

I_136_3344-4

136th General Assembly
Regular Session
2025-2026

Sub. H. B. No. 646

To amend sections 122.17, 122.175, and 3745.015 and
to enact sections 122.55, 149.437, 1521.301,
1521.302, 1521.303, 4582.432, 4941.01, 4941.02,
4941.03, 4941.04, 4941.05, 4941.06, 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, 122.175, and 3745.015 be
amended and sections 122.55, 149.437, 1521.301, 1521.302,
1521.303, 4582.432, 4941.01, 4941.02, 4941.03, 4941.04, 4941.05,
4941.06, 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

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the credit and retirement or other benefits paid or contributed 20
by the employer to or on behalf of employees. 21

(2) "Baseline payroll" means Ohio employee payroll, except 22
that the applicable measurement period is the twelve months 23
immediately preceding the date the tax credit authority approves 24
the taxpayer's application or the date the tax credit authority 25
receives the recommendation described in division (C)(2)(a) of 26
this section, whichever occurs first, multiplied by the sum of 27
one plus an annual pay increase factor to be determined by the 28
tax credit authority. 29

(3) "Ohio employee payroll" means the amount of 30
compensation used to determine the withholding obligations in 31
division (A) of section 5747.06 of the Revised Code and paid by 32
the employer during the employer's taxable year, or during the 33
calendar year that includes the employer's tax period, to the 34
following: 35

(a) An employee employed in the project who is a resident 36
of this state including a qualifying work-from-home employee not 37
designated as a home-based employee by an applicant under 38
division (C)(1) of this section; 39

(b) An employee employed at the project location who is 40
not a resident and whose compensation is not exempt from the tax 41
imposed under section 5747.02 of the Revised Code pursuant to a 42
reciprocity agreement with another state under division (A)(3) 43
of section 5747.05 of the Revised Code; 44

(c) A home-based employee employed in the project. 45

"Ohio employee payroll" excludes any such compensation to 46
the extent it is used to determine the credit under section 47
122.171 of the Revised Code, and excludes amounts paid before 48

the day the taxpayer becomes eligible for the credit under this 49
section. 50

(4) "Excess payroll" means Ohio employee payroll minus 51
baseline payroll. 52

(5) "Home-based employee" means an employee whose services 53
are performed primarily from the employee's residence in this 54
state exclusively for the benefit of the project and whose rate 55
of pay is at least one hundred thirty-one per cent of the 56
federal minimum wage under 29 U.S.C. 206. 57

(6) "Full-time equivalent employees" means the quotient 58
obtained by dividing the total number of hours for which 59
employees were compensated for employment in the project by two 60
thousand eighty. "Full-time equivalent employees" excludes hours 61
that are counted for a credit under section 122.171 of the 62
Revised Code. 63

(7) "Metric evaluation date" means the date by which the 64
taxpayer must meet all of the commitments included in the 65
agreement. 66

(8) "Qualifying work-from-home employee" means an employee 67
who is a resident of this state and whose services are 68
supervised from the employer's project location and performed 69
primarily from a residence of the employee located in this 70
state. 71

(9) "Resident" or "resident of this state" means an 72
individual who is a resident as defined in section 5747.01 of 73
the Revised Code. 74

(10) "Reporting period" means a period corresponding to 75
the annual report required under division (D) (6) of this 76
section. 77

(11) "Megaproject" means a project in this state that 78
meets all of the following requirements: 79

(a) At least one of the following applies: 80

(i) The project requires unique sites, extremely robust 81
utility service, and a technically skilled workforce and does 82
not involve the acquisition, construction, renovation, 83
expansion, replacement, or repair of a data center. 84

(ii) The megaproject operator of the project has its 85
corporate headquarters in the United States, incurs more than 86
fifty per cent of its research and development expenses in the 87
United States in the year preceding the date the tax credit 88
authority approves the project for a credit under this section, 89
and builds and operates semiconductor wafer manufacturing 90
factories in this state or intends to do so by the metric 91
evaluation date applicable to the megaproject operator. 92

(b) The megaproject operator of the project agrees, in an 93
agreement with the tax credit authority under division (D) of 94
this section, that, on and after the metric evaluation date 95
applicable to the megaproject operator and until the end of the 96
last year for which the megaproject qualifies for the credit 97
authorized under this section, the megaproject operator will 98
compensate the project's employees at an average hourly wage of 99
at least three hundred per cent of the federal minimum wage 100
under 29 U.S.C. 206, exclusive of employee benefits, as 101
determined at the time the tax credit authority approves the 102
project for a credit under this section. 103

(c) The megaproject operator agrees, in an agreement with 104
the tax credit authority under division (D) of this section, to 105
satisfy either of the following by the metric evaluation date 106

applicable to the project: 107

(i) The megaproject operator makes at least one billion 108
dollars, as adjusted under division (V) (1) of this section, in 109
fixed-asset investments in the project. 110

(ii) The megaproject operator creates at least seventy- 111
five million dollars, as adjusted under division (V) (1) of this 112
section, in Ohio employee payroll at the project. 113

(d) The megaproject operator agrees, in an agreement with 114
the tax credit authority under division (D) of this section, 115
that if the project satisfies division (A) (11) (c) (ii) of this 116
section, then, on and after the metric evaluation date and until 117
the end of the last year for which the megaproject qualifies for 118
the credit authorized under this section, the megaproject 119
operator will maintain at least the amount in Ohio employee 120
payroll at the project required under that division for each 121
year in that period. 122

(12) "Megaproject operator" means a taxpayer that, 123
separately or collectively with other taxpayers, undertakes and 124
operates a megaproject. Such a taxpayer becomes a megaproject 125
operator effective the first day of the calendar year in which 126
the taxpayer and the tax credit authority enter into an 127
agreement under division (D) of this section with respect to the 128
megaproject. More than one taxpayer may be designated by the tax 129
credit authority as a megaproject operator for the same 130
megaproject. 131

(13) "Megaproject supplier" means a supplier in this state 132
that meets either or both of the following requirements: 133

(a) The supplier sells tangible personal property directly 134
to a megaproject operator of a megaproject that satisfies the 135

criteria described in division (A) (11) (a) (ii) of this section 136
for use at a megaproject site, provided that such property was 137
subject to substantial manufacturing, assembly, or processing in 138
this state at a facility owned or operated by the supplier; 139

(b) The supplier is not a data center and sells tangible 140
personal property directly to a megaproject operator for use at 141
a megaproject site, provided that the supplier agrees, in an 142
agreement with the tax credit authority under division (D) of 143
this section, to meet all of the following requirements: 144

(i) By the metric evaluation date applicable to the 145
supplier, makes at least one hundred million dollars, as 146
adjusted under division (V) (2) of this section, in fixed-asset 147
investments in this state; 148

(ii) By the metric evaluation date applicable to the 149
supplier, creates at least ten million dollars, as adjusted 150
under division (V) (2) of this section, in Ohio employee payroll; 151

(iii) On and after the metric evaluation date applicable 152
to the supplier, until the end of the last year for which the 153
supplier qualifies for the credit authorized under this section, 154
maintains at least the amount in Ohio employee payroll required 155
under division (A) (13) (b) (ii) of this section for each year in 156
that period. 157

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

servers, networking equipment, and related components, including 165
equipment cooling systems, or virtual currency mining. 166

(b) "Data center" excludes one or more buildings or 167
physical facilities or infrastructure, located on a single real 168
property parcel or on contiguous, adjacent, or otherwise 169
aggregated real property parcels that are used primarily or 170
exclusively for telecommunications. 171

(B) The tax credit authority may make grants under this 172
section to foster job creation in this state. Such a grant shall 173
take the form of a refundable credit allowed against the tax 174
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 175
or 5747.02 or levied under Chapter 5751. of the Revised Code. 176
The credit shall be claimed for the taxable years or tax periods 177
specified in the taxpayer's agreement with the tax credit 178
authority under division (D) of this section. With respect to 179
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 180
Chapter 5751. of the Revised Code, the credit shall be claimed 181
in the order required under section 5726.98, 5733.98, 5747.98, 182
or 5751.98 of the Revised Code. The amount of the credit 183
available for a taxable year or for a calendar year that 184
includes a tax period equals the excess payroll for that year 185
multiplied by the percentage specified in the agreement with the 186
tax credit authority. 187

(C) (1) A taxpayer or potential taxpayer who proposes a 188
project to create new jobs in this state may apply to the tax 189
credit authority to enter into an agreement for a tax credit 190
under this section. 191

An application shall not propose to include both home- 192
based employees and employees who are not home-based employees 193
in the computation of Ohio employee payroll for the purposes of 194

the same tax credit agreement, except that a qualifying work- 195
from-home employee shall not be considered to be a home-based 196
employee unless so designated by the applicant. If a taxpayer or 197
potential taxpayer employs both home-based employees and 198
employees who are not home-based employees in a project, the 199
taxpayer shall submit separate applications for separate tax 200
credit agreements for the project, one of which shall include 201
home-based employees in the computation of Ohio employee payroll 202
and one of which shall include all other employees in the 203
computation of Ohio employee payroll. 204

The director of development shall prescribe the form of 205
the application. After receipt of an application, the authority 206
may enter into an agreement with the taxpayer for a credit under 207
this section if it determines all of the following: 208

(a) The taxpayer's project will increase payroll; 209

(b) The taxpayer's project is economically sound and will 210
benefit the people of this state by increasing opportunities for 211
employment and strengthening the economy of this state; 212

(c) Receiving the tax credit is a major factor in the 213
taxpayer's decision to go forward with the project. 214

(2) (a) A taxpayer that chooses to begin the project prior 215
to receiving the determination of the authority may, upon 216
submitting the taxpayer's application to the authority, request 217
that the chief investment officer of the nonprofit corporation 218
formed under section 187.01 of the Revised Code and the director 219
review the taxpayer's application and recommend to the authority 220
that the taxpayer's application be considered. As soon as 221
possible after receiving such a request, the chief investment 222
officer and the director shall review the taxpayer's application 223

and, if they determine that the application warrants 224
consideration by the authority, make that recommendation to the 225
authority not later than six months after the application is 226
received by the authority. 227

(b) The authority shall consider any taxpayer's 228
application for which it receives a recommendation under 229
division (C) (2) (a) of this section. If the authority determines 230
that the taxpayer does not meet all of the criteria set forth in 231
division (C) (1) of this section, the authority and the 232
department of development shall proceed in accordance with rules 233
adopted by the director pursuant to division (I) of this 234
section. 235

(D) An agreement under this section shall include all of 236
the following: 237

(1) A detailed description of the project that is the 238
subject of the agreement; 239

(2) (a) The term of the tax credit, which, except as 240
provided in division (D) (2) (b) or (C) of this section, shall not 241
exceed fifteen years, and the first taxable year, or first 242
calendar year that includes a tax period, for which the credit 243
may be claimed; 244

(b) If the tax credit is computed on the basis of home- 245
based employees, the term of the credit shall expire on or 246
before the last day of the taxable or calendar year ending 247
before the beginning of the seventh year after September 6, 248
2012, the effective date of H.B. 327 of the 129th general 249
assembly. 250

(c) If the taxpayer is a megaproject operator or a 251
megaproject supplier that meets the requirements described in 252

division (A) (13) (b) of this section, the term of the tax credit 253
shall not exceed thirty years. 254

(3) A requirement that the taxpayer shall maintain 255
operations at the project location for at least the greater of 256
seven years or the term of the credit plus three years; 257

(4) The percentage, as determined by the tax credit 258
authority, of excess payroll that will be allowed as the amount 259
of the credit for each taxable year or for each calendar year 260
that includes a tax period; 261

(5) The pay increase factor to be applied to the 262
taxpayer's baseline payroll; 263

(6) A requirement that the taxpayer annually shall report 264
to the director of development full-time equivalent employees, 265
payroll, Ohio employee payroll, investment, the provision of 266
health care benefits and tuition reimbursement if required in 267
the agreement, and other information the director needs to 268
perform the director's duties under this section; 269

(7) A requirement that the director of development 270
annually review the information reported under division (D) (6) 271
of this section and verify compliance with the agreement; if the 272
taxpayer is in compliance, a requirement that the director issue 273
a certificate to the taxpayer stating that the information has 274
been verified and identifying the amount of the credit that may 275
be claimed for the taxable or calendar year. If the taxpayer is 276
a megaproject supplier, the director shall issue such a 277
certificate to the megaproject supplier and to any megaproject 278
operator (a) to which the megaproject supplier directly sells 279
tangible personal property and (b) that is authorized to claim 280
the credit pursuant to division (D) (10) of this section. 281

(8) A provision providing that the taxpayer may not 282
relocate a substantial number of employment positions from 283
elsewhere in this state to the project location unless the 284
director of development determines that the legislative 285
authority of the county, township, or municipal corporation from 286
which the employment positions would be relocated has been 287
notified by the taxpayer of the relocation. 288

For purposes of this section, the movement of an 289
employment position from one political subdivision to another 290
political subdivision shall be considered a relocation of an 291
employment position unless the employment position in the first 292
political subdivision is replaced. The movement of a qualifying 293
work-from-home employee to a different residence located in this 294
state or to the project location shall not be considered a 295
relocation of an employment position. 296

(9) If the tax credit is computed on the basis of home- 297
based employees, that the tax credit may not be claimed by the 298
taxpayer until the taxable year or tax period in which the 299
taxpayer employs at least two hundred employees more than the 300
number of employees the taxpayer employed on June 30, 2011; 301

(10) If the taxpayer is a megaproject supplier, the 302
percentage of the annual tax credit certified under division (D) 303
(7) of this section, up to one hundred per cent, that may be 304
claimed by each megaproject operator to which the megaproject 305
supplier directly sells tangible personal property, rather than 306
by that megaproject supplier, on the condition that the 307
megaproject operator continues to qualify as a megaproject 308
operator; 309

(11) If the taxpayer is a megaproject operator or 310
megaproject supplier, a requirement that the taxpayer meet and 311

maintain compliance with all thresholds and requirements to 312
which the taxpayer agreed, pursuant to division (A) (11) or (13) 313
of this section, respectively, as a condition of the operator's 314
project qualifying as a megaproject or the supplier qualifying 315
as a megaproject supplier until the end of the last year for 316
which the taxpayer qualifies for the credit authorized under 317
this section. In each year that a megaproject operator or 318
megaproject supplier is subject to an agreement with the tax 319
credit authority under this section and meets the requirements 320
of this division, the director of development shall issue a 321
certificate to the megaproject operator or megaproject supplier 322
stating that the megaproject operator or megaproject supplier 323
continues to meet those requirements. 324

(12) If the taxpayer is a megaproject operator, a 325
requirement that the megaproject operator submit, in a form 326
acceptable to the director of development, an economic impact 327
report with respect to each megaproject for which the 328
megaproject operator is designated, summarizing all of the 329
following for the reporting year: 330

(a) The aggregate amount of purchases made by the 331
megaproject operator for such megaproject from megaproject 332
suppliers; 333

(b) The aggregate amount of purchases made by the 334
megaproject operator for such megaproject from suppliers other 335
than megaproject suppliers; 336

(c) A summary of the construction activity for any 337
facilities at the site of the megaproject in that year; 338

(d) The aggregate amount expended by the megaproject 339
operator on research and development at the site of the 340

megaproject in that year; 341

(e) The number of employees working at the site of the 342
megaproject and the counties in which those employees reside; 343

(f) A summary of the supply chain activity in support of 344
the megaproject, including a list of the twenty-five suppliers 345
with a physical presence in Ohio from which the megaproject 346
operator made the most purchases in that year. 347

The economic impact report shall be due on or before the 348
first day of July of each year, beginning in the year specified 349
in the agreement with the tax credit authority. The information 350
required in the report shall be certified as true and correct by 351
an officer of the megaproject operator. If there is more than 352
one megaproject operator designated for a single megaproject, 353
all of the megaproject operators designated for the megaproject 354
may jointly submit a single report. Any information contained in 355
the report is a public record for purposes of section 149.43 of 356
the Revised Code and shall be published on the department of 357
development's web site. 358

(E) (1) If a taxpayer fails to meet or comply with any 359
condition or requirement set forth in a tax credit agreement, 360
the tax credit authority may amend the agreement to reduce the 361
percentage or term of the tax credit. The reduction of the 362
percentage or term may take effect in the current taxable or 363
calendar year. 364

(2) If the tax credit authority determines that a taxpayer 365
that is a megaproject operator of a megaproject described in 366
division (A) (11) (a) (ii) of this section is not fully compliant 367
with the requirements of the agreement, the authority may impose 368
a recoupment payment on the taxpayer in accordance with the 369

following: 370

(a) If, on the metric evaluation date, the taxpayer fails 371
to substantially meet the capital investment, full-time 372
equivalent employee, or payroll requirements included in the 373
agreement, an amount determined at the discretion of the 374
authority, not to exceed the sum of the following for all years 375
prior to the metric evaluation date: (i) the amount of taxes 376
that would have been imposed under Chapters 5739. and 5741. of 377
the Revised Code in the absence of the agreement, and (ii) the 378
amount of taxes that would have been imposed under Chapter 5751. 379
of the Revised Code on receipts realized from sales to the 380
taxpayer in the absence of the agreement; 381

(b) If the taxpayer fails to substantially maintain the 382
capital investment, full-time equivalent employee, or payroll 383
requirements included in the agreement in any year after the 384
metric evaluation date, an amount determined at the discretion 385
of the authority, not to exceed the sum of the following for the 386
calendar year in which taxpayer failed to meet the requirements: 387
(i) the amount of taxes that would have been imposed under 388
Chapters 5739. and 5741. of the Revised Code in the absence of 389
the agreement, and (ii) the amount of taxes that would have been 390
imposed under Chapter 5751. of the Revised Code on receipts 391
realized from sales to the taxpayer in the absence of the 392
agreement. 393

(3) The tax credit authority may, subject to any 394
requirements of the tax credit agreement, take into 395
consideration the taxpayer's prior performance and any market 396
conditions impacting the taxpayer when determining the amount of 397
the recoupment payment described in division (E) (2) of this 398
section. 399

(F) Projects that consist solely of point-of-final- 400
purchase retail facilities are not eligible for a tax credit 401
under this section. If a project consists of both point-of- 402
final-purchase retail facilities and nonretail facilities, only 403
the portion of the project consisting of the nonretail 404
facilities is eligible for a tax credit and only the excess 405
payroll from the nonretail facilities shall be considered when 406
computing the amount of the tax credit. If a warehouse facility 407
is part of a point-of-final-purchase retail facility and 408
supplies only that facility, the warehouse facility is not 409
eligible for a tax credit. Catalog distribution centers are not 410
considered point-of-final-purchase retail facilities for the 411
purposes of this division, and are eligible for tax credits 412
under this section. 413

(G) Financial statements and other information submitted 414
to the department of development or the tax credit authority by 415
an applicant or recipient of a tax credit under this section, 416
and any information taken for any purpose from such statements 417
or information, are not public records subject to section 149.43 418
of the Revised Code. However, the chairperson of the authority 419
may make use of the statements and other information for 420
purposes of issuing public reports or in connection with court 421
proceedings concerning tax credit agreements under this section. 422
Upon the request of the tax commissioner or, if the applicant or 423
recipient is an insurance company, upon the request of the 424
superintendent of insurance, the chairperson of the authority 425
shall provide to the commissioner or superintendent any 426
statement or information submitted by an applicant or recipient 427
of a tax credit in connection with the credit. The commissioner 428
or superintendent shall preserve the confidentiality of the 429
statement or information. 430

(H) A taxpayer claiming a credit under this section shall 431
submit to the tax commissioner or, if the taxpayer is an 432
insurance company, to the superintendent of insurance, a copy of 433
the director of development's certificate of verification under 434
division (D)(7) of this section with the taxpayer's tax report 435
or return for the taxable year or for the calendar year that 436
includes the tax period. Failure to submit a copy of the 437
certificate with the report or return does not invalidate a 438
claim for a credit if the taxpayer submits a copy of the 439
certificate to the commissioner or superintendent within the 440
time prescribed by section 5703.0510 of the Revised Code or 441
within thirty days after the commissioner or superintendent 442
requests it. 443

(I) The director of development, after consultation with 444
the tax commissioner and the superintendent of insurance and in 445
accordance with Chapter 119. of the Revised Code, shall adopt 446
rules necessary to implement this section, including rules that 447
establish a procedure to be followed by the tax credit authority 448
and the department of development in the event the authority 449
considers a taxpayer's application for which it receives a 450
recommendation under division (C)(2)(a) of this section but does 451
not approve it. The rules may provide for recipients of tax 452
credits under this section to be charged fees to cover 453
administrative costs of the tax credit program. For the purposes 454
of these rules, a qualifying work-from-home employee shall be 455
considered to be an employee employed at the applicant's project 456
location. The fees collected shall be credited to the tax 457
incentives operating fund created in section 122.174 of the 458
Revised Code. At the time the director gives public notice under 459
division (A) of section 119.03 of the Revised Code of the 460
adoption of the rules, the director shall submit copies of the 461

proposed rules to the chairpersons of the standing committees on 462
economic development in the senate and the house of 463
representatives. 464

(J) For the purposes of this section, a taxpayer may 465
include a partnership, a corporation that has made an election 466
under subchapter S of chapter one of subtitle A of the Internal 467
Revenue Code, or any other business entity through which income 468
flows as a distributive share to its owners. A partnership, S- 469
corporation, or other such business entity may elect to pass the 470
credit received under this section through to the persons to 471
whom the income or profit of the partnership, S-corporation, or 472
other entity is distributed. The election shall be made on the 473
annual report required under division (D)(6) of this section. 474
The election applies to and is irrevocable for the credit for 475
which the report is submitted. If the election is made, the 476
credit shall be apportioned among those persons in the same 477
proportions as those in which the income or profit is 478
distributed. 479

(K)(1) If the director of development determines that a 480
taxpayer who has received a credit under this section is not 481
complying with the requirements of the agreement, the director 482
shall notify the tax credit authority of the noncompliance. 483
After receiving such a notice, and after giving the taxpayer an 484
opportunity to explain the noncompliance, the tax credit 485
authority may require the taxpayer to refund to this state a 486
portion of the credit in accordance with the following: 487

(a) If the taxpayer fails to comply with the requirement 488
under division (D)(3) of this section, an amount determined in 489
accordance with the following: 490

(i) If the taxpayer maintained operations at the project 491

location for a period less than or equal to the term of the 492
credit, an amount not exceeding one hundred per cent of the sum 493
of any credits allowed and received under this section; 494

(ii) If the taxpayer maintained operations at the project 495
location for a period longer than the term of the credit, but 496
less than the greater of seven years or the term of the credit 497
plus three years, an amount not exceeding seventy-five per cent 498
of the sum of any credits allowed and received under this 499
section. 500

(b) If, on the metric evaluation date, the taxpayer fails 501
to substantially meet the job creation, payroll, or investment 502
requirements included in the agreement, an amount determined at 503
the discretion of the authority; 504

(c) If the taxpayer fails to substantially maintain the 505
number of new full-time equivalent employees or amount of 506
payroll required under the agreement at any time during the term 507
of the agreement after the metric evaluation date, an amount 508
determined at the discretion of the authority. 509

(2) If a taxpayer files for bankruptcy and fails as 510
described in division (K) (1) (a), (b), or (c) of this section, 511
the director may immediately commence an action to recoup an 512
amount not exceeding one hundred per cent of the sum of any 513
credits received by the taxpayer under this section. 514

(3) In determining the portion of the tax credit to be 515
refunded to this state, the tax credit authority shall consider 516
the effect of market conditions on the taxpayer's project and 517
whether the taxpayer continues to maintain other operations in 518
this state. After making the determination, the authority shall 519
certify the amount to be refunded to the tax commissioner or 520

superintendent of insurance, as appropriate. If the amount is 521
certified to the commissioner, the commissioner shall make an 522
assessment for that amount against the taxpayer under Chapter 523
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 524
amount is certified to the superintendent, the superintendent 525
shall make an assessment for that amount against the taxpayer 526
under Chapter 5725. or 5729. of the Revised Code. The time 527
limitations on assessments under those chapters do not apply to 528
an assessment under this division, but the commissioner or 529
superintendent, as appropriate, shall make the assessment within 530
one year after the date the authority certifies to the 531
commissioner or superintendent the amount to be refunded. Within 532
ninety days after certifying the amount to be refunded, if 533
circumstances have changed, the authority may adjust the amount 534
to be refunded and certify the adjusted amount to the 535
commissioner or superintendent. The authority may only adjust 536
the amount to be refunded one time and only if the amount 537
initially certified by the authority has not been repaid, in 538
whole or in part, by the taxpayer or certified to the attorney 539
general for collection under section 131.02 of the Revised Code. 540

(L) On or before the first day of August each year, the 541
director of development shall submit a report to the governor, 542
the president of the senate, and the speaker of the house of 543
representatives on the tax credit program under this section. 544
The report shall include information on the number of agreements 545
that were entered into under this section during the preceding 546
calendar year, a description of the project that is the subject 547
of each such agreement, and an update on the status of projects 548
under agreements entered into before the preceding calendar 549
year. 550

(M) There is hereby created the tax credit authority, 551

which consists of the director of development and four other 552
members appointed as follows: the governor, the president of the 553
senate, and the speaker of the house of representatives each 554
shall appoint one member who shall be a specialist in economic 555
development; the governor also shall appoint a member who is a 556
specialist in taxation. Terms of office shall be for four years. 557
Each member shall serve on the authority until the end of the 558
term for which the member was appointed. Vacancies shall be 559
filled in the same manner provided for original appointments. 560
Any member appointed to fill a vacancy occurring prior to the 561
expiration of the term for which the member's predecessor was 562
appointed shall hold office for the remainder of that term. 563
Members may be reappointed to the authority. Members of the 564
authority shall receive their necessary and actual expenses 565
while engaged in the business of the authority. The director of 566
development shall serve as chairperson of the authority, and the 567
members annually shall elect a vice-chairperson from among 568
themselves. Three members of the authority constitute a quorum 569
to transact and vote on the business of the authority. The 570
majority vote of the membership of the authority is necessary to 571
approve any such business, including the election of the vice- 572
chairperson. 573

The director of development may appoint a professional 574
employee of the department of development to serve as the 575
director's substitute at a meeting of the authority. The 576
director shall make the appointment in writing. In the absence 577
of the director from a meeting of the authority, the appointed 578
substitute shall serve as chairperson. In the absence of both 579
the director and the director's substitute from a meeting, the 580
vice-chairperson shall serve as chairperson. 581

(N) For purposes of the credits granted by this section 582

against the taxes imposed under sections 5725.18 and 5729.03 of 583
the Revised Code, "taxable year" means the period covered by the 584
taxpayer's annual statement to the superintendent of insurance. 585

(O) On or before the first day of March of each of the 586
five calendar years beginning with 2014, each taxpayer subject 587
to an agreement with the tax credit authority under this section 588
on the basis of home-based employees shall report the number of 589
home-based employees and other employees employed by the 590
taxpayer in this state to the department of development. 591

(P) On or before the first day of January of 2019, the 592
director of development shall submit a report to the governor, 593
the president of the senate, and the speaker of the house of 594
representatives on the effect of agreements entered into under 595
this section in which the taxpayer included home-based employees 596
in the computation of income tax revenue, as that term was 597
defined in this section prior to the amendment of this section 598
by H.B. 64 of the 131st general assembly. The report shall 599
include information on the number of such agreements that were 600
entered into in the preceding six years, a description of the 601
projects that were the subjects of such agreements, and an 602
analysis of nationwide home-based employment trends, including 603
the number of home-based jobs created from July 1, 2011, through 604
June 30, 2017, and a description of any home-based employment 605
tax incentives provided by other states during that time. 606

(Q) The director of development may require any agreement 607
entered into under this section for a tax credit computed on the 608
basis of home-based employees to contain a provision that the 609
taxpayer makes available health care benefits and tuition 610
reimbursement to all employees. 611

(R) Original agreements approved by the tax credit 612

authority under this section in 2014 or 2015 before September 613
29, 2015, may be revised at the request of the taxpayer to 614
conform with the amendments to this section and sections 615
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 616
H.B. 64 of the 131st general assembly, upon mutual agreement of 617
the taxpayer and the department of development, and approval by 618
the tax credit authority. 619

(S) (1) As used in division (S) of this section: 620

(a) "Eligible agreement" means an agreement approved by 621
the tax credit authority under this section on or before 622
December 31, 2013. 623

(b) "Income tax revenue" has the same meaning as under 624
this section as it existed before September 29, 2015, the 625
effective date of the amendment of this section by H.B. 64 of 626
the 131st general assembly. 627

(2) In calendar year 2016 and thereafter, the tax credit 628
authority shall annually determine a withholding adjustment 629
factor to be used in the computation of income tax revenue for 630
eligible agreements. The withholding adjustment factor shall be 631
a numerical percentage that equals the percentage that employer 632
income tax withholding rates have been increased or decreased as 633
a result of changes in the income tax rates prescribed by 634
section 5747.02 of the Revised Code by amendment of that section 635
taking effect on or after June 29, 2013. 636

(3) Except as provided in division (S) (4) of this section, 637
for reporting periods ending in 2015 and thereafter for 638
taxpayers subject to eligible agreements, the tax credit 639
authority shall adjust the income tax revenue reported on the 640
taxpayer's annual report by multiplying the withholding 641

adjustment factor by the taxpayer's income tax revenue and doing 642
one of the following: 643

(a) If the income tax rates prescribed by section 5747.02 644
of the Revised Code have decreased by amendment of that section 645
taking effect on or after June 29, 2013, add the product to the 646
taxpayer's income tax revenue. 647

(b) If the income tax rates prescribed by section 5747.02 648
of the Revised Code have increased by amendment of that section 649
taking effect on or after June 29, 2013, subtract the product 650
from the taxpayer's income tax revenue. 651

(4) Division (S)(3) of this section shall not apply unless 652
all of the following apply for the reporting period with respect 653
to the eligible agreement: 654

(a) The taxpayer has achieved one hundred per cent of the 655
new employment commitment identified in the agreement. 656

(b) If applicable, the taxpayer has achieved one hundred 657
per cent of the new payroll commitment identified in the 658
agreement. 659

(c) If applicable, the taxpayer has achieved one hundred 660
per cent of the investment commitment identified in the 661
agreement. 662

(5) Failure by a taxpayer to have achieved any of the 663
applicable commitments described in divisions (S)(4)(a) to (c) 664
of this section in a reporting period does not disqualify the 665
taxpayer for the adjustment under division (S) of this section 666
for an ensuing reporting period. 667

(T) For reporting periods ending in calendar year 2020 or 668
thereafter, any taxpayer may include qualifying work-from-home 669

employees in its report required under division (D) (6) of this 670
section, and the compensation of such employees shall qualify as 671
Ohio employee payroll under division (A) (3) (a) of this section, 672
even if the taxpayer's application to the tax credit authority 673
to enter into an agreement for a tax credit under this section 674
was approved before September 29, 2017, the effective date of 675
the amendment of this section by H.B. 49 of the 132nd general 676
assembly. 677

(U) The director of development shall notify the tax 678
commissioner if the director determines that a megaproject 679
operator or megaproject supplier is not in compliance with the 680
agreement pursuant to a review conducted under division (D) (11) 681
of this section. 682

(V) Beginning in 2025 and in each fifth calendar year 683
thereafter, the tax commissioner shall adjust the following 684
amounts in September of that year: 685

(1) The fixed-asset investment threshold described in 686
division (A) (11) (c) (i) of this section and the Ohio employee 687
payroll threshold described in division (A) (11) (c) (ii) of this 688
section by completing the following calculations: 689

(a) Determine the percentage increase in the gross 690
domestic product deflator determined by the bureau of economic 691
analysis of the United States department of commerce from the 692
first day of January of the fifth preceding calendar year to the 693
last day of December of the preceding calendar year; 694

(b) Multiply that percentage increase by the fixed-asset 695
investment threshold and the Ohio employee payroll threshold for 696
the current year; 697

(c) Add the resulting products to the corresponding fixed- 698

asset investment threshold and Ohio employee payroll threshold 699
for the current year; 700

(d) Round the resulting fixed-asset investment sum to the 701
nearest multiple of ten million dollars and the Ohio employee 702
payroll sum to the nearest multiple of one million dollars. 703

(2) The fixed-asset investment threshold described in 704
division (A) (13) (b) (i) of this section and the Ohio employee 705
payroll threshold described in division (A) (13) (b) (ii) of this 706
section by completing the calculations described in divisions 707
(V) (1) (a) to (c) of this section and rounding the resulting 708
fixed-asset investment sum to the nearest multiple of one 709
million dollars and the Ohio employee payroll sum to the nearest 710
multiple of one hundred thousand dollars. 711

The commissioner shall certify the amount of the 712
adjustments under divisions (V) (1) and (2) of this section to 713
the director of development and to the tax credit authority not 714
later than the first day of December of the year the 715
commissioner computes the adjustment. Each certified amount 716
applies to the ensuing calendar year and each calendar year 717
thereafter until the tax commissioner makes a new adjustment. 718
The tax commissioner shall not calculate a new adjustment in any 719
year in which the resulting amount from the adjustment would be 720
less than the corresponding amount for the current year. 721

Sec. 122.175. (A) As used in this section: 722

(1) "Capital investment project" means a plan of 723
investment at a project site for the acquisition, construction, 724
renovation, expansion, replacement, or repair of a computer data 725
center or of computer data center equipment, but does not 726
include any of the following: 727

(a) Project costs paid before a date determined by the tax 728
credit authority for each capital investment project; 729

(b) Payments made to a related member as defined in 730
section 5733.042 of the Revised Code or to a consolidated 731
elected taxpayer or a combined taxpayer as defined in section 732
5751.01 of the Revised Code. 733

(2) "Computer data center" means a facility used or to be 734
used primarily to house computer data center equipment used or 735
to be used in conducting one or more computer data center 736
businesses, as determined by the tax credit authority. 737

(3) "Computer data center business" means, as may be 738
further determined by the tax credit authority, a business that 739
provides electronic information services as defined in division 740
(Y)(1)(c) of section 5739.01 of the Revised Code, or that leases 741
a facility to one or more such businesses. "Computer data center 742
business" does not include providing electronic publishing as 743
defined in that section. 744

(4) "Computer data center equipment" means tangible 745
personal property used or to be used for any of the following: 746

(a) To conduct a computer data center business, including 747
equipment cooling systems to manage the performance of computer 748
data center equipment; 749

(b) To generate, transform, transmit, distribute, or 750
manage electricity necessary to operate the tangible personal 751
property used or to be used in conducting a computer data center 752
business; 753

(c) As building and construction materials sold to 754
construction contractors for incorporation into a computer data 755
center. 756

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

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

(i) For projects beginning in 2013, six consecutive calendar years;

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

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

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

(c) A computer data center with an aggregate monthly maximum demand of greater than two hundred fifty megawatts must offset any consumption from the electrical grid by the data center as required under division (A) (1) of section 4941.02 of the Revised Code or under division (A) (2) (d) of section 4941.02 of the Revised Code with at least a fifteen-year purchase power agreement.

(6) "Person" has the same meaning as in section 5701.01 of

the Revised Code. 786

(7) "Project site," "related member," and "tax credit
authority" have the same meanings as in sections 122.17 and 787
122.171 of the Revised Code. 788
789

(8) "Taxpayer" means any person subject to the taxes 790
imposed under Chapters 5739. and 5741. of the Revised Code. 791

(B) The tax credit authority may ~~completely or partially~~ 792
exempt from the taxes levied under Chapters 5739. and 5741. of 793
the Revised Code the sale, storage, use, or other consumption of 794
computer data center equipment used or to be used at an eligible 795
computer data center. Any such exemption shall extend to charges 796
for the delivery, installation, or repair of the computer data 797
center equipment subject to the exemption under this section. 798

(C) A taxpayer that proposes a capital improvement project 799
for an eligible computer data center in this state may apply to 800
the tax credit authority to enter into an agreement under this 801
section authorizing a complete or partial exemption from the 802
taxes imposed under Chapters 5739. and 5741. of the Revised Code 803
on computer data center equipment purchased by the applicant or 804
any other taxpayer that operates a computer data center business 805
at the project site and used or to be used at the eligible 806
computer data center. The director of development shall 807
prescribe the form of the application. After receipt of an 808
application, the authority shall forward copies of the 809
application to the tax commissioner, who shall review the 810
application to determine the economic impact that the proposed 811
eligible computer data center would have on the state and any 812
affected political subdivisions and submit to the authority a 813
summary of their determinations. The authority shall also 814
forward a copy of the application to the director of development 815

who shall review the application to determine the economic 816
impact that the proposed eligible computer data center would 817
have on the state and the affected political subdivisions and 818
shall submit a summary of their determinations and 819
recommendations to the authority. 820

(D) Upon review and consideration of such determinations 821
and recommendations, the tax credit authority may enter into an 822
agreement with the applicant and any other taxpayer that 823
operates a computer data center business at the project site for 824
a complete or partial exemption from the taxes imposed under 825
Chapters 5739. and 5741. of the Revised Code on computer data 826
center equipment used or to be used at an eligible computer data 827
center if the authority determines all of the following: 828

(1) The capital investment project for the eligible 829
computer data center will increase payroll and the amount of 830
income taxes to be withheld from employee compensation pursuant 831
to section 5747.06 of the Revised Code. 832

(2) The applicant is economically sound and has the 833
ability to complete or effect the completion of the proposed 834
capital investment project. 835

(3) The applicant intends to and has the ability to 836
maintain operations at the project site for the term of the 837
agreement. 838

(4) Receiving the exemption is a major factor in the 839
applicant's decision to begin, continue with, or complete the 840
capital investment project. 841

(E) An agreement entered into under this section shall 842
include all of the following: 843

(1) A detailed description of the capital investment 844

project that is the subject of the agreement, including the 845
amount of the investment, the period over which the investment 846
has been or is being made, the annual compensation to be paid by 847
each taxpayer subject to the agreement to its employees at the 848
project site, and the anticipated amount of income taxes to be 849
withheld from employee compensation pursuant to section 5747.06 850
of the Revised Code. 851

(2) The percentage of the exemption from the taxes imposed 852
under Chapters 5739. and 5741. of the Revised Code for the 853
computer data center equipment used or to be used at the 854
eligible computer data center, the length of time the computer 855
data center equipment will be exempted, and the first date on 856
which the exemption applies. 857

(3) A requirement that the computer data center remain an 858
eligible computer data center during the term of the agreement 859
and that the applicant maintain operations at the eligible 860
computer data center during that term. An applicant does not 861
violate the requirement described in division (E)(3) of this 862
section if the applicant ceases operations at the eligible 863
computer data center during the term of the agreement but 864
resumes those operations within eighteen months after the date 865
of cessation. The agreement shall provide that, in such a case, 866
the applicant and any other taxpayer that operates a computer 867
data center business at the project site shall not claim the tax 868
exemption authorized in the agreement for any purchase of 869
computer data center equipment made during the period in which 870
the applicant did not maintain operations at the eligible 871
computer data center. 872

(4) A requirement that, for each year of the term of the 873
agreement beginning on or after the first day of the twenty- 874

fifth month after the date the agreement was entered into, one 875
or more taxpayers operating a computer data center business at 876
the project site will, in the aggregate, pay annual compensation 877
that is subject to the withholding obligation imposed under 878
section 5747.06 of the Revised Code of at least one million five 879
hundred thousand dollars to employees at the eligible computer 880
data center. 881

(5) A requirement that each taxpayer subject to the 882
agreement annually report to the director of development 883
employment, tax withholding, capital investment, and other 884
information required by the director to perform the director's 885
duties under this section. 886

(6) A requirement that the director of development 887
annually review the annual reports of each taxpayer subject to 888
the agreement to verify the information reported under division 889
(E) (5) of this section and compliance with the agreement. Upon 890
verification, the director shall issue a certificate to each 891
such taxpayer stating that the information has been verified and 892
that the taxpayer remains eligible for the exemption specified 893
in the agreement. 894

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

movement is confined to the project site. The transfer of an 905
employment position from one political subdivision to another 906
political subdivision shall not be considered a relocation of an 907
employment position if the employment position in the first 908
political subdivision is replaced by another employment 909
position. 910

(8) A waiver by each taxpayer subject to the agreement of 911
any limitations periods relating to assessments or adjustments 912
resulting from the taxpayer's failure to comply with the 913
agreement. 914

(F) The term of an agreement under this section shall be 915
determined by the tax credit authority, and the amount of the 916
exemption shall not exceed ~~one hundred~~ fifty per cent of such 917
taxes that would otherwise be owed in respect to the exempted 918
computer data center equipment. 919

(G) If any taxpayer subject to an agreement under this 920
section fails to meet or comply with any condition or 921
requirement set forth in the agreement, the tax credit authority 922
may amend the agreement to reduce the percentage of the 923
exemption or term during which the exemption applies to the 924
computer data center equipment used or to be used by the 925
noncompliant taxpayer at an eligible computer data center. The 926
reduction of the percentage or term may take effect in the 927
current calendar year. 928

(H) Financial statements and other information submitted 929
to the department of development or the tax credit authority by 930
an applicant for or recipient of an exemption under this 931
section, and any information taken for any purpose from such 932
statements or information, are not public records subject to 933
section 149.43 of the Revised Code. However, the chairperson of 934

the authority may make use of the statements and other 935
information for purposes of issuing public reports or in 936
connection with court proceedings concerning tax exemption 937
agreements under this section. Upon the request of the tax 938
commissioner, the chairperson of the authority shall provide to 939
the tax commissioner any statement or other information 940
submitted by an applicant for or recipient of an exemption under 941
this section. The tax commissioner shall preserve the 942
confidentiality of the statement or other information. 943

(I) The tax commissioner shall issue a direct payment 944
permit under section 5739.031 of the Revised Code to each 945
taxpayer subject to an agreement under this section. Such direct 946
payment permit shall authorize the taxpayer to pay any sales and 947
use taxes due on purchases of computer data center equipment 948
used or to be used in an eligible computer data center and to 949
pay any sales and use taxes due on purchases of tangible 950
personal property or taxable services other than computer data 951
center equipment used or to be used in an eligible computer data 952
center directly to the tax commissioner. Each such taxpayer 953
shall pay pursuant to such direct payment permit all sales tax 954
levied on such purchases under sections 5739.02, 5739.021, 955
5739.023, and 5739.026 of the Revised Code and all use tax 956
levied on such purchases under sections 5741.02, 5741.021, 957
5741.022, and 5741.023 of the Revised Code, consistent with the 958
terms of the agreement entered into under this section. 959

During the term of an agreement under this section each 960
taxpayer subject to the agreement shall submit to the tax 961
commissioner a return that shows the amount of computer data 962
center equipment purchased for use at the eligible computer data 963
center, the amount of tangible personal property and taxable 964
services other than computer data center equipment purchased for 965

use at the eligible computer data center, the amount of tax 966
under Chapter 5739. or 5741. of the Revised Code that would be 967
due in the absence of the agreement under this section, the 968
exemption percentage for computer data center equipment 969
specified in the agreement, and the amount of tax due under 970
Chapter 5739. or 5741. of the Revised Code as a result of the 971
agreement under this section. Each such taxpayer shall pay the 972
tax shown on the return to be due in the manner and at the times 973
as may be further prescribed by the tax commissioner. Each such 974
taxpayer shall include a copy of the director of development's 975
certificate of verification issued under division (E)(6) of this 976
section. Failure to submit a copy of the certificate with the 977
return does not invalidate the claim for exemption if the 978
taxpayer submits a copy of the certificate to the tax 979
commissioner within the time prescribed by section 5703.0510 of 980
the Revised Code. 981

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

the taxes that would have been owed on the previously exempted 997
equipment to be paid to this state by a taxpayer, the authority 998
shall consider the effect of market conditions on the eligible 999
computer data center, whether the taxpayer continues to maintain 1000
other operations in this state, and, with respect to agreements 1001
involving multiple taxpayers, the taxpayer's level of 1002
responsibility for the noncompliance. After making the 1003
determination, the authority shall certify to the tax 1004
commissioner the amount to be paid by each taxpayer subject to 1005
the agreement. The tax commissioner shall make an assessment for 1006
that amount against each such taxpayer under Chapter 5739. or 1007
5741. of the Revised Code. The time limitations on assessments 1008
under those chapters do not apply to an assessment under this 1009
division, but the tax commissioner shall make the assessment 1010
within one year after the date the authority certifies to the 1011
tax commissioner the amount to be paid by the taxpayer. 1012

(K) The director of development, after consultation with 1013
the tax commissioner and in accordance with Chapter 119. of the 1014
Revised Code, shall adopt rules necessary to implement this 1015
section. The rules may provide for recipients of tax exemptions 1016
under this section to be charged fees to cover administrative 1017
costs incurred in the administration of this section. The fees 1018
collected shall be credited to the tax incentives operating fund 1019
created in section 122.174 of the Revised Code. At the time the 1020
director gives public notice under division (A) of section 1021
119.03 of the Revised Code of the adoption of the rules, the 1022
director shall submit copies of the proposed rules to the 1023
chairpersons of the standing committees on economic development 1024
in the senate and the house of representatives. 1025

(L) On or before the first day of August of each year, the 1026
director of development shall submit a report to the governor, 1027

the president of the senate, and the speaker of the house of 1028
representatives on the tax exemption authorized under this 1029
section. The report shall include information on the number of 1030
agreements that were entered into under this section during the 1031
preceding calendar year, a description of the eligible computer 1032
data center that is the subject of each such agreement, and an 1033
update on the status of eligible computer data centers under 1034
agreements entered into before the preceding calendar year. 1035

(M) A taxpayer may be made a party to an existing 1036
agreement entered into under this section by the tax credit 1037
authority and another taxpayer or group of taxpayers. In such a 1038
case, the taxpayer shall be entitled to all benefits and bound 1039
by all obligations contained in the agreement and all 1040
requirements described in this section. When an agreement 1041
includes multiple taxpayers, each taxpayer shall be entitled to 1042
a direct payment permit as authorized in division (I) of this 1043
section. 1044

Sec. 122.55. The director of development shall prepare and 1045
publish on its web site resources for use by political 1046
subdivisions when authorizing tax incentives, as defined in 1047
section 5709.94 of the Revised Code, for data centers, as 1048
defined in section 122.17 of the Revised Code. 1049

Sec. 149.437. (A) As used in this section: 1050

(1) "Nondisclosure agreement" means an agreement or 1051
contract that includes a provision or clause that prohibits an 1052
individual from disclosing, discussing, describing, or 1053
commenting on specified information. 1054

(2) "Public record" has the same meaning as in section 1055
149.43 of the Revised Code. 1056

(B) Notwithstanding any terms of the agreement to the 1057
contrary, a nondisclosure agreement shall not be construed to 1058
prohibit or otherwise limit a public record from being made 1059
available under section 149.43 of the Revised Code. 1060

Sec. 1521.301. (A) As used in sections 1521.301 to 1061
1521.303 of the Revised Code: 1062

(1) "Closed-loop water or liquid cooling system" and "data 1063
center" have the same meanings as in section 4941.01 of the 1064
Revised Code. 1065

(2) "Rules" means any rules adopted by the chief of the 1066
division of water resources under section 1521.303 of the 1067
Revised Code. 1068

(B) Any person that owns a data center or a major utility 1069
facility that is subject to regulation under Chapter 4906. of 1070
the Revised Code that solely supplies power to a data center 1071
shall accurately measure and report the consumptive use of water 1072
by such data center or major utility facility in accordance with 1073
section 1521.302 of the Revised Code and any rules. 1074

(C) Any person that owns a data center shall implement 1075
best industry practices for water conservation and water-use 1076
efficiency in the design, construction, and operation of the 1077
data center. Practices may include modern direct evaporative 1078
closed-loop water or liquid cooling systems or recirculating 1079
water systems, water reuse and recycling systems, high- 1080
efficiency cooling technologies, air-cooled or hybrid cooling 1081
systems where feasible, automated leak detection and monitoring 1082
technologies, use of nonpotable or reclaimed water sources where 1083
practicable, and other operational or engineering measures 1084
designated to minimize consumptive use and optimize water 1085

efficiency. Any design of a closed-loop water or liquid cooling 1086
system shall ensure waste streams may be properly treated and 1087
disposed of in accordance with any applicable laws. 1088

Sec. 1521.302. (A) Any person that owns a data center or a 1089
major utility facility that is subject to regulation under 1090
Chapter 4906. of the Revised Code that solely supplies power to 1091
a data center shall submit to the chief of the division of water 1092
resources an annual report not later than the first day of 1093
February each year, in a manner determined by the chief, that 1094
includes all of the following: 1095

(1) Documentation that the person that owns the data 1096
center or major utility facility has complied with best industry 1097
practices for water conservation in accordance with division (C) 1098
of section 1521.301 of the Revised Code; 1099

(2) The total consumptive use of water per day by the data 1100
center or the major utility facility for the previous calendar 1101
year, which shall include a description of the total water 1102
consumption by source type, including potable, nonpotable, and 1103
reclaimed; 1104

(3) A description of any additional measures undertaken by 1105
the data center or major utility facility in the previous 1106
calendar year to improve efficiency and reduce water 1107
consumption; 1108

(4) 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. (A) The chief of the division of water 1119
resources may adopt rules in accordance with Chapter 119. of the 1120
Revised Code that establish any of the following: 1121

(1) Standards for accurate measurement and reporting of 1122
consumptive use of water; 1123

(2) The consumptive use coefficient for data centers; 1124

(3) A nonrefundable fee to accompany each annual report, 1125
credited to the water management fund created under section 1126
1521.22 of the Revised Code. 1127

(4) Any other provisions necessary to administer and 1128
enforce sections 1521.301 to 1521.303 of the Revised Code. 1129

(B) Notwithstanding any provision of section 121.95 of the 1130
Revised Code to the contrary, a regulatory restriction contained 1131
in a rule adopted under this section is not subject to sections 1132
121.95 to 121.953 of the Revised Code. 1133

Sec. 3745.015. There is hereby created in the state 1134
treasury the environmental protection fund consisting of money 1135
credited to the fund under division (A)(3) of section 3734.57– 1136
and, division (E) of section 3714.07, and section 6111.70 of 1137
the Revised Code. The environmental protection agency shall use 1138
money in the fund to pay the agency's costs associated with 1139
administering and enforcing, or otherwise conducting activities 1140
under, this chapter and Chapters 3704., 3734., 3746., 3747., 1141
3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 1142
6109., 6111., 6112., 6113., 6115., 6117., and 6119. of the 1143

Revised Code, including providing compliance assistance to small 1144
businesses. However, any fees credited to the fund under section 1145
6111.70 of the Revised Code shall be used to pay the agency's 1146
costs associated with implementing that section. 1147

Sec. 4582.432. (A) As used in this section: 1148

(1) "Capital leaseback agreement" means the sale or 1149
transfer of property by a port authority to another person 1150
contemporaneously followed by the leasing of the property to the 1151
port authority. 1152

(2) "Data center" has the same meaning as defined in 1153
section 4941.01 of the Revised Code. 1154

(B) Notwithstanding any section of the Revised Code to the 1155
contrary, a port authority shall not enter into a capital 1156
leaseback agreement for a data center project located outside 1157
the authority's territorial jurisdiction. 1158

Sec. 4941.01. As used in this chapter: 1159

(A) "Closed-loop water or liquid cooling system" means a 1160
sealed cooling process in which the same water or coolant 1161
circulates continuously with de minimis withdrawal from waters 1162
of the state or discharge into waters of the state. 1163

(B) (1) "Data center" means one or more buildings or 1164
physical facilities or infrastructure, located on a single real 1165
property parcel or on contiguous, adjacent, or otherwise 1166
aggregated real property parcels that are used primarily or 1167
exclusively for digital information services such as the 1168
management, storage, processing, and dissemination of electronic 1169
data and information through the use of computer systems, 1170
servers, networking equipment, and related components, including 1171
equipment cooling systems, or virtual currency mining. 1172

(2) "Data center" excludes one or more buildings or 1173
physical facilities or infrastructure, located on a single real 1174
property parcel or on contiguous, adjacent, or otherwise 1175
aggregated real property parcels that are used primarily or 1176
exclusively for telecommunications. 1177

(C) "Electric distribution utility" has the same meaning 1178
as in section 4928.01 of the Revised Code. 1179

(D) "Mercantile customer self-power system" has the same 1180
meaning as in section 4928.73 of the Revised Code. 1181

(E) (1) "Virtual currency" means any type of digital unit 1182
that is used as a medium of exchange or a form of digitally 1183
stored value or that is incorporated into payment system 1184
technology and that may or may not have a centralized repository 1185
or administrator, including digital units of exchange that are 1186
created or obtained by computing or manufacturing effort. 1187

(2) "Virtual currency" does not include digital units of 1188
exchange that are used as follows: 1189

(a) Solely within online gaming platforms with no market 1190
or application outside of such gaming platforms; 1191

(b) Exclusively as part of a consumer affinity or rewards 1192
program, and can be applied solely as payment for purchases with 1193
the issuer or other designated merchants, but cannot be 1194
converted into or redeemed for fiat currency. 1195

(F) "Virtual currency mining" means the process by which 1196
individuals or other entities use data, computer code, 1197
calculations, and any other computing process to validate 1198
transactions involving virtual currency and earn virtual 1199
currency as compensation. 1200

(G) "Standard service offer" means a standard service 1201
offer under section 4928.141 of the Revised Code. 1202

Sec. 4941.02. (A) Subject to division (D) of this section, 1203
as of the effective date of this section each new data center in 1204
this state with an aggregate monthly maximum demand of greater 1205
than two hundred fifty megawatts shall be supplied with all of 1206
its electricity using either or both of the following sources 1207
that must offset any consumption from the electrical grid by the 1208
data center: 1209

(1) One or more electric generating facilities constructed 1210
to supply electricity to the data center; 1211

(2) One or more generation or power supply arrangements to 1212
supply electricity to the data center, including any of the 1213
following: 1214

(a) Mercantile customer self-power systems; 1215

(b) Customer-generator projects; 1216

(c) Co-located load arrangements regulated by the federal 1217
energy regulatory commission; 1218

(d) Purchase power agreements; 1219

(e) Only if at least one of the sources described in 1220
division (A)(1) or divisions (A)(2)(a) to (d) of this section is 1221
used, qualified PJM interconnection L.L.C. market solutions. 1222

(B) An electric distribution utility shall have no 1223
obligation to provide a standard service offer to a data center 1224
subject to this section. 1225

(C) Each data center operator purchasing or causing to be 1226
built or upgrades under division (A) of this section shall be 1227

equal to or greater than the power to band when multiplying the 1228
name plate capacity of the power generation being built or 1229
contracted for by the federal energy regulatory commission 1230
reliability factor. 1231

Sec. 4941.03. Notwithstanding any provision of the Revised 1232
Code to the contrary: 1233

(A) All direct costs associated with providing retail 1234
electric service to data centers, including any standard service 1235
offer or generation costs, transmission costs, and distribution 1236
costs, and costs associated with complying with section 4941.03 1237
of the Revised Code, shall be allocated and recovered solely 1238
from data center operators. 1239

(B) No other electric service customer in this state, 1240
other than a data center operator, shall pay any amount 1241
described in division (A) of this section. 1242

Sec. 4941.04. Notwithstanding any provision of the Revised 1243
Code to the contrary: 1244

(A) Except as provided in section 4941.05 of the Revised 1245
Code, not later than sixty days after the effective date of this 1246
section, each electric distribution utility that does not have a 1247
currently approved data center tariff that incorporates a 1248
separate set of terms and conditions for data center operators 1249
shall file a tariff with the public utilities commission that 1250
classifies data centers as a separate rate class and allocates 1251
electric service costs for data centers to data center 1252
operators. The data center tariff filing may set minimum 1253
requirements for any of the following regarding data centers: 1254

(1) Demand percentage; 1255

(2) Collateral; 1256

<u>(3) Term length;</u>	1257
<u>(4) Exit and termination fees;</u>	1258
<u>(5) Any other factors deemed necessary and essential to</u>	1259
<u>ensure protection for all other electric service customers in</u>	1260
<u>this state.</u>	1261
<u>(B) The commission shall ensure that a tariff under this</u>	1262
<u>section complies with section 4941.03 of the Revised Code.</u>	1263
<u>Sec. 4941.05.</u> <u>(A) Except as provided in division (B) of</u>	1264
<u>this section, sections 4941.02 to 4941.04 of the Revised Code do</u>	1265
<u>not apply to data center operators that had contracted with an</u>	1266
<u>electric distribution utility for either the provision of</u>	1267
<u>electric utility service or to otherwise construct facilities to</u>	1268
<u>provide such service prior to the effective date of this</u>	1269
<u>section.</u>	1270
<u>(B) Sections 4941.02 to 4941.04 of the Revised Code apply</u>	1271
<u>to a data center operator described in division (A) of this</u>	1272
<u>section if that operator makes a material capacity increase, as</u>	1273
<u>determined by the public utilities commission.</u>	1274
<u>(C) With respect to an electric distribution utility that</u>	1275
<u>already has an approved tariff that specifically addresses</u>	1276
<u>service to data center operators as of the effective date of</u>	1277
<u>this section, sections 4941.02 to 4941.04 of the Revised Code do</u>	1278
<u>not apply to data center operators during the term of a contract</u>	1279
<u>with such electric distribution utility for electric utility</u>	1280
<u>services executed under that previously approved tariff. Such an</u>	1281
<u>electric distribution utility with a previously approved tariff</u>	1282
<u>must still comply with sections 4941.02 to 4941.04 of the</u>	1283
<u>Revised Code and either obtain approval for a new tariff that</u>	1284
<u>complies with those sections or seek a finding from the</u>	1285

commission confirming that the existing tariff complies with 1286
sections 4941.02 to 4941.04 of the Revised Code. If a new tariff 1287
is approved and becomes effective, the terms of that updated 1288
tariff shall apply prospectively and all contracts for electric 1289
utility services going forward from that date will comply with 1290
sections 4941.02 to 4941.04 of the Revised Code. 1291

(D) If there is a public utility proposal for a new tariff 1292
to specifically address service to data center operators as of 1293
the effective date of this section, the commission shall 1294
consider the proposal under sections 4941.02 to 4941.04 of the 1295
Revised Code. 1296

Sec. 4941.06. (A) The public utilities commission shall 1297
adopt rules necessary to implement this chapter, including any 1298
necessary fees. 1299

(B) Notwithstanding any provision of section 121.95 of the 1300
Revised Code to the contrary, a regulatory restriction contained 1301
in a rule adopted under this section is not subject to sections 1302
121.95 to 121.953 of the Revised Code. 1303

Sec. 5709.94. (A) As used in this section: 1304

(1) "Data center" has the same meaning as in section 1305
122.17 of the Revised Code. 1306

(2) "Tax incentive" means the programs and assistance 1307
provided or administered by a political subdivision under 1308
Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 1309
to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 1310
to 5709.81 of the Revised Code and any other section of the 1311
Revised Code under which a political subdivision authorizes the 1312
exemption of property from taxation, whether in whole or in 1313
part. 1314

(B) Notwithstanding anything in the Revised Code to the 1315
contrary: 1316

(1) Not more than fifty per cent of the increased value of 1317
real property that is the site of, or constitutes, a data center 1318
may be exempted from taxation pursuant to Chapters 725. and 1319
1728. or sections 3735.65 to 3735.70, 5709.40 to 5709.43, 1320
5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.78 to 5709.83 of 1321
the Revised Code, and only the increased value may be so 1322
exempted. 1323

(2) An ordinance or resolution creating an incentive 1324
district under division (C) of section 5709.40 or 5709.73 or 1325
division (B) of section 5709.78 of the Revised Code may apply a 1326
different exemption percentage to real property that is the site 1327
of, or that constitutes, a data center than the exemption 1328
percentage that applies to other real property within the 1329
incentive district. 1330

(C) Any political subdivision that provides a tax 1331
incentive for a data center shall obtain security to ensure 1332
performance of any contractual obligation required of the 1333
developer, owner, or operator of the data center, and of the 1334
successors of any of those, in connection with the incentive. 1335
The agreement detailing those obligations shall state the total 1336
number of full-time employees to be employed at the data center 1337
and the total projected salary for those employees over the 1338
first ten years of the data center's operation. That total 1339
amount shall be the minimum amount of the security, but the 1340
agreement may require additional obligations and security. 1341

The security required by this division shall be one of the 1342
following: 1343

(1) A surety bond issued by a surety company authorized to 1344
do business in this state in favor of the political subdivision; 1345

(2) Cash, certificates of deposit, or government 1346
securities. 1347

The developer, owner, or operator of the data center shall 1348
deposit the security with the political subdivision that 1349
authorizes the tax incentive before the tax commissioner or 1350
county auditor approves an application for tax exemption based 1351
on the tax incentive pursuant to section 5715.27 of the Revised 1352
Code. If certificates of deposit or government securities are so 1353
deposited, any interest received shall be paid to the person 1354
that deposited the certificates or securities. 1355

Sec. 6111.70. (A) As used in this section, "data center" 1356
has the same meaning as in section 4941.01 of the Revised Code. 1357

(B) (1) Any person that owns a data center shall install 1358
and utilize a wastewater quality monitoring system to monitor 1359
the data center's wastewater discharge in accordance with rules 1360
adopted under this section. 1361

(2) The person that owns a data center shall submit a 1362
quarterly report to the director of environmental protection 1363
regarding the data center's wastewater quality measurements from 1364
the prior quarter. Such quarterly report shall include a 1365
description of any anomalies that the wastewater quality 1366
monitoring system detected during the respective quarter in 1367
accordance with rules adopted by the director of environmental 1368
protection under this section. 1369

(C) Not later than sixty days after the effective date of 1370
this section, the director shall adopt rules in accordance with 1371
Chapter 119. of the Revised Code establishing a wastewater 1372

testing and methodology plan for data centers. Such rules also 1373
shall establish a requirement that any person that owns a data 1374
center report wastewater quality data in a manner and frequency 1375
established by the director. 1376

(D) Not later than the first day of February that occurs 1377
after the effective date of this section, and every first day of 1378
February thereafter, the director of environmental protection 1379
shall submit an annual report that compiles data received from 1380
findings and reports submitted under divisions (B) and (C) of 1381
this section to the chairs of the house of representatives and 1382
senate committees that consider energy legislation and natural 1383
resources legislation. 1384

(E) The director shall establish an annual fee to be paid 1385
by the person that owns the data center to the environmental 1386
protection agency to offset the costs of the agency in 1387
implementing this section. The fees shall be deposited into the 1388
environmental protection fund created under section 3745.015 of 1389
the Revised Code. 1390

(F) (1) The director shall adopt rules in accordance with 1391
Chapter 119. of the Revised Code to administer and enforce this 1392
section. 1393

(2) Notwithstanding any provision of section 121.95 of the 1394
Revised Code to the contrary, a regulatory restriction contained 1395
in a rule adopted under this section is not subject to sections 1396
121.95 to 121.953 of the Revised Code. 1397

Section 2. That existing sections 122.17, 122.175, and 1398
3745.015 of the Revised Code are hereby repealed. 1399

Section 3. (A) The enactment by this act of section 1400
5709.94 of the Revised Code applies to tax exemptions authorized 1401

or approved on or after the effective date of this section. 1402

(B) The amendment by this act of sections 122.17 and 1403
122.175 of the Revised Code applies to agreements entered into 1404
under that applicable section on or after the effective date of 1405
this section. 1406