

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

VETO MESSAGE

**STATEMENT OF THE REASONS FOR THE VETO OF
AMENDED SUBSTITUTE SENATE BILL 329**

December 22, 2016

Pursuant to Article II, Section 16, of the Ohio Constitution, which states that the Governor may disapprove of any bill, I hereby disapprove of Amended Substitute Senate Bill Number 329 (Am. Sub. SB 329) and set forth the following reasons for so doing.

Under the Ohio Constitution, no state agency can be funded for a period longer than two years. For that reason, in every odd-numbered year Ohio governors are required by law to submit a biennial budget to the General Assembly to fund the operation of the state government for a two-year period. During the General Assembly's deliberations on the biennial budget, the funding for each and every state agency is reviewed, analyzed, debated, and determined. Through the budget process, the General Assembly may increase or reduce funding for any agency or even eliminate that agency altogether.

Am. Sub. SB 329 would duplicate the existing biennial budget process by creating a second process in which every two years half of the Executive Branch agencies would be required to appear before the General Assembly to justify the agency's existence. Because *all* the Executive Branch agencies are required to justify their existence to the General Assembly every two years through the biennial budget process, Am. Sub. SB 329 is unnecessary. This second, duplicative process would be a waste of both Executive and Legislative branch resources. Given that this bill creates a costly and burdensome mechanism that only duplicates the current budget process which provides a thorough and complete review of each agency and its funding, this bill is unnecessary and, therefore, this veto is in the public interest.

For these reasons, I am vetoing Amended Substitute Senate Bill 329.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 22nd day of December Two Thousand Sixteen.



John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto message of Amended Substitute Senate Bill 329 that was disapproved by Governor John R. Kasich on December 22, 2016.



Name and Title of Officer *Senate Clerk*

Date and Time of Receipt

2016 DEC 27 PM 2:36
OHIO SENATE

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

VETO MESSAGE

**STATEMENT OF THE REASONS FOR THE VETO OF
SUBSTITUTE HOUSE BILL 554**

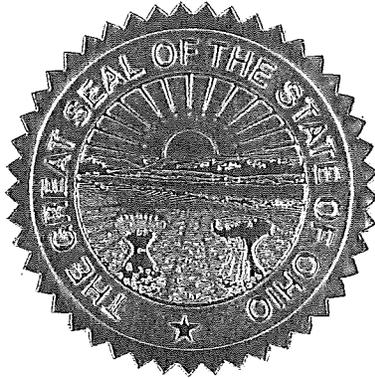
December 22, 2016

Pursuant to Article II, Section 16, of the Ohio Constitution, which states that the Governor may disapprove of any bill, I hereby disapprove of Substitute House Bill Number 554 (Sub. HB 554) and set forth the following reasons for so doing.

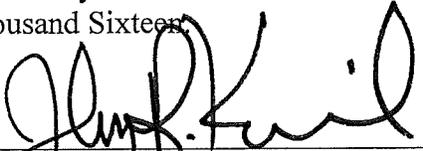
Over the past six years, Ohio has enjoyed the most improved business climate in the nation. Job creators have attributed their reasons for expanding, growing and creating jobs in Ohio to, among other things, our state's stable fiscal health, jobs-friendly tax climate and sound regulatory policies — as well as our state's wide range of energy generation options. Sub. HB 554 risks undermining this progress by taking away some of those energy generation options, particularly the very options most prized by the companies poised to create many jobs in Ohio in the coming years, such as high technology firms. The bill would also deal a setback to efforts that are succeeding in helping businesses and homeowners reduce their energy costs through increased efficiency. In fact, according to the Midwest Energy Efficiency Alliance, an organization to which many of our electric utilities belong, energy efficiency investments made between 2009-2012 alone have yielded \$1.03 billion in savings to date and will result in \$4.15 billion in lifetime savings thanks to the state's existing energy efficiency standards. Furthermore, Sub. HB 554 sidelines some energy options at a time when Ohio can already meet many renewable energy generation standards in current law.

The Administration stands ready to work with the General Assembly to advance strategies for helping ensure competitive energy costs. Ohio workers cannot afford to take a step backward from the economic gains that we have made in recent years, however, and arbitrarily limiting Ohio's energy generation options amounts to self-inflicted damage to both our state's near- and long-term economic competitiveness. Therefore, this veto is in the public interest.

For these reasons, I am vetoing Substitute House Bill 554.

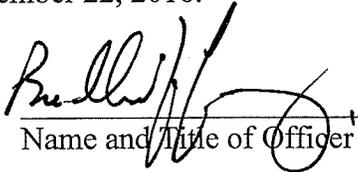


IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 22nd day of December Two Thousand Sixteen.



John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto message of Substitute House Bill 554 that was disapproved by Governor John R. Kasich on December 22, 2016.



Name and Title of Officer, Clerk

12/27/16 2:28 p.m.
Date and Time of Receipt

STATE OF OHIO
Executive Department

OFFICE OF THE GOVERNOR

Columbus

VETO MESSAGES

**STATEMENT OF THE REASONS FOR THE VETO OF ITEMS IN
SUBSTITUTE SENATE BILL 235**

DECEMBER 22, 2016

Pursuant to Article II, Section 16 of the Ohio Constitution, which states that the Governor may disapprove any items in a bill making an appropriation of money, I hereby disapprove the following items contained in Substitute Senate Bill 235 and set forth below the reasons for so doing. The text I am disapproving is identified in this message by reference to the corresponding page and boxed text of the bill.

ITEM NUMBER 1

- On page 1, in the preamble, delete the following boxed text "122.121,".
- On page 1, in Section 1, delete the following boxed text "122.121,".
- On page 1, delete the boxed text beginning with "Sec. 122.121..."
- On page 2, delete the boxed text.
- On page 3, delete the boxed text.
- On page 78, delete the following boxed text "122.121,".

Major Sports Event Appropriation Carry Over

This appropriates any unused fiscal year 2017 appropriation for certain grants into fiscal year 2018. Furthermore, for each fiscal year in the future, this item would appropriate any unused money in the following fiscal year. This appropriation authority is expressed by making a change in the permanent law of Ohio, the Ohio Revised Code. Typically, appropriations are temporary in nature and are enacted through uncodified law within budget or budget-related legislation. By changing the Ohio Revised Code, this item is of a permanent nature and creates a never ending cycle of appropriation in future fiscal years. As such, this item allocates state resources without consideration of budgetary priorities and challenges that may exist in the future. Additionally, this item binds future general assemblies and impinges on their

constitutional authority to set appropriation levels for this program in future fiscal years. Therefore, the veto of this item is in the public interest.

ITEM NUMBER 2

On page 1, in the preamble, delete the following boxed text “5709.20,”.

On page 1, in Section 1, delete the following boxed text “5709.20,”.

On page 49, delete the boxed text.

On page 50, delete the boxed text.

On page 51, delete the boxed text.

On page 71, delete the boxed text.

On page 72, delete the boxed text.

On page 78, delete the following boxed text “5709.20,”.

On page 79, delete the boxed text beginning with “Section 4.”.

On page 80, delete the boxed text.

Exempting Oil and Gas Companies from Paying Sales Taxes

Under current law, companies that produce oil and gas in Ohio already enjoy an exemption from the sales tax for tangible personal property they purchase that is “directly used in production” of oil and gas. This item greatly increases that sales tax exemption for tangible personal property used by the oil and gas industry in Ohio by expanding the definition of what qualifies as “directly used in production.” The exemption in this item goes well beyond the “direct use” exemption for exploration and production and would result in a situation where oil and gas companies would be exempt from sales tax on almost everything they purchase. This new, broadened exemption from the sales tax would create future, annual revenue losses to the state, counties and transit authorities in the tens of millions of dollars.

In addition, not only would this item result in reduced revenues in the future, but the broadened tax exemption was made retroactive to 2010. Accordingly, not only would the state, counties and transit authorities have to forego sales tax revenue from 2010 to the present that is currently owed but has not yet been paid, they would also have to refund to the oil and gas companies sales taxes that have been paid since 2010. The combined amount of lost revenue and refunds that would have to be repaid by retroactively applying this broadened tax exemption back to 2010 is \$264 million.

If this item became effective, then one would expect the oil and gas companies to take advantage of it immediately. The loss of \$264 million to the state government and local governments would be a significant impact to budgets, particularly given the slowing in income and sales tax collections seen over the last year. This revenue loss as well as the ongoing losses in the future would force the need to reassess current and upcoming budget plans, triggering a triaging of priorities to ensure the most essential functions can still be covered, such as education, policing, fire protection, and ambulance services.

Furthermore, this broadened sales tax exemption for the oil and gas industry is not necessary for this industry to flourish in Ohio. The oil and gas industry already has a very favorable tax climate in Ohio. This is true not only with respect to the severance tax, which is only 20 cents per barrel of oil and 3 cents per MCF of natural gas, but also with respect to the commercial activity tax (CAT) and the property tax. The oil and gas industry has continued to expand its production in Ohio even in the face of price declines for oil and gas, which is further evidence that the industry tax climate is no barrier to exploration or production.

Moreover, the expanded exemption would create a more favorable tax treatment for the oil and gas industry than for other industries. History shows that the creation of an uneven playing field often leads to other industries pursuing special tax exemptions. This item will presumably invite other major industries in Ohio such as agriculture and manufacturing to argue that they are just as entitled to a full exemption from Ohio's sales tax as is the oil and gas industry.

It is unlikely that the General Assembly intended for this item to yield such a significant loss of tax revenue, with the corresponding reduction in state and local services, to provide even more favorable tax treatment for an industry that is already comparatively lightly taxed. Unfortunately, the compressed schedule of the General Assembly's end-of-year session did not allow time for a full consideration of all of the drawbacks and consequences of this exemption, trade-offs and possible alternatives.

In summary, the expanded sales tax exemption in this item that was made retroactive to 2010 would create a current revenue loss estimated at \$264 million, enough to significantly impair both state and local ability to provide government services, for an industry that needs no additional tax breaks and continues to thrive in Ohio even under a difficult pricing environment. This item would create an unfair, unbalanced tax treatment between industries. In the near term it would result in significant reductions to state and local budget resources in the currently difficult budget environment. It would also create significant revenue losses in the future. For all of these reasons, this veto is in the public interest. Through the veto of this item and item 3, it is my intent to preserve existing section 5739.02 of the Revised Code.

ITEM NUMBER 3

On page 75, delete the boxed text.

On page 79, delete the boxed text beginning with "Section 7."

On page 80, delete the boxed text.

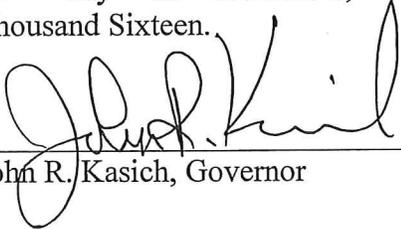
Tax Exemptions on Digital Products

Vending is a valued industry in Ohio, but there is no justification for granting a narrow subset of this industry—digital jukeboxes—a tax exemption. Adequate ability exists for the vending industry to collect and remit its required sales tax. Further, this broadly drafted exemption could potentially have the unintended consequence of negating the state's tax on all digital products (i.e., downloaded books, movies, and music). Therefore, this veto is in the public interest. Through

the veto of this item and item 2, it is my intent to preserve existing section 5739.02 of the Revised Code.



IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus this 22nd day of December, Two Thousand Sixteen.



John R. Kasich, Governor

This will acknowledge the receipt of a copy of this veto message of Substitute Senate Bill 235 that was disapproved in part by Governor John R. Kasich on December 22, 2016.



Name and Title of Officer *Senate Clerk*

Date and Time of Receipt

OHIO SENATE
2016 DEC 27 PM 2:38

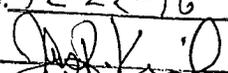
AN ACT

To amend sections 122.121, 149.311, 339.02, 339.05, 749.07, 749.18, 951.02, 951.13, 1711.50, 1711.57, 4141.01, 4141.25, 4141.30, 4727.02, 4727.03, 4727.06, 4727.10, 4727.11, 4727.12, 4727.19, 4727.20, 5709.20, 5709.45, 5726.01, 5739.02, and 5739.03, to enact sections 718.60, 4175.01, 4175.02, 4175.03, 4175.04, 4175.05, 4175.06, 4175.07, 4175.08, and 5709.52 of the Revised Code, and to repeal Section 4 of Sub. H.B. 5 of the 130th General Assembly to authorize political subdivisions to exempt from property taxation the increased value of property on which industrial or commercial development is planned for up to six years, to make changes to Ohio's unemployment compensation law, and to modify laws governing other state and local government authority and operations. JRK
JRK

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 122.121, 149.311, 339.02, 339.05, 749.07, 749.18, 951.02, 951.13, 1711.50, 1711.57, 4141.01, 4141.25, 4141.30, 4727.02, 4727.03, 4727.06, 4727.10, 4727.11, 4727.12, 4727.19, 4727.20, 5709.20, 5709.45, 5726.01, 5739.02, and 5739.03 be amended and sections 718.60, 4175.01, 4175.02, 4175.03, 4175.04, 4175.05, 4175.06, 4175.07, 4175.08, and 5709.52 of the Revised Code be enacted to read as follows: JRK
JRK

Sec. 122.121. (A) If a local organizing committee, endorsing municipality, or endorsing county enters into a joinder undertaking with a site selection organization, the local organizing committee, endorsing municipality, or endorsing county may apply to the director of development services, on a form and in the manner prescribed by the director, for a grant based on the projected incremental increase in the receipts from the tax imposed under section 5739.02 of the Revised Code within the market area designated under division (C) of this section, for the two-week period that ends at the end of the day after the date on which a game will be held, that is directly attributable, as determined by the director, to the preparation for and presentation of the game. The director shall determine the projected incremental increase in the tax imposed under section 5739.02 of the Revised Code by using a formula approved by the destination marketing association international for event impact or another formula of similar purpose approved by the director. The local organizing committee, endorsing municipality, or endorsing county is eligible to receive a grant under this section only if the projected incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code, as determined by the director, exceeds two hundred fifty thousand dollars. The amount of the grant shall be not less than fifty per cent of the projected incremental increase in receipts, as determined by the director, but shall not exceed five hundred thousand dollars. The director shall not issue grants with a total value of more than one million dollars in any fiscal year. JRK

The above boxed and initialed text was disapproved.
Date: 12-22-16

John R. Kasich, Governor

year, and shall not issue any grant before July 1, 2013.

(B) If the director of development services approves an application for a local organizing committee, endorsing municipality, or endorsing county and that local organizing committee, endorsing municipality, or endorsing county enters into a joinder agreement with a site selection organization, the local organizing committee, endorsing municipality, or endorsing county shall file a copy of the joinder agreement with the director. The grant shall be used exclusively by the local organizing committee, endorsing municipality, or endorsing county to fulfill a portion of its obligations to a site selection organization under game support contracts, which obligations may include the payment of costs relating to the preparations necessary for the conduct of the game, including acquiring, renovating, or constructing facilities; to pay the costs of conducting the game; and to assist the local organizing committee, endorsing municipality, or endorsing county in providing assurances required by a site selection organization sponsoring one or more games.

(C) For the purposes of division (A) of this section, the director of development services, in consultation with the tax commissioner, shall designate the market area for a game. The market area shall consist of the combined statistical area, as defined by the United States office of management and budget, in which an endorsing municipality or endorsing county is located.

(D) A local organizing committee, endorsing municipality, or endorsing county shall provide information required by the director of development services and tax commissioner to enable the director and commissioner to fulfill their duties under this section, including annual audited statements of any financial records required by a site selection organization and data obtained by the local organizing committee, endorsing municipality, or endorsing county relating to attendance at a game and to the economic impact of the game. A local organizing committee, an endorsing municipality, or an endorsing county shall provide an annual audited financial statement if so required by the director and commissioner, not later than the end of the fourth month after the date the period covered by the financial statement ends.

JRK

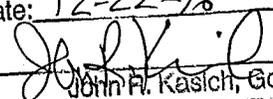
(E) Within thirty days after the game, the local organizing committee, endorsing municipality, or endorsing county shall report to the director of development services about the economic impact of the game. The report shall be in the form and substance required by the director, including, but not limited to, a final income statement for the event showing total revenue and expenditures and revenue and expenditures in the market area for the game, and ticket sales for the game and any related activities for which admission was charged. The director shall determine, based on the reported information and the exercise of reasonable judgment, the incremental increase in receipts from the tax imposed under section 5739.02 of the Revised Code directly attributable to the game. If the actual incremental increase in such receipts is less than the projected incremental increase in receipts, the director may require the local organizing committee, endorsing municipality, or endorsing county to refund to the state all or a portion of the grant.

(F) No disbursement may be made under this section if the director of development services determines that it would be used for the purpose of soliciting the relocation of a professional sports franchise located in this state.

(G) This section may not be construed as creating or requiring a state guarantee of obligations imposed on an endorsing municipality or endorsing county under a game support contract or any other agreement relating to hosting one or more games in this state.

The above boxed and initialed text was disapproved.

Date: 12-22-16



John F. Kasich, Governor

(H) Beginning in fiscal year 2018 and in each fiscal year thereafter, an amount equal to the unexpended, unencumbered balance of the immediately preceding fiscal year's appropriation for grants awarded under this section is hereby reappropriated to the development services agency for the same purpose for the current fiscal year.

JR/c

Sec. 149.311. (A) As used in this section:

(1) "Historic building" means a building, including its structural components, that is located in this state and that is either individually listed on the national register of historic places under 16 U.S.C. 470a, located in a registered historic district, and certified by the state historic preservation officer as being of historic significance to the district, or is individually listed as an historic landmark designated by a local government certified under 16 U.S.C. 470a(c).

(2) "Qualified rehabilitation expenditures" means expenditures paid or incurred during the rehabilitation period, and before and after that period as determined under 26 U.S.C. 47, by an owner or qualified lessee of an historic building to rehabilitate the building. "Qualified rehabilitation expenditures" includes architectural or engineering fees paid or incurred in connection with the rehabilitation, and expenses incurred in the preparation of nomination forms for listing on the national register of historic places. "Qualified rehabilitation expenditures" does not include any of the following:

(a) The cost of acquiring, expanding, or enlarging an historic building;

(b) Expenditures attributable to work done to facilities related to the building, such as parking lots, sidewalks, and landscaping;

(c) New building construction costs.

(3) "Owner" of an historic building means a person holding the fee simple interest in the building. "Owner" does not include the state or a state agency, or any political subdivision as defined in section 9.23 of the Revised Code.

(4) "Qualified lessee" means a person subject to a lease agreement for an historic building and eligible for the federal rehabilitation tax credit under 26 U.S.C. 47. "Qualified lessee" does not include the state or a state agency or political subdivision as defined in section 9.23 of the Revised Code.

(5) "Certificate owner" means the owner or qualified lessee of an historic building to which a rehabilitation tax credit certificate was issued under this section.

(6) "Registered historic district" means an historic district listed in the national register of historic places under 16 U.S.C. 470a, an historic district designated by a local government certified under 16 U.S.C. 470a(c), or a local historic district certified under 36 C.F.R. 67.8 and 67.9.

(7) "Rehabilitation" means the process of repairing or altering an historic building or buildings, making possible an efficient use while preserving those portions and features of the building and its site and environment that are significant to its historic, architectural, and cultural values.

(8) "Rehabilitation period" means one of the following:

(a) If the rehabilitation initially was not planned to be completed in stages, a period chosen by the owner or qualified lessee not to exceed twenty-four months during which rehabilitation occurs;

(b) If the rehabilitation initially was planned to be completed in stages, a period chosen by

The above boxed and initialed text was disapproved.
 Date: 12-22-11
 [Signature]
 John R. Kasich, Governor

~~employees shall have at least one salesperson who meets the continuing education requirements of this section.~~

~~(D)~~ The superintendent, in accordance with ~~chapter~~ Chapter 119. of the Revised Code, may suspend, revoke, or refuse to renew the license of any licensee who fails to comply with this section.

~~(E)~~ (C) The superintendent, in accordance with ~~chapter~~ Chapter 119. of the Revised Code, may adopt rules regarding continuing education fees, locations, times, frequency, and waivers of requirements.

Sec. 4727.20. (A) No person licensed as a pawnbroker under this chapter shall conduct business in this state, unless the licensee does either of the following:

(1) Maintains liquid assets in a minimum amount of ~~fifty-seventy-five~~ fifty thousand dollars;

(2) Obtains a surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least ~~twenty-five-fifty~~ fifty thousand dollars. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any person injured by a licensee's violation of this chapter. The aggregate liability of the surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

(B) The licensee shall give notice to the superintendent by certified mail, return receipt requested, of any action that is brought against the licensee and of any judgment that is entered against the licensee by a person injured by a violation of this chapter. The notice shall provide details sufficient to identify the action or judgment and shall be filed with the superintendent within ten days after the commencement of the action or notice to the licensee of entry of a judgment. The surety, within ten days after it pays any claim or judgment, shall give notice to the superintendent by certified mail, return receipt requested, of the payment, with details sufficient to identify the person and the claim or judgment paid.

(C) Whenever the penal sum of the surety bond is reduced by one or more recoveries or payments, the licensee shall furnish a new or additional bond under this section, so that the total or aggregate penal sum of the bond or bonds equals the sum required by this section, or shall furnish an endorsement executed by the surety reinstating the bond to the required penal sum of the bond.

(D) The liability of the surety on the bond to the superintendent and to any person injured by a violation of this chapter is not affected in any way by any misrepresentation, breach of warranty, or failure to pay the premium, by any act or omission upon the part of the licensee, by the insolvency or bankruptcy of the licensee, or by the insolvency of the licensee's estate. The liability for any act or omission that occurs during the term of the surety bond shall be maintained and in effect for at least two years after the date on which the surety bond is terminated or canceled.

(E) The licensee shall not cancel the surety bond except upon notice to the superintendent by certified mail, return receipt requested. The cancellation is not effective prior to thirty days after the superintendent receives the notice.

(F) No licensee shall fail to comply with this section.

Sec. 5709.20. As used in sections 5709.20 to 5709.27 of the Revised Code:

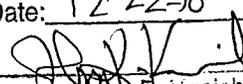
(A) "Air contaminant" means particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substances, or any combination thereof.

(B) "Air pollution control facility" means any property designed, constructed, or installed for

JRK

The above boxed and initialed text was disapproved.

Date: 12-22-16


John F. Kasich, Governor

the primary purpose of eliminating or reducing the emission of, or ground level concentration of, air contaminants generated at an industrial or commercial plant or site that renders air harmful or inimical to the public health or to property within this state, or such property installed on or after November 1, 1993, at a petroleum refinery for the primary purpose of eliminating or reducing substances within fuel that otherwise would create the emission of air contaminants upon the combustion of fuel.

(C) "Energy conversion" means the conversion of fuel or power usage and consumption from natural gas to an alternate fuel or power source other than propane, butane, naphtha, or fuel oil; or the conversion of fuel or power usage and consumption from fuel oil to an alternate fuel or power source other than natural gas, propane, butane, or naphtha.

(D) "Energy conversion facility" means any additional property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or commercial plant or site for the primary purpose of energy conversion.

(E) "Exempt facility" means any of the facilities defined in division (B), (D), (F), (I), (K), or (L) of this section for which an exempt facility certificate is issued pursuant to section 5709.21 or for which a certificate remains valid under section 5709.201 of the Revised Code.

(F) "Noise pollution control facility" means any property designed, constructed, or installed for use at an industrial or commercial plant or site for the primary purpose of eliminating or reducing, at that plant or site, the emission of sound which is harmful or inimical to persons or property, or materially reduces the quality of the environment, as shall be determined by the director of environmental protection within such standards for noise pollution control facilities and standards for environmental noise necessary to protect public health and welfare as may be promulgated by the United States environmental protection agency. In the absence of such United States environmental protection agency standards, the determination shall be made in accordance with generally accepted current standards of good engineering practice in environmental noise control.

JRK

(G) "Solid waste" means such unwanted residual solid or semi-solid material as results from industrial operations, including those of public utility companies, and commercial, distribution, research, agricultural, and community operations, including garbage, combustible or noncombustible, street dirt, and debris.

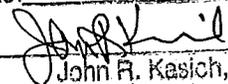
(H) "Solid waste energy conversion" means the conversion of solid waste into energy and the utilization of such energy for some useful purpose.

(I) "Solid waste energy conversion facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of solid waste energy conversion.

(J) "Thermal efficiency improvement" means the recovery and use of waste heat or waste steam produced incidental to electric power generation, industrial process heat generation, lighting, refrigeration, or space heating.

(K) "Thermal efficiency improvement facility" means any property or equipment designed, constructed, or installed after December 31, 1974, for use at an industrial or a commercial plant or site for the primary purpose of thermal efficiency improvement.

(L) "Industrial water pollution control facility" means any property designed, constructed, or installed for the primary purpose of collecting or conducting industrial waste and air pollution control

the above proposed disposition text was disapproved.
Date: 12-22-16

John F. Kasich, Governor

treatment; reducing, controlling, or eliminating water pollution caused by industrial waste; or reducing, controlling, or eliminating the discharge into a disposal system of industrial waste or what would be industrial waste if discharged into the waters of this state. This division applies only to property related to an industrial water pollution control facility placed into operation or initially capable of operation after December 31, 1965, and installed pursuant to the approval of the environmental protection agency, department of natural resources, or any other governmental agency having authority to approve the installation of industrial water pollution control facilities. The definitions in section 6111.01 of the Revised Code, as applicable, apply to the terms used in this division.

(M) Property designed, constructed, installed, used, or placed in operation primarily for the safety, health, protection, or benefit, or any combination thereof, of personnel of a business, or primarily for a business's own benefit, is not an "exempt facility."

JRK

Sec. 5709.45. (A) As used in sections 5709.45 to 5709.47 of the Revised Code:

(1) "Downtown redevelopment district" or "district" means an area not more than ten acres enclosed by a continuous boundary in which at least one historic building is being, or will be, rehabilitated.

(2) "Historic building" and "rehabilitation" have the same meanings as in section 149.311 of the Revised Code.

(3) "Public infrastructure improvement" has the same meaning as in section 5709.40 of the Revised Code.

(4) "Improvement" means the increase in the assessed value of real property that would first appear on the tax list after the effective date of an ordinance adopted under this section were it not for the exemption granted by the ordinance.

(5) "Innovation district" means an area located entirely within a downtown redevelopment district, enclosed by a continuous boundary, and equipped with a high-speed broadband network capable of download speeds of at least one hundred gigabits per second.

(6) "Qualified business" means a business primarily engaged, or primarily organized to engage, in a trade or business that involves research and development, technology transfer, biotechnology, information technology, or the application of new technology developed through research and development or acquired through technology transfer.

(7) "Information technology" means the branch of technology devoted to the study and application of data and the processing thereof; the automatic acquisition, storage, manipulation or transformation, management, movement, control, display, switching, interchange, transmission or reception of data, and the development or use of hardware, software, firmware, and procedures associated with this processing. "Information technology" includes matters concerned with the furtherance of computer science and technology, design, development, installation, and implementation of information systems and applications that in turn will be licensed or sold to a specific target market. "Information technology" does not include the creation of a distribution method for existing products and services.

(8) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge that may

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elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

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

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering services in the exploration for, and production of, crude oil and natural gas for others are deemed engaged directly in the exploration for, and production of, crude oil and natural gas.

As used in this paragraph, "directly in producing tangible personal property for sale by production of crude oil and natural gas" includes production operation as defined by section 1509.01 of the Revised Code except that the term does not include tanks and other storage devices for holding solutions used in hydraulic fracturing, equipment used for earth moving and reclamation at a well site, or property used to transport, deliver, or remove other equipment to or from a well site or to store such equipment before using it at a well

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site. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property. *JK*

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

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

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

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

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

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

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

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

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

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

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

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

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

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(54) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any bullion described in section 408(m)(3)(B) of the Internal Revenue Code, regardless of whether that bullion is in the physical possession of a trustee. "Investment coin" means any coin composed primarily of gold, silver, platinum, or palladium.

(55) Sales of a specified digital product electronically transferred for use in or for delivery through use of a machine that accepts direct cash payments or direct payments by a financial transaction device to operate and that operates primarily for the purpose of providing entertainment or amusement, such as a juke box, music machine, arcade game, or other similar machine. As used in division (B)(55) of this section, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.

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

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

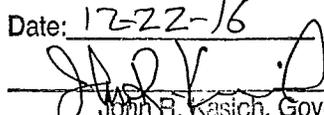
(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional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

Sec. 5739.03. (A) Except as provided in section 5739.05 or section 5739.051 of the Revised Code, the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the state of Ohio, the full and exact amount of the tax payable on each taxable sale, in the manner and at the times provided as follows:

(1) If the price is, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, paid in currency passed from hand to hand by the consumer or the consumer's agent to the vendor or the vendor's agent, the vendor or the vendor's agent shall collect the tax with and at the same time as the price;

(2) If the price is otherwise paid or to be paid, the vendor or the vendor's agent shall, at or prior to the provision of the service or the delivery of possession of the thing sold to the consumer, charge the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(B)(1)(a) If any sale is claimed to be exempt under division (E) of section 5739.01 of the

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that, upon application and for reasonable cause, the period for submitting such evidence shall be extended thirty days.

The commissioner shall consider such additional evidence in reaching the final determination on the assessment and petition for reassessment.

(F) Whenever a vendor refunds the price, minus any separately stated delivery charge, of an item of tangible personal property on which the tax imposed under this chapter has been paid, the vendor shall also refund the amount of tax paid, minus the amount of tax attributable to the delivery charge.

SECTION 2. That existing sections 122.121, 149.311, 339.02, 339.05, 749.07, 749.18, 951.02, 951.13, 1711.50, 1711.57, 4141.01, 4141.25, 4141.30, 4727.02, 4727.03, 4727.06, 4727.10, 4727.11, 4727.12, 4727.19, 4727.20, 5709.20, 5709.45, 5726.01, 5739.02, and 5739.03 of the Revised Code and Section 4 of Sub. H.B. 5 of the 130th General Assembly are hereby repealed. *JRK*

SECTION 3. (A) Except as otherwise provided, terms used in this section have the same meaning as in section 149.311 of the Revised Code. As used in this section:

(1) "Uncompleted project" means an historic building, the rehabilitation of which the Director of Development Services approved under division (D) of former section 149.311 of the Revised Code for the application period described in division (A)(9)(a) of that section as eligible for a tax credit under that section, but the owners of which were not awarded a rehabilitation tax credit certificate or received a tax credit for less than twenty-five per cent of the qualified rehabilitation expenditures approved under that section.

(2) "Former section 149.311 of the Revised Code" means section 149.311 of the Revised Code as that section existed on April 4, 2007.

(B) Notwithstanding section 149.311 of the Revised Code, within thirty days after the effective date of this section, the Director of Development Services shall approve, as eligible to receive a rehabilitation tax credit certificate, the catalytic project of each person that applied for but was not approved for a rehabilitation tax credit on the basis of a catalytic project under division (D)(6) of that section for the fiscal year 2016-2017 biennium upon the project and applicant meeting the conditions prescribed in divisions (D)(3) or (4) and (D)(5) of that section. The amount of credit awarded to such a person shall equal the lesser of twenty-five per cent of the qualified rehabilitation expenditures, twenty-five million dollars, or one-half of the maximum amount of credit that could have been claimed by the owners of uncompleted projects had the Director issued rehabilitation tax credit certificates to each such owner based on qualified rehabilitation expenditures the applicant estimated would be paid or incurred for the uncompleted project.

A credit awarded pursuant to this section is a credit awarded under division (D)(6) of section 149.311 of the Revised Code for the purposes of that section but is not subject to the limitation on the number of tax credit certificates issued under that division during a biennium. The credit may be claimed by a certificate owner in the amount and manner described in division (H) of section 149.311 and sections 5725.151, 5725.34, 5726.52, 5729.17, 5733.47, and 5747.76 of the Revised Code. The amount of a credit awarded under this section is a credit approved by the Director for purposes of the

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limit described in division (D)(2) of section 149.311 of the Revised Code for a fiscal year.

SECTION 4. The amendment by this act of section 5709.20 and division (B)(42) of section 5739.02 of the Revised Code is a remedial measure intended to clarify existing law. The General Assembly intends those amendments to be applied retrospectively to all cases pending on or transactions occurring after the effective date of section 1509.01 of the Revised Code as amended by Sub. S.B. 165 of the 128th General Assembly.

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SECTION 5. The legislative body, as that term is defined in section 5709.52 of the Revised Code, of a municipal corporation, township, or county shall not declare the development or redevelopment of a parcel to be a public purpose and exempt that parcel from taxation as provided in that section for any tax year before tax year 2017.

SECTION 6. The amendment by this act of section 5726.01 of the Revised Code is intended to be remedial in nature and to clarify the law as it existed prior to the enactment of this act and shall be construed accordingly. The amendment shall apply to tax years beginning on or after January 1, 2014.

SECTION 7. The enactment by this act of division (B)(55) of section 5739.02 of the Revised Code applies beginning on the first day of the first month that begins after the effective date of this section.

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SECTION 8. (A) As used in this section, "tax credit-eligible production," "motion picture company," and "eligible production expenditures" have the same meanings as in section 122.85 of the Revised Code.

(B) Notwithstanding section 122.85 of the Revised Code or the rules adopted by the Director of Development Services under division (G) of that section, a television program produced in this state during the first six months of calendar year 2017 shall be certified by the Director as a tax credit-eligible production for fiscal year 2018 even though the production is commenced before the start of that fiscal year. The tax credit certificate issued to the motion picture company responsible for such a production shall include all eligible production expenditures incurred during the first six months of calendar year 2017 even if the expenditures were incurred before the program was certified as tax credit-eligible and even though the expenditures were incurred before the start of fiscal year 2018.

(C) A credit awarded under this section shall not exceed \$12 million and shall not be claimed before July 1, 2017. A credit awarded under this section shall not be counted for the purposes of the annual cap prescribed by division (C)(4) of section 122.85 of the Revised Code for Fiscal Year 2017 but shall be counted for the purposes of the annual cap prescribed by that division for fiscal year 2018.

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SECTION 9. For fiscal years 2017 and 2018, the legislative authority of a municipal corporation in Stark County may conduct a pilot program whereby the legislative authority may use up to five per cent of the aggregate amount of money deposited in the municipal corporation's sewer fund and up to five per cent of the aggregate amount of money deposited in a fund created by the municipal corporation for waterworks for the purpose of extending the municipal corporation's water or sewerage system, as applicable, if both of the following apply:

(1) The water or sewerage system is being extended to areas for economic development purposes.

(2) The areas into which the water or sewerage system is being extended are the subject of a cooperative economic development agreement entered into by the municipal corporation under section 701.07 of the Revised Code.

With regard to either fund, the legislative authority shall not exceed the five per cent limit established in this section.

SECTION 10. The Municipal Income Tax Net Operating Loss Review Committee, as created in Section 4 of Sub. H.B. 5 of the 130th General Assembly and referenced in Section 3 of Sub. H.B. 182 of the 131st General Assembly, is hereby discharged of all duties and requirements delineated under those sections.

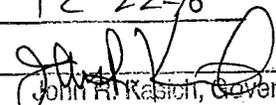
SECTION 11. The amendment by this act of section 5739.03 of the Revised Code applies on and after January 1, 2017.

SECTION 12. The items of law contained in this act, and their applications, are severable. If any item of law contained in this act, or if any application of any item of law contained in this act, is held invalid, the invalidity does not affect other items of law contained in this act and their applications that can be given effect without the invalid item of law or application.

SECTION 13. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the following sections in effect prior to the effective date of the section as presented in this act:

Section 5739.02 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 64, Sub. H.B. 390, and Sub. S.B. 172, all of the 131st General Assembly.

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JOHN A. KASICH, Governor