

As Reported by the House Ways and Means Committee

131st General Assembly

Regular Session

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Sub. H. B. No. 23

**Representative Amstutz
Cosponsor: Representative Cera**

A BILL

To amend sections 131.44, 1509.73, 5741.01, 1
5741.03, and 5741.032 and to enact section 2
1509.79 of the Revised Code to use a portion of 3
any income from oil and gas leases on state land 4
to fund temporary income tax reductions and 5
local government capital improvement projects, 6
to modify the law governing the use of new Ohio 7
use tax collections from remote sellers for 8
income tax reductions, and to require the 9
Director of Budget and Management to recommend 10
whether or not income tax rates should be 11
permanently reduced after the Director certifies 12
a temporary rate reduction resulting from the 13
accrual of money in the Income Tax Reduction 14
Fund. 15

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

Section 1. That sections 131.44, 1509.73, 5741.01, 16
5741.03, and 5741.032 be amended and section 1509.79 of the 17
Revised Code be enacted to read as follows: 18

Sec. 131.44. (A) As used in this section: 19

- (1) "Surplus revenue" means the excess, if any, of the 20
total fund balance over the required year-end balance. 21
- (2) "Total fund balance" means the sum of the unencumbered 22
balance in the general revenue fund on the last day of the 23
preceding fiscal year plus the balance in the budget 24
stabilization fund. 25
- (3) "Required year-end balance" means the sum of the 26
following: 27
- (a) Five per cent of the general revenue fund revenues for 28
the preceding fiscal year; 29
- (b) "Ending fund balance," which means one-half of one per 30
cent of general revenue fund revenues for the preceding fiscal 31
year; 32
- (c) "Carryover balance," which means, with respect to a 33
fiscal biennium, the excess, if any, of the estimated general 34
revenue fund appropriation and transfer requirement for the 35
second fiscal year of the biennium over the estimated general 36
revenue fund revenue for that fiscal year; 37
- (d) "Capital appropriation reserve," which means the 38
amount, if any, of general revenue fund capital appropriations 39
made for the current biennium that the director of budget and 40
management has determined will be encumbered or disbursed; 41
- (e) "Income tax reduction impact reserve," which means an 42
amount equal to the reduction projected by the director of 43
budget and management in income tax revenue in the current 44
fiscal year attributable to the previous reduction in the income 45
tax rate made by the tax commissioner pursuant to division (B) 46
of section 5747.02 of the Revised Code. 47

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of appropriations from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B) (1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal five per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, 77
the director shall determine the percentage that the balance in 78
the income tax reduction fund is of the amount of revenue that 79
the director estimates will be received from the tax levied 80
under section 5747.02 of the Revised Code in the current fiscal 81
year without regard to any reduction under division (B) of that 82
section. If that percentage exceeds thirty-five one hundredths 83
of one per cent, the director shall certify the percentage to 84
the tax commissioner not later than the thirty-first day of 85
July. 86

(3) Not later than fifteen days after the director makes 87
the certification described in division (B) (2) of this section, 88
the director shall issue a report to the governor, speaker of 89
the house of representatives, and president of the senate. The 90
report shall include both of the following: 91

(a) The amount of revenue credited to the income tax 92
reduction fund in the preceding fiscal year under division (B) 93
(1) of this section, division (J) of section 1509.73 of the 94
Revised Code, and division (C) (2) of section 5741.03 of the 95
Revised Code, arranged according to each source of revenue; 96

(b) The director's recommendations whether and to what 97
extent the rates of the tax levied under section 5747.02 of the 98
Revised Code may be proportionately and permanently reduced 99
based on the amounts credited to the income tax reduction fund 100
reported under division (B) (3) (a) of this section. 101

(C) The director of budget and management shall transfer 102
money in the income tax reduction fund to the general revenue 103
fund, the local government fund, and the public library fund as 104
necessary to offset revenue reductions resulting from the 105
reductions in taxes required under division (B) of section 106

5747.02 of the Revised Code in the respective amounts and 107
percentages prescribed by division (A) of section 5747.03 and 108
divisions (B) and (C) of section 131.51 of the Revised Code as 109
if the amount transferred had been collected as taxes under 110
Chapter 5747. of the Revised Code. If no reductions in taxes are 111
made under that division that affect revenue received in the 112
current fiscal year, the director shall not transfer money from 113
the income tax reduction fund to the general revenue fund, the 114
local government fund, and the public library fund. 115

Sec. 1509.73. (A) (1) ~~Beginning on the effective date of~~ 116
~~this section~~ September 30, 2011, and ending on the effective 117
date of the rules adopted under section 1509.74 of the Revised 118
Code, a state agency, in consultation with the oil and gas 119
leasing commission, may lease a formation within a parcel of 120
land that is owned or controlled by the state agency for the 121
exploration for and development and production of oil or natural 122
gas. The state agency shall establish bid fees, signing fees, 123
rentals, and at least a one-eighth landowner royalty. On and 124
after the effective date of the rules adopted under section 125
1509.74 of the Revised Code, a formation within a parcel of land 126
that is owned or controlled by a state agency may be leased for 127
the exploration for and development and production of oil or 128
natural gas only in accordance with divisions (A) (2) to (H) of 129
this section and those rules. 130

(2) Not earlier than two hundred seventy days after ~~the~~ 131
~~effective date of this section~~ September 30, 2011, a person that 132
is an owner and that is interested in leasing a formation within 133
a parcel of land that is owned or controlled by a state agency 134
for the exploration for and the development and production of 135
oil or natural gas may submit to the oil and gas leasing 136
commission a nomination that identifies the parcel of land and 137

the county and township or municipal corporation in which the 138
parcel is located. A person submitting a nomination shall submit 139
it in the manner and form established in rules adopted under 140
section 1509.74 of the Revised Code and shall include with the 141
nomination both of the following: 142

(a) The information required by those rules; 143

(b) The nomination fee established in those rules. 144

(B) (1) Not less than thirty days, but not more than one 145
hundred twenty days following the receipt of a nomination of a 146
parcel of land, the commission shall conduct a meeting for the 147
purpose of determining whether to approve or disapprove the 148
nomination for the purpose of leasing a formation within the 149
parcel of land that is identified in the nomination. The 150
commission also shall review the nomination of the parcel of 151
land and determine if the parcel of land has been classified 152
under section 1509.72 of the Revised Code. If the parcel of land 153
that is the subject of the nomination has not been classified, 154
the commission immediately shall send a copy of the nomination 155
to the state agency that owns or controls the parcel that is the 156
subject of the nomination. Not later than fifteen days after 157
receipt of a copy of the nomination, the state agency shall 158
classify the parcel of land as a class 1, class 2, class 3, or 159
class 4 property and submit the classification to the 160
commission. On receipt of the state agency's classification of 161
the parcel of land, the commission shall provide the department 162
of natural resources the information necessary for the 163
department to comply with divisions (C) and (D) of section 164
1509.72 of the Revised Code. 165

After a parcel of land that is the subject of a nomination 166
has been classified under section 1509.72 of the Revised Code or 167

division (B)(1) of this section, as applicable, the commission 168
shall approve or disapprove the nomination. In making its 169
decision to approve or disapprove the nomination of the parcel 170
of land, the commission shall consider all of the following: 171

(a) The economic benefits, including the potential income 172
from an oil or natural gas operation, that would result if the 173
lease of a formation that is the subject of the nomination were 174
approved; 175

(b) Whether the proposed oil or gas operation is 176
compatible with the current uses of the parcel of land that is 177
the subject of the nomination; 178

(c) The environmental impact that would result if the 179
lease of a formation that is the subject of the nomination were 180
approved; 181

(d) Any potential adverse geological impact that would 182
result if the lease of a formation that is the subject of the 183
nomination were approved; 184

(e) Any potential impact to visitors or users of a parcel 185
of land that is the subject of the nomination; 186

(f) Any potential impact to the operations or equipment of 187
a state agency that is a state university or college if the 188
lease of a formation within a parcel of land owned or controlled 189
by the university or college that is the subject of the 190
nomination were executed; 191

(g) Any objections to the nomination submitted to the 192
commission by the state agency that owns or controls the land on 193
which the proposed oil or natural gas operation would take 194
place; 195

(h) Any comments or objections to the nomination submitted 196
to the commission by residents of this state or other users of 197
the parcel of land that is the subject of the nomination; 198

(i) Any other factors that the commission establishes in 199
rules adopted under section 1509.74 of the Revised Code. 200

(2) The commission shall disapprove a nomination of a 201
parcel of land that is a class 3 property. The commission shall 202
send notice of the disapproval by certified mail to the person 203
that submitted the nomination. 204

(3) Prior to making its decision to approve or disapprove 205
a nomination, the commission shall notify the state agency that 206
owns or controls the land on which the oil or gas operation 207
would take place. 208

(4) The commission shall approve or disapprove a 209
nomination not later than two calendar quarters following the 210
receipt of the nomination. Notice of the decision of the 211
commission shall be sent by certified mail to the person that 212
submitted the nomination. 213

(5) If the commission approves a nomination, the 214
commission shall notify the state agency that owns or controls 215
the parcel of land that is the subject of a nomination of the 216
commission's approval of the nomination. The notification shall 217
request the state agency to submit to the commission special 218
terms and conditions that will apply to the lease of a formation 219
within the parcel of land because of specific conditions related 220
to the parcel of land. The state agency shall submit the special 221
terms and conditions not later than sixty days after receipt of 222
a notice from the commission. 223

(6) If the commission approves a nomination for a parcel 224

of land that is a class 1 property, the commission shall offer 225
for lease each formation that is within the parcel of land. If 226
the commission approves a nomination for a parcel of land that 227
is a class 2 or class 4 property, the commission shall not offer 228
for lease any formation that is within the parcel of land unless 229
the state agency that owns or controls the parcel of land 230
notifies the commission that a formation or formations that are 231
within the parcel of land may be offered for lease. 232

(C) Each calendar quarter, the commission shall proceed to 233
advertise for bids for a lease for a formation within a parcel 234
of land that was the subject of a nomination approved during the 235
previous calendar quarter that is a class 1 property or that is 236
a class 2 or class 4 property for which the commission has 237
received notice from the state agency that owns or controls the 238
parcel of land under division (B) (6) of this section that a 239
formation or formations that are within the parcel of land may 240
be offered for lease. The advertisement shall be provided to the 241
department of natural resources, and the department shall 242
publish the advertisement on its web site for a period of time 243
established by the commission. The advertisement shall include 244
all of the following: 245

(1) The procedure for the submission of a bid to enter 246
into a lease for a formation within a parcel of land; 247

(2) A statement that a standard lease form that is 248
consistent with the practices of the oil and natural gas 249
industries will be used for the lease of a formation within the 250
parcel of land; 251

(3) A copy of the standard lease form that will be used 252
for the lease of a formation within the parcel of land; 253

(4) Special terms and conditions, if applicable, that 254
apply to the lease because of specific conditions related to the 255
parcel of land; 256

(5) The amount of the bid fee that is required to be 257
submitted with a bid; 258

(6) Any other information that the commission considers 259
pertinent to the advertisement for bids. 260

(D) A person submitting a bid to enter into a lease under 261
this section shall pay a bid fee established in rules adopted 262
under section 1509.74 of the Revised Code. 263

(E) In order to encourage the submission of bids and the 264
responsible and reasonable development of the state's natural 265
resources, the information that is contained in a bid submitted 266
to the commission under this section shall be confidential and 267
shall not be disclosed before a person is selected under 268
division (F) of this section unless the commission determines 269
otherwise. 270

(F) The commission shall establish a deadline for the 271
submission of bids for each lease regarding a particular parcel 272
of land and shall notify the department of the deadline. The 273
department shall post the deadline for the submission of bids 274
for each lease on the department's web site. A person shall 275
submit a bid in accordance with the procedures and requirements 276
established by the commission in rules adopted under section 277
1509.74 of the Revised Code. 278

The commission shall select the person who submits the 279
highest and best bid for each formation within that parcel of 280
land, taking into account the financial responsibility of the 281
prospective lessee and the ability of the prospective lessee to 282

perform its obligations under the lease. After the commission
selects a person, the commission shall notify the applicable
state agency and send the person's bid to the agency. The state
agency shall enter into a lease with the person selected by the
commission.

(G) (1) ~~Except as otherwise provided in division (G) (2) of
this section, One-third of~~ all money received by a state agency
from signing fees, rentals, and royalty payments for leases
entered into under this section, except for leases described in
division (G) (2) of this section, shall be paid by the state
agency into the state treasury to the credit of the state land
royalty fund created in section 131.50 of the Revised Code.

(2) ~~Money One-third of all money~~ received by a state
agency from signing fees, rentals, and royalty payments for
leases entered into under this section on land owned or
controlled by the division of forestry, wildlife, or parks and
recreation in the department of natural resources shall be
deposited into one of the following funds, as applicable:

(a) The forestry mineral royalties fund created in section
1503.012 of the Revised Code if the lease pertains to land owned
or controlled by the division of forestry;

(b) The wildlife habitat fund created in section 1531.33
of the Revised Code if the lease pertains to land owned or
controlled by the division of wildlife;

(c) The parks mineral royalties fund created in section
1541.26 of the Revised Code if the lease pertains to land owned
or controlled by the division of parks and recreation.

(3) One-third of all money received by a state agency from
signing fees, rentals, and royalty payments for leases entered

into under this section shall be paid by the state agency into 312
the general revenue fund and one-third of such money shall be 313
paid by the state agency into the local royalty fund created in 314
section 1509.79 of the Revised Code. 315

(H) All money received from nomination fees and bid fees 316
shall be paid into the state treasury to the credit of the oil 317
and gas leasing commission administration fund created in 318
section 1509.75 of the Revised Code. 319

(I) Notwithstanding any other provision of this section to 320
the contrary, a nature preserve as defined in section 1517.01 of 321
the Revised Code that is owned or controlled by a state agency 322
shall not be nominated or leased under this section for the 323
purpose of exploring for and developing and producing oil and 324
natural gas resources. 325

(J) Not later than the last day of each January and June, 326
the director of budget and management shall transfer from the 327
general revenue fund to the income tax reduction fund an amount 328
equal to the amount of money deposited into the general revenue 329
fund under division (G) (3) of this section during the six-month 330
period ending on the preceding last day of November and of May, 331
respectively. Amounts transferred to the income tax reduction 332
fund under this division in a fiscal year shall be included in 333
the determination of the percentage under division (B) (2) of 334
section 131.44 of the Revised Code required to be made by the 335
thirty-first day of July of the ensuing fiscal year. 336

Sec. 1509.79. (A) As used in this section: 337

(1) "Subdivision" means a municipal corporation or 338
township. 339

(2) "Affected county" means a county in which a parcel is 340

located from which a state agency receives money from a lease 341
entered into under section 1509.73 of the Revised Code. 342

(3) "Capital improvement" means the acquisition, 343
construction, reconstruction, expansion, improvement, 344
maintenance, planning, and equipping of roads and bridges, waste 345
water treatment systems, water supply systems, solid waste 346
disposal facilities, and storm water and sanitary collection, 347
storage, and treatment facilities, including real property, 348
interests in real property, buildings, facilities, fixtures, and 349
equipment, related or incidental to those roads, bridges, 350
systems, or facilities. "Capital improvement" includes the 351
acquisition, improvement, maintenance, or equipping of service 352
vehicles, including those vehicles used for highway construction 353
and maintenance, for public safety purposes, or to maintain 354
public parks or recreation areas. 355

(B) On or before each date listed in the schedule 356
prescribed by the director of budget and management under 357
division (C) (4) of this section, the director of transportation 358
shall certify to the director of budget and management, for each 359
affected county and each subdivision located in that county, the 360
fraction obtained by dividing the number of centerline miles of 361
public highways, roads, and streets located in and maintained by 362
the affected county or subdivision by the aggregate sum of 363
centerline miles of public highways, roads, and streets located 364
in and maintained by the affected county and each of those 365
subdivisions. 366

(C) (1) There is hereby created in the state treasury the 367
local royalty fund, which shall consist of money credited to the 368
fund under division (G) of section 1509.73 of the Revised Code. 369

(2) The director of budget and management shall calculate 370

for each affected county, on or before each date listed in the 371
schedule prescribed by the director under division (C) (4) of 372
this section, an amount equal to eighty-five per cent of the 373
portion of the current balance of the local royalty fund 374
attributed to leases entered into under section 1509.73 of the 375
Revised Code on parcels located in that county. 376

(3) The director of budget and management shall make 377
payments from the local royalty fund as follows: 378

(a) To each affected county and each subdivision located 379
in an affected county in an amount equal to the following: 380

(i) Fifty per cent of the amount calculated in division 381
(C) (2) of this section for that affected county multiplied by a 382
fraction, the numerator of which is the population of the 383
affected county or subdivision, and the denominator of which is 384
the aggregate sum of the population of the affected county and 385
each subdivision located in that county; 386

(ii) Fifty per cent of the amount calculated in division 387
(C) (2) of this section for that affected county multiplied by 388
the fraction most recently certified for that affected county or 389
subdivision to the director under division (B) of this section. 390

(b) To each subdivision in which a leased parcel is 391
located, an amount equal to the balance in the local royalty 392
fund after accounting for payments under division (C) (3) (a) of 393
this section multiplied by a fraction, the numerator of which is 394
the portion of the balance in the local royalty fund, before 395
accounting for payments under division (C) (3) (a) of this 396
section, attributable to leases of parcels located in that 397
subdivision under section 1509.73 of the Revised Code, and the 398
denominator of which is that portion of the balance in the fund 399

before accounting for such payments. 400

(4) The director shall make payments under division (C) (3) 401
of this section on the dates and at the frequency prescribed by 402
the director. The office of budget and management shall post a 403
schedule of these payment dates on the office's web site. 404

(D) A county or subdivision shall deposit money received 405
under division (C) (3) of this section in a special fund created 406
in the county's or subdivision's treasury. The county or 407
subdivision shall use that money exclusively to pay the costs of 408
capital improvements. 409

Sec. 5741.01. As used in this chapter: 410

(A) "Person" includes individuals, receivers, assignees, 411
trustees in bankruptcy, estates, firms, partnerships, 412
associations, joint-stock companies, joint ventures, clubs, 413
societies, corporations, business trusts, governments, and 414
combinations of individuals of any form. 415

(B) "Storage" means and includes any keeping or retention 416
in this state for use or other consumption in this state. 417

(C) "Use" means and includes the exercise of any right or 418
power incidental to the ownership of the thing used. A thing is 419
also "used" in this state if its consumer gives or otherwise 420
distributes it, without charge, to recipients in this state. 421

(D) "Purchase" means acquired or received for a 422
consideration, whether such acquisition or receipt was effected 423
by a transfer of title, or of possession, or of both, or a 424
license to use or consume; whether such transfer was absolute or 425
conditional, and by whatever means the transfer was effected; 426
and whether the consideration was money, credit, barter, or 427
exchange. Purchase includes production, even though the article 428

produced was used, stored, or consumed by the producer. The 429
transfer of copyrighted motion picture films for exhibition 430
purposes is not a purchase, except such films as are used solely 431
for advertising purposes. 432

(E) "Seller" means the person from whom a purchase is 433
made, and includes every person engaged in this state or 434
elsewhere in the business of selling tangible personal property 435
or providing a service for storage, use, or other consumption or 436
benefit in this state; and when, in the opinion of the tax 437
commissioner, it is necessary for the efficient administration 438
of this chapter, to regard any salesperson, representative, 439
peddler, or canvasser as the agent of a dealer, distributor, 440
supervisor, or employer under whom the person operates, or from 441
whom the person obtains tangible personal property, sold by the 442
person for storage, use, or other consumption in this state, 443
irrespective of whether or not the person is making such sales 444
on the person's own behalf, or on behalf of such dealer, 445
distributor, supervisor, or employer, the commissioner may 446
regard the person as such agent, and may regard such dealer, 447
distributor, supervisor, or employer as the seller. "Seller" 448
does not include any person to the extent the person provides a 449
communications medium, such as, but not limited to, newspapers, 450
magazines, radio, television, or cable television, by means of 451
which sellers solicit purchases of their goods or services. 452

(F) "Consumer" means any person who has purchased tangible 453
personal property or has been provided a service for storage, 454
use, or other consumption or benefit in this state. "Consumer" 455
does not include a person who receives, without charge, tangible 456
personal property or a service. 457

A person who performs a facility management or similar 458

service contract for a contractee is a consumer of all tangible 459
personal property and services purchased for use in connection 460
with the performance of such contract, regardless of whether 461
title to any such property vests in the contractee. The purchase 462
of such property and services is not subject to the exception 463
for resale under division (E) of section 5739.01 of the Revised 464
Code. 465

(G) (1) "Price," except as provided in divisions (G) (2) to 466
(6) of this section, has the same meaning as in division (H) (1) 467
of section 5739.01 of the Revised Code. 468

(2) In the case of watercraft, outboard motors, or new 469
motor vehicles, "price" has the same meaning as in divisions (H) 470
(2) and (3) of section 5739.01 of the Revised Code. 471

(3) In the case of a nonresident business consumer that 472
purchases and uses tangible personal property outside this state 473
and subsequently temporarily stores, uses, or otherwise consumes 474
such tangible personal property in the conduct of business in 475
this state, the consumer or the tax commissioner may determine 476
the price based on the value of the temporary storage, use, or 477
other consumption, in lieu of determining the price pursuant to 478
division (G) (1) of this section. A price determination made by 479
the consumer is subject to review and redetermination by the 480
commissioner. 481

(4) In the case of tangible personal property held in this 482
state as inventory for sale or lease, and that is temporarily 483
stored, used, or otherwise consumed in a taxable manner, the 484
price is the value of the temporary use. A price determination 485
made by the consumer is subject to review and redetermination by 486
the commissioner. 487

(5) In the case of tangible personal property originally 488
purchased and used by the consumer outside this state, and that 489
becomes permanently stored, used, or otherwise consumed in this 490
state more than six months after its acquisition by the 491
consumer, the consumer or the commissioner may determine the 492
price based on the current value of such tangible personal 493
property, in lieu of determining the price pursuant to division 494
(G) (1) of this section. A price determination made by the 495
consumer is subject to review and redetermination by the 496
commissioner. 497

(6) If a consumer produces tangible personal property for 498
sale and removes that property from inventory for the consumer's 499
own use, the price is the produced cost of that tangible 500
personal property. 501

(H) "Nexus with this state" means that the seller engages 502
in continuous and widespread solicitation of purchases from 503
residents of this state or otherwise purposefully directs its 504
business activities at residents of this state. 505

(I) "Substantial nexus with this state" means that the 506
seller has sufficient contact with this state, in accordance 507
with Section 8 of Article I of the Constitution of the United 508
States, to allow the state to require the seller to collect and 509
remit use tax on sales of tangible personal property or services 510
made to consumers in this state. "Substantial nexus with this 511
state" exists when the seller does any of the following: 512

(1) Maintains a place of business within this state, 513
whether operated by employees or agents of the seller, by a 514
member of an affiliated group, as defined in division (B) (3) (e) 515
of section 5739.01 of the Revised Code, of which the seller is a 516
member, or by a franchisee using a trade name of the seller; 517

(2) Regularly has employees, agents, representatives, 518
solicitors, installers, repairmen, salesmen, or other 519
individuals in this state for the purpose of conducting the 520
business of the seller; 521

(3) Uses a person in this state for the purpose of 522
receiving or processing orders of the seller's goods or 523
services; 524

(4) Makes regular deliveries of tangible personal property 525
into this state by means other than common carrier; 526

(5) Has membership in an affiliated group, as described in 527
division (B) (3) (e) of section 5739.01 of the Revised Code, at 528
least one other member of which has substantial nexus with this 529
state; 530

(6) Owns tangible personal property that is rented or 531
leased to a consumer in this state, or offers tangible personal 532
property, on approval, to consumers in this state; 533

(7) Except as provided in section 5703.65 of the Revised 534
Code, is registered with the secretary of state to do business 535
in this state or is registered or licensed by any state agency, 536
board, or commission to transact business in this state or to 537
make sales to persons in this state; 538

(8) Has any other contact with this state that would allow 539
this state to require the seller to collect and remit use tax 540
under Section 8 of Article I of the Constitution of the United 541
States. 542

(J) "Fiscal officer" means, with respect to a regional 543
transit authority, the secretary-treasurer thereof, and with 544
respect to a county which is a transit authority, the fiscal 545
officer of the county transit board appointed pursuant to 546

section 306.03 of the Revised Code or, if the board of county
commissioners operates the county transit system, the county
auditor.

(K) "Territory of the transit authority" means all of the
area included within the territorial boundaries of a transit
authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county which is a
part of such transit authority. County population shall be
measured by the most recent census taken by the United States
census bureau.

(L) "Transit authority" means a regional transit authority
created pursuant to section 306.31 of the Revised Code or a
county in which a county transit system is created pursuant to
section 306.01 of the Revised Code. For the purposes of this
chapter, a transit authority must extend to at least the entire
area of a single county. A transit authority which includes
territory in more than one county must include all the area of
the most populous county which is a part of such transit
authority. County population shall be measured by the most
recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in
~~division (X) of~~ section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of
a service.

(O) "Lease" or "rental" has the same meaning as in
~~division (UU) of~~ section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as
in section 5740.01 of the Revised Code.

(Q) "Remote sale" means a sale for which the seller could not be legally required to pay, collect, or remit a tax imposed under this chapter or Chapter 5739. of the Revised Code, unless otherwise provided by the laws of the United States.

(R) "Remote seller" means a seller ~~that~~ to which all of the following apply:

(1) The seller makes remote sales to one or more consumers;

(2) The seller lacks a substantial nexus with this state and would not have been required to pay, collect, or remit a tax under this chapter or Chapter 5739. of the Revised Code under the law as it existed on the effective date of H.B. 23 of the 131st general assembly;

(3) Unless the seller is a remote small seller, the seller is currently required to pay, collect, or remit a tax under this chapter or Chapter 5739. of the Revised Code on remote sales pursuant to federal legislation authorizing states to require sellers that lack a substantial nexus with the state to pay, collect, or remit sales and use tax;

(4) The seller did not, before the effective date of such federal legislation, voluntarily register with the tax commissioner under division (B) of section 5741.17 of the Revised Code.

(S) "Remote small seller" means a remote seller that has gross annual receipts from remote sales in the United States not exceeding one million dollars for the preceding calendar year. For the purposes of determining whether a person is a small remote seller, the sales of all persons related within the meaning of subsection (b) or (c) of section 267 or section

707(b) (1) of the Internal Revenue Code shall be aggregated, and 605
persons with one or more ownership relationships shall be 606
aggregated if those relationships were designed with the 607
principal purpose to qualify as a remote small seller. 608

Sec. 5741.03. (A) One hundred per cent of all money 609
deposited into the state treasury under sections 5741.01 to 610
5741.22 of the Revised Code that is not required to be 611
distributed as provided in division (B) of this section shall be 612
credited to the general revenue fund. 613

(B) In any case where any county or transit authority has 614
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 615
5741.023 of the Revised Code, the tax commissioner shall, within 616
forty-five days after the end of each month, determine and 617
certify to the director of budget and management the amount of 618
the proceeds of such tax or taxes from billings and assessments 619
received during that month, or shown on tax returns or reports 620
filed during that month, to be returned to the county or transit 621
authority levying the tax or taxes, which amounts shall be 622
determined in the manner provided in section 5739.21 of the 623
Revised Code. The director of budget and management shall 624
transfer, from the general revenue fund, to the permissive tax 625
distribution fund created by division (B) (1) of section 4301.423 626
of the Revised Code and to the local sales tax administrative 627
fund created by division (C) of section 5739.21 of the Revised 628
Code, the amounts certified by the tax commissioner. The tax 629
commissioner shall then, on or before the twentieth day of the 630
month in which such certification is made, provide for payment 631
of such respective amounts to the county treasurer or to the 632
fiscal officer of the transit authority levying the tax or 633
taxes. The amount transferred to the local sales tax 634
administrative fund is for use by the tax commissioner in 635

defraying costs the commissioner incurs in administering such 636
taxes levied by a county or transit authority. 637

(C) (1) Not later than the first day of each January and ~~of~~ 638
~~July each calendar year beginning July 1, 2015~~following the date 639
remote sellers are first required to pay, collect, or remit a 640
tax under this chapter, the tax commissioner and the director of 641
budget and management shall jointly determine the amount of tax 642
imposed by section 5741.02 of the Revised Code and remitted 643
under this chapter by remote sellers during the six-month period 644
ending on the preceding last day of November and of May, 645
respectively, reduced by ~~any such tax remitted by sellers~~ 646
~~pursuant to an agreement entered into under section 5740.03 of~~ 647
~~the Revised Code during the six month period and by any refunds~~ 648
issued during the six-month period to remote sellers from the 649
tax refund fund on account of that tax. 650

(2) Not later than that ~~first last~~ day of each January and 651
~~of July of the calendar year beginning July 1, 2015~~June 652
following the date remote sellers are first required to pay, 653
collect, or remit a tax under this chapter, the director of 654
budget and management shall transfer from the general revenue 655
fund to the income tax reduction fund the amount determined 656
under division (C) (1) of this section, ~~less one half of the~~ 657
~~amount of that tax remitted during fiscal year 2013 by remote~~ 658
~~sellers that voluntarily registered under section 5741.17 of the~~ 659
~~Revised Code. Amounts transferred to the income tax reduction~~ 660
fund under this ~~section~~ division in a fiscal year shall be 661
included in the determination of the percentage under division 662
(B) (2) of section 131.44 of the Revised Code required to be made 663
by the thirty-first day of July of the ~~calendar~~ ensuing fiscal 664
~~year in which the commissioner makes the certifications under~~ 665
~~this division.~~ 666

(3) Division (C) of this section does not authorize the 667
state to require remote sellers to pay, collect, or remit a tax 668
imposed under this chapter or Chapter 5739. of the Revised Code 669
in the absence of federal legislation authorizing states to 670
require sellers that lack a substantial nexus with the state to 671
pay, collect, or remit sales and use tax. 672

Sec. 5741.032. There is hereby created in the state 673
treasury the remote seller administration fund for the purpose 674
of paying the expenses incurred by the department of taxation in 675
the administration of this chapter with respect to remote 676
sellers. Annually, before the thirty-first day of each July 677
following the date remote sellers are first required to pay, 678
collect, or remit a tax under this chapter, the treasurer of 679
state shall transfer to the remote seller administration fund 680
one-half of one per cent of the taxes collected from remote 681
sellers under this chapter during the preceding fiscal year. 682

Section 2. That existing sections 131.44, 1509.73, 683
5741.01, 5741.03, and 5741.032 of the Revised Code are hereby 684
repealed. 685