

As Reported by the Senate Ways and Means Committee

133rd General Assembly

Regular Session

2019-2020

S. B. No. 95

Senators Peterson, Kunze

**Cosponsors: Senators Wilson, Rulli, Hackett, Huffman, S., Lehner, Terhar,
Schaffer, Manning, Schuring**

A BILL

To amend sections 122.17, 3735.65, 3735.67,
3735.671, 5709.61, 5709.62, 5709.63, 5709.631,
5709.632, and 5751.01 of the Revised Code to
enhance state and local tax inducements for
businesses making substantial fixed asset and
employment investments and their suppliers.

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

Section 1. That sections 122.17, 3735.65, 3735.67,
3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, and
5751.01 of the Revised Code be amended to read as follows:

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

(1) "Payroll" means the total taxable income paid by the
employer during the employer's taxable year, or during the
calendar year that includes the employer's tax period, to each
employee or each home-based employee employed in the project to
the extent such payroll is not used to determine the credit
under section 122.171 of the Revised Code. "Payroll" excludes
amounts paid before the day the taxpayer becomes eligible for

the credit and retirement or other benefits paid or contributed 18
by the employer to or on behalf of employees. 19

(2) "Baseline payroll" means Ohio employee payroll, except 20
that the applicable measurement period is the twelve months 21
immediately preceding the date the tax credit authority approves 22
the taxpayer's application or the date the tax credit authority 23
receives the recommendation described in division (C) (2) (a) of 24
this section, whichever occurs first, multiplied by the sum of 25
one plus an annual pay increase factor to be determined by the 26
tax credit authority. 27

(3) "Ohio employee payroll" means the amount of 28
compensation used to determine the withholding obligations in 29
division (A) of section 5747.06 of the Revised Code and paid by 30
the employer during the employer's taxable year, or during the 31
calendar year that includes the employer's tax period, to the 32
following: 33

(a) An employee employed in the project who is a resident 34
of this state including a qualifying work-from-home employee not 35
designated as a home-based employee by an applicant under 36
division (C) (1) of this section; 37

(b) An employee employed at the project location who is 38
not a resident and whose compensation is not exempt from the tax 39
imposed under section 5747.02 of the Revised Code pursuant to a 40
reciprocity agreement with another state under division (A) (3) 41
of section 5747.05 of the Revised Code; 42

(c) A home-based employee employed in the project. 43

"Ohio employee payroll" excludes any such compensation to 44
the extent it is used to determine the credit under section 45
122.171 of the Revised Code, and excludes amounts paid before 46

the day the taxpayer becomes eligible for the credit under this 47
section. 48

(4) "Excess payroll" means Ohio employee payroll minus 49
baseline payroll. 50

(5) "Home-based employee" means an employee whose services 51
are performed primarily from the employee's residence in this 52
state exclusively for the benefit of the project and whose rate 53
of pay is at least one hundred thirty-one per cent of the 54
federal minimum wage under 29 U.S.C. 206. 55

(6) "Full-time equivalent employees" means the quotient 56
obtained by dividing the total number of hours for which 57
employees were compensated for employment in the project by two 58
thousand eighty. "Full-time equivalent employees" excludes hours 59
that are counted for a credit under section 122.171 of the 60
Revised Code. 61

(7) "Metric evaluation date" means the date by which the 62
taxpayer must meet all of the commitments included in the 63
agreement. 64

(8) "Qualifying work-from-home employee" means an employee 65
who is a resident of this state and whose services are 66
supervised from the employer's project location and performed 67
primarily from a residence of the employee located in this 68
state. 69

(9) "Resident" or "resident of this state" means an 70
individual who is a resident as defined in section 5747.01 of 71
the Revised Code. 72

(10) "Megaproject" means a project in this state that 73
meets all of the following requirements: 74

<u>(a) The project requires unique sites, extremely robust</u>	75
<u>utility service, and a technically skilled workforce;</u>	76
<u>(b) The megaproject operator of the project compensates</u>	77
<u>the project's employees at an average hourly wage of at least</u>	78
<u>three hundred per cent of the federal minimum wage under 29</u>	79
<u>U.S.C. 206, exclusive of employee benefits, at the time the tax</u>	80
<u>credit authority approves the project for a credit under this</u>	81
<u>section;</u>	82
<u>(c) The project satisfies either of the following by the</u>	83
<u>metric evaluation date applicable to the project:</u>	84
<u>(i) The megaproject operator makes at least one billion</u>	85
<u>dollars in fixed-asset investments in the project;</u>	86
<u>(ii) The megaproject operator creates at least seventy-</u>	87
<u>five million dollars in Ohio employee payroll at the project.</u>	88
<u>(d) If the project satisfies division (A)(10)(c)(ii) of</u>	89
<u>this section, then, on and after the metric evaluation date and</u>	90
<u>until the end of the last year for which the megaproject</u>	91
<u>qualifies for the credit authorized under this section, the</u>	92
<u>megaproject operator maintains at least seventy-five million</u>	93
<u>dollars in Ohio employee payroll at the project.</u>	94
<u>(11) "Megaproject operator" means a taxpayer that</u>	95
<u>undertakes and operates a megaproject.</u>	96
<u>(12) "Megaproject supplier" means a supplier in this state</u>	97
<u>that sells tangible personal property directly to a megaproject</u>	98
<u>operator and meets all of the following requirements:</u>	99
<u>(a) Satisfies both of the following by the metric</u>	100
<u>evaluation date applicable to the megaproject supplier:</u>	101
<u>(i) Makes at least one hundred million dollars in fixed-</u>	102

in the computation of Ohio employee payroll for the purposes of 132
the same tax credit agreement, except that a qualifying work- 133
from-home employee shall not be considered to be a home-based 134
employee unless so designated by the applicant. If a taxpayer or 135
potential taxpayer employs both home-based employees and 136
employees who are not home-based employees in a project, the 137
taxpayer shall submit separate applications for separate tax 138
credit agreements for the project, one of which shall include 139
home-based employees in the computation of Ohio employee payroll 140
and one of which shall include all other employees in the 141
computation of Ohio employee payroll. 142

The director of development services shall prescribe the 143
form of the application. After receipt of an application, the 144
authority may enter into an agreement with the taxpayer for a 145
credit under this section if it determines all of the following: 146

(a) The taxpayer's project will increase payroll; 147

(b) The taxpayer's project is economically sound and will 148
benefit the people of this state by increasing opportunities for 149
employment and strengthening the economy of this state; 150

(c) Receiving the tax credit is a major factor in the 151
taxpayer's decision to go forward with the project. 152

(2) (a) A taxpayer that chooses to begin the project prior 153
to receiving the determination of the authority may, upon 154
submitting the taxpayer's application to the authority, request 155
that the chief investment officer of the nonprofit corporation 156
formed under section 187.01 of the Revised Code and the director 157
review the taxpayer's application and recommend to the authority 158
that the taxpayer's application be considered. As soon as 159
possible after receiving such a request, the chief investment 160

officer and the director shall review the taxpayer's application 161
and, if they determine that the application warrants 162
consideration by the authority, make that recommendation to the 163
authority not later than six months after the application is 164
received by the authority. 165

(b) The authority shall consider any taxpayer's 166
application for which it receives a recommendation under 167
division (C) (2) (a) of this section. If the authority determines 168
that the taxpayer does not meet all of the criteria set forth in 169
division (C) (1) of this section, the authority and the 170
development services agency shall proceed in accordance with 171
rules adopted by the director pursuant to division (I) of this 172
section. 173

(D) An agreement under this section shall include all of 174
the following: 175

(1) A detailed description of the project that is the 176
subject of the agreement; 177

(2) (a) The term of the tax credit, which, except as 178
provided in division (D) (2) (b) or (c) of this section, shall not 179
exceed fifteen years, and the first taxable year, or first 180
calendar year that includes a tax period, for which the credit 181
may be claimed; 182

(b) If the tax credit is computed on the basis of home- 183
based employees, the term of the credit shall expire on or 184
before the last day of the taxable or calendar year ending 185
before the beginning of the seventh year after September 6, 186
2012, the effective date of H.B. 327 of the 129th general 187
assembly; 188

(c) If the taxpayer is a megaproject operator or a 189

<u>megaproject supplier, the term of the tax credit shall not</u>	190
<u>exceed thirty years.</u>	191
(3) A requirement that the taxpayer shall maintain	192
operations at the project location for at least the greater of	193
seven years or the term of the credit plus three years;	194
(4) The percentage, as determined by the tax credit	195
authority, of excess payroll that will be allowed as the amount	196
of the credit for each taxable year or for each calendar year	197
that includes a tax period;	198
(5) The pay increase factor to be applied to the	199
taxpayer's baseline payroll;	200
(6) A requirement that the taxpayer annually shall report	201
to the director of development services full-time equivalent	202
employees, payroll, Ohio employee payroll, investment, the	203
provision of health care benefits and tuition reimbursement if	204
required in the agreement, and other information the director	205
needs to perform the director's duties under this section;	206
(7) A requirement that the director of development	207
services annually review the information reported under division	208
(D) (6) of this section and verify compliance with the agreement;	209
if the taxpayer is in compliance, a requirement that the	210
director issue a certificate to the taxpayer stating that the	211
information has been verified and identifying the amount of the	212
credit that may be claimed for the taxable or calendar year r . <u>If</u>	213
<u>the taxpayer is a megaproject supplier, the director shall issue</u>	214
<u>such a certificate to the supplier and to any megaproject</u>	215
<u>operator (a) to which the supplier directly sells tangible</u>	216
<u>personal property and (b) that is authorized to claim the credit</u>	217
<u>pursuant to division (D) (10) of this section.</u>	218

(8) A provision providing that the taxpayer may not 219
relocate a substantial number of employment positions from 220
elsewhere in this state to the project location unless the 221
director of development services determines that the legislative 222
authority of the county, township, or municipal corporation from 223
which the employment positions would be relocated has been 224
notified by the taxpayer of the relocation. 225

For purposes of this section, the movement of an 226
employment position from one political subdivision to another 227
political subdivision shall be considered a relocation of an 228
employment position unless the employment position in the first 229
political subdivision is replaced. The movement of a qualifying 230
work-from-home employee to a different residence located in this 231
state or to the project location shall not be considered a 232
relocation of an employment position. 233

(9) If the tax credit is computed on the basis of home- 234
based employees, that the tax credit may not be claimed by the 235
taxpayer until the taxable year or tax period in which the 236
taxpayer employs at least two hundred employees more than the 237
number of employees the taxpayer employed on June 30, 2011. 238

(10) If the taxpayer is a megaproject supplier, the 239
percentage of the annual tax credit certified under division (D) 240
(7) of this section, up to one hundred per cent, that may be 241
claimed by each megaproject operator to which the supplier 242
directly sells tangible personal property, rather than by that 243
supplier, on the condition that the megaproject operator 244
continues to qualify as a megaproject operator. 245

(11) If the taxpayer is a megaproject operator or 246
megaproject supplier, a requirement that the taxpayer continue 247
to qualify as a megaproject operator or megaproject supplier, 248

respectively, until the end of the last year for which the 249
taxpayer qualifies for the credit authorized under this section. 250

(E) If a taxpayer fails to meet or comply with any 251
condition or requirement set forth in a tax credit agreement, 252
the tax credit authority may amend the agreement to reduce the 253
percentage or term of the tax credit. The reduction of the 254
percentage or term may take effect in the current taxable or 255
calendar year. 256

(F) Projects that consist solely of point-of-final- 257
purchase retail facilities are not eligible for a tax credit 258
under this section. If a project consists of both point-of- 259
final-purchase retail facilities and nonretail facilities, only 260
the portion of the project consisting of the nonretail 261
facilities is eligible for a tax credit and only the excess 262
payroll from the nonretail facilities shall be considered when 263
computing the amount of the tax credit. If a warehouse facility 264
is part of a point-of-final-purchase retail facility and 265
supplies only that facility, the warehouse facility is not 266
eligible for a tax credit. Catalog distribution centers are not 267
considered point-of-final-purchase retail facilities for the 268
purposes of this division, and are eligible for tax credits 269
under this section. 270

(G) Financial statements and other information submitted 271
to the development services agency or the tax credit authority 272
by an applicant or recipient of a tax credit under this section, 273
and any information taken for any purpose from such statements 274
or information, are not public records subject to section 149.43 275
of the Revised Code. However, the chairperson of the authority 276
may make use of the statements and other information for 277
purposes of issuing public reports or in connection with court 278

proceedings concerning tax credit agreements under this section. 279
Upon the request of the tax commissioner or, if the applicant or 280
recipient is an insurance company, upon the request of the 281
superintendent of insurance, the chairperson of the authority 282
shall provide to the commissioner or superintendent any 283
statement or information submitted by an applicant or recipient 284
of a tax credit in connection with the credit. The commissioner 285
or superintendent shall preserve the confidentiality of the 286
statement or information. 287

(H) A taxpayer claiming a credit under this section shall 288
submit to the tax commissioner or, if the taxpayer is an 289
insurance company, to the superintendent of insurance, a copy of 290
the director of development services' certificate of 291
verification under division (D) (7) of this section with the 292
taxpayer's tax report or return for the taxable year or for the 293
calendar year that includes the tax period. Failure to submit a 294
copy of the certificate with the report or return does not 295
invalidate a claim for a credit if the taxpayer submits a copy 296
of the certificate to the commissioner or superintendent within 297
the time prescribed by section 5703.0510 of the Revised Code or 298
within thirty days after the commissioner or superintendent 299
requests it. 300

(I) The director of development services, after 301
consultation with the tax commissioner and the superintendent of 302
insurance and in accordance with Chapter 119. of the Revised 303
Code, shall adopt rules necessary to implement this section, 304
including rules that establish a procedure to be followed by the 305
tax credit authority and the development services agency in the 306
event the authority considers a taxpayer's application for which 307
it receives a recommendation under division (C) (2) (a) of this 308
section but does not approve it. The rules may provide for 309

recipients of tax credits under this section to be charged fees 310
to cover administrative costs of the tax credit program. For the 311
purposes of these rules, a qualifying work-from-home employee 312
shall be considered to be an employee employed at the 313
applicant's project location. The fees collected shall be 314
credited to the tax incentives operating fund created in section 315
122.174 of the Revised Code. At the time the director gives 316
public notice under division (A) of section 119.03 of the 317
Revised Code of the adoption of the rules, the director shall 318
submit copies of the proposed rules to the chairpersons of the 319
standing committees on economic development in the senate and 320
the house of representatives. 321

(J) For the purposes of this section, a taxpayer may 322
include a partnership, a corporation that has made an election 323
under subchapter S of chapter one of subtitle A of the Internal 324
Revenue Code, or any other business entity through which income 325
flows as a distributive share to its owners. A partnership, S- 326
corporation, or other such business entity may elect to pass the 327
credit received under this section through to the persons to 328
whom the income or profit of the partnership, S-corporation, or 329
other entity is distributed. The election shall be made on the 330
annual report required under division (D) (6) of this section. 331
The election applies to and is irrevocable for the credit for 332
which the report is submitted. If the election is made, the 333
credit shall be apportioned among those persons in the same 334
proportions as those in which the income or profit is 335
distributed. 336

(K) (1) If the director of development services determines 337
that a taxpayer who has received a credit under this section is 338
not complying with the requirements of the agreement, the 339
director shall notify the tax credit authority of the 340

noncompliance. After receiving such a notice, and after giving 341
the taxpayer an opportunity to explain the noncompliance, the 342
tax credit authority may require the taxpayer to refund to this 343
state a portion of the credit in accordance with the following: 344

(a) If the taxpayer fails to comply with the requirement 345
under division (D) (3) of this section, an amount determined in 346
accordance with the following: 347

(i) If the taxpayer maintained operations at the project 348
location for a period less than or equal to the term of the 349
credit, an amount not exceeding one hundred per cent of the sum 350
of any credits allowed and received under this section; 351

(ii) If the taxpayer maintained operations at the project 352
location for a period longer than the term of the credit, but 353
less than the greater of seven years or the term of the credit 354
plus three years, an amount not exceeding seventy-five per cent 355
of the sum of any credits allowed and received under this 356
section. 357

(b) If, on the metric evaluation date, the taxpayer fails 358
to substantially meet the job creation, payroll, or investment 359
requirements included in the agreement, an amount determined at 360
the discretion of the authority; 361

(c) If the taxpayer fails to substantially maintain the 362
number of new full-time equivalent employees or amount of 363
payroll required under the agreement at any time during the term 364
of the agreement after the metric evaluation date, an amount 365
determined at the discretion of the authority. 366

(2) If a taxpayer files for bankruptcy and fails as 367
described in division (K) (1) (a), (b), or (c) of this section, 368
the director may immediately commence an action to recoup an 369

amount not exceeding one hundred per cent of the sum of any 370
credits received by the taxpayer under this section. 371

(3) In determining the portion of the tax credit to be 372
refunded to this state, the tax credit authority shall consider 373
the effect of market conditions on the taxpayer's project and 374
whether the taxpayer continues to maintain other operations in 375
this state. After making the determination, the authority shall 376
certify the amount to be refunded to the tax commissioner or 377
superintendent of insurance, as appropriate. If the amount is 378
certified to the commissioner, the commissioner shall make an 379
assessment for that amount against the taxpayer under Chapter 380
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 381
amount is certified to the superintendent, the superintendent 382
shall make an assessment for that amount against the taxpayer 383
under Chapter 5725. or 5729. of the Revised Code. The time 384
limitations on assessments under those chapters do not apply to 385
an assessment under this division, but the commissioner or 386
superintendent, as appropriate, shall make the assessment within 387
one year after the date the authority certifies to the 388
commissioner or superintendent the amount to be refunded. 389

(L) On or before the first day of August each year, the 390
director of development services shall submit a report to the 391
governor, the president of the senate, and the speaker of the 392
house of representatives on the tax credit program under this 393
section. The report shall include information on the number of 394
agreements that were entered into under this section during the 395
preceding calendar year, a description of the project that is 396
the subject of each such agreement, and an update on the status 397
of projects under agreements entered into before the preceding 398
calendar year. 399

(M) There is hereby created the tax credit authority, 400
which consists of the director of development services and four 401
other members appointed as follows: the governor, the president 402
of the senate, and the speaker of the house of representatives 403
each shall appoint one member who shall be a specialist in 404
economic development; the governor also shall appoint a member 405
who is a specialist in taxation. Terms of office shall be for 406
four years. Each member shall serve on the authority until the 407
end of the term for which the member was appointed. Vacancies 408
shall be filled in the same manner provided for original 409
appointments. Any member appointed to fill a vacancy occurring 410
prior to the expiration of the term for which the member's 411
predecessor was appointed shall hold office for the remainder of 412
that term. Members may be reappointed to the authority. Members 413
of the authority shall receive their necessary and actual 414
expenses while engaged in the business of the authority. The 415
director of development services shall serve as chairperson of 416
the authority, and the members annually shall elect a vice- 417
chairperson from among themselves. Three members of the 418
authority constitute a quorum to transact and vote on the 419
business of the authority. The majority vote of the membership 420
of the authority is necessary to approve any such business, 421
including the election of the vice-chairperson. 422

The director of development services may appoint a 423
professional employee of the development services agency to 424
serve as the director's substitute at a meeting of the 425
authority. The director shall make the appointment in writing. 426
In the absence of the director from a meeting of the authority, 427
the appointed substitute shall serve as chairperson. In the 428
absence of both the director and the director's substitute from 429
a meeting, the vice-chairperson shall serve as chairperson. 430

(N) For purposes of the credits granted by this section 431
against the taxes imposed under sections 5725.18 and 5729.03 of 432
the Revised Code, "taxable year" means the period covered by the 433
taxpayer's annual statement to the superintendent of insurance. 434

(O) On or before the first day of March of each of the 435
five calendar years beginning with 2014, each taxpayer subject 436
to an agreement with the tax credit authority under this section 437
on the basis of home-based employees shall report the number of 438
home-based employees and other employees employed by the 439
taxpayer in this state to the development services agency. 440

(P) On or before the first day of January of 2019, the 441
director of development services shall submit a report to the 442
governor, the president of the senate, and the speaker of the 443
house of representatives on the effect of agreements entered 444
into under this section in which the taxpayer included home- 445
based employees in the computation of income tax revenue, as 446
that term was defined in this section prior to the amendment of 447
this section by H.B. 64 of the 131st general assembly. The 448
report shall include information on the number of such 449
agreements that were entered into in the preceding six years, a 450
description of the projects that were the subjects of such 451
agreements, and an analysis of nationwide home-based employment 452
trends, including the number of home-based jobs created from 453
July 1, 2011, through June 30, 2017, and a description of any 454
home-based employment tax incentives provided by other states 455
during that time. 456

(Q) The director of development services may require any 457
agreement entered into under this section for a tax credit 458
computed on the basis of home-based employees to contain a 459
provision that the taxpayer makes available health care benefits 460

and tuition reimbursement to all employees. 461

(R) Original agreements approved by the tax credit 462
authority under this section in 2014 or 2015 before September 463
29, 2015, may be revised at the request of the taxpayer to 464
conform with the amendments to this section and sections 465
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 466
H.B. 64 of the 131st general assembly, upon mutual agreement of 467
the taxpayer and the development services agency, and approval 468
by the tax credit authority. 469

(S) (1) As used in division (S) of this section: 470

(a) "Eligible agreement" means an agreement approved by 471
the tax credit authority under this section on or before 472
December 31, 2013. 473

(b) "Reporting period" means a period corresponding to the 474
annual report required under division (D) (6) of this section. 475

(c) "Income tax revenue" has the same meaning as under 476
this section as it existed before September 29, 2015, the 477
effective date of the amendment of this section by H.B. 64 of 478
the 131st general assembly. 479

(2) In calendar year 2016 and thereafter, the tax credit 480
authority shall annually determine a withholding adjustment 481
factor to be used in the computation of income tax revenue for 482
eligible agreements. The withholding adjustment factor shall be 483
a numerical percentage that equals the percentage that employer 484
income tax withholding rates have been increased or decreased as 485
a result of changes in the income tax rates prescribed by 486
section 5747.02 of the Revised Code by amendment of that section 487
taking effect on or after June 29, 2013. 488

(3) Except as provided in division (S) (4) of this section, 489

for reporting periods ending in 2015 and thereafter for 490
taxpayers subject to eligible agreements, the tax credit 491
authority shall adjust the income tax revenue reported on the 492
taxpayer's annual report by multiplying the withholding 493
adjustment factor by the taxpayer's income tax revenue and doing 494
one of the following: 495

(a) If the income tax rates prescribed by section 5747.02 496
of the Revised Code have decreased by amendment of that section 497
taking effect on or after June 29, 2013, add the product to the 498
taxpayer's income tax revenue. 499

(b) If the income tax rates prescribed by section 5747.02 500
of the Revised Code have increased by amendment of that section 501
taking effect on or after June 29, 2013, subtract the product 502
from the taxpayer's income tax revenue. 503

(4) Division (S) (3) of this section shall not apply unless 504
all of the following apply for the reporting period with respect 505
to the eligible agreement: 506

(a) The taxpayer has achieved one hundred per cent of the 507
new employment commitment identified in the agreement. 508

(b) If applicable, the taxpayer has achieved one hundred 509
per cent of the new payroll commitment identified in the 510
agreement. 511

(c) If applicable, the taxpayer has achieved one hundred 512
per cent of the investment commitment identified in the 513
agreement. 514

(5) Failure by a taxpayer to have achieved any of the 515
applicable commitments described in divisions (S) (4) (a) to (c) 516
of this section in a reporting period does not disqualify the 517
taxpayer for the adjustment under division (S) of this section 518

for an ensuing reporting period. 519

(T) The director of development services shall notify the 520
tax commissioner if the director determines that a megaproject 521
operator or megaproject supplier is not in compliance with the 522
agreement pursuant to a review conducted under division (D)(7) 523
of this section. 524

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of 525
the Revised Code: 526

(A) "Housing officer" means an officer or agency of a 527
municipal corporation or county designated by the legislative 528
authority of the municipal corporation or county, pursuant to 529
section 3735.66 of the Revised Code, for each community 530
reinvestment area to administer sections 3735.65 to 3735.69 of 531
the Revised Code. One officer or agency may be designated as the 532
housing officer for more than one community reinvestment area. 533

(B) "Community reinvestment area" means an area within a 534
municipal corporation or unincorporated area of a county for 535
which the legislative authority of the municipal corporation or, 536
for the unincorporated area, of the county, has adopted a 537
resolution under section 3735.66 of the Revised Code describing 538
the boundaries of the area and containing a statement of finding 539
that the area included in the description is one in which 540
housing facilities or structures of historical significance are 541
located and new housing construction and repair of existing 542
facilities or structures are discouraged. 543

(C) "Remodeling" means any change made in a structure for 544
the purpose of making it structurally more sound, more 545
habitable, or for the purpose of improving its appearance. 546

(D) "Structure of historical or architectural 547

significance" means those designated as such by resolution of 548
the legislative authority of a municipal corporation, for those 549
located in a municipal corporation, or the county, for those 550
located in the unincorporated area of the county based on age, 551
rarity, architectural quality, or because of a previous 552
designation by a historical society, association, or agency. 553

(E) "Megaproject," "megaproject operator," and 554
"megaproject supplier" have the same meanings as in section 555
122.17 of the Revised Code. 556

Sec. 3735.67. (A) The owner of real property located in a 557
community reinvestment area and eligible for exemption from 558
taxation under a resolution adopted pursuant to section 3735.66 559
of the Revised Code may file an application for an exemption 560
from real property taxation of a percentage of the assessed 561
valuation of a new structure, or of the increased assessed 562
valuation of an existing structure after remodeling began, if 563
the new structure or remodeling is completed after the effective 564
date of the resolution adopted pursuant to section 3735.66 of 565
the Revised Code. The application shall be filed with the 566
housing officer designated for the community reinvestment area 567
in which the property is located. If any part of the new 568
structure or remodeled structure that would be exempted is of 569
real property to be used for commercial or industrial purposes, 570
the legislative authority and the owner of the property shall 571
enter into a written agreement pursuant to section 3735.671 of 572
the Revised Code prior to commencement of construction or 573
remodeling; if such an agreement is subject to approval by the 574
board of education of the school district within the territory 575
of which the property is or will be located, the agreement shall 576
not be formally approved by the legislative authority until the 577
board of education approves the agreement in the manner 578

prescribed by that section. 579

(B) The housing officer shall verify the construction of 580
the new structure or the cost of the remodeling of the existing 581
structure and the facts asserted in the application. The housing 582
officer shall determine whether the construction or remodeling 583
meets the requirements for an exemption under this section. In 584
cases involving a structure of historical or architectural 585
significance, the housing officer shall not determine whether 586
the remodeling meets the requirements for a tax exemption unless 587
the appropriateness of the remodeling has been certified, in 588
writing, by the society, association, agency, or legislative 589
authority that has designated the structure or by any 590
organization or person authorized, in writing, by such society, 591
association, agency, or legislative authority to certify the 592
appropriateness of the remodeling. 593

(C) If the construction or remodeling meets the 594
requirements for exemption, the housing officer shall forward 595
the application to the county auditor with a certification as to 596
the division of this section under which the exemption is 597
granted, and the period and percentage of the exemption as 598
determined by the legislative authority pursuant to that 599
division. If the construction or remodeling is of commercial or 600
industrial property and the legislative authority is not 601
required to certify a copy of a resolution under section 602
3735.671 of the Revised Code, the housing officer shall comply 603
with the notice requirements prescribed under section 5709.83 of 604
the Revised Code, unless the board has adopted a resolution 605
under that section waiving its right to receive such a notice. 606

(D) Except as provided in division (F) of this section, 607
the tax exemption shall first apply in the year the construction 608

or remodeling would first be taxable but for this section. In 609
the case of remodeling that qualifies for exemption, a 610
percentage, not to exceed one hundred per cent, of the increased 611
assessed valuation of an existing structure after remodeling 612
began shall be exempted from real property taxation. In the case 613
of construction of a structure that qualifies for exemption, a 614
percentage, not to exceed one hundred per cent, of the assessed 615
value of the structure shall be exempted from real property 616
taxation. In either case, the percentage shall be the percentage 617
set forth in the agreement if the structure or remodeling is to 618
be used for commercial or industrial purposes, or the percentage 619
set forth in the resolution describing the community 620
reinvestment area if the structure or remodeling is to be used 621
for residential purposes. 622

The construction of new structures and the remodeling of 623
existing structures are hereby declared to be a public purpose 624
for which exemptions from real property taxation may be granted 625
for the following periods: 626

(1) For every dwelling and commercial or industrial 627
properties, located within the same community reinvestment area, 628
upon which the cost of remodeling is at least two thousand five 629
hundred dollars in the case of a dwelling containing not more 630
than two family units or at least five thousand dollars in the 631
case of all other property, a period to be determined by the 632
legislative authority adopting the resolution, but not exceeding 633
fifteen years. The period of exemption for a dwelling described 634
in division (D) (1) of this section may be extended by a 635
legislative authority for up to an additional ten years if the 636
dwelling is a structure of historical or architectural 637
significance, is a certified historic structure that has been 638
subject to federal tax treatment under 26 U.S.C. 47 and 170(h), 639

and units within the structure have been leased to individual 640
tenants for five consecutive years; 641

(2) Except as provided in division (F) of this section, 642
for construction of every dwelling, and commercial or industrial 643
structure located within the same community reinvestment area, a 644
period to be determined by the legislative authority adopting 645
the resolution, but not exceeding fifteen years. The period of 646
exemption for construction of a commercial or industrial 647
structure may be extended by a legislative authority for up to 648
an additional fifteen years if the structure is situated on the 649
site of a megaproject or is owned and occupied by a megaproject 650
supplier. 651

(E) Any person, board, or officer authorized by section 652
5715.19 of the Revised Code to file complaints with the county 653
board of revision may file a complaint with the housing officer 654
challenging the continued exemption of any property granted an 655
exemption under this section. A complaint against exemption 656
shall be filed prior to the thirty-first day of December of the 657
tax year for which taxation of the property is requested. The 658
housing officer shall determine whether the property continues 659
to meet the requirements for exemption and shall certify the 660
housing officer's findings to the complainant. If the housing 661
officer determines that the property does not meet the 662
requirements for exemption, the housing officer shall notify the 663
county auditor, who shall correct the tax list and duplicate 664
accordingly. 665

(F) The owner of a dwelling constructed in a community 666
reinvestment area may file an application for an exemption after 667
the year the construction first became subject to taxation. The 668
application shall be processed in accordance with the procedures 669

prescribed under this section and shall be granted if the 670
construction that is the subject of the application otherwise 671
meets the requirements for an exemption under this section. If 672
approved, the exemption sought in the application first applies 673
in the year the application is filed. An exemption approved 674
pursuant to this division continues only for those years 675
remaining in the period described in division (D) (2) of this 676
section. No exemption may be claimed for any year in that period 677
that precedes the year in which the application is filed. 678

Sec. 3735.671. (A) If construction or remodeling of 679
commercial or industrial property is to be exempted from 680
taxation pursuant to section 3735.67 of the Revised Code, the 681
legislative authority and the owner of the property, prior to 682
the commencement of construction or remodeling, shall enter into 683
a written agreement, binding on both parties for a period of 684
time that does not end prior to the end of the period of the 685
exemption, that includes all of the information and statements 686
prescribed by this section. Agreements may include terms not 687
prescribed by this section, but such terms shall in no way 688
derogate from the information and statements prescribed by this 689
section. 690

(1) Except as otherwise provided in division (A) (2) or (3) 691
of this section, an agreement entered into under this section 692
shall not be approved by the legislative authority unless the 693
board of education of the city, local, or exempted village 694
school district within the territory of which the property is or 695
will be located approves the agreement. For the purpose of 696
obtaining such approval, the legislative authority shall certify 697
a copy of the agreement to the board of education not later than 698
forty-five days prior to approving the agreement, excluding 699
Saturday, Sunday, and a legal holiday as defined in section 1.14 700

of the Revised Code. The board of education, by resolution 701
adopted by a majority of the board, shall approve or disapprove 702
the agreement and certify a copy of the resolution to the 703
legislative authority not later than fourteen days prior to the 704
date stipulated by the legislative authority as the date upon 705
which approval of the agreement is to be formally considered by 706
the legislative authority. The board of education may include in 707
the resolution conditions under which the board would approve 708
the agreement. The legislative authority may approve an 709
agreement at any time after the board of education certifies its 710
resolution approving the agreement to the legislative authority, 711
or, if the board approves the agreement conditionally, at any 712
time after the conditions are agreed to by the board and the 713
legislative authority. 714

(2) Approval of an agreement by the board of education is 715
not required under division (A)(1) of this section if, for each 716
tax year the real property is exempted from taxation, the sum of 717
the following quantities, as estimated at or prior to the time 718
the agreement is formally approved by the legislative authority, 719
equals or exceeds fifty per cent of the amount of taxes, as 720
estimated at or prior to that time, that would have been charged 721
and payable that year upon the real property had that property 722
not been exempted from taxation: 723

(a) The amount of taxes charged and payable on any portion 724
of the assessed valuation of the new structure or of the 725
increased assessed valuation of an existing structure after 726
remodeling began that will not be exempted from taxation under 727
the agreement; 728

(b) The amount of taxes charged and payable on tangible 729
personal property located on the premises of the new structure 730

or of the structure to be remodeled under the agreement, whether 731
payable by the owner of the structure or by a related member, as 732
defined in section 5733.042 of the Revised Code without regard 733
to division (B) of that section. 734

(c) The amount of any cash payment by the owner of the new 735
structure or structure to be remodeled to the school district, 736
the dollar value, as mutually agreed to by the owner and the 737
board of education, of any property or services provided by the 738
owner of the property to the school district, whether by gift, 739
loan, or otherwise, and any payment by the legislative authority 740
to the school district pursuant to section 5709.82 of the 741
Revised Code. 742

The estimates of quantities used for purposes of division 743
(A) (2) of this section shall be estimated by the legislative 744
authority. The legislative authority shall certify to the board 745
of education that the estimates have been made in good faith. 746
Departures of the actual quantities from the estimates 747
subsequent to approval of the agreement by the board of 748
education do not invalidate the agreement. 749

(3) If a board of education has adopted a resolution 750
waiving its right to approve agreements and the resolution 751
remains in effect, approval of an agreement by the board is not 752
required under this division. If a board of education has 753
adopted a resolution allowing a legislative authority to deliver 754
the notice required under this division fewer than forty-five 755
business days prior to the legislative authority's execution of 756
the agreement, the legislative authority shall deliver the 757
notice to the board not later than the number of days prior to 758
such execution as prescribed by the board in its resolution. If 759
a board of education adopts a resolution waiving its right to 760

approve agreements or shortening the notification period, the 761
board shall certify a copy of the resolution to the legislative 762
authority. If the board of education rescinds such a resolution, 763
it shall certify notice of the rescission to the legislative 764
authority. 765

(B) Each agreement shall include the following 766
information: 767

(1) The names of all parties to the agreement; 768

(2) A description of the remodeling or construction, 769
whether or not to be exempted from taxation, including existing 770
or new structure size and cost thereof; the value of machinery, 771
equipment, furniture, and fixtures, including an itemization of 772
the value of machinery, equipment, furniture, and fixtures used 773
at another location in this state prior to the agreement and 774
relocated or to be relocated from that location to the property, 775
and the value of machinery, equipment, furniture, and fixtures 776
at the facility prior to the execution of the agreement; the 777
value of inventory at the property, including an itemization of 778
the value of inventory held at another location in this state 779
prior to the agreement and relocated or to be relocated from 780
that location to the property, and the value of inventory held 781
at the property prior to the execution of the agreement; 782

(3) The scheduled starting and completion dates of 783
remodeling or construction of real property or of investments 784
made in machinery, equipment, furniture, fixtures, and 785
inventory; 786

(4) Estimates of the number of employee positions to be 787
created each year of the agreement and of the number of employee 788
positions retained by the owner due to the remodeling or 789

construction, itemized as to the number of full-time, part-time, 790
permanent, and temporary positions; 791

(5) Estimates of the dollar amount of payroll attributable 792
to the positions set forth in division (B)(4) of this section, 793
similarly itemized; 794

(6) The number of employee positions, if any, at the 795
property and at any other location in this state at the time the 796
agreement is executed, itemized as to the number of full-time, 797
part-time, permanent, and temporary positions. 798

(C) Each agreement shall set forth the following 799
information and incorporate the following statements: 800

(1) A description of real property to be exempted from 801
taxation under the agreement, the percentage of the assessed 802
valuation of the real property exempted from taxation, and the 803
period for which the exemption is granted, accompanied by the 804
statement: "The exemption commences the first year for which the 805
real property would first be taxable were that property not 806
exempted from taxation. No exemption shall commence 807
after (insert date) nor extend beyond 808
(insert date)."

(2) "..... (insert name of owner) shall pay such real 810
property taxes as are not exempted under this agreement and are 811
charged against such property and shall file all tax reports and 812
returns as required by law. If (insert name of owner) 813
fails to pay such taxes or file such returns and reports, 814
exemptions from taxation granted under this agreement are 815
rescinded beginning with the year for which such taxes are 816
charged or such reports or returns are required to be filed and 817
thereafter."

(3) "..... (insert name of owner) hereby certifies 819
that at the time this agreement is executed, (insert 820
name of owner) does not owe any delinquent real or tangible 821
personal property taxes to any taxing authority of the State of 822
Ohio, and does not owe delinquent taxes for which 823
(insert name of owner) is liable under Chapter 5733., 5735., 824
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, 825
or, if such delinquent taxes are owed, (insert name 826
of owner) currently is paying the delinquent taxes pursuant to 827
an undertaking enforceable by the State of Ohio or an agent or 828
instrumentality thereof, has filed a petition in bankruptcy 829
under 11 U.S.C.A. 101, et seq., or such a petition has been 830
filed against (insert name of owner). For the 831
purposes of this certification, delinquent taxes are taxes that 832
remain unpaid on the latest day prescribed for payment without 833
penalty under the chapter of the Revised Code governing payment 834
of those taxes." 835

(4) "..... (insert name of municipal corporation or 836
county) shall perform such acts as are reasonably necessary or 837
appropriate to effect, claim, reserve, and maintain exemptions 838
from taxation granted under this agreement including, without 839
limitation, joining in the execution of all documentation and 840
providing any necessary certificates required in connection with 841
such exemptions." 842

(5) "If for any reason (insert name of 843
municipal corporation or county) revokes the designation of the 844
area, entitlements granted under this agreement shall continue 845
for the number of years specified under this agreement, 846
unless (insert name of owner) materially fails to 847
fulfill its obligations under this agreement 848
and (insert name of municipal corporation or 849

county) terminates or modifies the exemptions from taxation 850
pursuant to this agreement." 851

(6) "If (insert name of owner) materially fails 852
to fulfill its obligations under this agreement, or 853
if (insert name of municipal corporation or county) 854
determines that the certification as to delinquent taxes 855
required by this agreement is fraudulent, (insert 856
name of municipal corporation or county) may terminate or modify 857
the exemptions from taxation granted under this agreement." 858

(7) "..... (insert name of owner) shall provide to 859
the proper tax incentive review council any information 860
reasonably required by the council to evaluate the applicant's 861
compliance with the agreement, including returns filed pursuant 862
to section 5711.02 of the Ohio Revised Code if requested by the 863
council." 864

(8) "This agreement is not transferable or assignable 865
without the express, written approval of (insert name 866
of municipal corporation or county)." 867

(9) "Exemptions from taxation granted under this agreement 868
shall be revoked if it is determined that (insert 869
name of owner), any successor to that person, or any related 870
member (as those terms are defined in division (E) of section 871
3735.671 of the Ohio Revised Code) has violated the prohibition 872
against entering into this agreement under division (E) of 873
section 3735.671 or section 5709.62 or 5709.63 of the Ohio 874
Revised Code prior to the time prescribed by that division or 875
either of those sections." 876

(10) "..... (insert name of owner) and 877
(insert name of municipal corporation or county) acknowledge 878

that this agreement must be approved by formal action of the 879
legislative authority of (insert name of municipal 880
corporation or county) as a condition for the agreement to take 881
effect. This agreement takes effect upon such approval." 882

(11) If the agreement relates to a commercial or 883
industrial structure subject to the extension for megaprojects 884
or megaproject suppliers described in division (D)(2) of section 885
3735.67 of the Revised Code, both of the following: 886

(a) A requirement that the owner of the structure annually 887
certify to the legislative authority whether the megaproject 888
operator of the megaproject upon which the structure is situated 889
or the megaproject supplier, as applicable, holds a certificate 890
issued under division (D)(7) of section 122.17 of the Revised 891
Code on the first day of the current tax year; 892

(b) A provision authorizing the legislative authority to 893
terminate the exemption for current and subsequent tax years if 894
the megaproject operator or megaproject supplier does not hold a 895
certificate issued under division (D)(7) of section 122.17 of 896
the Revised Code on the first day of the current tax year. 897

The statement described in division (C)(6) of this section 898
may include the following statement, appended at the end of the 899
statement: ", and may require the repayment of the amount of 900
taxes that would have been payable had the property not been 901
exempted from taxation under this agreement." If the agreement 902
includes a statement requiring repayment of exempted taxes, it 903
also may authorize the legislative authority to secure repayment 904
of such taxes by a lien on the exempted property in the amount 905
required to be repaid. Such a lien shall attach, and may be 906
perfected, collected, and enforced, in the same manner as a 907
mortgage lien on real property, and shall otherwise have the 908

same force and effect as a mortgage lien on real property. 909

(D) Except as otherwise provided in this division, an 910
agreement entered into under this section shall require that the 911
owner pay an annual fee equal to the greater of one per cent of 912
the amount of taxes exempted under the agreement or five hundred 913
dollars; provided, however, that if the value of the incentives 914
exceeds two hundred fifty thousand dollars, the fee shall not 915
exceed two thousand five hundred dollars. The fee shall be 916
payable to the legislative authority once per year for each year 917
the agreement is effective on the days and in the form specified 918
in the agreement. Fees paid shall be deposited in a special fund 919
created for such purpose by the legislative authority and shall 920
be used by the legislative authority exclusively for the purpose 921
of complying with section 3735.672 of the Revised Code and by 922
the tax incentive review council created under section 5709.85 923
of the Revised Code exclusively for the purposes of performing 924
the duties prescribed under that section. The legislative 925
authority may waive or reduce the amount of the fee, but such 926
waiver or reduction does not affect the obligations of the 927
legislative authority or the tax incentive review council to 928
comply with section 3735.672 or 5709.85 of the Revised Code. 929

(E) If any person that is party to an agreement granting 930
an exemption from taxation discontinues operations at the 931
structure to which that exemption applies prior to the 932
expiration of the term of the agreement, that person, any 933
successor to that person, and any related member shall not enter 934
into an agreement under this section or section 5709.62, 935
5709.63, or 5709.632 of the Revised Code, and no legislative 936
authority shall enter into such an agreement with such a person, 937
successor, or related member, prior to the expiration of five 938
years after the discontinuation of operations. As used in this 939

division, "successor" means a person to which the assets or 940
equity of another person has been transferred, which transfer 941
resulted in the full or partial nonrecognition of gain or loss, 942
or resulted in a carryover basis, both as determined by rule 943
adopted by the tax commissioner. "Related member" has the same 944
meaning as defined in section 5733.042 of the Revised Code 945
without regard to division (B) of that section. 946

The director of development services shall review all 947
agreements submitted to the director under division (F) of this 948
section for the purpose of enforcing this division. If the 949
director determines there has been a violation of this division, 950
the director shall notify the legislative authority of such 951
violation, and the legislative authority immediately shall 952
revoke the exemption granted under the agreement. 953

(F) When an agreement is entered into under this section, 954
the legislative authority authorizing the agreement shall 955
forward a copy of the agreement to the director of development 956
services within fifteen days after the agreement is entered 957
into. 958

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 959
the Revised Code: 960

(A) "Enterprise zone" or "zone" means any of the 961
following: 962

(1) An area with a single continuous boundary designated 963
in the manner set forth in section 5709.62 or 5709.63 of the 964
Revised Code and certified by the director of development as 965
having a population of at least four thousand according to the 966
best and most recent data available to the director and having 967
at least two of the following characteristics: 968

- (a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area;
- (b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;
- (c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;
- (d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;
- (e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and 2000;
- (f) At least fifty-one per cent of the residents of the area have incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;
- (g) The area contains structures previously used for industrial purposes, but currently not so used due to age,

obsolescence, deterioration, relocation of the former occupant's 998
operations, or cessation of operations resulting from 999
unfavorable economic conditions either generally or in a 1000
specific economic sector; 1001

(h) It is located within one or more adjacent city, local, 1002
or exempted village school districts, the income-weighted tax 1003
capacity of each of which is less than seventy per cent of the 1004
average of the income-weighted tax capacity of all city, local, 1005
or exempted village school districts in the state according to 1006
the most recent data available to the director from the 1007
department of taxation. 1008

The director of development shall adopt rules in 1009
accordance with Chapter 119. of the Revised Code establishing 1010
conditions constituting the characteristics described in 1011
divisions (A) (1) (d), (g), and (h) of this section. 1012

If an area could not be certified as an enterprise zone 1013
unless it satisfied division (A) (1) (g) of this section, the 1014
legislative authority may enter into agreements in that zone 1015
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 1016
only if such agreements result in the development of the 1017
facilities described in that division, the parcel of land on 1018
which such facilities are situated, or adjacent parcels. The 1019
director of development annually shall review all agreements in 1020
such zones to determine whether the agreements have resulted in 1021
such development; if the director determines that the agreements 1022
have not resulted in such development, the director immediately 1023
shall revoke certification of the zone and notify the 1024
legislative authority of such revocation. Any agreements entered 1025
into prior to revocation under this paragraph shall continue in 1026
effect for the period provided in the agreement. 1027

(2) An area with a single continuous boundary designated 1028
in the manner set forth in section 5709.63 of the Revised Code 1029
and certified by the director of development as having all of 1030
the following characteristics: 1031

(a) Being located within a county that contains a 1032
population of three hundred thousand or less; 1033

(b) Having a population of at least one thousand according 1034
to the best and most recent data available to the director; 1035

(c) Having at least two of the characteristics described 1036
in divisions (A) (1) (b) to (h) of this section. 1037

(3) An area with a single continuous boundary designated 1038
in the manner set forth under division (A) (1) of section 1039
5709.632 of the Revised Code and certified by the director of 1040
development as having a population of at least four thousand, or 1041
under division (A) (2) of that section and certified as having a 1042
population of at least one thousand, according to the best and 1043
most recent data available to the director. 1044

(B) "Enterprise" means any form of business organization 1045
including, but not limited to, any partnership, sole 1046
proprietorship, or corporation, including an S corporation as 1047
defined in section 1361 of the Internal Revenue Code and any 1048
corporation that is majority ~~work-owned~~ worker-owned either 1049
directly through the ownership of stock or indirectly through 1050
participation in an employee stock ownership plan. 1051

(C) "Facility" means an enterprise's place of business in 1052
a zone, including land, buildings, machinery, equipment, and 1053
other materials, except inventory, used in business. "Facility" 1054
includes land, buildings, machinery, production and station 1055
equipment, other equipment, and other materials, except 1056

inventory, used in business to generate electricity, provided 1057
that, for purposes of sections 5709.61 to 5709.69 of the Revised 1058
Code, the value of the property at such a facility shall be 1059
reduced by the value, if any, that is not apportioned under 1060
section 5727.15 of the Revised Code to the taxing district in 1061
which the facility is physically located. In the case of such a 1062
facility that is physically located in two adjacent taxing 1063
districts, the property located in each taxing district 1064
constitutes a separate facility. 1065

"Facility" does not include any portion of an enterprise's 1066
place of business used primarily for making retail sales unless 1067
the place of business is located in an impacted city as defined 1068
in section 1728.01 of the Revised Code or the board of education 1069
of the city, local, or exempted village school district within 1070
the territory of which the place of business is located adopts a 1071
resolution waiving the exclusion of retail facilities under 1072
section 5709.634 of the Revised Code. 1073

(D) "Vacant facility" means a facility that has been 1074
vacant for at least ninety days immediately preceding the date 1075
on which an agreement is entered into under section 5709.62 or 1076
5709.63 of the Revised Code. 1077

(E) "Expand" means to make expenditures to add land, 1078
buildings, machinery, equipment, or other materials, except 1079
inventory, to a facility that equal at least ten per cent of the 1080
market value of the facility prior to such expenditures, as 1081
determined for the purposes of local property taxation. 1082

(F) "Renovate" means to make expenditures to alter or 1083
repair a facility that equal at least fifty per cent of the 1084
market value of the facility prior to such expenditures, as 1085
determined for the purposes of local property taxation. 1086

(G) "Occupy" means to make expenditures to alter or repair 1087
a vacant facility equal to at least twenty per cent of the 1088
market value of the facility prior to such expenditures, as 1089
determined for the purposes of local property taxation. 1090

(H) "Project site" means all or any part of a facility 1091
that is newly constructed, expanded, renovated, or occupied by 1092
an enterprise. 1093

(I) "Project" means any undertaking by an enterprise to 1094
establish a facility or to improve a project site by expansion, 1095
renovation, or occupancy. 1096

(J) "Position" means the position of one full-time 1097
employee performing a particular set of tasks and duties. 1098

(K) "Full-time employee" means an individual who is 1099
employed for consideration by an enterprise for at least thirty- 1100
five hours a week, or who renders any other standard of service 1101
generally accepted by custom or specified by contract as full- 1102
time employment. 1103

(L) "New employee" means a full-time employee first 1104
employed by an enterprise at a facility that is a project site 1105
after the enterprise enters an agreement under section 5709.62 1106
or 5709.63 of the Revised Code. "New employee" does not include 1107
an employee if, immediately prior to being employed by the 1108
enterprise, the employee was employed by an enterprise that is a 1109
related member or predecessor enterprise of that enterprise. 1110

(M) "Unemployed person" means any person who is totally 1111
unemployed in this state, as that term is defined in division 1112
(M) of section 4141.01 of the Revised Code, for at least ten 1113
consecutive weeks immediately preceding that person's employment 1114
at a facility that is a project site, or who is so unemployed 1115

for at least twenty-six of the fifty-two weeks immediately 1116
preceding that person's employment at such a facility. 1117

(N) "JTPA eligible employee" means any individual who is 1118
eligible for employment or training under the "Job Training 1119
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 1120
amended. 1121

(O) "First used in business" means that the property 1122
referred to has not been used in business in this state by the 1123
enterprise that owns it, or by an enterprise that is a related 1124
member or predecessor enterprise of such an enterprise, other 1125
than as inventory, prior to being used in business at a facility 1126
as the result of a project. 1127

(P) "Training program" means any noncredit training 1128
program or course of study that is offered by any state college 1129
or university; university branch district; community college; 1130
technical college; nonprofit college or university certified 1131
under section 1713.02 of the Revised Code; school district; 1132
joint vocational school district; school registered and 1133
authorized to offer programs under section 3332.05 of the 1134
Revised Code; an entity administering any federal, state, or 1135
local adult education and training program; or any enterprise; 1136
and that meets all of the following requirements: 1137

(1) It is approved by the director of development; 1138

(2) It is established or operated to satisfy the need of a 1139
particular industry or enterprise for skilled or semi-skilled 1140
employees; 1141

(3) An individual is required to complete the course or 1142
program before filling a position at a project site. 1143

(Q) "Development" means to engage in the process of 1144

clearing and grading land, making, installing, or constructing 1145
water distribution systems, sewers, sewage collection systems, 1146
steam, gas, and electric lines, roads, curbs, gutters, 1147
sidewalks, storm drainage facilities, and construction of other 1148
facilities or buildings equal to at least fifty per cent of the 1149
market value of the facility prior to the expenditures, as 1150
determined for the purposes of local property taxation. 1151

(R) "Large manufacturing facility" means a single Ohio 1152
facility that employed an average of at least one thousand 1153
individuals during the five calendar years preceding an 1154
agreement authorized under division (C) (3) of section 5709.62 or 1155
division (B) (2) of section 5709.63 of the Revised Code. For 1156
purposes of this division, both of the following apply: 1157

(1) A single Ohio manufacturing facility employed an 1158
average of at least one thousand individuals during the five 1159
calendar years preceding entering into such an agreement if one- 1160
fifth of the sum of the number of employees employed on the 1161
highest employment day during each of the five calendar years 1162
equals or exceeds one thousand. 1163

(2) The highest employment day is the day or days during a 1164
calendar year on which the number of employees employed at a 1165
single Ohio manufacturing facility was greater than on any other 1166
day during the calendar year. 1167

(S) "Business cycle" means the cycle of business activity 1168
usually regarded as passing through alternating stages of 1169
prosperity and depression. 1170

(T) "Making retail sales" means the effecting of point-of- 1171
final-purchase transactions at a facility open to the consuming 1172
public, wherein one party is obligated to pay the price and the 1173

other party is obligated to provide a service or to transfer 1174
title to or possession of the item sold. 1175

(U) "Environmentally contaminated" means that hazardous 1176
substances exist at a facility under conditions that have caused 1177
or would cause the facility to be identified as contaminated by 1178
the state or federal environmental protection agency. These may 1179
include facilities located at sites identified in the master 1180
sites list or similar database maintained by the state 1181
environmental protection agency if the sites have been 1182
investigated by the agency and found to be contaminated. 1183

(V) "Remediate" means to make expenditures to clean up an 1184
environmentally contaminated facility so that it is no longer 1185
environmentally contaminated that equal at least ten per cent of 1186
the real property market value of the facility prior to such 1187
expenditures as determined for the purposes of property 1188
taxation. 1189

(W) "Related member" has the same meaning as defined in 1190
section 5733.042 of the Revised Code without regard to division 1191
(B) of that section, except that it is used with respect to an 1192
enterprise rather than a taxpayer. 1193

(X) "Predecessor enterprise" means an enterprise from 1194
which the assets or equity of another enterprise has been 1195
transferred, which transfer resulted in the full or partial 1196
nonrecognition of gain or loss, or resulted in a carryover 1197
basis, both as determined by rule adopted by the tax 1198
commissioner. 1199

(Y) "Successor enterprise" means an enterprise to which 1200
the assets or equity of another enterprise has been transferred, 1201
which transfer resulted in the full or partial nonrecognition of 1202

gain or loss, or resulted in a carryover basis, both as 1203
determined by rule adopted by the tax commissioner. 1204

(Z) "Megaproject," "megaproject operator," and 1205
"megaproject supplier" have the same meanings as in section 1206
122.17 of the Revised Code. 1207

Sec. 5709.62. (A) In any municipal corporation that is 1208
defined by the United States office of management and budget as 1209
a principal city of a metropolitan statistical area, the 1210
legislative authority of the municipal corporation may designate 1211
one or more areas within its municipal corporation as proposed 1212
enterprise zones. Upon designating an area, the legislative 1213
authority shall petition the director of development services 1214
for certification of the area as having the characteristics set 1215
forth in division (A)(1) of section 5709.61 of the Revised Code 1216
as amended by Substitute Senate Bill No. 19 of the 120th general 1217
assembly. Except as otherwise provided in division (E) of this 1218
section, on and after July 1, 1994, legislative authorities 1219
shall not enter into agreements under this section unless the 1220
legislative authority has petitioned the director and the 1221
director has certified the zone under this section as amended by 1222
that act; however, all agreements entered into under this 1223
section as it existed prior to July 1, 1994, and the incentives 1224
granted under those agreements shall remain in effect for the 1225
period agreed to under those agreements. Within sixty days after 1226
receiving such a petition, the director shall determine whether 1227
the area has the characteristics set forth in division (A)(1) of 1228
section 5709.61 of the Revised Code, and shall forward the 1229
findings to the legislative authority of the municipal 1230
corporation. If the director certifies the area as having those 1231
characteristics, and thereby certifies it as a zone, the 1232
legislative authority may enter into an agreement with an 1233

enterprise under division (C) of this section. 1234

(B) Any enterprise that wishes to enter into an agreement 1235
with a municipal corporation under division (C) of this section 1236
shall submit a proposal to the legislative authority of the 1237
municipal corporation on a form prescribed by the director of 1238
development services, together with the application fee 1239
established under section 5709.68 of the Revised Code. The form 1240
shall require the following information: 1241

(1) An estimate of the number of new employees whom the 1242
enterprise intends to hire, or of the number of employees whom 1243
the enterprise intends to retain, within the zone at a facility 1244
that is a project site, and an estimate of the amount of payroll 1245
of the enterprise attributable to these employees; 1246

(2) An estimate of the amount to be invested by the 1247
enterprise to establish, expand, renovate, or occupy a facility, 1248
including investment in new buildings, additions or improvements 1249
to existing buildings, machinery, equipment, furniture, 1250
fixtures, and inventory; 1251

(3) A listing of the enterprise's current investment, if 1252
any, in a facility as of the date of the proposal's submission. 1253

The enterprise shall review and update the listings 1254
required under this division to reflect material changes, and 1255
any agreement entered into under division (C) of this section 1256
shall set forth final estimates and listings as of the time the 1257
agreement is entered into. The legislative authority may, on a 1258
separate form and at any time, require any additional 1259
information necessary to determine whether an enterprise is in 1260
compliance with an agreement and to collect the information 1261
required to be reported under section 5709.68 of the Revised 1262

Code.	1263
(C) Upon receipt and investigation of a proposal under	1264
division (B) of this section, if the legislative authority finds	1265
that the enterprise submitting the proposal is qualified by	1266
financial responsibility and business experience to create and	1267
preserve employment opportunities in the zone and improve the	1268
economic climate of the municipal corporation, the legislative	1269
authority may do one of the following:	1270
(1) Enter into an agreement with the enterprise under	1271
which the enterprise agrees to establish, expand, renovate, or	1272
occupy a facility and hire new employees, or preserve employment	1273
opportunities for existing employees, in return for one or more	1274
of the following incentives:	1275
(a) Exemption for a specified number of years, not to	1276
exceed fifteen, of a specified portion, up to seventy-five per	1277
cent, of the assessed value of tangible personal property first	1278
used in business at the project site as a result of the	1279
agreement. If an exemption for inventory is specifically granted	1280
in the agreement pursuant to this division, the exemption	1281
applies to inventory required to be listed pursuant to sections	1282
5711.15 and 5711.16 of the Revised Code, except that, in the	1283
instance of an expansion or other situations in which an	1284
enterprise was in business at the facility prior to the	1285
establishment of the zone, the inventory that is exempt is that	1286
amount or value of inventory in excess of the amount or value of	1287
inventory required to be listed in the personal property tax	1288
return of the enterprise in the return for the tax year in which	1289
the agreement is entered into.	1290
(b) Exemption for a specified number of years, not to	1291
exceed fifteen, of a specified portion, up to seventy-five per	1292

cent, of the increase in the assessed valuation of real property 1293
constituting the project site subsequent to formal approval of 1294
the agreement by the legislative authority; 1295

(c) Provision for a specified number of years, not to 1296
exceed fifteen, of any optional services or assistance that the 1297
municipal corporation is authorized to provide with regard to 1298
the project site. 1299

(2) Enter into an agreement under which the enterprise 1300
agrees to remediate an environmentally contaminated facility, to 1301
spend an amount equal to at least two hundred fifty per cent of 1302
the true value in money of the real property of the facility 1303
prior to remediation as determined for the purposes of property 1304
taxation to establish, expand, renovate, or occupy the 1305
remediated facility, and to hire new employees or preserve 1306
employment opportunities for existing employees at the 1307
remediated facility, in return for one or more of the following 1308
incentives: 1309

(a) Exemption for a specified number of years, not to 1310
exceed fifteen, of a specified portion, not to exceed fifty per 1311
cent, of the assessed valuation of the real property of the 1312
facility prior to remediation; 1313

(b) Exemption for a specified number of years, not to 1314
exceed fifteen, of a specified portion, not to exceed one 1315
hundred per cent, of the increase in the assessed valuation of 1316
the real property of the facility during or after remediation; 1317

(c) The incentive under division (C) (1) (a) of this 1318
section, except that the percentage of the assessed value of 1319
such property exempted from taxation shall not exceed one 1320
hundred per cent; 1321

(d) The incentive under division (C) (1) (c) of this section. 1322
1323

(3) Enter into an agreement with an enterprise that plans 1324
to purchase and operate a large manufacturing facility that has 1325
ceased operation or announced its intention to cease operation, 1326
in return for exemption for a specified number of years, not to 1327
exceed fifteen, of a specified portion, up to one hundred per 1328
cent, of the assessed value of tangible personal property used 1329
in business at the project site as a result of the agreement, or 1330
of the assessed valuation of real property constituting the 1331
project site, or both. 1332

(4) Enter into an agreement with an enterprise that either 1333
is the owner of real property constituting the site of a 1334
megaproject or is a megaproject supplier in return for an 1335
exemption for a specified number of years, not to exceed thirty, 1336
of a specified portion, up to one hundred per cent, of the 1337
increase in the assessed value of real property constituting the 1338
site of a megaproject or real property owned and occupied by the 1339
megaproject supplier, respectively, beginning after the tax year 1340
in which the agreement is formally approved by the legislative 1341
authority. 1342

(D) (1) Notwithstanding divisions (C) (1) (a) and (b) of this 1343
section, the portion of the assessed value of tangible personal 1344
property or of the increase in the assessed valuation of real 1345
property exempted from taxation under those divisions may exceed 1346
seventy-five per cent in any year for which that portion is 1347
exempted if the average percentage exempted for all years in 1348
which the agreement is in effect does not exceed sixty per cent, 1349
or if the board of education of the city, local, or exempted 1350
village school district within the territory of which the 1351

property is or will be located approves a percentage in excess 1352
of seventy-five per cent. 1353

(2) Notwithstanding any provision of the Revised Code to 1354
the contrary, the exemptions described in divisions (C) (1) (a), 1355
(b), and (c), (C) (2) (a), (b), and (c), and (C) (3) of this 1356
section may be for up to fifteen years and the exemption 1357
described in division (C) (4) of this section may be for up to 1358
thirty years if the board of education of the city, local, or 1359
exempted village school district within the territory of which 1360
the property is or will be located approves a number of years in 1361
excess of ten. 1362

(3) For the purpose of obtaining the approval of a city, 1363
local, or exempted village school district under division (D) (1) 1364
or (2) of this section, the legislative authority shall deliver 1365
to the board of education a notice not later than forty-five 1366
days prior to approving the agreement, excluding Saturdays, 1367
Sundays, and legal holidays as defined in section 1.14 of the 1368
Revised Code. The notice shall state the percentage to be 1369
exempted, an estimate of the true value of the property to be 1370
exempted, and the number of years the property is to be 1371
exempted. The board of education, by resolution adopted by a 1372
majority of the board, shall approve or disapprove the agreement 1373
and certify a copy of the resolution to the legislative 1374
authority not later than fourteen days prior to the date 1375
stipulated by the legislative authority as the date upon which 1376
approval of the agreement is to be formally considered by the 1377
legislative authority. The board of education may include in the 1378
resolution conditions under which the board would approve the 1379
agreement, including the execution of an agreement to compensate 1380
the school district under division (B) of section 5709.82 of the 1381
Revised Code. The legislative authority may approve the 1382

agreement at any time after the board of education certifies its 1383
resolution approving the agreement to the legislative authority, 1384
or, if the board approves the agreement conditionally, at any 1385
time after the conditions are agreed to by the board and the 1386
legislative authority. 1387

If a board of education has adopted a resolution waiving 1388
its right to approve agreements and the resolution remains in 1389
effect, approval of an agreement by the board is not required 1390
under this division. If a board of education has adopted a 1391
resolution allowing a legislative authority to deliver the 1392
notice required under this division fewer than forty-five 1393
business days prior to the legislative authority's approval of 1394
the agreement, the legislative authority shall deliver the 1395
notice to the board not later than the number of days prior to 1396
such approval as prescribed by the board in its resolution. If a 1397
board of education adopts a resolution waiving its right to 1398
approve agreements or shortening the notification period, the 1399
board shall certify a copy of the resolution to the legislative 1400
authority. If the board of education rescinds such a resolution, 1401
it shall certify notice of the rescission to the legislative 1402
authority. 1403

(4) The legislative authority shall comply with section 1404
5709.83 of the Revised Code unless the board of education has 1405
adopted a resolution under that section waiving its right to 1406
receive such notice. 1407

(E) This division applies to zones certified by the 1408
director of development services under this section prior to 1409
July 22, 1994. 1410

The legislative authority that designated a zone to which 1411
this division applies may enter into an agreement with an 1412

enterprise if the legislative authority finds that the 1413
enterprise satisfies one of the criteria described in divisions 1414
(E) (1) to (5) of this section: 1415

(1) The enterprise currently has no operations in this 1416
state and, subject to approval of the agreement, intends to 1417
establish operations in the zone; 1418

(2) The enterprise currently has operations in this state 1419
and, subject to approval of the agreement, intends to establish 1420
operations at a new location in the zone that would not result 1421
in a reduction in the number of employee positions at any of the 1422
enterprise's other locations in this state; 1423

(3) The enterprise, subject to approval of the agreement, 1424
intends to relocate operations, currently located in another 1425
state, to the zone; 1426

(4) The enterprise, subject to approval of the agreement, 1427
intends to expand operations at an existing site in the zone 1428
that the enterprise currently operates; 1429

(5) The enterprise, subject to approval of the agreement, 1430
intends to relocate operations, currently located in this state, 1431
to the zone, and the director of development services has issued 1432
a waiver for the enterprise under division (B) of section 1433
5709.633 of the Revised Code. 1434

The agreement shall require the enterprise to agree to 1435
establish, expand, renovate, or occupy a facility in the zone 1436
and hire new employees, or preserve employment opportunities for 1437
existing employees, in return for one or more of the incentives 1438
described in division (C) of this section. 1439

(F) All agreements entered into under this section shall 1440
be in the form prescribed under section 5709.631 of the Revised 1441

Code. After an agreement is entered into under this section, if 1442
the legislative authority revokes its designation of a zone, or 1443
if the director of development services revokes a zone's 1444
certification, any entitlements granted under the agreement 1445
shall continue for the number of years specified in the 1446
agreement. 1447

(G) Except as otherwise provided in this division, an 1448
agreement entered into under this section shall require that the 1449
enterprise pay an annual fee equal to the greater of one per 1450
cent of the dollar value of incentives offered under the 1451
agreement or five hundred dollars; provided, however, that if 1452
the value of the incentives exceeds two hundred fifty thousand 1453
dollars, the fee shall not exceed two thousand five hundred 1454
dollars. The fee shall be payable to the legislative authority 1455
once per year for each year the agreement is effective on the 1456
days and in the form specified in the agreement. Fees paid shall 1457
be deposited in a special fund created for such purpose by the 1458
legislative authority and shall be used by the legislative 1459
authority exclusively for the purpose of complying with section 1460
5709.68 of the Revised Code and by the tax incentive review 1461
council created under section 5709.85 of the Revised Code 1462
exclusively for the purposes of performing the duties prescribed 1463
under that section. The legislative authority may waive or 1464
reduce the amount of the fee charged against an enterprise, but 1465
such a waiver or reduction does not affect the obligations of 1466
the legislative authority or the tax incentive review council to 1467
comply with section 5709.68 or 5709.85 of the Revised Code. 1468

(H) When an agreement is entered into pursuant to this 1469
section, the legislative authority authorizing the agreement 1470
shall forward a copy of the agreement to the director of 1471
development services and to the tax commissioner within fifteen 1472

days after the agreement is entered into. If any agreement 1473
includes terms not provided for in section 5709.631 of the 1474
Revised Code affecting the revenue of a city, local, or exempted 1475
village school district or causing revenue to be forgone by the 1476
district, including any compensation to be paid to the school 1477
district pursuant to section 5709.82 of the Revised Code, those 1478
terms also shall be forwarded in writing to the director of 1479
development services along with the copy of the agreement 1480
forwarded under this division. 1481

(I) After an agreement is entered into, the enterprise 1482
shall file with each personal property tax return required to be 1483
filed, or annual report required to be filed under section 1484
5727.08 of the Revised Code, while the agreement is in effect, 1485
an informational return, on a form prescribed by the tax 1486
commissioner for that purpose, setting forth separately the 1487
property, and related costs and values, exempted from taxation 1488
under the agreement. 1489

(J) Enterprises may agree to give preference to residents 1490
of the zone within which the agreement applies relative to 1491
residents of this state who do not reside in the zone when 1492
hiring new employees under the agreement. 1493

(K) An agreement entered into under this section may 1494
include a provision requiring the enterprise to create one or 1495
more temporary internship positions for students enrolled in a 1496
course of study at a school or other educational institution in 1497
the vicinity, and to create a scholarship or provide another 1498
form of educational financial assistance for students holding 1499
such a position in exchange for the student's commitment to work 1500
for the enterprise at the completion of the internship. 1501

(L) The tax commissioner's authority in determining the 1502

accuracy of any exemption granted by an agreement entered into 1503
under this section is limited to divisions (C) (1) (a) and (b), 1504
(C) (2) (a), (b), and (c), (C) (3) and (4), (D), and (I) of this 1505
section and divisions (B) (1) to (10) of section 5709.631 of the 1506
Revised Code and, as authorized by law, to enforcing any 1507
modification to, or revocation of, that agreement by the 1508
legislative authority of a municipal corporation or the director 1509
of development services. 1510

Sec. 5709.63. (A) With the consent of the legislative 1511
authority of each affected municipal corporation or of a board 1512
of township trustees, a board of county commissioners may, in 1513
the manner set forth in section 5709.62 of the Revised Code, 1514
designate one or more areas in one or more municipal 1515
corporations or in unincorporated areas of the county as 1516
proposed enterprise zones. A board of county commissioners may 1517
designate no more than one area within a township, or within 1518
adjacent townships, as a proposed enterprise zone. The board 1519
shall petition the director of development services for 1520
certification of the area as having the characteristics set 1521
forth in division (A) (1) or (2) of section 5709.61 of the 1522
Revised Code as amended by Substitute Senate Bill No. 19 of the 1523
120th general assembly. Except as otherwise provided in division 1524
(D) of this section, on and after July 1, 1994, boards of county 1525
commissioners shall not enter into agreements under this section 1526
unless the board has petitioned the director and the director 1527
has certified the zone under this section as amended by that 1528
act; however, all agreements entered into under this section as 1529
it existed prior to July 1, 1994, and the incentives granted 1530
under those agreements shall remain in effect for the period 1531
agreed to under those agreements. The director shall make the 1532
determination in the manner provided under section 5709.62 of 1533

the Revised Code. 1534

Any enterprise wishing to enter into an agreement with the 1535
board under division (B) or (D) of this section shall submit a 1536
proposal to the board on the form and accompanied by the 1537
application fee prescribed under division (B) of section 5709.62 1538
of the Revised Code. The enterprise shall review and update the 1539
estimates and listings required by the form in the manner 1540
required under that division. The board may, on a separate form 1541
and at any time, require any additional information necessary to 1542
determine whether an enterprise is in compliance with an 1543
agreement and to collect the information required to be reported 1544
under section 5709.68 of the Revised Code. 1545

(B) If the board of county commissioners finds that an 1546
enterprise submitting a proposal is qualified by financial 1547
responsibility and business experience to create and preserve 1548
employment opportunities in the zone and to improve the economic 1549
climate of the municipal corporation or municipal corporations 1550
or the unincorporated areas in which the zone is located and to 1551
which the proposal applies, the board, with the consent of the 1552
legislative authority of each affected municipal corporation or 1553
of the board of township trustees, may do ~~either~~ one of the 1554
following: 1555

(1) Enter into an agreement with the enterprise under 1556
which the enterprise agrees to establish, expand, renovate, or 1557
occupy a facility in the zone and hire new employees, or 1558
preserve employment opportunities for existing employees, in 1559
return for the following incentives: 1560

(a) When the facility is located in a municipal 1561
corporation, the board may enter into an agreement for one or 1562
more of the incentives provided in division (C) of section 1563

5709.62 of the Revised Code, subject to division (D) of that section; 1564
1565

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives: 1566
1567
1568

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into. 1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1580
1581
1582

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board; 1583
1584
1585
1586
1587

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site; 1588
1589
1590

(iv) The incentive described in division (C) (2) of section 5709.62 of the Revised Code. 1591
1592

(2) Enter into an agreement with an enterprise that plans 1593
to purchase and operate a large manufacturing facility that has 1594
ceased operation or has announced its intention to cease 1595
operation, in return for exemption for a specified number of 1596
years, not to exceed fifteen, of a specified portion, up to one 1597
hundred per cent, of tangible personal property used in business 1598
at the project site as a result of the agreement, or of real 1599
property constituting the project site, or both. 1600

(3) Enter into an agreement with an enterprise that either 1601
is the owner of real property constituting the site of a 1602
megaproject or is a megaproject supplier in return for an 1603
exemption for a specified number of years, not to exceed thirty, 1604
of a specified portion, up to one hundred per cent, of the 1605
increase in the assessed value of real property constituting the 1606
site of a megaproject or real property owned and occupied by the 1607
megaproject supplier, respectively, beginning after the tax year 1608
in which the agreement is formally approved by the legislative 1609
authority. 1610

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 1611
of this section, the portion of the assessed value of tangible 1612
personal property or of the increase in the assessed valuation 1613
of real property exempted from taxation under those divisions 1614
may exceed sixty per cent in any year for which that portion is 1615
exempted if the average percentage exempted for all years in 1616
which the agreement is in effect does not exceed fifty per cent, 1617
or if the board of education of the city, local, or exempted 1618
village school district within the territory of which the 1619
property is or will be located approves a percentage in excess 1620
of sixty per cent. 1621

(b) Notwithstanding any provision of the Revised Code to 1622

the contrary, the exemptions described in divisions (B) (1) (b) 1623
(i), (ii), (iii), and (iv) and (B) (2) of this section may be for 1624
up to fifteen years and the exemption described in division (B) 1625
(3) of this section may be for up to thirty years if the board 1626
of education of the city, local, or exempted village school 1627
district within the territory of which the property is or will 1628
be located approves a number of years in excess of ten. 1629

(c) For the purpose of obtaining the approval of a city, 1630
local, or exempted village school district under division (C) (1) 1631
(a) or (b) of this section, the board of county commissioners 1632
shall deliver to the board of education a notice not later than 1633
forty-five days prior to approving the agreement, excluding 1634
Saturdays, Sundays, and legal holidays as defined in section 1635
1.14 of the Revised Code. The notice shall state the percentage 1636
to be exempted, an estimate of the true value of the property to 1637
be exempted, and the number of years the property is to be 1638
exempted. The board of education, by resolution adopted by a 1639
majority of the board, shall approve or disapprove the agreement 1640
and certify a copy of the resolution to the board of county 1641
commissioners not later than fourteen days prior to the date 1642
stipulated by the board of county commissioners as the date upon 1643
which approval of the agreement is to be formally considered by 1644
the board of county commissioners. The board of education may 1645
include in the resolution conditions under which the board would 1646
approve the agreement, including the execution of an agreement 1647
to compensate the school district under division (B) of section 1648
5709.82 of the Revised Code. The board of county commissioners 1649
may approve the agreement at any time after the board of 1650
education certifies its resolution approving the agreement to 1651
the board of county commissioners, or, if the board of education 1652
approves the agreement conditionally, at any time after the 1653

conditions are agreed to by the board of education and the board 1654
of county commissioners. 1655

If a board of education has adopted a resolution waiving 1656
its right to approve agreements and the resolution remains in 1657
effect, approval of an agreement by the board of education is 1658
not required under division (C) of this section. If a board of 1659
education has adopted a resolution allowing a board of county 1660
commissioners to deliver the notice required under this division 1661
fewer than forty-five business days prior to approval of the 1662
agreement by the board of county commissioners, the board of 1663
county commissioners shall deliver the notice to the board of 1664
education not later than the number of days prior to such 1665
approval as prescribed by the board of education in its 1666
resolution. If a board of education adopts a resolution waiving 1667
its right to approve agreements or shortening the notification 1668
period, the board of education shall certify a copy of the 1669
resolution to the board of county commissioners. If the board of 1670
education rescinds such a resolution, it shall certify notice of 1671
the rescission to the board of county commissioners. 1672

(2) The board of county commissioners shall comply with 1673
section 5709.83 of the Revised Code unless the board of 1674
education has adopted a resolution under that section waiving 1675
its right to receive such notice. 1676

(D) This division applies to zones certified by the 1677
director of development services under this section prior to 1678
July 22, 1994. 1679

With the consent of the legislative authority of each 1680
affected municipal corporation or board of township trustees of 1681
each affected township, the board of county commissioners that 1682
designated a zone to which this division applies may enter into 1683

an agreement with an enterprise if the board finds that the 1684
enterprise satisfies one of the criteria described in divisions 1685
(D) (1) to (5) of this section: 1686

(1) The enterprise currently has no operations in this 1687
state and, subject to approval of the agreement, intends to 1688
establish operations in the zone; 1689

(2) The enterprise currently has operations in this state 1690
and, subject to approval of the agreement, intends to establish 1691
operations at a new location in the zone that would not result 1692
in a reduction in the number of employee positions at any of the 1693
enterprise's other locations in this state; 1694

(3) The enterprise, subject to approval of the agreement, 1695
intends to relocate operations, currently located in another 1696
state, to the zone; 1697

(4) The enterprise, subject to approval of the agreement, 1698
intends to expand operations at an existing site in the zone 1699
that the enterprise currently operates; 1700

(5) The enterprise, subject to approval of the agreement, 1701
intends to relocate operations, currently located in this state, 1702
to the zone, and the director of development services has issued 1703
a waiver for the enterprise under division (B) of section 1704
5709.633 of the Revised Code. 1705

The agreement shall require the enterprise to agree to 1706
establish, expand, renovate, or occupy a facility in the zone 1707
and hire new employees, or preserve employment opportunities for 1708
existing employees, in return for one or more of the incentives 1709
described in division (B) of this section. 1710

(E) All agreements entered into under this section shall 1711
be in the form prescribed under section 5709.631 of the Revised 1712

Code. After an agreement under this section is entered into, if 1713
the board of county commissioners revokes its designation of a 1714
zone, or if the director of development services revokes a 1715
zone's certification, any entitlements granted under the 1716
agreement shall continue for the number of years specified in 1717
the agreement. 1718

(F) Except as otherwise provided in this division, an 1719
agreement entered into under this section shall require that the 1720
enterprise pay an annual fee equal to the greater of one per 1721
cent of the dollar value of incentives offered under the 1722
agreement or five hundred dollars; provided, however, that if 1723
the value of the incentives exceeds two hundred fifty thousand 1724
dollars, the fee shall not exceed two thousand five hundred 1725
dollars. The fee shall be payable to the board of county 1726
commissioners once per year for each year the agreement is 1727
effective on the days and in the form specified in the 1728
agreement. Fees paid shall be deposited in a special fund 1729
created for such purpose by the board and shall be used by the 1730
board exclusively for the purpose of complying with section 1731
5709.68 of the Revised Code and by the tax incentive review 1732
council created under section 5709.85 of the Revised Code 1733
exclusively for the purposes of performing the duties prescribed 1734
under that section. The board may waive or reduce the amount of 1735
the fee charged against an enterprise, but such waiver or 1736
reduction does not affect the obligations of the board or the 1737
tax incentive review council to comply with section 5709.68 or 1738
5709.85 of the Revised Code, respectively. 1739

(G) With the approval of the legislative authority of a 1740
municipal corporation or the board of township trustees of a 1741
township in which a zone is designated under division (A) of 1742
this section, the board of county commissioners may delegate to 1743

that legislative authority or board any powers and duties of the 1744
board of county commissioners to negotiate and administer 1745
agreements with regard to that zone under this section. 1746

(H) When an agreement is entered into pursuant to this 1747
section, the board of county commissioners authorizing the 1748
agreement or the legislative authority or board of township 1749
trustees that negotiates and administers the agreement shall 1750
forward a copy of the agreement to the director of development 1751
services and to the tax commissioner within fifteen days after 1752
the agreement is entered into. If any agreement includes terms 1753
not provided for in section 5709.631 of the Revised Code 1754
affecting the revenue of a city, local, or exempted village 1755
school district or causing revenue to be foregone by the 1756
district, including any compensation to be paid to the school 1757
district pursuant to section 5709.82 of the Revised Code, those 1758
terms also shall be forwarded in writing to the director of 1759
development services along with the copy of the agreement 1760
forwarded under this division. 1761

(I) After an agreement is entered into, the enterprise 1762
shall file with each personal property tax return required to be 1763
filed, or annual report that is required to be filed under 1764
section 5727.08 of the Revised Code, while the agreement is in 1765
effect, an informational return, on a form prescribed by the tax 1766
commissioner for that purpose, setting forth separately the 1767
property, and related costs and values, exempted from taxation 1768
under the agreement. 1769

(J) Enterprises may agree to give preference to residents 1770
of the zone within which the agreement applies relative to 1771
residents of this state who do not reside in the zone when 1772
hiring new employees under the agreement. 1773

(K) An agreement entered into under this section may 1774
include a provision requiring the enterprise to create one or 1775
more temporary internship positions for students enrolled in a 1776
course of study at a school or other educational institution in 1777
the vicinity, and to create a scholarship or provide another 1778
form of educational financial assistance for students holding 1779
such a position in exchange for the student's commitment to work 1780
for the enterprise at the completion of the internship. 1781

(L) The tax commissioner's authority in determining the 1782
accuracy of any exemption granted by an agreement entered into 1783
under this section is limited to divisions (B)(1)(b)(i) and 1784
(ii), (B)(2) and (3), (C), and (I) of this section, division (B) 1785
(1)(b)(iv) of this section as it pertains to divisions (C)(2) 1786
(a), (b), and (c) of section 5709.62 of the Revised Code, and 1787
divisions (B)(1) to (10) of section 5709.631 of the Revised Code 1788
and, as authorized by law, to enforcing any modification to, or 1789
revocation of, that agreement by the board of county 1790
commissioners or the director of development services or, if the 1791
board's powers and duties are delegated under division (G) of 1792
this section, by the legislative authority of a municipal 1793
corporation or board of township trustees. 1794

Sec. 5709.631. Each agreement entered into under sections 1795
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 1796
April 1, 1994, shall be in writing and shall include all of the 1797
information and statements prescribed by this section. 1798
Agreements may include terms not prescribed by this section, but 1799
such terms shall in no way derogate from the information and 1800
statements prescribed by this section. 1801

(A) Each agreement shall include the following 1802
information: 1803

- (1) The names of all parties to the agreement; 1804
- (2) A description of the investments to be made by the 1805
applicant enterprise or by another party at the facility whether 1806
or not the investments are exempted from taxation, including 1807
existing or new building size and cost thereof; the value of 1808
machinery, equipment, furniture, and fixtures, including an 1809
itemization of the value of machinery, equipment, furniture, and 1810
fixtures used at another location in this state prior to the 1811
agreement and relocated or to be relocated from that location to 1812
the facility and the value of machinery, equipment, furniture, 1813
and fixtures at the facility prior to the execution of the 1814
agreement that will not be exempted from taxation; the value of 1815
inventory at the facility, including an itemization of the value 1816
of inventory held at another location in this state prior to the 1817
agreement and relocated or to be relocated from that location to 1818
the facility, and the value of inventory held at the facility 1819
prior to the execution of the agreement that will not be 1820
exempted from taxation; 1821
- (3) The scheduled starting and completion dates of 1822
investments made in building, machinery, equipment, furniture, 1823
fixtures, and inventory; 1824
- (4) Estimates of the number of employee positions to be 1825
created each year of the agreement and of the number of employee 1826
positions retained by the applicant enterprise due to the 1827
project, itemized as to the number of full-time, part-time, 1828
permanent, and temporary positions; 1829
- (5) Estimates of the dollar amount of payroll attributable 1830
to the positions set forth in division (A) (4) of this section, 1831
similarly itemized; 1832

(6) The number of employee positions, if any, at the 1833
project site and at any other location in the state at the time 1834
the agreement is executed, itemized as to the number of full- 1835
time, part-time, permanent, and temporary positions. 1836

(B) Each agreement shall set forth the following 1837
information and incorporate the following statements: 1838

(1) A description of real property to be exempted from 1839
taxation under the agreement, the percentage of the assessed 1840
valuation of the real property exempted from taxation, and the 1841
period for which the exemption is granted, accompanied by the 1842
statement: "The exemption commences the first year for which the 1843
real property would first be taxable were that property not 1844
exempted from taxation. No exemption shall commence 1845
after (insert date) nor extend beyond 1846
(insert date)." The tax commissioner shall adopt rules 1847
prescribing the form the description of such property shall 1848
assume to ensure that the property to be exempted from taxation 1849
under the agreement is distinguishable from property that is not 1850
to be exempted under that agreement. 1851

(2) A description of tangible personal property to be 1852
exempted from taxation under the agreement, the percentage of 1853
the assessed value of the tangible personal property exempted 1854
from taxation, and the period for which the exemption is 1855
granted, accompanied by the statement: "The minimum investment 1856
for tangible personal property to qualify for the exemption is 1857
\$..... (insert dollar amount) to purchase machinery and 1858
equipment first used in business at the facility as a result of 1859
the project, \$..... (insert dollar amount) for furniture 1860
and fixtures and other noninventory personal property first used 1861
in business at the facility as a result of the project, and 1862

\$..... (insert dollar amount) for new inventory. The 1863
maximum investment for tangible personal property to qualify for 1864
the exemption is \$..... (insert dollar amount) to purchase 1865
machinery and equipment first used in business at the facility 1866
as a result of the project, \$..... (insert dollar amount) 1867
for furniture and fixtures and other noninventory personal 1868
property first used in business at the facility as a result of 1869
the project, and \$..... (insert dollar amount) for new 1870
inventory. The exemption commences the first year for which the 1871
tangible personal property would first be taxable were that 1872
property not exempted from taxation. No exemption shall commence 1873
after tax return year (insert year) nor extend beyond 1874
tax return year (insert year). In no instance shall 1875
any tangible personal property be exempted from taxation for 1876
more than ten return years unless, under division (D) (2) of 1877
section 5709.62 or under division (C) (1) (b) of section 5709.63 1878
of the Revised Code, the board of education approves exemption 1879
for a number of years in excess of ten, in which case the 1880
tangible personal property may be exempted from taxation for 1881
that number of years, not to exceed fifteen return years." No 1882
exemption shall be allowed for any type of tangible personal 1883
property if the total investment is less than the minimum dollar 1884
amount specified for that type of property. If, for a type of 1885
tangible personal property, there are no minimum or maximum 1886
investment dollar amounts specified in the statement or the 1887
dollar amounts are designated in the statement as not 1888
applicable, the exemption shall apply to the total cost of that 1889
type of tangible personal property first used in business at the 1890
facility as a result of the project. The tax commissioner shall 1891
adopt rules prescribing the form the description of such 1892
property shall assume to ensure that the property to be exempted 1893
from taxation under the agreement is distinguishable from 1894

property that is not to be exempted under that agreement. 1895

(3) "..... (insert name of enterprise) shall pay such 1896
real and tangible personal property taxes as are not exempted 1897
under this agreement and are charged against such property and 1898
shall file all tax reports and returns as required by law. 1899
If (insert name of enterprise) fails to pay such 1900
taxes or file such returns and reports, all incentives granted 1901
under this agreement are rescinded beginning with the year for 1902
which such taxes are charged or such reports or returns are 1903
required to be filed and thereafter." 1904

(4) "..... (insert name of enterprise) hereby 1905
certifies that at the time this agreement is 1906
executed, (insert name of enterprise) does not owe 1907
any delinquent real or tangible personal property taxes to any 1908
taxing authority of the State of Ohio, and does not owe 1909
delinquent taxes for which (insert name of 1910
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 1911
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 1912
delinquent taxes are owed, (insert name of 1913
enterprise) currently is paying the delinquent taxes pursuant to 1914
a delinquent tax contract enforceable by the State of Ohio or an 1915
agent or instrumentality thereof, has filed a petition in 1916
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 1917
has been filed against (insert name of enterprise). 1918
For the purposes of the certification, delinquent taxes are 1919
taxes that remain unpaid on the latest day prescribed for 1920
payment without penalty under the chapter of the Revised Code 1921
governing payment of those taxes." 1922

(5) "..... (insert name of municipal corporation or 1923
county) shall perform such acts as are reasonably necessary or 1924

appropriate to effect, claim, reserve, and maintain exemptions 1925
from taxation granted under this agreement including, without 1926
limitation, joining in the execution of all documentation and 1927
providing any necessary certificates required in connection with 1928
such exemptions." 1929

(6) "If for any reason the enterprise zone designation 1930
expires, the Director of the Ohio Department of Development 1931
revokes certification of the zone, or (insert name of 1932
municipal corporation or county) revokes the designation of the 1933
zone, entitlements granted under this agreement shall continue 1934
for the number of years specified under this agreement, 1935
unless (insert name of enterprise) materially fails 1936
to fulfill its obligations under this agreement and 1937
(insert name of municipal corporation or county) terminates or 1938
modifies the exemptions from taxation granted under this 1939
agreement." 1940

(7) "If (insert name of enterprise) materially 1941
fails to fulfill its obligations under this agreement, other 1942
than with respect to the number of employee positions estimated 1943
to be created or retained under this agreement, or if 1944
(insert name of municipal corporation or county) determines that 1945
the certification as to delinquent taxes required by this 1946
agreement is fraudulent, (insert name of municipal 1947
corporation or county) may terminate or modify the exemptions 1948
from taxation granted under this agreement." 1949

(8) "..... (insert name of enterprise) shall provide 1950
to the proper tax incentive review council any information 1951
reasonably required by the council to evaluate the enterprise's 1952
compliance with the agreement, including returns or annual 1953
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 1954

Revised Code if requested by the council." 1955

(9) "..... (insert name of enterprise) and 1956
(insert name of municipal corporation or county) acknowledge 1957
that this agreement must be approved by formal action of the 1958
legislative authority of (insert name of municipal 1959
corporation or county) as a condition for the agreement to take 1960
effect. This agreement takes effect upon such approval." 1961

(10) "This agreement is not transferable or assignable 1962
without the express, written approval of (insert name 1963
of municipal corporation or county)." 1964

(11) "Exemptions from taxation granted under this 1965
agreement shall be revoked if it is determined 1966
that (insert name of enterprise), any successor 1967
enterprise, or any related member (as those terms are defined in 1968
section 5709.61 of the Ohio Revised Code) has violated the 1969
prohibition against entering into this agreement under division 1970
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 1971
of the Ohio Revised Code prior to the time prescribed by that 1972
division or either of those sections." 1973

(12) "In any three-year period during which this agreement 1974
is in effect, if the actual number of employee positions created 1975
or retained by (insert name of enterprise) is 1976
not equal to or greater than seventy-five per cent of the number 1977
of employee positions estimated to be created or retained under 1978
this agreement during that three-year period, 1979
(insert name of enterprise) shall repay the amount of taxes on 1980
property that would have been payable had the property not been 1981
exempted from taxation under this agreement during that three- 1982
year period. In addition, the (insert name of 1983
municipal corporation or county) may terminate or modify the 1984

exemptions from taxation granted under this agreement." 1985

(13) If the enterprise is the owner of real property 1986
constituting the site of a megaproject or is a megaproject 1987
supplier, both of the following: 1988

(a) A requirement that the enterprise annually certify to 1989
the legislative authority whether the megaproject operator or 1990
megaproject supplier, as applicable, holds a certificate issued 1991
under division (D) (7) of section 122.17 of the Revised Code on 1992
the first day of the current tax year; 1993

(b) A provision authorizing the legislative authority to 1994
terminate the exemption for current and subsequent tax years if 1995
the megaproject operator or megaproject supplier, as applicable, 1996
does not hold a certificate issued under division (D) (7) of 1997
section 122.17 of the Revised Code on the first day of the 1998
current tax year. 1999

The statement described in division (B) (7) of this section 2000
may include the following statement, appended at the end of the 2001
statement: "and may require the repayment of the amount of taxes 2002
that would have been payable had the property not been exempted 2003
from taxation under this agreement." If the agreement includes a 2004
statement requiring repayment of exempted taxes, it also may 2005
authorize the legislative authority to secure repayment of such 2006
taxes by a lien on the exempted property in the amount required 2007
to be repaid. Such a lien on exempted real property shall 2008
attach, and may be perfected, collected, and enforced, in the 2009
same manner as a mortgage lien on real property, and shall 2010
otherwise have the same force and effect as a mortgage lien on 2011
real property. Notwithstanding section 5719.01 of the Revised 2012
Code, such a lien on exempted tangible personal property shall 2013
attach, and may be perfected, collected, and enforced, in the 2014

same manner as a security interest in goods under Chapter 1309. 2015
of the Revised Code, and shall otherwise have the same force and 2016
effect as such a security interest. 2017

(C) If the director of development had to issue a waiver 2018
under section 5709.633 of the Revised Code as a condition for 2019
the agreement to be executed, the agreement shall include the 2020
following statement: 2021

"Continuation of this agreement is subject to the validity 2022
of the circumstance upon which (insert name of 2023
enterprise) applied for, and the Director of the Ohio Department 2024
of Development issued, the waiver pursuant to section 5709.633 2025
of the Ohio Revised Code. If, after formal approval of this 2026
agreement by (insert name of municipal corporation or 2027
county), the Director or (insert name of municipal 2028
corporation or county) discovers that such a circumstance did 2029
not exist, (insert name of enterprise) shall be 2030
deemed to have materially failed to comply with this agreement." 2031

If the director issued a waiver on the basis of the 2032
circumstance described in division (B) (3) of section 5709.633 of 2033
the Ohio Revised Code, the conditions enumerated in divisions 2034
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2035
section shall be incorporated in the information described in 2036
divisions (A) (2), (3), and (4) of this section. 2037

Sec. 5709.632. (A) (1) The legislative authority of a 2038
municipal corporation defined by the United States office of 2039
management and budget as a principal city of a metropolitan 2040
statistical area may, in the manner set forth in section 5709.62 2041
of the Revised Code, designate one or more areas in the 2042
municipal corporation as a proposed enterprise zone. 2043

(2) With the consent of the legislative authority of each 2044
affected municipal corporation or of a board of township 2045
trustees, a board of county commissioners may, in the manner set 2046
forth in section 5709.62 of the Revised Code, designate one or 2047
more areas in one or more municipal corporations or in 2048
unincorporated areas of the county as proposed urban jobs and 2049
enterprise zones, except that a board of county commissioners 2050
may designate no more than one area within a township, or within 2051
adjacent townships, as a proposed urban jobs and enterprise 2052
zone. 2053

(3) The legislative authority or board of county 2054
commissioners may petition the director of development services 2055
for certification of the area as having the characteristics set 2056
forth in division (A) (3) of section 5709.61 of the Revised Code. 2057
Within sixty days after receiving such a petition, the director 2058
shall determine whether the area has the characteristics set 2059
forth in that division and forward the findings to the 2060
legislative authority or board of county commissioners. If the 2061
director certifies the area as having those characteristics and 2062
thereby certifies it as a zone, the legislative authority or 2063
board may enter into agreements with enterprises under division 2064
(B) of this section. Any enterprise wishing to enter into an 2065
agreement with a legislative authority or board of county 2066
commissioners under this section and satisfying one of the 2067
criteria described in divisions (B) (1) to (5) of this section 2068
shall submit a proposal to the legislative authority or board on 2069
the form prescribed under division (B) of section 5709.62 of the 2070
Revised Code and shall review and update the estimates and 2071
listings required by the form in the manner required under that 2072
division. The legislative authority or board may, on a separate 2073
form and at any time, require any additional information 2074

necessary to determine whether an enterprise is in compliance 2075
with an agreement and to collect the information required to be 2076
reported under section 5709.68 of the Revised Code. 2077

(B) Prior to entering into an agreement with an 2078
enterprise, the legislative authority or board of county 2079
commissioners shall determine whether the enterprise submitting 2080
the proposal is qualified by financial responsibility and 2081
business experience to create and preserve employment 2082
opportunities in the zone and to improve the economic climate of 2083
the municipal corporation or municipal corporations or the 2084
unincorporated areas in which the zone is located and to which 2085
the proposal applies, and whether the enterprise satisfies one 2086
of the following criteria: 2087

(1) The enterprise currently has no operations in this 2088
state and, subject to approval of the agreement, intends to 2089
establish operations in the zone; 2090

(2) The enterprise currently has operations in this state 2091
and, subject to approval of the agreement, intends to establish 2092
operations at a new location in the zone that would not result 2093
in a reduction in the number of employee positions at any of the 2094
enterprise's other locations in this state; 2095

(3) The enterprise, subject to approval of the agreement, 2096
intends to relocate operations, currently located in another 2097
state, to the zone; 2098

(4) The enterprise, subject to approval of the agreement, 2099
intends to expand operations at an existing site in the zone 2100
that the enterprise currently operates; 2101

(5) The enterprise, subject to approval of the agreement, 2102
intends to relocate operations, currently located in this state, 2103

to the zone, and the director of development services has issued 2104
a waiver for the enterprise under division (B) of section 2105
5709.633 of the Revised Code. 2106

(C) If the legislative authority or board determines that 2107
the enterprise is so qualified and satisfies one of the criteria 2108
described in divisions (B) (1) to (5) of this section, the 2109
legislative authority or board may, after complying with section 2110
5709.83 of the Revised Code and, in the case of a board of 2111
commissioners, with the consent of the legislative authority of 2112
each affected municipal corporation or of the board of township 2113
trustees, enter into an agreement with the enterprise under 2114
which the enterprise agrees to establish, expand, renovate, or 2115
occupy a facility in the zone and hire new employees, or 2116
preserve employment opportunities for existing employees, in 2117
return for the following incentives: 2118

(1) When the facility is located in a municipal 2119
corporation, a legislative authority or board of commissioners 2120
may enter into an agreement for one or more of the incentives 2121
provided in division ~~divisions~~ (C) (1), (2), and (3) of section 2122
5709.62 of the Revised Code, subject to division (D) of that 2123
section, or for the incentive provided in division (C) (4) of 2124
that section if the enterprise is the owner of real property 2125
constituting the site of a megaproject or is a megaproject 2126
supplier; 2127

(2) When the facility is located in an unincorporated 2128
area, a board of commissioners may enter into an agreement for 2129
one or more of the incentives provided in divisions (B) (1) (b) ~~7~~ 2130
and (B) (2), ~~and (B) (3)~~ of section 5709.63 of the Revised Code, 2131
subject to division (C) of that section, or for the incentive 2132
provided in division (B) (3) of that section if the enterprise is 2133

the owner of real property constituting the site of a 2134
megaproject or is a megaproject supplier. 2135

(D) All agreements entered into under this section shall 2136
be in the form prescribed under section 5709.631 of the Revised 2137
Code. After an agreement under this section is entered into, if 2138
the legislative authority or board of county commissioners 2139
revokes its designation of the zone, or if the director of 2140
development services revokes the zone's certification, any 2141
entitlements granted under the agreement shall continue for the 2142
number of years specified in the agreement. 2143

(E) Except as otherwise provided in this division, an 2144
agreement entered into under this section shall require that the 2145
enterprise pay an annual fee equal to the greater of one per 2146
cent of the dollar value of incentives offered under the 2147
agreement or five hundred dollars; provided, however, that if 2148
the value of the incentives exceeds two hundred fifty thousand 2149
dollars, the fee shall not exceed two thousand five hundred 2150
dollars. The fee shall be payable to the legislative authority 2151
or board of commissioners once per year for each year the 2152
agreement is effective on the days and in the form specified in 2153
the agreement. Fees paid shall be deposited in a special fund 2154
created for such purpose by the legislative authority or board 2155
and shall be used by the legislative authority or board 2156
exclusively for the purpose of complying with section 5709.68 of 2157
the Revised Code and by the tax incentive review council created 2158
under section 5709.85 of the Revised Code exclusively for the 2159
purposes of performing the duties prescribed under that section. 2160
The legislative authority or board may waive or reduce the 2161
amount of the fee charged against an enterprise, but such waiver 2162
or reduction does not affect the obligations of the legislative 2163
authority or board or the tax incentive review council to comply 2164

with section 5709.68 or 5709.85 of the Revised Code, 2165
respectively. 2166

(F) With the approval of the legislative authority of a 2167
municipal corporation or the board of township trustees of a 2168
township in which a zone is designated under division (A) (2) of 2169
this section, the board of county commissioners may delegate to 2170
that legislative authority or board any powers and duties of the 2171
board to negotiate and administer agreements with regard to that 2172
zone under this section. 2173

(G) When an agreement is entered into pursuant to this 2174
section, the legislative authority or board of commissioners 2175
authorizing the agreement shall forward a copy of the agreement 2176
to the director of development services and to the tax 2177
commissioner within fifteen days after the agreement is entered 2178
into. If any agreement includes terms not provided for in 2179
section 5709.631 of the Revised Code affecting the revenue of a 2180
city, local, or exempted village school district or causing 2181
revenue to be forgone by the district, including any 2182
compensation to be paid to the school district pursuant to 2183
section 5709.82 of the Revised Code, those terms also shall be 2184
forwarded in writing to the director of development services 2185
along with the copy of the agreement forwarded under this 2186
division. 2187

(H) After an agreement is entered into, the enterprise 2188
shall file with each personal property tax return required to be 2189
filed while the agreement is in effect, an informational return, 2190
on a form prescribed by the tax commissioner for that purpose, 2191
setting forth separately the property, and related costs and 2192
values, exempted from taxation under the agreement. 2193

(I) An agreement entered into under this section may 2194

include a provision requiring the enterprise to create one or 2195
more temporary internship positions for students enrolled in a 2196
course of study at a school or other educational institution in 2197
the vicinity, and to create a scholarship or provide another 2198
form of educational financial assistance for students holding 2199
such a position in exchange for the student's commitment to work 2200
for the enterprise at the completion of the internship. 2201

Sec. 5751.01. As used in this chapter: 2202

(A) "Person" means, but is not limited to, individuals, 2203
combinations of individuals of any form, receivers, assignees, 2204
trustees in bankruptcy, firms, companies, joint-stock companies, 2205
business trusts, estates, partnerships, limited liability 2206
partnerships, limited liability companies, associations, joint 2207
ventures, clubs, societies, for-profit corporations, S 2208
corporations, qualified subchapter S subsidiaries, qualified 2209
subchapter S trusts, trusts, entities that are disregarded for 2210
federal income tax purposes, and any other entities. 2211

(B) "Consolidated elected taxpayer" means a group of two 2212
or more persons treated as a single taxpayer for purposes of 2213
this chapter as the result of an election made under section 2214
5751.011 of the Revised Code. 2215

(C) "Combined taxpayer" means a group of two or more 2216
persons treated as a single taxpayer for purposes of this 2217
chapter under section 5751.012 of the Revised Code. 2218

(D) "Taxpayer" means any person, or any group of persons 2219
in the case of a consolidated elected taxpayer or combined 2220
taxpayer treated as one taxpayer, required to register or pay 2221
tax under this chapter. "Taxpayer" does not include excluded 2222
persons. 2223

(E) "Excluded person" means any of the following:	2224
(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;	2225 2226 2227 2228
(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:	2229 2230 2231 2232 2233 2234
(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;	2235 2236 2237 2238
(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;	2239 2240 2241 2242 2243 2244
(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.	2245 2246 2247 2248 2249 2250 2251 2252

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

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

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

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

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

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

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or

distributions of fifty per cent or more of the combined 2282
beneficial interests of all persons having such an interest in 2283
the organization. 2284

(5) A domestic insurance company or foreign insurance 2285
company, as defined in section 5725.01 of the Revised Code, that 2286
paid the insurance company premiums tax imposed by section 2287
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 2288
insurance company whose gross premiums are subject to tax under 2289
section 3905.36 of the Revised Code based on one or more 2290
measurement periods that include the entire tax period under 2291
this chapter; 2292

(6) A person that solely facilitates or services one or 2293
more securitizations of phase-in-recovery property pursuant to a 2294
final financing order as those terms are defined in section 2295
4928.23 of the Revised Code. For purposes of this division, 2296
"securitization" means transferring one or more assets to one or 2297
more persons and then issuing securities backed by the right to 2298
receive payment from the asset or assets so transferred. 2299

(7) Except as otherwise provided in this division, a pre- 2300
income tax trust as defined in division (FF) (4) of section 2301
5747.01 of the Revised Code and any pass-through entity of which 2302
such pre-income tax trust owns or controls, directly, 2303
indirectly, or constructively through related interests, more 2304
than five per cent of the ownership or equity interests. If the 2305
pre-income tax trust has made a qualifying pre-income tax trust 2306
election under division (FF) (3) of section 5747.01 of the 2307
Revised Code, then the trust and the pass-through entities of 2308
which it owns or controls, directly, indirectly, or 2309
constructively through related interests, more than five per 2310
cent of the ownership or equity interests, shall not be excluded 2311

persons for purposes of the tax imposed under section 5751.02 of the Revised Code.	2312 2313
(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.	2314 2315
(F) Except as otherwise provided in divisions (F) (2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.	2316 2317 2318 2319 2320 2321 2322
(1) The following are examples of gross receipts:	2323
(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;	2324 2325
(b) Amounts realized from the taxpayer's performance of services for another;	2326 2327
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	2328 2329
(d) Any combination of the foregoing amounts.	2330
(2) "Gross receipts" excludes the following amounts:	2331
(a) Interest income except interest on credit sales;	2332
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	2333 2334 2335 2336
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal	2337 2338

Revenue Code, without regard to the length of time the person 2339
held the asset. Notwithstanding section 1221 of the Internal 2340
Revenue Code, receipts from hedging transactions also are 2341
excluded to the extent the transactions are entered into 2342
primarily to protect a financial position, such as managing the 2343
risk of exposure to (i) foreign currency fluctuations that 2344
affect assets, liabilities, profits, losses, equity, or 2345
investments in foreign operations; (ii) interest rate 2346
fluctuations; or (iii) commodity price fluctuations. As used in 2347
division (F)(2)(c) of this section, "hedging transaction" has 2348
the same meaning as used in section 1221 of the Internal Revenue 2349
Code and also includes transactions accorded hedge accounting 2350
treatment under statement of financial accounting standards 2351
number 133 of the financial accounting standards board. For the 2352
purposes of division (F)(2)(c) of this section, the actual 2353
transfer of title of real or tangible personal property to 2354
another entity is not a hedging transaction. 2355

(d) Proceeds received attributable to the repayment, 2356
maturity, or redemption of the principal of a loan, bond, mutual 2357
fund, certificate of deposit, or marketable instrument; 2358

(e) The principal amount received under a repurchase 2359
agreement or on account of any transaction properly 2360
characterized as a loan to the person; 2361

(f) Contributions received by a trust, plan, or other 2362
arrangement, any of which is described in section 501(a) of the 2363
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 2364
1, Subchapter (D) of the Internal Revenue Code applies; 2365

(g) Compensation, whether current or deferred, and whether 2366
in cash or in kind, received or to be received by an employee, 2367
former employee, or the employee's legal successor for services 2368

rendered to or for an employer, including reimbursements	2369
received by or for an individual for medical or education	2370
expenses, health insurance premiums, or employee expenses, or on	2371
account of a dependent care spending account, legal services	2372
plan, any cafeteria plan described in section 125 of the	2373
Internal Revenue Code, or any similar employee reimbursement;	2374
(h) Proceeds received from the issuance of the taxpayer's	2375
own stock, options, warrants, puts, or calls, or from the sale	2376
of the taxpayer's treasury stock;	2377
(i) Proceeds received on the account of payments from	2378
insurance policies, except those proceeds received for the loss	2379
of business revenue;	2380
(j) Gifts or charitable contributions received; membership	2381
dues received by trade, professional, homeowners', or	2382
condominium associations; and payments received for educational	2383
courses, meetings, meals, or similar payments to a trade,	2384
professional, or other similar association; and fundraising	2385
receipts received by any person when any excess receipts are	2386
donated or used exclusively for charitable purposes;	2387
(k) Damages received as the result of litigation in excess	2388
of amounts that, if received without litigation, would be gross	2389
receipts;	2390
(l) Property, money, and other amounts received or	2391
acquired by an agent on behalf of another in excess of the	2392
agent's commission, fee, or other remuneration;	2393
(m) Tax refunds, other tax benefit recoveries, and	2394
reimbursements for the tax imposed under this chapter made by	2395
entities that are part of the same combined taxpayer or	2396
consolidated elected taxpayer group, and reimbursements made by	2397

entities that are not members of a combined taxpayer or	2398
consolidated elected taxpayer group that are required to be made	2399
for economic parity among multiple owners of an entity whose tax	2400
obligation under this chapter is required to be reported and	2401
paid entirely by one owner, pursuant to the requirements of	2402
sections 5751.011 and 5751.012 of the Revised Code;	2403
(n) Pension reversions;	2404
(o) Contributions to capital;	2405
(p) Sales or use taxes collected as a vendor or an out-of-	2406
state seller on behalf of the taxing jurisdiction from a	2407
consumer or other taxes the taxpayer is required by law to	2408
collect directly from a purchaser and remit to a local, state,	2409
or federal tax authority;	2410
(q) In the case of receipts from the sale of cigarettes or	2411
tobacco products by a wholesale dealer, retail dealer,	2412
distributor, manufacturer, or seller, all as defined in section	2413
5743.01 of the Revised Code, an amount equal to the federal and	2414
state excise taxes paid by any person on or for such cigarettes	2415
or tobacco products under subtitle E of the Internal Revenue	2416
Code or Chapter 5743. of the Revised Code;	2417
(r) In the case of receipts from the sale, transfer,	2418
exchange, or other disposition of motor fuel as "motor fuel" is	2419
defined in section 5736.01 of the Revised Code, an amount equal	2420
to the value of the motor fuel, including federal and state	2421
motor fuel excise taxes and receipts from billing or invoicing	2422
the tax imposed under section 5736.02 of the Revised Code to	2423
another person;	2424
(s) In the case of receipts from the sale of beer or	2425
intoxicating liquor, as defined in section 4301.01 of the	2426

Revised Code, by a person holding a permit issued under Chapter 2427
4301. or 4303. of the Revised Code, an amount equal to federal 2428
and state excise taxes paid by any person on or for such beer or 2429
intoxicating liquor under subtitle E of the Internal Revenue 2430
Code or Chapter 4301. or 4305. of the Revised Code; 2431

(t) Receipts realized by a new motor vehicle dealer or 2432
used motor vehicle dealer, as defined in section 4517.01 of the 2433
Revised Code, from the sale or other transfer of a motor 2434
vehicle, as defined in that section, to another motor vehicle 2435
dealer for the purpose of resale by the transferee motor vehicle 2436
dealer, but only if the sale or other transfer was based upon 2437
the transferee's need to meet a specific customer's preference 2438
for a motor vehicle; 2439

(u) Receipts from a financial institution described in 2440
division (E)(3) of this section for services provided to the 2441
financial institution in connection with the issuance, 2442
processing, servicing, and management of loans or credit 2443
accounts, if such financial institution and the recipient of 2444
such receipts have at least fifty per cent of their ownership 2445
interests owned or controlled, directly or constructively 2446
through related interests, by common owners; 2447

(v) Receipts realized from administering anti-neoplastic 2448
drugs and other cancer chemotherapy, biologicals, therapeutic 2449
agents, and supportive drugs in a physician's office to patients 2450
with cancer; 2451

(w) Funds received or used by a mortgage broker that is 2452
not a dealer in intangibles, other than fees or other 2453
consideration, pursuant to a table-funding mortgage loan or 2454
warehouse-lending mortgage loan. Terms used in division (F)(2) 2455
(w) of this section have the same meanings as in section 1322.01 2456

of the Revised Code, except "mortgage broker" means a person 2457
assisting a buyer in obtaining a mortgage loan for a fee or 2458
other consideration paid by the buyer or a lender, or a person 2459
engaged in table-funding or warehouse-lending mortgage loans 2460
that are first lien mortgage loans. 2461

(x) Property, money, and other amounts received by a 2462
professional employer organization, as defined in section 2463
4125.01 of the Revised Code, from a client employer, as defined 2464
in that section, in excess of the administrative fee charged by 2465
the professional employer organization to the client employer; 2466

(y) In the case of amounts retained as commissions by a 2467
permit holder under Chapter 3769. of the Revised Code, an amount 2468
equal to the amounts specified under that chapter that must be 2469
paid to or collected by the tax commissioner as a tax and the 2470
amounts specified under that chapter to be used as purse money; 2471

(z) Qualifying distribution center receipts. 2472

(i) For purposes of division (F) (2) (z) of this section: 2473

(I) "Qualifying distribution center receipts" means 2474
receipts of a supplier from qualified property that is delivered 2475
to a qualified distribution center, multiplied by a quantity 2476
that equals one minus the Ohio delivery percentage. If the 2477
qualified distribution center is a refining facility, "supplier" 2478
includes all dealers, brokers, processors, sellers, vendors, 2479
cosigners, and distributors of qualified property. 2480

(II) "Qualified property" means tangible personal property 2481
delivered to a qualified distribution center that is shipped to 2482
that qualified distribution center solely for further shipping 2483
by the qualified distribution center to another location in this 2484
state or elsewhere or, in the case of gold, silver, platinum, or 2485

palladium delivered to a refining facility solely for refining 2486
to a grade and fineness acceptable for delivery to a registered 2487
commodities exchange. "Further shipping" includes storing and 2488
repackaging property into smaller or larger bundles, so long as 2489
the property is not subject to further manufacturing or 2490
processing. "Refining" is limited to extracting impurities from 2491
gold, silver, platinum, or palladium through smelting or some 2492
other process at a refining facility. 2493

(III) "Qualified distribution center" means a warehouse, a 2494
facility similar to a warehouse, or a refining facility in this 2495
state that, for the qualifying year, is operated by a person 2496
that is not part of a combined taxpayer group and that has a 2497
qualifying certificate. All warehouses or facilities similar to 2498
warehouses that are operated by persons in the same taxpayer 2499
group and that are located within one mile of each other shall 2500
be treated as one qualified distribution center. All refining 2501
facilities that are operated by persons in the same taxpayer 2502
group and that are located in the same or adjacent counties may 2503
be treated as one qualified distribution center. 2504

(IV) "Qualifying year" means the calendar year to which 2505
the qualifying certificate applies. 2506

(V) "Qualifying period" means the period of the first day 2507
of July of the second year preceding the qualifying year through 2508
the thirtieth day of June of the year preceding the qualifying 2509
year. 2510

(VI) "Qualifying certificate" means the certificate issued 2511
by the tax commissioner after the operator of a distribution 2512
center files an annual application with the commissioner. The 2513
application and annual fee shall be filed and paid for each 2514
qualified distribution center on or before the first day of 2515

September before the qualifying year or within forty-five days 2516
after the distribution center opens, whichever is later. 2517

The applicant must substantiate to the commissioner's 2518
satisfaction that, for the qualifying period, all persons 2519
operating the distribution center have more than fifty per cent 2520
of the cost of the qualified property shipped to a location such 2521
that it would be situated outside this state under the provisions 2522
of division (E) of section 5751.033 of the Revised Code. The 2523
applicant must also substantiate that the distribution center 2524
cumulatively had costs from its suppliers equal to or exceeding 2525
five hundred million dollars during the qualifying period. (For 2526
purposes of division (F) (2) (z) (i) (VI) of this section, 2527
"supplier" excludes any person that is part of the consolidated 2528
elected taxpayer group, if applicable, of the operator of the 2529
qualified distribution center.) The commissioner may require the 2530
applicant to have an independent certified public accountant 2531
certify that the calculation of the minimum thresholds required 2532
for a qualified distribution center by the operator of a 2533
distribution center has been made in accordance with generally 2534
accepted accounting principles. The commissioner shall issue or 2535
deny the issuance of a certificate within sixty days after the 2536
receipt of the application. A denial is subject to appeal under 2537
section 5717.02 of the Revised Code. If the operator files a 2538
timely appeal under section 5717.02 of the Revised Code, the 2539
operator shall be granted a qualifying certificate effective for 2540
the remainder of the qualifying year or until the appeal is 2541
finalized, whichever is earlier. If the operator does not 2542
prevail in the appeal, the operator shall pay the ineligible 2543
operator's supplier tax liability. 2544

(VII) "Ohio delivery percentage" means the proportion of 2545
the total property delivered to a destination inside Ohio from 2546

the qualified distribution center during the qualifying period 2547
compared with total deliveries from such distribution center 2548
everywhere during the qualifying period. 2549

(VIII) "Refining facility" means one or more buildings 2550
located in a county in the Appalachian region of this state as 2551
defined by section 107.21 of the Revised Code and utilized for 2552
refining or smelting gold, silver, platinum, or palladium to a 2553
grade and fineness acceptable for delivery to a registered 2554
commodities exchange. 2555

(IX) "Registered commodities exchange" means a board of 2556
trade, such as New York mercantile exchange, inc. or commodity 2557
exchange, inc., designated as a contract market by the commodity 2558
futures trading commission under the "Commodity Exchange Act," 7 2559
U.S.C. 1 et seq., as amended. 2560

(X) "Ineligible operator's supplier tax liability" means 2561
an amount equal to the tax liability of all suppliers of a 2562
distribution center had the distribution center not been issued 2563
a qualifying certificate for the qualifying year. Ineligible 2564
operator's supplier tax liability shall not include interest or 2565
penalties. The tax commissioner shall determine an ineligible 2566
operator's supplier tax liability based on information that the 2567
commissioner may request from the operator of the distribution 2568
center. An operator shall provide a list of all suppliers of the 2569
distribution center and the corresponding costs of qualified 2570
property for the qualifying year at issue within sixty days of a 2571
request by the commissioner under this division. 2572

(ii) (I) If the distribution center is new and was not open 2573
for the entire qualifying period, the operator of the 2574
distribution center may request that the commissioner grant a 2575
qualifying certificate. If the certificate is granted and it is 2576

later determined that more than fifty per cent of the qualified 2577
property during that year was not shipped to a location such 2578
that it would be situated outside of this state under the 2579
provisions of division (E) of section 5751.033 of the Revised 2580
Code or if it is later determined that the person that operates 2581
the distribution center had average monthly costs from its 2582
suppliers of less than forty million dollars during that year, 2583
then the operator of the distribution center shall pay the 2584
ineligible operator's supplier tax liability. (For purposes of 2585
division (F) (2) (z) (ii) of this section, "supplier" excludes any 2586
person that is part of the consolidated elected taxpayer group, 2587
if applicable, of the operator of the qualified distribution 2588
center.) 2589

(II) The commissioner may grant a qualifying certificate 2590
to a distribution center that does not qualify as a qualified 2591
distribution center for an entire qualifying period if the 2592
operator of the distribution center demonstrates that the 2593
business operations of the distribution center have changed or 2594
will change such that the distribution center will qualify as a 2595
qualified distribution center within thirty-six months after the 2596
date the operator first applies for a certificate. If, at the 2597
end of that thirty-six-month period, the business operations of 2598
the distribution center have not changed such that the 2599
distribution center qualifies as a qualified distribution 2600
center, the operator of the distribution center shall pay the 2601
ineligible operator's supplier tax liability for each year that 2602
the distribution center received a certificate but did not 2603
qualify as a qualified distribution center. For each year the 2604
distribution center receives a certificate under division (F) (2) 2605
(z) (ii) (II) of this section, the distribution center shall pay 2606
all applicable fees required under division (F) (2) (z) of this 2607

section and shall submit an updated business plan showing the 2608
progress the distribution center made toward qualifying as a 2609
qualified distribution center during the preceding year. 2610

(III) An operator may appeal a determination under 2611
division (F) (2) (z) (ii) (I) or (II) of this section that the 2612
ineligible operator is liable for the operator's supplier tax 2613
liability as a result of not qualifying as a qualified 2614
distribution center, as provided in section 5717.02 of the 2615
Revised Code. 2616

(iii) When filing an application for a qualifying 2617
certificate under division (F) (2) (z) (i) (VI) of this section, the 2618
operator of a qualified distribution center also shall provide 2619
documentation, as the commissioner requires, for the 2620
commissioner to ascertain the Ohio delivery percentage. The 2621
commissioner, upon issuing the qualifying certificate, also 2622
shall certify the Ohio delivery percentage. The operator of the 2623
qualified distribution center may appeal the commissioner's 2624
certification of the Ohio delivery percentage in the same manner 2625
as an appeal is taken from the denial of a qualifying 2626
certificate under division (F) (2) (z) (i) (VI) of this section. 2627

(iv) (I) In the case where the distribution center is new 2628
and not open for the entire qualifying period, the operator 2629
shall make a good faith estimate of an Ohio delivery percentage 2630
for use by suppliers in their reports of taxable gross receipts 2631
for the remainder of the qualifying period. The operator of the 2632
facility shall disclose to the suppliers that such Ohio delivery 2633
percentage is an estimate and is subject to recalculation. By 2634
the due date of the next application for a qualifying 2635
certificate, the operator shall determine the actual Ohio 2636
delivery percentage for the estimated qualifying period and 2637

proceed as provided in division (F) (2) (z) (iii) of this section 2638
with respect to the calculation and recalculation of the Ohio 2639
delivery percentage. The supplier is required to file, within 2640
sixty days after receiving notice from the operator of the 2641
qualified distribution center, amended reports for the impacted 2642
calendar quarter or quarters or calendar year, whichever the 2643
case may be. Any additional tax liability or tax overpayment 2644
shall be subject to interest but shall not be subject to the 2645
imposition of any penalty so long as the amended returns are 2646
timely filed. 2647

(II) The operator of a distribution center that receives a 2648
qualifying certificate under division (F) (2) (z) (ii) (II) of this 2649
section shall make a good faith estimate of the Ohio delivery 2650
percentage that the operator estimates will apply to the 2651
distribution center at the end of the thirty-six-month period 2652
after the operator first applied for a qualifying certificate 2653
under that division. The result of the estimate shall be 2654
multiplied by a factor of one and seventy-five one-hundredths. 2655
The product of that calculation shall be the Ohio delivery 2656
percentage used by suppliers in their reports of taxable gross 2657
receipts for each qualifying year that the distribution center 2658
receives a qualifying certificate under division (F) (2) (z) (ii) 2659
(II) of this section, except that, if the product is less than 2660
five per cent, the Ohio delivery percentage used shall be five 2661
per cent and that, if the product exceeds forty-nine per cent, 2662
the Ohio delivery percentage used shall be forty-nine per cent. 2663

(v) Qualifying certificates and Ohio delivery percentages 2664
issued by the commissioner shall be open to public inspection 2665
and shall be timely published by the commissioner. A supplier 2666
relying in good faith on a certificate issued under this 2667
division shall not be subject to tax on the qualifying 2668

distribution center receipts under division (F) (2) (z) of this 2669
section. An operator receiving a qualifying certificate is 2670
liable for the ineligible operator's supplier tax liability for 2671
each year the operator received a certificate but did not 2672
qualify as a qualified distribution center. 2673

(vi) The annual fee for a qualifying certificate shall be 2674
one hundred thousand dollars for each qualified distribution 2675
center. If a qualifying certificate is not issued, the annual 2676
fee is subject to refund after the exhaustion of all appeals 2677
provided for in division (F) (2) (z) (i) (VI) of this section. The 2678
first one hundred thousand dollars of the annual application 2679
fees collected each calendar year shall be credited to the 2680
revenue enhancement fund. The remainder of the annual 2681
application fees collected shall be distributed in the same 2682
manner required under section 5751.20 of the Revised Code. 2683

(vii) The tax commissioner may require that adequate 2684
security be posted by the operator of the distribution center on 2685
appeal when the commissioner disagrees that the applicant has 2686
met the minimum thresholds for a qualified distribution center 2687
as set forth in division (F) (2) (z) of this section. 2688

(aa) Receipts of an employer from payroll deductions 2689
relating to the reimbursement of the employer for advancing 2690
moneys to an unrelated third party on an employee's behalf; 2691

(bb) Cash discounts allowed and taken; 2692

(cc) Returns and allowances; 2693

(dd) Bad debts from receipts on the basis of which the tax 2694
imposed by this chapter was paid in a prior quarterly tax 2695
payment period. For the purpose of this division, "bad debts" 2696
means any debts that have become worthless or uncollectible 2697

between the preceding and current quarterly tax payment periods, 2698
have been uncollected for at least six months, and that may be 2699
claimed as a deduction under section 166 of the Internal Revenue 2700
Code and the regulations adopted under that section, or that 2701
could be claimed as such if the taxpayer kept its accounts on 2702
the accrual basis. "Bad debts" does not include repossessed 2703
property, uncollectible amounts on property that remains in the 2704
possession of the taxpayer until the full purchase price is 2705
paid, or expenses in attempting to collect any account 2706
receivable or for any portion of the debt recovered; 2707

(ee) Any amount realized from the sale of an account 2708
receivable to the extent the receipts from the underlying 2709
transaction giving rise to the account receivable were included 2710
in the gross receipts of the taxpayer; 2711

(ff) Any receipts directly attributed to a transfer 2712
agreement or to the enterprise transferred under that agreement 2713
under section 4313.02 of the Revised Code. 2714

(gg) (i) As used in this division: 2715

(I) "Qualified uranium receipts" means receipts from the 2716
sale, exchange, lease, loan, production, processing, or other 2717
disposition of uranium within a uranium enrichment zone 2718
certified by the tax commissioner under division (F) (2) (gg) (ii) 2719
of this section. "Qualified uranium receipts" does not include 2720
any receipts with a situs in this state outside a uranium 2721
enrichment zone certified by the tax commissioner under division 2722
(F) (2) (gg) (ii) of this section. 2723

(II) "Uranium enrichment zone" means all real property 2724
that is part of a uranium enrichment facility licensed by the 2725
United States nuclear regulatory commission and that was or is 2726

owned or controlled by the United States department of energy or 2727
its successor. 2728

(ii) Any person that owns, leases, or operates real or 2729
tangible personal property constituting or located within a 2730
uranium enrichment zone may apply to the tax commissioner to 2731
have the uranium enrichment zone certified for the purpose of 2732
excluding qualified uranium receipts under division (F) (2) (gg) 2733
of this section. The application shall include such information 2734
that the tax commissioner prescribes. Within sixty days after 2735
receiving the application, the tax commissioner shall certify 2736
the zone for that purpose if the commissioner determines that 2737
the property qualifies as a uranium enrichment zone as defined 2738
in division (F) (2) (gg) of this section, or, if the tax 2739
commissioner determines that the property does not qualify, the 2740
commissioner shall deny the application or request additional 2741
information from the applicant. If the tax commissioner denies 2742
an application, the commissioner shall state the reasons for the 2743
denial. The applicant may appeal the denial of an application to 2744
the board of tax appeals pursuant to section 5717.02 of the 2745
Revised Code. If the applicant files a timely appeal, the tax 2746
commissioner shall conditionally certify the applicant's 2747
property. The conditional certification shall expire when all of 2748
the applicant's appeals are exhausted. Until final resolution of 2749
the appeal, the applicant shall retain the applicant's records 2750
in accordance with section 5751.12 of the Revised Code, 2751
notwithstanding any time limit on the preservation of records 2752
under that section. 2753

(hh) In the case of amounts collected by a licensed casino 2754
operator from casino gaming, amounts in excess of the casino 2755
operator's gross casino revenue. In this division, "casino 2756
operator" and "casino gaming" have the meanings defined in 2757

section 3772.01 of the Revised Code, and "gross casino revenue" 2758
has the meaning defined in section 5753.01 of the Revised Code. 2759

(ii) Receipts realized from the sale of agricultural 2760
commodities by an agricultural commodity handler, both as 2761
defined in section 926.01 of the Revised Code, that is licensed 2762
by the director of agriculture to handle agricultural 2763
commodities in this state. 2764

(jj) Qualifying integrated supply chain receipts. 2765

As used in division (F)(2)(jj) of this section: 2766

(i) "Qualifying integrated supply chain receipts" means 2767
receipts of a qualified integrated supply chain vendor from the 2768
sale of qualified property delivered to, or integrated supply 2769
chain services provided to, another qualified integrated supply 2770
chain vendor or to a retailer that is a member of the integrated 2771
supply chain. "Qualifying integrated supply chain receipts" does 2772
not include receipts of a person that is not a qualified 2773
integrated supply chain vendor from the sale of raw materials to 2774
a member of an integrated supply chain, or receipts of a member 2775
of an integrated supply chain from the sale of qualified 2776
property or integrated supply chain services to a person that is 2777
not a member of the integrated supply chain. 2778

(ii) "Qualified property" means any of the following: 2779

(I) Component parts used to hold, contain, package, or 2780
dispense qualified products, excluding equipment; 2781

(II) Work-in-process inventory that will become, comprise, 2782
or form a component part of a qualified product capable of being 2783
sold at retail, excluding equipment, machinery, furniture, and 2784
fixtures; 2785

(III) Finished goods inventory that is a qualified product	2786
capable of being sold at retail in the inventory's present form.	2787
(iii) "Qualified integrated supply chain vendor" means a	2788
person that is a member of an integrated supply chain and that	2789
provides integrated supply chain services within a qualified	2790
integrated supply chain district to a retailer that is a member	2791
of the integrated supply chain or to another qualified	2792
integrated supply chain vendor that is located within the same	2793
such district as the person but does not share a common owner	2794
with that person.	2795
(iv) "Qualified product" means a personal care, health, or	2796
beauty product or an aromatic product, including a candle.	2797
"Qualified product" does not include a drug that may be	2798
dispensed only pursuant to a prescription, durable medical	2799
equipment, mobility enhancing equipment, or a prosthetic device,	2800
as those terms are defined in section 5739.01 of the Revised	2801
Code.	2802
(v) "Integrated supply chain" means two or more qualified	2803
integrated supply chain vendors certified on the most recent	2804
list certified to the tax commissioner under this division that	2805
systematically collaborate and coordinate business operations	2806
with a retailer on the flow of tangible personal property from	2807
material sourcing through manufacturing, assembly, packaging,	2808
and delivery to the retailer to improve long-term financial	2809
performance of each vendor and the supply chain that includes	2810
the retailer.	2811
For the purpose of the certification required under this	2812
division, the reporting person for each retailer, on or before	2813
the first day of October of each year, shall certify to the tax	2814
commissioner a list of the qualified integrated supply chain	2815

vendors providing or receiving integrated supply chain services 2816
within a qualified integrated supply chain district for the 2817
ensuing calendar year. On or before the following first day of 2818
November, the commissioner shall issue a certificate to the 2819
retailer and to each vendor certified to the commissioner on 2820
that list. The certificate shall include the names of the 2821
retailer and of the qualified integrated supply chain vendors. 2822

The retailer shall notify the commissioner of any changes 2823
to the list, including additions to or subtractions from the 2824
list or changes in the name or legal entity of vendors certified 2825
on the list, within sixty days after the date the retailer 2826
becomes aware of the change. Within thirty days after receiving 2827
that notification, the commissioner shall issue a revised 2828
certificate to the retailer and to each vendor certified on the 2829
list. The revised certificate shall include the effective date 2830
of the change. 2831

Each recipient of a certificate issued pursuant to this 2832
division shall maintain a copy of the certificate for four years 2833
from the date the certificate was received. 2834

(vi) "Integrated supply chain services" means procuring 2835
raw materials or manufacturing, processing, refining, 2836
assembling, packaging, or repackaging tangible personal property 2837
that will become finished goods inventory capable of being sold 2838
at retail by a retailer that is a member of an integrated supply 2839
chain. 2840

(vii) "Retailer" means a person primarily engaged in 2841
making retail sales and any member of that person's consolidated 2842
elected taxpayer group or combined taxpayer group, whether or 2843
not that member is primarily engaged in making retail sales. 2844

(viii) "Qualified integrated supply chain district" means 2845
the parcel or parcels of land from which a retailer's integrated 2846
supply chain that existed on September 29, 2015, provides or 2847
receives integrated supply chain services, and to which all of 2848
the following apply: 2849

(I) The parcel or parcels are located wholly in a county 2850
having a population of greater than one hundred sixty-five 2851
thousand but less than one hundred seventy thousand based on the 2852
2010 federal decennial census. 2853

(II) The parcel or parcels are located wholly in the 2854
corporate limits of a municipal corporation with a population 2855
greater than seven thousand five hundred and less than eight 2856
thousand based on the 2010 federal decennial census that is 2857
partly located in the county described in division (F) (2) (jj) 2858
(viii) (I) of this section, as those corporate limits existed on 2859
September 29, 2015. 2860

(III) The aggregate acreage of the parcel or parcels 2861
equals or exceeds one hundred acres. 2862

(kk) In the case of a railroad company described in 2863
division (D) (9) of section 5727.01 of the Revised Code that 2864
purchases dyed diesel fuel directly from a supplier as defined 2865
by section 5736.01 of the Revised Code, an amount equal to the 2866
product of the number of gallons of dyed diesel fuel purchased 2867
directly from such a supplier multiplied by the average 2868
wholesale price for a gallon of diesel fuel as determined under 2869
section 5736.02 of the Revised Code for the period during which 2870
the fuel was purchased multiplied by a fraction, the numerator 2871
of which equals the rate of tax levied by section 5736.02 of the 2872
Revised Code less the rate of tax computed in section 5751.03 of 2873
the Revised Code, and the denominator of which equals the rate 2874

of tax computed in section 5751.03 of the Revised Code. 2875

(ll) Receipts realized by an out-of-state disaster 2876
business from disaster work conducted in this state during a 2877
disaster response period pursuant to a qualifying solicitation 2878
received by the business. Terms used in ~~this~~ division (F) (2) (ll) 2879
of this section have the same meanings as in section 5703.94 of 2880
the Revised Code. 2881

(mm) Receipts of a megaproject supplier that holds a 2882
certificate issued under division (D) (7) of section 122.17 of 2883
the Revised Code from sales of tangible personal property 2884
directly to a megaproject operator in this state. 2885

(nn) Any receipts for which the tax imposed by this 2886
chapter is prohibited by the constitution or laws of the United 2887
States or the constitution of this state. 2888

(3) In the case of a taxpayer when acting as a real estate 2889
broker, "gross receipts" includes only the portion of any fee 2890
for the service of a real estate broker, or service of a real 2891
estate salesperson associated with that broker, that is retained 2892
by the broker and not paid to an associated real estate 2893
salesperson or another real estate broker. For the purposes of 2894
this division, "real estate broker" and "real estate 2895
salesperson" have the same meanings as in section 4735.01 of the 2896
Revised Code. 2897

(4) A taxpayer's method of accounting for gross receipts 2898
for a tax period shall be the same as the taxpayer's method of 2899
accounting for federal income tax purposes for the taxpayer's 2900
federal taxable year that includes the tax period. If a 2901
taxpayer's method of accounting for federal income tax purposes 2902
changes, its method of accounting for gross receipts under this 2903

chapter shall be changed accordingly.	2904
(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.	2905 2906
(H) A person has "substantial nexus with this state" if any of the following applies. The person:	2907 2908
(1) Owns or uses a part or all of its capital in this state;	2909 2910
(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;	2911 2912
(3) Has bright-line presence in this state;	2913
(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.	2914 2915 2916
(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:	2917 2918 2919
(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.	2920 2921 2922 2923 2924
(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:	2925 2926 2927
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	2928 2929
(b) Any other amount the person pays as compensation to an	2930

individual under the supervision or control of the person for	2931
work done in this state; and	2932
(c) Any amount the person pays for services performed in	2933
this state on its behalf by another.	2934
(3) Has during the calendar year taxable gross receipts of	2935
at least five hundred thousand dollars.	2936
(4) Has at any time during the calendar year within this	2937
state at least twenty-five per cent of the person's total	2938
property, total payroll, or total gross receipts.	2939
(5) Is domiciled in this state as an individual or for	2940
corporate, commercial, or other business purposes.	2941
(J) "Tangible personal property" has the same meaning as	2942
in section 5739.01 of the Revised Code.	2943
(K) "Internal Revenue Code" means the Internal Revenue	2944
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term	2945
used in this chapter that is not otherwise defined has the same	2946
meaning as when used in a comparable context in the laws of the	2947
United States relating to federal income taxes unless a	2948
different meaning is clearly required. Any reference in this	2949
chapter to the Internal Revenue Code includes other laws of the	2950
United States relating to federal income taxes.	2951
(L) "Calendar quarter" means a three-month period ending	2952
on the thirty-first day of March, the thirtieth day of June, the	2953
thirtieth day of September, or the thirty-first day of December.	2954
(M) "Tax period" means the calendar quarter or calendar	2955
year on the basis of which a taxpayer is required to pay the tax	2956
imposed under this chapter.	2957
(N) "Calendar year taxpayer" means a taxpayer for which	2958

the tax period is a calendar year.	2959
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	2960 2961
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	2962 2963 2964
(1) A person receiving a fee to sell financial instruments;	2965 2966
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	2967 2968 2969
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	2970 2971
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	2972 2973
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	2974 2975
(Q) "Received" includes amounts accrued under the accrual method of accounting.	2976 2977
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.	2978 2979 2980 2981 2982 2983 2984
<u>(S) "Megaproject," "megaproject operator," and</u>	2985

"megaproject supplier" have the same meanings as in section 2986
122.17 of the Revised Code. 2987

Section 2. That existing sections 122.17, 3735.65, 2988
3735.67, 3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 2989
5709.632, and 5751.01 of the Revised Code are hereby repealed. 2990