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136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 646

To amend sections 122.17 and 122.175 and to enact
sections 122.55, 149.437, 1521.301, 1521.302,
1521.303, 4941.01, 4941.02, 4941.03, 4941.04,
4941.05, 5709.94, and 6111.70 of the Revised
Code regarding data centers.

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

Section 1. That sections 122.17 and 122.175 be amended and
sections 122.55, 149.437, 1521.301, 1521.302, 1521.303, 4941.01,
4941.02, 4941.03, 4941.04, 4941.05, 5709.94, and 6111.70 of the
Revised Code be enacted to read as follows:

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

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(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
by the employer to or on behalf of employees.

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(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
baseline payroll. 49 50
- (5) "Home-based employee" means an employee whose services
are performed primarily from the employee's residence in this 51
state exclusively for the benefit of the project and whose rate 52
of pay is at least one hundred thirty-one per cent of the 53
federal minimum wage under 29 U.S.C. 206. 54 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) "Reporting period" means a period corresponding to 73
the annual report required under division (D) (6) of this 74
section. 75
- (11) "Megaproject" means a project in this state that 76
meets all of the following requirements: 77

(a) At least one of the following applies:	78
(i) The project requires unique sites, extremely robust	79
utility service, and a technically skilled workforce <u>and does</u>	80
<u>not involve the acquisition, construction, renovation,</u>	81
<u>expansion, replacement, or repair of a data center.</u>	82
(ii) The megaproject operator of the project has its	83
corporate headquarters in the United States, incurs more than	84
fifty per cent of its research and development expenses in the	85
United States in the year preceding the date the tax credit	86
authority approves the project for a credit under this section,	87
and builds and operates semiconductor wafer manufacturing	88
factories in this state or intends to do so by the metric	89
evaluation date applicable to the megaproject operator.	90
(b) The megaproject operator of the project agrees, in an	91
agreement with the tax credit authority under division (D) of	92
this section, that, on and after the metric evaluation date	93
applicable to the megaproject operator and until the end of the	94
last year for which the megaproject qualifies for the credit	95
authorized under this section, the megaproject operator will	96
compensate the project's employees at an average hourly wage of	97
at least three hundred per cent of the federal minimum wage	98
under 29 U.S.C. 206, exclusive of employee benefits, as	99
determined at the time the tax credit authority approves the	100
project for a credit under this section.	101
(c) The megaproject operator agrees, in an agreement with	102
the tax credit authority under division (D) of this section, to	103
satisfy either of the following by the metric evaluation date	104
applicable to the project:	105
(i) The megaproject operator makes at least one billion	106

dollars, as adjusted under division (V) (1) of this section, in 107
fixed-asset investments in the project. 108

(ii) The megaproject operator creates at least seventy- 109
five million dollars, as adjusted under division (V) (1) of this 110
section, in Ohio employee payroll at the project. 111

(d) The megaproject operator agrees, in an agreement with 112
the tax credit authority under division (D) of this section, 113
that if the project satisfies division (A) (11) (c) (ii) of this 114
section, then, on and after the metric evaluation date and until 115
the end of the last year for which the megaproject qualifies for 116
the credit authorized under this section, the megaproject 117
operator will maintain at least the amount in Ohio employee 118
payroll at the project required under that division for each 119
year in that period. 120

(12) "Megaproject operator" means a taxpayer that, 121
separately or collectively with other taxpayers, undertakes and 122
operates a megaproject. Such a taxpayer becomes a megaproject 123
operator effective the first day of the calendar year in which 124
the taxpayer and the tax credit authority enter into an 125
agreement under division (D) of this section with respect to the 126
megaproject. More than one taxpayer may be designated by the tax 127
credit authority as a megaproject operator for the same 128
megaproject. 129

(13) "Megaproject supplier" means a supplier in this state 130
that meets either or both of the following requirements: 131

(a) The supplier sells tangible personal property directly 132
to a megaproject operator of a megaproject that satisfies the 133
criteria described in division (A) (11) (a) (ii) of this section 134
for use at a megaproject site, provided that such property was 135

subject to substantial manufacturing, assembly, or processing in 136
this state at a facility owned or operated by the supplier; 137

(b) The supplier is not a data center and sells tangible 138
personal property directly to a megaproject operator for use at 139
a megaproject site, provided that the supplier agrees, in an 140
agreement with the tax credit authority under division (D) of 141
this section, to meet all of the following requirements: 142

(i) By the metric evaluation date applicable to the 143
supplier, makes at least one hundred million dollars, as 144
adjusted under division (V) (2) of this section, in fixed-asset 145
investments in this state; 146

(ii) By the metric evaluation date applicable to the 147
supplier, creates at least ten million dollars, as adjusted 148
under division (V) (2) of this section, in Ohio employee payroll; 149

(iii) On and after the metric evaluation date applicable 150
to the supplier, until the end of the last year for which the 151
supplier qualifies for the credit authorized under this section, 152
maintains at least the amount in Ohio employee payroll required 153
under division (A) (13) (b) (ii) of this section for each year in 154
that period. 155

(14) "Data center" means one or more buildings or physical 156
facilities or infrastructure, located on a single real property 157
parcel or on contiguous, adjacent, or otherwise aggregated real 158
property parcels that are used primarily or exclusively for 159
digital information services such as the management, storage, 160
processing, and dissemination of electronic data and information 161
through the use of computer systems, servers, networking 162
equipment, and related components, including equipment cooling 163
systems, or virtual currency mining. 164

(B) The tax credit authority may make grants under this 165
section to foster job creation in this state. Such a grant shall 166
take the form of a refundable credit allowed against the tax 167
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 168
or 5747.02 or levied under Chapter 5751. of the Revised Code. 169
The credit shall be claimed for the taxable years or tax periods 170
specified in the taxpayer's agreement with the tax credit 171
authority under division (D) of this section. With respect to 172
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 173
Chapter 5751. of the Revised Code, the credit shall be claimed 174
in the order required under section 5726.98, 5733.98, 5747.98, 175
or 5751.98 of the Revised Code. The amount of the credit 176
available for a taxable year or for a calendar year that 177
includes a tax period equals the excess payroll for that year 178
multiplied by the percentage specified in the agreement with the 179
tax credit authority. 180

(C) (1) A taxpayer or potential taxpayer who proposes a 181
project to create new jobs in this state may apply to the tax 182
credit authority to enter into an agreement for a tax credit 183
under this section. 184

An application shall not propose to include both home- 185
based employees and employees who are not home-based employees 186
in the computation of Ohio employee payroll for the purposes of 187
the same tax credit agreement, except that a qualifying work- 188
from-home employee shall not be considered to be a home-based 189
employee unless so designated by the applicant. If a taxpayer or 190
potential taxpayer employs both home-based employees and 191
employees who are not home-based employees in a project, the 192
taxpayer shall submit separate applications for separate tax 193
credit agreements for the project, one of which shall include 194
home-based employees in the computation of Ohio employee payroll 195

and one of which shall include all other employees in the 196
computation of Ohio employee payroll. 197

The director of development shall prescribe the form of 198
the application. After receipt of an application, the authority 199
may enter into an agreement with the taxpayer for a credit under 200
this section if it determines all of the following: 201

(a) The taxpayer's project will increase payroll; 202

(b) The taxpayer's project is economically sound and will 203
benefit the people of this state by increasing opportunities for 204
employment and strengthening the economy of this state; 205

(c) Receiving the tax credit is a major factor in the 206
taxpayer's decision to go forward with the project. 207

(2) (a) A taxpayer that chooses to begin the project prior 208
to receiving the determination of the authority may, upon 209
submitting the taxpayer's application to the authority, request 210
that the chief investment officer of the nonprofit corporation 211
formed under section 187.01 of the Revised Code and the director 212
review the taxpayer's application and recommend to the authority 213
that the taxpayer's application be considered. As soon as 214
possible after receiving such a request, the chief investment 215
officer and the director shall review the taxpayer's application 216
and, if they determine that the application warrants 217
consideration by the authority, make that recommendation to the 218
authority not later than six months after the application is 219
received by the authority. 220

(b) The authority shall consider any taxpayer's 221
application for which it receives a recommendation under 222
division (C) (2) (a) of this section. If the authority determines 223
that the taxpayer does not meet all of the criteria set forth in 224

division (C) (1) of this section, the authority and the 225
department of development shall proceed in accordance with rules 226
adopted by the director pursuant to division (I) of this 227
section. 228

(D) An agreement under this section shall include all of 229
the following: 230

(1) A detailed description of the project that is the 231
subject of the agreement; 232

(2) (a) The term of the tax credit, which, except as 233
provided in division (D) (2) (b) or (C) of this section, shall not 234
exceed fifteen years, and the first taxable year, or first 235
calendar year that includes a tax period, for which the credit 236
may be claimed; 237

(b) If the tax credit is computed on the basis of home- 238
based employees, the term of the credit shall expire on or 239
before the last day of the taxable or calendar year ending 240
before the beginning of the seventh year after September 6, 241
2012, the effective date of H.B. 327 of the 129th general 242
assembly. 243

(c) If the taxpayer is a megaproject operator or a 244
megaproject supplier that meets the requirements described in 245
division (A) (13) (b) of this section, the term of the tax credit 246
shall not exceed thirty years. 247

(3) A requirement that the taxpayer shall maintain 248
operations at the project location for at least the greater of 249
seven years or the term of the credit plus three years; 250

(4) The percentage, as determined by the tax credit 251
authority, of excess payroll that will be allowed as the amount 252
of the credit for each taxable year or for each calendar year 253

that includes a tax period; 254

(5) The pay increase factor to be applied to the 255
taxpayer's baseline payroll; 256

(6) A requirement that the taxpayer annually shall report 257
to the director of development full-time equivalent employees, 258
payroll, Ohio employee payroll, investment, the provision of 259
health care benefits and tuition reimbursement if required in 260
the agreement, and other information the director needs to 261
perform the director's duties under this section; 262

(7) A requirement that the director of development 263
annually review the information reported under division (D) (6) 264
of this section and verify compliance with the agreement; if the 265
taxpayer is in compliance, a requirement that the director issue 266
a certificate to the taxpayer stating that the information has 267
been verified and identifying the amount of the credit that may 268
be claimed for the taxable or calendar year. If the taxpayer is 269
a megaproject supplier, the director shall issue such a 270
certificate to the megaproject supplier and to any megaproject 271
operator (a) to which the megaproject supplier directly sells 272
tangible personal property and (b) that is authorized to claim 273
the credit pursuant to division (D) (10) of this section. 274

(8) A provision providing that the taxpayer may not 275
relocate a substantial number of employment positions from 276
elsewhere in this state to the project location unless the 277
director of development determines that the legislative 278
authority of the county, township, or municipal corporation from 279
which the employment positions would be relocated has been 280
notified by the taxpayer of the relocation. 281

For purposes of this section, the movement of an 282

employment position from one political subdivision to another 283
political subdivision shall be considered a relocation of an 284
employment position unless the employment position in the first 285
political subdivision is replaced. The movement of a qualifying 286
work-from-home employee to a different residence located in this 287
state or to the project location shall not be considered a 288
relocation of an employment position. 289

(9) If the tax credit is computed on the basis of home- 290
based employees, that the tax credit may not be claimed by the 291
taxpayer until the taxable year or tax period in which the 292
taxpayer employs at least two hundred employees more than the 293
number of employees the taxpayer employed on June 30, 2011; 294

(10) If the taxpayer is a megaproject supplier, the 295
percentage of the annual tax credit certified under division (D) 296
(7) of this section, up to one hundred per cent, that may be 297
claimed by each megaproject operator to which the megaproject 298
supplier directly sells tangible personal property, rather than 299
by that megaproject supplier, on the condition that the 300
megaproject operator continues to qualify as a megaproject 301
operator; 302

(11) If the taxpayer is a megaproject operator or 303
megaproject supplier, a requirement that the taxpayer meet and 304
maintain compliance with all thresholds and requirements to 305
which the taxpayer agreed, pursuant to division (A) (11) or (13) 306
of this section, respectively, as a condition of the operator's 307
project qualifying as a megaproject or the supplier qualifying 308
as a megaproject supplier until the end of the last year for 309
which the taxpayer qualifies for the credit authorized under 310
this section. In each year that a megaproject operator or 311
megaproject supplier is subject to an agreement with the tax 312

credit authority under this section and meets the requirements 313
of this division, the director of development shall issue a 314
certificate to the megaproject operator or megaproject supplier 315
stating that the megaproject operator or megaproject supplier 316
continues to meet those requirements. 317

(12) If the taxpayer is a megaproject operator, a 318
requirement that the megaproject operator submit, in a form 319
acceptable to the director of development, an economic impact 320
report with respect to each megaproject for which the 321
megaproject operator is designated, summarizing all of the 322
following for the reporting year: 323

(a) The aggregate amount of purchases made by the 324
megaproject operator for such megaproject from megaproject 325
suppliers; 326

(b) The aggregate amount of purchases made by the 327
megaproject operator for such megaproject from suppliers other 328
than megaproject suppliers; 329

(c) A summary of the construction activity for any 330
facilities at the site of the megaproject in that year; 331

(d) The aggregate amount expended by the megaproject 332
operator on research and development at the site of the 333
megaproject in that year; 334

(e) The number of employees working at the site of the 335
megaproject and the counties in which those employees reside; 336

(f) A summary of the supply chain activity in support of 337
the megaproject, including a list of the twenty-five suppliers 338
with a physical presence in Ohio from which the megaproject 339
operator made the most purchases in that year. 340

The economic impact report shall be due on or before the 341
first day of July of each year, beginning in the year specified 342
in the agreement with the tax credit authority. The information 343
required in the report shall be certified as true and correct by 344
an officer of the megaproject operator. If there is more than 345
one megaproject operator designated for a single megaproject, 346
all of the megaproject operators designated for the megaproject 347
may jointly submit a single report. Any information contained in 348
the report is a public record for purposes of section 149.43 of 349
the Revised Code and shall be published on the department of 350
development's web site. 351

(E) (1) If a taxpayer fails to meet or comply with any 352
condition or requirement set forth in a tax credit agreement, 353
the tax credit authority may amend the agreement to reduce the 354
percentage or term of the tax credit. The reduction of the 355
percentage or term may take effect in the current taxable or 356
calendar year. 357

(2) If the tax credit authority determines that a taxpayer 358
that is a megaproject operator of a megaproject described in 359
division (A) (11) (a) (ii) of this section is not fully compliant 360
with the requirements of the agreement, the authority may impose 361
a recoupment payment on the taxpayer in accordance with the 362
following: 363

(a) If, on the metric evaluation date, the taxpayer fails 364
to substantially meet the capital investment, full-time 365
equivalent employee, or payroll requirements included in the 366
agreement, an amount determined at the discretion of the 367
authority, not to exceed the sum of the following for all years 368
prior to the metric evaluation date: (i) the amount of taxes 369
that would have been imposed under Chapters 5739. and 5741. of 370

the Revised Code in the absence of the agreement, and (ii) the
amount of taxes that would have been imposed under Chapter 5751.
of the Revised Code on receipts realized from sales to the
taxpayer in the absence of the agreement;

(b) If the taxpayer fails to substantially maintain the
capital investment, full-time equivalent employee, or payroll
requirements included in the agreement in any year after the
metric evaluation date, an amount determined at the discretion
of the authority, not to exceed the sum of the following for the
calendar year in which taxpayer failed to meet the requirements:
(i) the amount of taxes that would have been imposed under
Chapters 5739. and 5741. of the Revised Code in the absence of
the agreement, and (ii) the amount of taxes that would have been
imposed under Chapter 5751. of the Revised Code on receipts
realized from sales to the taxpayer in the absence of the
agreement.

(3) The tax credit authority may, subject to any
requirements of the tax credit agreement, take into
consideration the taxpayer's prior performance and any market
conditions impacting the taxpayer when determining the amount of
the recoupment payment described in division (E) (2) of this
section.

(F) Projects that consist solely of point-of-final-
purchase retail facilities are not eligible for a tax credit
under this section. If a project consists of both point-of-
final-purchase retail facilities and nonretail facilities, only
the portion of the project consisting of the nonretail
facilities is eligible for a tax credit and only the excess
payroll from the nonretail facilities shall be considered when
computing the amount of the tax credit. If a warehouse facility

is part of a point-of-final-purchase retail facility and 401
supplies only that facility, the warehouse facility is not 402
eligible for a tax credit. Catalog distribution centers are not 403
considered point-of-final-purchase retail facilities for the 404
purposes of this division, and are eligible for tax credits 405
under this section. 406

(G) Financial statements and other information submitted 407
to the department of development or the tax credit authority by 408
an applicant or recipient of a tax credit under this section, 409
and any information taken for any purpose from such statements 410
or information, are not public records subject to section 149.43 411
of the Revised Code. However, the chairperson of the authority 412
may make use of the statements and other information for 413
purposes of issuing public reports or in connection with court 414
proceedings concerning tax credit agreements under this section. 415
Upon the request of the tax commissioner or, if the applicant or 416
recipient is an insurance company, upon the request of the 417
superintendent of insurance, the chairperson of the authority 418
shall provide to the commissioner or superintendent any 419
statement or information submitted by an applicant or recipient 420
of a tax credit in connection with the credit. The commissioner 421
or superintendent shall preserve the confidentiality of the 422
statement or information. 423

(H) A taxpayer claiming a credit under this section shall 424
submit to the tax commissioner or, if the taxpayer is an 425
insurance company, to the superintendent of insurance, a copy of 426
the director of development's certificate of verification under 427
division (D)(7) of this section with the taxpayer's tax report 428
or return for the taxable year or for the calendar year that 429
includes the tax period. Failure to submit a copy of the 430
certificate with the report or return does not invalidate a 431

claim for a credit if the taxpayer submits a copy of the 432
certificate to the commissioner or superintendent within the 433
time prescribed by section 5703.0510 of the Revised Code or 434
within thirty days after the commissioner or superintendent 435
requests it. 436

(I) The director of development, after consultation with 437
the tax commissioner and the superintendent of insurance and in 438
accordance with Chapter 119. of the Revised Code, shall adopt 439
rules necessary to implement this section, including rules that 440
establish a procedure to be followed by the tax credit authority 441
and the department of development in the event the authority 442
considers a taxpayer's application for which it receives a 443
recommendation under division (C)(2)(a) of this section but does 444
not approve it. The rules may provide for recipients of tax 445
credits under this section to be charged fees to cover 446
administrative costs of the tax credit program. For the purposes 447
of these rules, a qualifying work-from-home employee shall be 448
considered to be an employee employed at the applicant's project 449
location. The fees collected shall be credited to the tax 450
incentives operating fund created in section 122.174 of the 451
Revised Code. At the time the director gives public notice under 452
division (A) of section 119.03 of the Revised Code of the 453
adoption of the rules, the director shall submit copies of the 454
proposed rules to the chairpersons of the standing committees on 455
economic development in the senate and the house of 456
representatives. 457

(J) For the purposes of this section, a taxpayer may 458
include a partnership, a corporation that has made an election 459
under subchapter S of chapter one of subtitle A of the Internal 460
Revenue Code, or any other business entity through which income 461
flows as a distributive share to its owners. A partnership, S- 462

corporation, or other such business entity may elect to pass the 463
credit received under this section through to the persons to 464
whom the income or profit of the partnership, S-corporation, or 465
other entity is distributed. The election shall be made on the 466
annual report required under division (D)(6) of this section. 467
The election applies to and is irrevocable for the credit for 468
which the report is submitted. If the election is made, the 469
credit shall be apportioned among those persons in the same 470
proportions as those in which the income or profit is 471
distributed. 472

(K)(1) If the director of development determines that a 473
taxpayer who has received a credit under this section is not 474
complying with the requirements of the agreement, the director 475
shall notify the tax credit authority of the noncompliance. 476
After receiving such a notice, and after giving the taxpayer an 477
opportunity to explain the noncompliance, the tax credit 478
authority may require the taxpayer to refund to this state a 479
portion of the credit in accordance with the following: 480

(a) If the taxpayer fails to comply with the requirement 481
under division (D)(3) of this section, an amount determined in 482
accordance with the following: 483

(i) If the taxpayer maintained operations at the project 484
location for a period less than or equal to the term of the 485
credit, an amount not exceeding one hundred per cent of the sum 486
of any credits allowed and received under this section; 487

(ii) If the taxpayer maintained operations at the project 488
location for a period longer than the term of the credit, but 489
less than the greater of seven years or the term of the credit 490
plus three years, an amount not exceeding seventy-five per cent 491
of the sum of any credits allowed and received under this 492

section. 493

(b) If, on the metric evaluation date, the taxpayer fails 494
to substantially meet the job creation, payroll, or investment 495
requirements included in the agreement, an amount determined at 496
the discretion of the authority; 497

(c) If the taxpayer fails to substantially maintain the 498
number of new full-time equivalent employees or amount of 499
payroll required under the agreement at any time during the term 500
of the agreement after the metric evaluation date, an amount 501
determined at the discretion of the authority. 502

(2) If a taxpayer files for bankruptcy and fails as 503
described in division (K)(1)(a), (b), or (c) of this section, 504
the director may immediately commence an action to recoup an 505
amount not exceeding one hundred per cent of the sum of any 506
credits received by the taxpayer under this section. 507

(3) In determining the portion of the tax credit to be 508
refunded to this state, the tax credit authority shall consider 509
the effect of market conditions on the taxpayer's project and 510
whether the taxpayer continues to maintain other operations in 511
this state. After making the determination, the authority shall 512
certify the amount to be refunded to the tax commissioner or 513
superintendent of insurance, as appropriate. If the amount is 514
certified to the commissioner, the commissioner shall make an 515
assessment for that amount against the taxpayer under Chapter 516
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 517
amount is certified to the superintendent, the superintendent 518
shall make an assessment for that amount against the taxpayer 519
under Chapter 5725. or 5729. of the Revised Code. The time 520
limitations on assessments under those chapters do not apply to 521
an assessment under this division, but the commissioner or 522

superintendent, as appropriate, shall make the assessment within 523
one year after the date the authority certifies to the 524
commissioner or superintendent the amount to be refunded. Within 525
ninety days after certifying the amount to be refunded, if 526
circumstances have changed, the authority may adjust the amount 527
to be refunded and certify the adjusted amount to the 528
commissioner or superintendent. The authority may only adjust 529
the amount to be refunded one time and only if the amount 530
initially certified by the authority has not been repaid, in 531
whole or in part, by the taxpayer or certified to the attorney 532
general for collection under section 131.02 of the Revised Code. 533

(L) On or before the first day of August each year, the 534
director of development shall submit a report to the governor, 535
the president of the senate, and the speaker of the house of 536
representatives on the tax credit program under this section. 537
The report shall include information on the number of agreements 538
that were entered into under this section during the preceding 539
calendar year, a description of the project that is the subject 540
of each such agreement, and an update on the status of projects 541
under agreements entered into before the preceding calendar 542
year. 543

(M) There is hereby created the tax credit authority, 544
which consists of the director of development and four other 545
members appointed as follows: the governor, the president of the 546
senate, and the speaker of the house of representatives each 547
shall appoint one member who shall be a specialist in economic 548
development; the governor also shall appoint a member who is a 549
specialist in taxation. Terms of office shall be for four years. 550
Each member shall serve on the authority until the end of the 551
term for which the member was appointed. Vacancies shall be 552
filled in the same manner provided for original appointments. 553

Any member appointed to fill a vacancy occurring prior to the 554
expiration of the term for which the member's predecessor was 555
appointed shall hold office for the remainder of that term. 556
Members may be reappointed to the authority. Members of the 557
authority shall receive their necessary and actual expenses 558
while engaged in the business of the authority. The director of 559
development shall serve as chairperson of the authority, and the 560
members annually shall elect a vice-chairperson from among 561
themselves. Three members of the authority constitute a quorum 562
to transact and vote on the business of the authority. The 563
majority vote of the membership of the authority is necessary to 564
approve any such business, including the election of the vice- 565
chairperson. 566

The director of development may appoint a professional 567
employee of the department of development to serve as the 568
director's substitute at a meeting of the authority. The 569
director shall make the appointment in writing. In the absence 570
of the director from a meeting of the authority, the appointed 571
substitute shall serve as chairperson. In the absence of both 572
the director and the director's substitute from a meeting, the 573
vice-chairperson shall serve as chairperson. 574

(N) For purposes of the credits granted by this section 575
against the taxes imposed under sections 5725.18 and 5729.03 of 576
the Revised Code, "taxable year" means the period covered by the 577
taxpayer's annual statement to the superintendent of insurance. 578

(O) On or before the first day of March of each of the 579
five calendar years beginning with 2014, each taxpayer subject 580
to an agreement with the tax credit authority under this section 581
on the basis of home-based employees shall report the number of 582
home-based employees and other employees employed by the 583

taxpayer in this state to the department of development. 584

(P) On or before the first day of January of 2019, the 585
director of development shall submit a report to the governor, 586
the president of the senate, and the speaker of the house of 587
representatives on the effect of agreements entered into under 588
this section in which the taxpayer included home-based employees 589
in the computation of income tax revenue, as that term was 590
defined in this section prior to the amendment of this section 591
by H.B. 64 of the 131st general assembly. The report shall 592
include information on the number of such agreements that were 593
entered into in the preceding six years, a description of the 594
projects that were the subjects of such agreements, and an 595
analysis of nationwide home-based employment trends, including 596
the number of home-based jobs created from July 1, 2011, through 597
June 30, 2017, and a description of any home-based employment 598
tax incentives provided by other states during that time. 599

(Q) The director of development may require any agreement 600
entered into under this section for a tax credit computed on the 601
basis of home-based employees to contain a provision that the 602
taxpayer makes available health care benefits and tuition 603
reimbursement to all employees. 604

(R) Original agreements approved by the tax credit 605
authority under this section in 2014 or 2015 before September 606
29, 2015, may be revised at the request of the taxpayer to 607
conform with the amendments to this section and sections 608
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 609
H.B. 64 of the 131st general assembly, upon mutual agreement of 610
the taxpayer and the department of development, and approval by 611
the tax credit authority. 612

(S) (1) As used in division (S) of this section: 613

(a) "Eligible agreement" means an agreement approved by 614
the tax credit authority under this section on or before 615
December 31, 2013. 616

(b) "Income tax revenue" has the same meaning as under 617
this section as it existed before September 29, 2015, the 618
effective date of the amendment of this section by H.B. 64 of 619
the 131st general assembly. 620

(2) In calendar year 2016 and thereafter, the tax credit 621
authority shall annually determine a withholding adjustment 622
factor to be used in the computation of income tax revenue for 623
eligible agreements. The withholding adjustment factor shall be 624
a numerical percentage that equals the percentage that employer 625
income tax withholding rates have been increased or decreased as 626
a result of changes in the income tax rates prescribed by 627
section 5747.02 of the Revised Code by amendment of that section 628
taking effect on or after June 29, 2013. 629

(3) Except as provided in division (S)(4) of this section, 630
for reporting periods ending in 2015 and thereafter for 631
taxpayers subject to eligible agreements, the tax credit 632
authority shall adjust the income tax revenue reported on the 633
taxpayer's annual report by multiplying the withholding 634
adjustment factor by the taxpayer's income tax revenue and doing 635
one of the following: 636

(a) If the income tax rates prescribed by section 5747.02 637
of the Revised Code have decreased by amendment of that section 638
taking effect on or after June 29, 2013, add the product to the 639
taxpayer's income tax revenue. 640

(b) If the income tax rates prescribed by section 5747.02 641
of the Revised Code have increased by amendment of that section 642

taking effect on or after June 29, 2013, subtract the product 643
from the taxpayer's income tax revenue. 644

(4) Division (S)(3) of this section shall not apply unless 645
all of the following apply for the reporting period with respect 646
to the eligible agreement: 647

(a) The taxpayer has achieved one hundred per cent of the 648
new employment commitment identified in the agreement. 649

(b) If applicable, the taxpayer has achieved one hundred 650
per cent of the new payroll commitment identified in the 651
agreement. 652

(c) If applicable, the taxpayer has achieved one hundred 653
per cent of the investment commitment identified in the 654
agreement. 655

(5) Failure by a taxpayer to have achieved any of the 656
applicable commitments described in divisions (S)(4)(a) to (c) 657
of this section in a reporting period does not disqualify the 658
taxpayer for the adjustment under division (S) of this section 659
for an ensuing reporting period. 660

(T) For reporting periods ending in calendar year 2020 or 661
thereafter, any taxpayer may include qualifying work-from-home 662
employees in its report required under division (D)(6) of this 663
section, and the compensation of such employees shall qualify as 664
Ohio employee payroll under division (A)(3)(a) of this section, 665
even if the taxpayer's application to the tax credit authority 666
to enter into an agreement for a tax credit under this section 667
was approved before September 29, 2017, the effective date of 668
the amendment of this section by H.B. 49 of the 132nd general 669
assembly. 670

(U) The director of development shall notify the tax 671

commissioner if the director determines that a megaproject 672
operator or megaproject supplier is not in compliance with the 673
agreement pursuant to a review conducted under division (D) (11) 674
of this section. 675

(V) Beginning in 2025 and in each fifth calendar year 676
thereafter, the tax commissioner shall adjust the following 677
amounts in September of that year: 678

(1) The fixed-asset investment threshold described in 679
division (A) (11) (c) (i) of this section and the Ohio employee 680
payroll threshold described in division (A) (11) (c) (ii) of this 681
section by completing the following calculations: 682

(a) Determine the percentage increase in the gross 683
domestic product deflator determined by the bureau of economic 684
analysis of the United States department of commerce from the 685
first day of January of the fifth preceding calendar year to the 686
last day of December of the preceding calendar year; 687

(b) Multiply that percentage increase by the fixed-asset 688
investment threshold and the Ohio employee payroll threshold for 689
the current year; 690

(c) Add the resulting products to the corresponding fixed- 691
asset investment threshold and Ohio employee payroll threshold 692
for the current year; 693

(d) Round the resulting fixed-asset investment sum to the 694
nearest multiple of ten million dollars and the Ohio employee 695
payroll sum to the nearest multiple of one million dollars. 696

(2) The fixed-asset investment threshold described in 697
division (A) (13) (b) (i) of this section and the Ohio employee 698
payroll threshold described in division (A) (13) (b) (ii) of this 699
section by completing the calculations described in divisions 700

(V) (1) (a) to (c) of this section and rounding the resulting 701
fixed-asset investment sum to the nearest multiple of one 702
million dollars and the Ohio employee payroll sum to the nearest 703
multiple of one hundred thousand dollars. 704

The commissioner shall certify the amount of the 705
adjustments under divisions (V) (1) and (2) of this section to 706
the director of development and to the tax credit authority not 707
later than the first day of December of the year the 708
commissioner computes the adjustment. Each certified amount 709
applies to the ensuing calendar year and each calendar year 710
thereafter until the tax commissioner makes a new adjustment. 711
The tax commissioner shall not calculate a new adjustment in any 712
year in which the resulting amount from the adjustment would be 713
less than the corresponding amount for the current year. 714

Sec. 122.175. (A) As used in this section: 715

(1) "Capital investment project" means a plan of 716
investment at a project site for the acquisition, construction, 717
renovation, expansion, replacement, or repair of a computer data 718
center or of computer data center equipment, but does not 719
include any of the following: 720

(a) Project costs paid before a date determined by the tax 721
credit authority for each capital investment project; 722

(b) Payments made to a related member as defined in 723
section 5733.042 of the Revised Code or to a consolidated 724
elected taxpayer or a combined taxpayer as defined in section 725
5751.01 of the Revised Code. 726

(2) "Computer data center" means a facility used or to be 727
used primarily to house computer data center equipment used or 728
to be used in conducting one or more computer data center 729

businesses, as determined by the tax credit authority. 730

(3) "Computer data center business" means, as may be 731
further determined by the tax credit authority, a business that 732
provides electronic information services as defined in division 733
(Y) (1) (c) of section 5739.01 of the Revised Code, or that leases 734
a facility to one or more such businesses. "Computer data center 735
business" does not include providing electronic publishing as 736
defined in that section. 737

(4) "Computer data center equipment" means tangible 738
personal property used or to be used for any of the following: 739

(a) To conduct a computer data center business, including 740
equipment cooling systems to manage the performance of computer 741
data center equipment; 742

(b) To generate, transform, transmit, distribute, or 743
manage electricity necessary to operate the tangible personal 744
property used or to be used in conducting a computer data center 745
business; 746

(c) As building and construction materials sold to 747
construction contractors for incorporation into a computer data 748
center. 749

(5) "Eligible computer data center" means a computer data 750
center that satisfies all of the following requirements: 751

(a) One or more taxpayers operating a computer data center 752
business at the project site will, in the aggregate, make 753
payments for a capital investment project of at least one 754
hundred million dollars at the project site during one of the 755
following cumulative periods: 756

(i) For projects beginning in 2013, six consecutive 757

calendar years; 758

(ii) For projects beginning in 2014, four consecutive 759
calendar years; 760

(iii) For projects beginning in or after 2015, three 761
consecutive calendar years. 762

(b) One or more taxpayers operating a computer data center 763
business at the project site will, in the aggregate, pay annual 764
compensation that is subject to the withholding obligation 765
imposed under section 5747.06 of the Revised Code of at least 766
one million five hundred thousand dollars to employees employed 767
at the project site for each year of the agreement beginning on 768
or after the first day of the twenty-fifth month after the 769
agreement was entered into under this section. 770

(6) "Person" has the same meaning as in section 5701.01 of 771
the Revised Code. 772

(7) "Project site," "related member," and "tax credit 773
authority" have the same meanings as in sections 122.17 and 774
122.171 of the Revised Code. 775

(8) "Taxpayer" means any person subject to the taxes 776
imposed under Chapters 5739. and 5741. of the Revised Code. 777

(9) "Enhanced exemption eligible computer data center" 778
means an eligible computer data center that satisfies both of 779
the following requirements: 780

(a) The data center is located on property that has been 781
issued a covenant not to sue for under section 3746.12 of the 782
Revised Code. 783

(b) The center uses a mercantile customer self-power 784
system as defined in section 4928.73 of the Revised Code. 785

(B) The tax credit authority may ~~completely or partially~~ 786
exempt from the taxes levied under Chapters 5739. and 5741. of 787
the Revised Code the sale, storage, use, or other consumption of 788
computer data center equipment used or to be used at an eligible 789
computer data center. Any such exemption shall extend to charges 790
for the delivery, installation, or repair of the computer data 791
center equipment subject to the exemption under this section. 792

(C) A taxpayer that proposes a capital improvement project 793
for an eligible computer data center in this state may apply to 794
the tax credit authority to enter into an agreement under this 795
section authorizing a complete or partial exemption from the 796
taxes imposed under Chapters 5739. and 5741. of the Revised Code 797
on computer data center equipment purchased by the applicant or 798
any other taxpayer that operates a computer data center business 799
at the project site and used or to be used at the eligible 800
computer data center. The director of development shall 801
prescribe the form of the application. After receipt of an 802
application, the authority shall forward copies of the 803
application to the tax commissioner, who shall review the 804
application to determine the economic impact that the proposed 805
eligible computer data center would have on the state and any 806
affected political subdivisions and submit to the authority a 807
summary of their determinations. The authority shall also 808
forward a copy of the application to the director of development 809
who shall review the application to determine the economic 810
impact that the proposed eligible computer data center would 811
have on the state and the affected political subdivisions and 812
shall submit a summary of their determinations and 813
recommendations to the authority. 814

(D) Upon review and consideration of such determinations 815
and recommendations, the tax credit authority may enter into an 816

agreement with the applicant and any other taxpayer that 817
operates a computer data center business at the project site for 818
a complete or partial exemption from the taxes imposed under 819
Chapters 5739. and 5741. of the Revised Code on computer data 820
center equipment used or to be used at an eligible computer data 821
center if the authority determines all of the following: 822

(1) The capital investment project for the eligible 823
computer data center will increase payroll and the amount of 824
income taxes to be withheld from employee compensation pursuant 825
to section 5747.06 of the Revised Code. 826

(2) The applicant is economically sound and has the 827
ability to complete or effect the completion of the proposed 828
capital investment project. 829

(3) The applicant intends to and has the ability to 830
maintain operations at the project site for the term of the 831
agreement. 832

(4) Receiving the exemption is a major factor in the 833
applicant's decision to begin, continue with, or complete the 834
capital investment project. 835

(E) An agreement entered into under this section shall 836
include all of the following: 837

(1) A detailed description of the capital investment 838
project that is the subject of the agreement, including the 839
amount of the investment, the period over which the investment 840
has been or is being made, the annual compensation to be paid by 841
each taxpayer subject to the agreement to its employees at the 842
project site, and the anticipated amount of income taxes to be 843
withheld from employee compensation pursuant to section 5747.06 844
of the Revised Code. 845

(2) The percentage of the exemption from the taxes imposed 846
under Chapters 5739. and 5741. of the Revised Code for the 847
computer data center equipment used or to be used at the 848
eligible computer data center, the length of time the computer 849
data center equipment will be exempted, and the first date on 850
which the exemption applies. 851

(3) A requirement that the computer data center remain an 852
eligible computer data center during the term of the agreement 853
and that the applicant maintain operations at the eligible 854
computer data center during that term. An applicant does not 855
violate the requirement described in division (E)(3) of this 856
section if the applicant ceases operations at the eligible 857
computer data center during the term of the agreement but 858
resumes those operations within eighteen months after the date 859
of cessation. The agreement shall provide that, in such a case, 860
the applicant and any other taxpayer that operates a computer 861
data center business at the project site shall not claim the tax 862
exemption authorized in the agreement for any purchase of 863
computer data center equipment made during the period in which 864
the applicant did not maintain operations at the eligible 865
computer data center. 866

(4) A requirement that, for each year of the term of the 867
agreement beginning on or after the first day of the twenty- 868
fifth month after the date the agreement was entered into, one 869
or more taxpayers operating a computer data center business at 870
the project site will, in the aggregate, pay annual compensation 871
that is subject to the withholding obligation imposed under 872
section 5747.06 of the Revised Code of at least one million five 873
hundred thousand dollars to employees at the eligible computer 874
data center. 875

(5) A requirement that each taxpayer subject to the 876
agreement annually report to the director of development 877
employment, tax withholding, capital investment, and other 878
information required by the director to perform the director's 879
duties under this section. 880

(6) A requirement that the director of development 881
annually review the annual reports of each taxpayer subject to 882
the agreement to verify the information reported under division 883
(E) (5) of this section and compliance with the agreement. Upon 884
verification, the director shall issue a certificate to each 885
such taxpayer stating that the information has been verified and 886
that the taxpayer remains eligible for the exemption specified 887
in the agreement. 888

(7) A provision providing that the taxpayers subject to 889
the agreement may not relocate a substantial number of 890
employment positions from elsewhere in this state to the project 891
site unless the director of development determines that the 892
appropriate taxpayer notified the legislative authority of the 893
county, township, or municipal corporation from which the 894
employment positions would be relocated. For purposes of this 895
paragraph, the movement of an employment position from one 896
political subdivision to another political subdivision shall be 897
considered a relocation of an employment position unless the 898
movement is confined to the project site. The transfer of an 899
employment position from one political subdivision to another 900
political subdivision shall not be considered a relocation of an 901
employment position if the employment position in the first 902
political subdivision is replaced by another employment 903
position. 904

(8) A waiver by each taxpayer subject to the agreement of 905

any limitations periods relating to assessments or adjustments 906
resulting from the taxpayer's failure to comply with the 907
agreement. 908

(F) The term of an agreement under this section shall be 909
determined by the tax credit authority, and the amount of the 910
exemption shall not exceed ~~one hundred seventy-five~~ per cent for 911
enhanced exemption eligible computer data centers or fifty per 912
cent for all other eligible computer data centers of such taxes 913
that would otherwise be owed in respect to the exempted computer 914
data center equipment. 915

(G) If any taxpayer subject to an agreement under this 916
section fails to meet or comply with any condition or 917
requirement set forth in the agreement, the tax credit authority 918
may amend the agreement to reduce the percentage of the 919
exemption or term during which the exemption applies to the 920
computer data center equipment used or to be used by the 921
noncompliant taxpayer at an eligible computer data center. The 922
reduction of the percentage or term may take effect in the 923
current calendar year. 924

(H) Financial statements and other information submitted 925
to the department of development or the tax credit authority by 926
an applicant for or recipient of an exemption under this 927
section, and any information taken for any purpose from such 928
statements or information, are not public records subject to 929
section 149.43 of the Revised Code. However, the chairperson of 930
the authority may make use of the statements and other 931
information for purposes of issuing public reports or in 932
connection with court proceedings concerning tax exemption 933
agreements under this section. Upon the request of the tax 934
commissioner, the chairperson of the authority shall provide to 935

the tax commissioner any statement or other information 936
submitted by an applicant for or recipient of an exemption under 937
this section. The tax commissioner shall preserve the 938
confidentiality of the statement or other information. 939

(I) The tax commissioner shall issue a direct payment 940
permit under section 5739.031 of the Revised Code to each 941
taxpayer subject to an agreement under this section. Such direct 942
payment permit shall authorize the taxpayer to pay any sales and 943
use taxes due on purchases of computer data center equipment 944
used or to be used in an eligible computer data center and to 945
pay any sales and use taxes due on purchases of tangible 946
personal property or taxable services other than computer data 947
center equipment used or to be used in an eligible computer data 948
center directly to the tax commissioner. Each such taxpayer 949
shall pay pursuant to such direct payment permit all sales tax 950
levied on such purchases under sections 5739.02, 5739.021, 951
5739.023, and 5739.026 of the Revised Code and all use tax 952
levied on such purchases under sections 5741.02, 5741.021, 953
5741.022, and 5741.023 of the Revised Code, consistent with the 954
terms of the agreement entered into under this section. 955

During the term of an agreement under this section each 956
taxpayer subject to the agreement shall submit to the tax 957
commissioner a return that shows the amount of computer data 958
center equipment purchased for use at the eligible computer data 959
center, the amount of tangible personal property and taxable 960
services other than computer data center equipment purchased for 961
use at the eligible computer data center, the amount of tax 962
under Chapter 5739. or 5741. of the Revised Code that would be 963
due in the absence of the agreement under this section, the 964
exemption percentage for computer data center equipment 965
specified in the agreement, and the amount of tax due under 966

Chapter 5739. or 5741. of the Revised Code as a result of the 967
agreement under this section. Each such taxpayer shall pay the 968
tax shown on the return to be due in the manner and at the times 969
as may be further prescribed by the tax commissioner. Each such 970
taxpayer shall include a copy of the director of development's 971
certificate of verification issued under division (E) (6) of this 972
section. Failure to submit a copy of the certificate with the 973
return does not invalidate the claim for exemption if the 974
taxpayer submits a copy of the certificate to the tax 975
commissioner within the time prescribed by section 5703.0510 of 976
the Revised Code. 977

(J) If the director of development determines that one or 978
more taxpayers received an exemption from taxes due on the 979
purchase of computer data center equipment purchased for use at 980
a computer data center that no longer complies with the 981
requirement under division (E) (3) of this section, the director 982
shall notify the tax credit authority and, if applicable, the 983
taxpayer that applied to enter the agreement for the exemption 984
under division (C) of this section of the noncompliance. After 985
receiving such a notice, and after giving each taxpayer subject 986
to the agreement an opportunity to explain the noncompliance, 987
the authority may terminate the agreement and require each such 988
taxpayer to pay to the state all or a portion of the taxes that 989
would have been owed in regards to the exempt equipment in 990
previous years, all as determined under rules adopted pursuant 991
to division (K) of this section. In determining the portion of 992
the taxes that would have been owed on the previously exempted 993
equipment to be paid to this state by a taxpayer, the authority 994
shall consider the effect of market conditions on the eligible 995
computer data center, whether the taxpayer continues to maintain 996
other operations in this state, and, with respect to agreements 997

involving multiple taxpayers, the taxpayer's level of 998
responsibility for the noncompliance. After making the 999
determination, the authority shall certify to the tax 1000
commissioner the amount to be paid by each taxpayer subject to 1001
the agreement. The tax commissioner shall make an assessment for 1002
that amount against each such taxpayer under Chapter 5739. or 1003
5741. of the Revised Code. The time limitations on assessments 1004
under those chapters do not apply to an assessment under this 1005
division, but the tax commissioner shall make the assessment 1006
within one year after the date the authority certifies to the 1007
tax commissioner the amount to be paid by the taxpayer. 1008

(K) The director of development, after consultation with 1009
the tax commissioner and in accordance with Chapter 119. of the 1010
Revised Code, shall adopt rules necessary to implement this 1011
section. The rules may provide for recipients of tax exemptions 1012
under this section to be charged fees to cover administrative 1013
costs incurred in the administration of this section. The fees 1014
collected shall be credited to the tax incentives operating fund 1015
created in section 122.174 of the Revised Code. At the time the 1016
director gives public notice under division (A) of section 1017
119.03 of the Revised Code of the adoption of the rules, the 1018
director shall submit copies of the proposed rules to the 1019
chairpersons of the standing committees on economic development 1020
in the senate and the house of representatives. 1021

(L) On or before the first day of August of each year, the 1022
director of development shall submit a report to the governor, 1023
the president of the senate, and the speaker of the house of 1024
representatives on the tax exemption authorized under this 1025
section. The report shall include information on the number of 1026
agreements that were entered into under this section during the 1027
preceding calendar year, a description of the eligible computer 1028

data center that is the subject of each such agreement, and an 1029
update on the status of eligible computer data centers under 1030
agreements entered into before the preceding calendar year. 1031

(M) A taxpayer may be made a party to an existing 1032
agreement entered into under this section by the tax credit 1033
authority and another taxpayer or group of taxpayers. In such a 1034
case, the taxpayer shall be entitled to all benefits and bound 1035
by all obligations contained in the agreement and all 1036
requirements described in this section. When an agreement 1037
includes multiple taxpayers, each taxpayer shall be entitled to 1038
a direct payment permit as authorized in division (I) of this 1039
section. 1040

Sec. 122.55. The director of development shall prepare and 1041
publish on its web site resources for use by political 1042
subdivisions when authorizing tax incentives, as defined in 1043
section 5709.94 of the Revised Code, for data centers, as 1044
defined in section 122.17 of the Revised Code. 1045

Sec. 149.437. (A) As used in this section: 1046

(1) "Nondisclosure agreement" means an agreement or 1047
contract that includes a provision or clause that prohibits an 1048
individual from disclosing, discussing, describing, or 1049
commenting on specified information. 1050

(2) "Public record" has the same meaning as in section 1051
149.43 of the Revised Code. 1052

(B) Notwithstanding any terms of the agreement to the 1053
contrary, a nondisclosure agreement shall not be construed to 1054
prohibit or otherwise limit a public record from being made 1055
available under section 149.43 of the Revised Code. 1056

Sec. 1521.301. (A) As used in sections 1521.301 to 1057

1521.303 of the Revised Code: 1058

(1) "Closed-loop water or liquid cooling system" and "data center" have the same meanings as in section 4941.01 of the Revised Code. 1059
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(2) "Rules" means rules adopted by the chief of the division of water resources under section 1521.303 of the Revised Code. 1062
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(B) An operator of a data center that withdraws waters of the state in any amount shall accurately measure and track such water withdrawal and consumption in accordance with rules. 1065
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(C) (1) The operator of a data center shall meet the water usage effectiveness performance threshold established in rules. 1068
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(2) The operator of a data center may comply with division (C) (1) of this section through any combination of engineering, operational, or design measures at the operator's discretion, provided the water usage effectiveness performance threshold is achieved. 1070
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(D) The operator of a data center shall install and utilize a closed-loop water or liquid cooling system or a water mitigation system in the operation of the data center. 1075
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1077

(E) The operator of a data center shall implement best industry practices for water conservation and water-use efficiency in the design, construction, and operation of the data center. Practices may include modern direct evaporative cooling, closed-loop or recirculating water systems, water reuse and recycling systems, high-efficiency cooling technologies, air-cooled or hybrid cooling systems where feasible, automated leak detection and monitoring technologies, use of nonpotable or reclaimed water sources where practicable, and other operational 1078
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or engineering measures designated to minimize consumptive water 1087
use and optimize water efficiency. 1088

Sec. 1521.302. (A) An operator of a data center shall 1089
submit to the chief of the division of water resources an annual 1090
report not later than the first day of February each year, in a 1091
manner determined by the chief, that includes all of the 1092
following: 1093

(1) The data center's annualized water usage effectiveness 1094
performance, which shall be calculated in accordance with rules; 1095

(2) The total water consumption for the previous calendar 1096
year, which shall include a description of the total water 1097
consumption by source type, including potable, nonpotable, and 1098
reclaimed; 1099

(3) The per cent of total water consumption derived from 1100
alternative sources for the previous calendar year; 1101

(4) A description of any measures undertaken by the 1102
operator of the data center in the previous calendar year to 1103
improve efficiency and reduce water consumption; 1104

(5) A description of any anomalies detected by a water 1105
quality monitoring system as required by rules adopted by the 1106
director of environmental protection under section 6111.70 of 1107
the Revised Code; 1108

(6) Any other information as the chief may require by 1109
rule. 1110

(B) The chief shall prepare an annual report that compiles 1111
data received in accordance with division (A) of this section 1112
from the previous calendar year. The chief shall submit the 1113
annual report to the speaker of the house of representatives, 1114

the senate president, and the house of representatives and 1115
senate committees that consider energy legislation and natural 1116
resources legislation within ninety days after preparing such 1117
report. 1118

Sec. 1521.303. The chief of the division of water 1119
resources shall adopt rules in accordance with Chapter 119. of 1120
the Revised Code that establish all of the following: 1121

(A) Standards for a data center to accurately measure and 1122
track water withdrawal and consumption; 1123

(B) The water usage effectiveness performance threshold 1124
for data centers; 1125

(C) Any other provisions necessary to administer and 1126
enforce sections 1521.301 to 1521.303 of the Revised Code. 1127

Sec. 4941.01. As used in this chapter: 1128

(A) "Closed-loop water or liquid cooling system" means a 1129
sealed cooling process in which the same water or coolant 1130
circulates continuously with de minimis withdrawal from waters 1131
of the state or discharge into waters of the state. 1132

(B) "Data center" means one or more buildings or physical 1133
facilities or infrastructure, located on a single real property 1134
parcel or on contiguous, adjacent, or otherwise aggregated real 1135
property parcels that are used primarily or exclusively for 1136
digital information services such as the management, storage, 1137
processing, and dissemination of electronic data and information 1138
through the use of computer systems, servers, networking 1139
equipment, and related components, including equipment cooling 1140
systems, or virtual currency mining. 1141

(C) "Electric distribution utility" has the same meaning 1142

as in section 4928.01 of the Revised Code. 1143

(D) "Mercantile customer self-power system" has the same 1144
meaning as in section 4928.73 of the Revised Code. 1145

(E) (1) "Virtual currency" means any type of digital unit 1146
that is used as a medium of exchange or a form of digitally 1147
stored value or that is incorporated into payment system 1148
technology and that may or may not have a centralized repository 1149
or administrator, including digital units of exchange that are 1150
created or obtained by computing or manufacturing effort. 1151

(2) "Virtual currency" does not include digital units of 1152
exchange that are used as follows: 1153

(a) Solely within online gaming platforms with no market 1154
or application outside of such gaming platforms; 1155

(b) Exclusively as part of a consumer affinity or rewards 1156
program, and can be applied solely as payment for purchases with 1157
the issuer or other designated merchants, but cannot be 1158
converted into or redeemed for fiat currency. 1159

(F) "Virtual currency mining" means the process by which 1160
individuals or other entities use data, computer code, 1161
calculations, and any other computing process to validate 1162
transactions involving virtual currency and earn virtual 1163
currency as compensation. 1164

Sec. 4941.02. Any previous agreements between an electric 1165
distribution utility and data center operator regarding data 1166
centers shall be considered in front of the public utilities 1167
commission during a data center tariff proceeding under section 1168
4941.05 of the Revised Code. 1169

Sec. 4941.03. Each data center in this state with an 1170

aggregate monthly maximum demand of greater than two hundred 1171
fifty megawatts shall be supplied with all of its electricity 1172
using either or both of the following sources: 1173

(A) One or more electric generating facilities constructed 1174
to supply electricity to the data center; 1175

(B) One or more generation or power supply arrangements to 1176
supply electricity to the data center, including any of the 1177
following: 1178

(1) Mercantile customer self-power systems; 1179

(2) Customer-generator projects; 1180

(3) Co-located load arrangements regulated by the federal 1181
energy regulatory commission; 1182

(4) Purchase power agreements; 1183

(5) Qualified PJM interconnection L.L.C. market solutions. 1184

Sec. 4941.04. Notwithstanding any provision of the Revised 1185
Code to the contrary: 1186

(A) All costs associated with providing electric service 1187
to data centers, including all generation, transmission, and 1188
distribution costs, and costs associated with complying with 1189
section 4941.03 of the Revised Code, shall be allocated and 1190
recovered solely from data center operators. 1191

(B) No other electric service customer in this state, 1192
other than a data center operator, shall pay any amount 1193
described in division (A) of this section. 1194

Sec. 4941.05. Notwithstanding any provision of the Revised 1195
Code to the contrary: 1196

(A) Not later than sixty days after the effective date of 1197

this section, each electric distribution utility shall file a 1198
data center tariff with the public utilities commission that 1199
classifies data centers as a separate rate class and allocates 1200
electric service costs for data centers to data center 1201
operators. The data center tariff filing may set minimum 1202
requirements for any of the following regarding data centers: 1203

(1) Demand percentage; 1204

(2) Collateral; 1205

(3) Term length; 1206

(4) Exit and termination fees; 1207

(5) Any other factors deemed necessary and essential to 1208
ensure protection for all other electric service customers in 1209
this state. 1210

(B) The commission shall ensure that an approved data 1211
center tariff complies with section 4941.04 of the Revised Code. 1212

Sec. 5709.94. (A) As used in this section: 1213

(1) "Data center" has the same meaning as in section 1214
122.17 of the Revised Code. 1215

(2) "Tax incentive" means the programs and assistance 1216
provided or administered by a political subdivision under 1217
Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 1218
to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 1219
to 5709.81 of the Revised Code and any other section of the 1220
Revised Code under which a political subdivision authorizes the 1221
exemption of property from taxation, whether in whole or in 1222
part. 1223

(B) Notwithstanding anything in the Revised Code to the 1224

contrary:

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(1) Not more than fifty per cent of the increased value of
real property that is the site of, or constitutes, a data center
may be exempted from taxation pursuant to Chapters 725. and
1728. or sections 3735.65 to 3735.70, 5709.40 to 5709.43,
5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.78 to 5709.83 of
the Revised Code, and only the increased value may be so
exempted.

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(2) An ordinance or resolution creating an incentive
district under division (C) of section 5709.40 or 5709.73 or
division (B) of section 5709.78 of the Revised Code may apply a
different exemption percentage to real property that is the site
of, or that constitutes, a data center than the exemption
percentage that applies to other real property within the
incentive district.

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(C) Any political subdivision that provides a tax
incentive for a data center shall obtain security to ensure
performance of any contractual obligation required of the
developer, owner, or operator of the data center, and of the
successors of any of those, in connection with the incentive.
The agreement detailing those obligations shall state the total
number of full-time employees to be employed at the data center
and the total projected salary for those employees over the
first ten years of the data center's operation. That total
amount shall be the minimum amount of the security, but the
agreement may require additional obligations and security.

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The security required by this division shall be one of the
following:

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(1) A surety bond issued by a surety company authorized to

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do business in this state in favor of the political subdivision; 1254

(2) Cash, certificates of deposit, or government 1255
securities. 1256

The security shall be deposited with the tax commissioner 1257
before the tax commissioner or county auditor approves an 1258
application for tax exemption based on the tax incentive 1259
pursuant to section 5715.27 of the Revised Code. If certificates 1260
of deposit or government securities are so deposited, any 1261
interest received shall be paid to the person that deposited the 1262
certificates or securities. 1263

Sec. 6111.70. (A) As used in this section, "data center" 1264
has the same meaning as in section 4941.01 of the Revised Code. 1265

(B) (1) The operator of a data center shall install and 1266
utilize a water quality monitoring system to monitor the data 1267
center's water discharge in accordance with rules adopted under 1268
this section. 1269

(2) The operator of a data center shall submit a quarterly 1270
report to the chief of the environmental protection agency's 1271
division of drinking and ground waters regarding the data 1272
center's water quality measurements from the prior quarter. Such 1273
quarterly report shall include a description of any anomalies 1274
that the water quality system detected during the respective 1275
quarter in accordance with rules adopted by the director of 1276
environmental protection under this section. 1277

(C) Not later than sixty days after the effective date of 1278
this section, the director shall adopt rules in accordance with 1279
Chapter 119. of the Revised Code establishing water quality 1280
standards for data centers and creating a water testing and 1281
methodology plan for data centers. Such rules also shall 1282

establish all of the following: 1283

(1) A requirement that an operator of a data center report 1284
water quality data in a manner and frequency established by the 1285
director; 1286

(2) Standards concerning anomalies detected by a water 1287
quality monitoring system; 1288

(3) A requirement that an operator of a data center report 1289
any anomalies that the water quality system detected not later 1290
than seven days after such detection and in a manner established 1291
by the director. 1292

(D) Not later than the first day of February that occurs 1293
after the effective date of this section, and every first day of 1294
February thereafter, the chief of the environmental protection 1295
agency's division of drinking and ground waters shall submit an 1296
annual report that compiles data received from findings and 1297
reports submitted under divisions (B) and (C) (1) of this section 1298
to the chairs of the house of representatives and senate 1299
committees that consider energy legislation and natural 1300
resources legislation. 1301

(E) The director shall adopt rules in accordance with 1302
Chapter 119. of the Revised Code to administer and enforce this 1303
section. 1304

Section 2. That existing sections 122.17 and 122.175 of 1305
the Revised Code are hereby repealed. 1306

Section 3. (A) The enactment by this act of section 1307
5709.94 of the Revised Code applies to tax exemptions authorized 1308
or approved on or after the effective date of this section. 1309

(B) The amendment by this act of sections 122.17 and 1310

122.175 of the Revised Code applies to agreements entered into	1311
under that applicable section on or after the effective date of	1312
this section.	1313