured in this 1638
state, if sold by the manufacturer in this state to a retailer for 1639
use in the retail business of the retailer outside of this state 1640
and if possession is taken from the manufacturer by the purchaser 1641
within this state for the sole purpose of immediately removing the 1642
same from this state in a vehicle owned by the purchaser; 1643

(22) Sales of services provided by the state or any of its 1644
political subdivisions, agencies, instrumentalities, institutions, 1645
or authorities, or by governmental entities of the state or any of 1646
its political subdivisions, agencies, instrumentalities, 1647
institutions, or authorities; 1648

(23) Sales of motor vehicles to nonresidents of this state 1649
under the circumstances described in division (B) of section 1650
5739.029 of the Revised Code; 1651

(24) Sales to persons engaged in the preparation of eggs for 1652
sale of tangible personal property used or consumed directly in 1653
such preparation, including such tangible personal property used 1654
for cleaning, sanitizing, preserving, grading, sorting, and 1655
classifying by size; packages, including material and parts for 1656
packages, and machinery, equipment, and material for use in 1657
packaging eggs for sale; and handling and transportation equipment 1658
and parts therefor, except motor vehicles licensed to operate on 1659
public highways, used in intraplant or interplant transfers or 1660
shipment of eggs in the process of preparation for sale, when the 1661
plant or plants within or between which such transfers or 1662
shipments occur are operated by the same person. "Packages" 1663
includes containers, cases, baskets, flats, fillers, filler flats, 1664
cartons, closure materials, labels, and labeling materials, and 1665

"packaging" means placing therein.	1666
(25)(a) Sales of water to a consumer for residential use;	1667
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	1668 1669 1670 1671
(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	1672 1673
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	1674 1675 1676 1677
(a) To prepare food for human consumption for sale;	1678
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	1679 1680 1681 1682
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	1683 1684
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	1685 1686
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	1687 1688 1689 1690
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	1691 1692 1693
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the	1694 1695

Revised Code;	1696
(32) The sale, lease, repair, and maintenance of, parts for,	1697
or items attached to or incorporated in, motor vehicles that are	1698
primarily used for transporting tangible personal property	1699
belonging to others by a person engaged in highway transportation	1700
for hire, except for packages and packaging used for the	1701
transportation of tangible personal property;	1702
(33) Sales to the state headquarters of any veterans'	1703
organization in this state that is either incorporated and issued	1704
a charter by the congress of the United States or is recognized by	1705
the United States veterans administration, for use by the	1706
headquarters;	1707
(34) Sales to a telecommunications service vendor, mobile	1708
telecommunications service vendor, or satellite broadcasting	1709
service vendor of tangible personal property and services used	1710
directly and primarily in transmitting, receiving, switching, or	1711
recording any interactive, one- or two-way electromagnetic	1712
communications, including voice, image, data, and information,	1713
through the use of any medium, including, but not limited to,	1714
poles, wires, cables, switching equipment, computers, and record	1715
storage devices and media, and component parts for the tangible	1716
personal property. The exemption provided in this division shall	1717
be in lieu of all other exemptions under division (B)(42)(a) or	1718
(n) of this section to which the vendor may otherwise be entitled,	1719
based upon the use of the thing purchased in providing the	1720
telecommunications, mobile telecommunications, or satellite	1721
broadcasting service.	1722
(35)(a) Sales where the purpose of the consumer is to use or	1723
consume the things transferred in making retail sales and	1724
consisting of newspaper inserts, catalogues, coupons, flyers, gift	1725
certificates, or other advertising material that prices and	1726
describes tangible personal property offered for retail sale.	1727

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section;	1728 1729 1730 1731 1732 1733
(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.	1734 1735 1736
(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.	1737 1738 1739
For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.	1740 1741 1742 1743 1744 1745 1746 1747
(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;	1748 1749 1750
(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;	1751 1752 1753 1754 1755
(38) Sales to a professional racing team of any of the following:	1756 1757
(a) Motor racing vehicles;	1758

(b) Repair services for motor racing vehicles;	1759
(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.	1760 1761 1762 1763 1764 1765 1766 1767
(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;	1768 1769 1770
(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	1771 1772 1773 1774 1775 1776 1777 1778 1779 1780 1781 1782 1783 1784 1785 1786 1787 1788
(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible	1789 1790

personal property and services used directly and primarily in 1791
providing taxable services under that section. 1792

(42) Sales where the purpose of the purchaser is to do any of 1793
the following: 1794

(a) To incorporate the thing transferred as a material or a 1795
part into tangible personal property to be produced for sale by 1796
manufacturing, assembling, processing, or refining; or to use or 1797
consume the thing transferred directly in producing tangible 1798
personal property for sale by mining, including, without 1799
limitation, the extraction from the earth of all substances that 1800
are classed geologically as minerals, production of crude oil and 1801
natural gas, or directly in the rendition of a public utility 1802
service, except that the sales tax levied by this section shall be 1803
collected upon all meals, drinks, and food for human consumption 1804
sold when transporting persons. Persons engaged in rendering 1805
services in the exploration for, and production of, crude oil and 1806
natural gas for others are deemed engaged directly in the 1807
exploration for, and production of, crude oil and natural gas. 1808
This paragraph does not exempt from "retail sale" or "sales at 1809
retail" the sale of tangible personal property that is to be 1810
incorporated into a structure or improvement to real property. 1811

(b) To hold the thing transferred as security for the 1812
performance of an obligation of the vendor; 1813

(c) To resell, hold, use, or consume the thing transferred as 1814
evidence of a contract of insurance; 1815

(d) To use or consume the thing directly in commercial 1816
fishing; 1817

(e) To incorporate the thing transferred as a material or a 1818
part into, or to use or consume the thing transferred directly in 1819
the production of, magazines distributed as controlled circulation 1820
publications; 1821

(f) To use or consume the thing transferred in the production 1822
and preparation in suitable condition for market and sale of 1823
printed, imprinted, overprinted, lithographic, multilithic, 1824
blueprinted, photostatic, or other productions or reproductions of 1825
written or graphic matter; 1826

(g) To use the thing transferred, as described in section 1827
5739.011 of the Revised Code, primarily in a manufacturing 1828
operation to produce tangible personal property for sale; 1829

(h) To use the benefit of a warranty, maintenance or service 1830
contract, or similar agreement, as described in division (B)(7) of 1831
section 5739.01 of the Revised Code, to repair or maintain 1832
tangible personal property, if all of the property that is the 1833
subject of the warranty, contract, or agreement would not be 1834
subject to the tax imposed by this section; 1835

(i) To use the thing transferred as qualified research and 1836
development equipment; 1837

(j) To use or consume the thing transferred primarily in 1838
storing, transporting, mailing, or otherwise handling purchased 1839
sales inventory in a warehouse, distribution center, or similar 1840
facility when the inventory is primarily distributed outside this 1841
state to retail stores of the person who owns or controls the 1842
warehouse, distribution center, or similar facility, to retail 1843
stores of an affiliated group of which that person is a member, or 1844
by means of direct marketing. This division does not apply to 1845
motor vehicles registered for operation on the public highways. As 1846
used in this division, "affiliated group" has the same meaning as 1847
in division (B)(3)(e) of section 5739.01 of the Revised Code and 1848
"direct marketing" has the same meaning as in division (B)(35) of 1849
this section. 1850

(k) To use or consume the thing transferred to fulfill a 1851
contractual obligation incurred by a warrantor pursuant to a 1852

warranty provided as a part of the price of the tangible personal 1853
property sold or by a vendor of a warranty, maintenance or service 1854
contract, or similar agreement the provision of which is defined 1855
as a sale under division (B)(7) of section 5739.01 of the Revised 1856
Code; 1857

(l) To use or consume the thing transferred in the production 1858
of a newspaper for distribution to the public; 1859

(m) To use tangible personal property to perform a service 1860
listed in division (B)(3) of section 5739.01 of the Revised Code, 1861
if the property is or is to be permanently transferred to the 1862
consumer of the service as an integral part of the performance of 1863
the service; 1864

(n) To use or consume the thing transferred primarily in 1865
producing tangible personal property for sale by farming, 1866
agriculture, horticulture, or floriculture. Persons engaged in 1867
rendering farming, agriculture, horticulture, or floriculture 1868
services for others are deemed engaged primarily in farming, 1869
agriculture, horticulture, or floriculture. This paragraph does 1870
not exempt from "retail sale" or "sales at retail" the sale of 1871
tangible personal property that is to be incorporated into a 1872
structure or improvement to real property. 1873

(o) To use or consume the thing transferred in acquiring, 1874
formatting, editing, storing, and disseminating data or 1875
information by electronic publishing. 1876

As used in division (B)(42) of this section, "thing" includes 1877
all transactions included in divisions (B)(3)(a), (b), and (e) of 1878
section 5739.01 of the Revised Code. 1879

(43) Sales conducted through a coin operated device that 1880
activates vacuum equipment or equipment that dispenses water, 1881
whether or not in combination with soap or other cleaning agents 1882
or wax, to the consumer for the consumer's use on the premises in 1883

washing, cleaning, or waxing a motor vehicle, provided no other 1884
personal property or personal service is provided as part of the 1885
transaction. 1886

(44) Sales of replacement and modification parts for engines, 1887
airframes, instruments, and interiors in, and paint for, aircraft 1888
used primarily in a fractional aircraft ownership program, and 1889
sales of services for the repair, modification, and maintenance of 1890
such aircraft, and machinery, equipment, and supplies primarily 1891
used to provide those services. 1892

(45) Sales of telecommunications service that is used 1893
directly and primarily to perform the functions of a call center. 1894
As used in this division, "call center" means any physical 1895
location where telephone calls are placed or received in high 1896
volume for the purpose of making sales, marketing, customer 1897
service, technical support, or other specialized business 1898
activity, and that employs at least fifty individuals that engage 1899
in call center activities on a full-time basis, or sufficient 1900
individuals to fill fifty full-time equivalent positions. 1901

(46) Sales by a telecommunications service vendor of 900 1902
service to a subscriber. This division does not apply to 1903
information services, as defined in division (FF) of section 1904
5739.01 of the Revised Code. 1905

(47) Sales of value-added non-voice data service. This 1906
division does not apply to any similar service that is not 1907
otherwise a telecommunications service. 1908

(48)(a) Sales of machinery, equipment, and software to a 1909
qualified direct selling entity for use in a warehouse or 1910
distribution center primarily for storing, transporting, or 1911
otherwise handling inventory that is held for sale to independent 1912
salespersons who operate as direct sellers and that is held 1913
primarily for distribution outside this state; 1914

(b) As used in division (B)(48)(a) of this section:	1915
(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.	1916 1917 1918 1919
(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.	1920 1921 1922 1923 1924 1925 1926 1927 1928
(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.	1929 1930 1931 1932
(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.	1933 1934 1935 1936 1937 1938 1939 1940
(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit.	1941 1942 1943 1944 1945

It includes the assemblage of equipment and computer programs 1946
necessary to represent aircraft operations in ground and flight 1947
conditions, a visual system providing an out-of-the-cockpit view, 1948
and a system that provides cues at least equivalent to those of a 1949
three-degree-of-freedom motion system, and has the full range of 1950
capabilities of the systems installed in the device as described 1951
in appendices A and B of part 60 of chapter 1 of title 14 of the 1952
Code of Federal Regulations. 1953

(51) Any transfer or lease of tangible personal property 1954
between the state and JobsOhio in accordance with section 4313.02 1955
of the Revised Code. 1956

(52)(a) Sales to a qualifying corporation. 1957

(b) As used in division (B)(52) of this section: 1958

(i) "Qualifying corporation" means a nonprofit corporation 1959
organized in this state that leases from an eligible county land, 1960
buildings, structures, fixtures, and improvements to the land that 1961
are part of or used in a public recreational facility used by a 1962
major league professional athletic team or a class A to class AAA 1963
minor league affiliate of a major league professional athletic 1964
team for a significant portion of the team's home schedule, 1965
provided the following apply: 1966

(I) The facility is leased from the eligible county pursuant 1967
to a lease that requires substantially all of the revenue from the 1968
operation of the business or activity conducted by the nonprofit 1969
corporation at the facility in excess of operating costs, capital 1970
expenditures, and reserves to be paid to the eligible county at 1971
least once per calendar year. 1972

(II) Upon dissolution and liquidation of the nonprofit 1973
corporation, all of its net assets are distributable to the board 1974
of commissioners of the eligible county from which the corporation 1975
leases the facility. 1976

(ii) "Eligible county" has the same meaning as in section 1977
307.695 of the Revised Code. 1978

(53) Sales to or by a cable service provider, video service 1979
provider, or radio or television broadcast station regulated by 1980
the federal government of cable service or programming, video 1981
service or programming, audio service or programming, or 1982
electronically transferred digital audiovisual or audio work. As 1983
used in division (B)(53) of this section, "cable service" and 1984
"cable service provider" have the same meanings as in section 1985
1332.01 of the Revised Code, and "video service," "video service 1986
provider," and "video programming" have the same meanings as in 1987
section 1332.21 of the Revised Code. 1988

(C) For the purpose of the proper administration of this 1989
chapter, and to prevent the evasion of the tax, it is presumed 1990
that all sales made in this state are subject to the tax until the 1991
contrary is established. 1992

(D) The levy of this tax on retail sales of recreation and 1993
sports club service shall not prevent a municipal corporation from 1994
levying any tax on recreation and sports club dues or on any 1995
income generated by recreation and sports club dues. 1996

(E) The tax collected by the vendor from the consumer under 1997
this chapter is not part of the price, but is a tax collection for 1998
the benefit of the state, and of counties levying an additional 1999
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 2000
Code and of transit authorities levying an additional sales tax 2001
pursuant to section 5739.023 of the Revised Code. Except for the 2002
discount authorized under section 5739.12 of the Revised Code and 2003
the effects of any rounding pursuant to section 5703.055 of the 2004
Revised Code, no person other than the state or such a county or 2005
transit authority shall derive any benefit from the collection or 2006
payment of the tax levied by this section or section 5739.021, 2007
5739.023, or 5739.026 of the Revised Code. 2008

Section 2. That existing sections 5501.44, 5501.70, 5501.71, 2009
5501.73, 5501.78, 5531.11, 5531.12, 5531.13, 5531.14, 5531.15, 2010
5531.16, and 5739.02 of the Revised Code are hereby repealed. 2011

Section 3. Section 5739.02 of the Revised Code is presented 2012
in this act as a composite of the section as amended by both Am. 2013
Sub. H.B. 51 and Am. Sub. H.B. 59 of the 130th General Assembly. 2014
The General Assembly, applying the principle stated in division 2015
(B) of section 1.52 of the Revised Code that amendments are to be 2016
harmonized if reasonably capable of simultaneous operation, finds 2017
that the composite is the resulting version of the section in 2018
effect prior to the effective date of the section as presented in 2019
this act. 2020