

# AN ACT

To amend sections 9.66, 718.011, 718.09, 718.10, 718.14, 3318.035, 3709.28, 4141.21, 4933.33, 5703.052, 5717.02, 5727.11, 5727.111, 5727.33, 5727.80 to 5727.95, 5733.053, 5733.06, 5733.40, 5733.42, 5745.01, 5745.02, 5745.03, 5745.04, 5745.05, 5745.07, 5745.08, 5745.09, 5745.11, 5745.13, 5747.15, 5747.24, and 5747.98 and to enact sections 5725.31, 5727.811, 5729.07, 5747.221, and 5747.39 of the Revised Code, and to amend Sections 3, 4, and 16 of Am. Sub. S.B. 3 of the 123rd General Assembly, Section 174 of H.B. 283 of the 123rd General Assembly, and Sections 3, 4, and 5 of H.B. 483 of the 123rd General Assembly to levy an excise tax on the distribution of natural gas and to modify laws governing taxation, including the law governing the kilowatt-hour tax, corporation franchise tax, personal income tax, the taxation of individuals, corporations, and electric companies by municipal corporations, the computation of taxable value under the school facilities assistance program, and to declare an emergency.

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

SECTION 1. That sections 9.66, 718.011, 718.09, 718.10, 718.14, 3318.053, 3709.28, 4141.21, 4933.33, 5703.052, 5717.02, 5727.11, 5727.111, 5727.33, 5727.80, 5727.81, 5727.82, 5727.83, 5727.84, 5727.85, 5727.86, 5727.87, 5727.88, 5727.89, 5727.90, 5727.91, 5727.92, 5727.93, 5727.94, 5727.95, 5733.053, 5733.06, 5733.40, 5733.42, 5745.01, 5745.02, 5745.03, 5745.04, 5745.05, 5745.07, 5745.08, 5745.09, 5745.11, 5745.13, 5747.15, 5747.24, and 5747.98 be amended and sections 5725.31, 5727.811, 5729.07, 5747.221, and 5745.39 of the Revised Code be enacted to read as

follows:

Sec. 9.66. (A) As used in this section:

(1) "Economic development assistance" means all of the following:

(a) The programs and assistance provided or administered by the department of development under Chapters 122. and 166. of the Revised Code and any other section of the Revised Code under which the department provides or administers economic development assistance;

(b) The programs and assistance provided or administered by a political subdivision under Chapters 725. and 1728. and sections 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, and 5709.77 to 5709.81 of the Revised Code and any other section of the Revised Code under which a political subdivision provides economic development assistance;

(c) Assistance provided under any other section of the Revised Code under which the state or a state agency provides or administers economic development assistance;

(d) The tax credit authorized by section 5725.31, 5729.07, 5733.42, or 5747.39 of the Revised Code.

(2) "Liability" means any of the following:

(a) Any delinquent tax owed the state or a political subdivision of the state;

(b) Any moneys owed the state or a state agency for the administration or enforcement of the environmental laws of the state;

(c) Any other moneys owed the state, a state agency, or a political subdivision of the state that are past due.

"Liability" includes any item described in division (A)(2) of this section that is being contested in a court of law.

(3) "Political subdivision" means any county, municipal corporation, or township of the state.

(4) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government.

(B) A person who applies to the state, a state agency, or a political subdivision for economic development assistance shall indicate on the application for assistance whether the person has any outstanding liabilities owed to the state, a state agency, or a political subdivision. Such a person also shall authorize the state, state agency, or political subdivision to inspect the personal or corporate financial statements of the applicant, including tax records and other similar information not open to public inspection.

(C)(1) Whoever knowingly makes a false statement under division (B)

of this section concerning an application for economic development assistance or who fails to provide any information required by that division is ineligible for the assistance applied for and is ineligible for any future economic development assistance from the state, a state agency, or a political subdivision.

(2) Whoever knowingly makes a false statement under division (B) of this section concerning an application for economic development assistance or who fails to provide any information required by that division shall return any moneys received from the state, a state agency, or a political subdivision in connection with that application.

Sec. 718.011. On and after January 1, 2001, a municipal corporation shall not tax the compensation ~~of an~~ paid to a nonresident individual if all for personal services performed by the individual in the municipal corporation on twelve or fewer days in a calendar year unless one of the following apply ~~applies~~:

~~(A) The individual does not reside in that municipal corporation.~~

~~(B) The compensation is paid for personal services performed by the individual in that municipal corporation on twelve or fewer days in the calendar year.~~

~~(C) In the case of an individual who is an employee, of another person; the principal place of business of the individual's employer is located outside that in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual pays is not liable to that other municipal corporation for tax on the compensation described in division (B) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual paid for such services.~~

~~(D)~~(B) The individual is ~~not~~ a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the municipal corporation.

Sec. 718.09. (A) This section applies to either of the following:

(1) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporation is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporation;

(2) A municipal corporation that shares the same territory as a city, local, or exempted village school district, to the extent that not more than

five per cent of the territory of the municipal corporation is located outside the school district, more than five per cent but not more than ten per cent of the territory of the school district is located outside the municipal corporation, and that portion of the territory of the school district that is located outside the municipal corporation is located entirely within another municipal corporation having a population of four hundred thousand or more according to the federal decennial census most recently completed before the agreement is entered into under division (B) of this section.

(B) ~~The~~ Before January 1, 2001, the legislative authority of a municipal corporation to which this section applies may propose to the electors an income tax, one of the purposes of which shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax. Prior to proposing the tax, the legislative authority shall negotiate and enter into a written agreement with the board of education of the school district specifying the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the school district will use the money, the first year the tax will be levied, the date of the special election on the question of the tax, and the method and schedule by which the municipal corporation will make payments to the school district. The special election shall be held before January 1, 2001, on a day specified in division (D) of section 3501.01 of the Revised Code, except that the special election may not be held on the day for holding a primary election as authorized by the municipal corporation's charter unless the municipal corporation is to have a primary election on that day.

After the legislative authority and board of education have entered into the agreement, the legislative authority shall provide for levying the tax by ordinance. The ordinance shall state the tax rate, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, the first year the tax will be levied, and that the question of the income tax will be submitted to the electors of the municipal corporation. The legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least seventy-five days before the date of the election, the legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) The board of elections shall make the necessary arrangements for the submission of the question to the electors of the municipal corporation, and shall conduct the election in the same manner as any other municipal

income tax election. Notice of the election shall be published in a newspaper of general circulation in the municipal corporation once a week for four consecutive weeks prior to the election, and shall include statements of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied. The ballot shall be in the following form:

"Shall the ordinance providing for a ..... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of tax revenue that will be paid to the school district) be passed?

For the income tax

Against the income tax

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(D) If the question is approved by a majority of the electors, the municipal corporation shall impose the income tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 718.10. (A) This section applies to a group of two or more municipal corporations that, taken together, share the same territory as a single city, local, or exempted village school district, to the extent that not more than five per cent of the territory of the municipal corporations as a group is located outside the school district and not more than five per cent of the territory of the school district is located outside the municipal corporations as a group.

(B) ~~The~~ Before January 1, 2001, the legislative authorities of the municipal corporations in a group of municipal corporations to which this section applies each may propose to the electors an income tax, to be levied in concert with income taxes in the other municipal corporations of the group. One of the purposes of such a tax shall be to provide financial assistance to the school district through payment to the district of not less than twenty-five per cent of the revenue generated by the tax. Prior to proposing the taxes, the legislative authorities shall negotiate and enter into a written agreement with each other and with the board of education of the school district specifying the tax rate, the percentage of the tax revenue to be paid to the school district, the first year the tax will be levied, and the date of the election on the question of the tax, all of which shall be the same for each municipal corporation. The agreement also shall state the purpose for which the school district will use the money, and specify the method and schedule by which each municipal corporation will make payments to the

school district. The special election shall be held before January 1, 2001, on a day specified in division (D) of section 3501.01 of the Revised Code, including a day on which all of the municipal corporations are to have a primary election.

After the legislative authorities and board of education have entered into the agreement, each legislative authority shall provide for levying its tax by ordinance. Each ordinance shall state the rate of the tax, the percentage of tax revenue to be paid to the school district, the purpose for which the municipal corporation will use its share of the tax revenue, and the first year the tax will be levied. Each ordinance also shall state that the question of the income tax will be submitted to the electors of the municipal corporation on the same date as the submission of questions of an identical tax to the electors of each of the other municipal corporations in the group, and that unless the electors of all of the municipal corporations in the group approve the tax in their respective municipal corporations, none of the municipal corporations in the group shall levy the tax. Each legislative authority also shall adopt a resolution specifying the regular or special election date the election will be held and directing the board of elections to conduct the election. At least seventy-five days before the date of the election, each legislative authority shall file certified copies of the ordinance and resolution with the board of elections.

(C) For each of the municipal corporations, the board of elections shall make the necessary arrangements for the submission of the question to the electors, and shall conduct the election in the same manner as any other municipal income tax election. For each of the municipal corporations, notice of the election shall be published in a newspaper of general circulation in the municipal corporation once a week for four consecutive weeks prior to the election. The notice shall include a statement of the rate and municipal corporation and school district purposes of the income tax, the percentage of tax revenue that will be paid to the school district, and the first year the tax will be levied, and an explanation that the tax will not be levied unless an identical tax is approved by the electors of each of the other municipal corporations in the group. The ballot shall be in the following form:

"Shall the ordinance providing for a ... per cent levy on income for (brief description of the municipal corporation and school district purposes of the levy, including a statement of the percentage of income tax revenue that will be paid to the school district) be passed? In order for the income tax to be levied, the voters of (the other municipal corporations in the group), which are also in the (name of the school district) school district, must

approve an identical income tax and agree to pay the same percentage of the tax revenue to the school district.

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For the income tax

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Against the income tax

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(D) If the question is approved by a majority of the electors and identical taxes are approved by a majority of the electors in each of the other municipal corporations in the group, the municipal corporation shall impose the tax beginning in the year specified in the ordinance. The proceeds of the levy may be used only for the specified purposes, including payment of the specified percentage to the school district.

Sec. 718.14. (A) As used in this section:

(1) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(2) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

(3) "Pass-through entity" means a partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(4) "Income from a pass-through entity" means partnership income of partners, distributive shares of shareholders of an s corporation, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

(5) "Owner" means a partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

(6) "Owner's proportionate share," with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(B) On and after January 1, 2003, any municipal corporation ~~that imposes~~ imposing a tax that applies to income from a pass-through entity shall grant a credit to ~~taxpayers that are~~ each owner who is domiciled in the municipal corporation for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the municipal

corporation. The amount of the credit shall equal the lesser of the following amounts, subject to division (C) of this section:

(1) The owner's proportionate share of the amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state; ~~apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity;~~

(2) The owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the municipal corporation in which the taxpayer is domiciled if the pass-through entity conducted business in the municipal corporation; ~~apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.~~

(C) If a municipal corporation grants a credit for a percentage, less than one hundred per cent, of the amount of income taxes paid on compensation by an individual who resides or is domiciled in the municipal corporation to another municipal corporation, the amount of credit otherwise required by division (B) of this section shall be multiplied by that percentage.

(D) On and after January 1, 2003, any municipal corporation that imposes a tax on income of or from a pass-through entity shall specify by ordinance or rule whether the tax applies to income of the pass-through entity in the hands of the entity or to income from the pass-through entity in the hands of the owners of the entity. A municipal corporation may specify a different ordinance or rule under this division for each of the classes of pass-through entity enumerated in division (A)(3) of this section.

Sec. 3318.035. (A) This section applies only if there is a change in the assessment rates on gas pipelines imposed under state law.

(B) If at any time division (A) of this section applies and if the change in assessment rates described in that division affects a school district's valuation as determined under division (P) of section 3318.01 of the Revised Code by greater than ten per cent and if the Ohio school facilities commission had determined the state and school district portion of the basic project cost of such a district's project under section 3318.36 or 3318.37 of the Revised Code prior to that change in valuation, the commission shall adjust the state and school district portions of the basic project cost of the school district's project using the valuation altered by the change in assessment rates described in division (A) of this section.

Sec. 3709.28. The board of health of a general health district shall, annually, on or before the first Monday of April, adopt an itemized appropriation measure. Such appropriation measure shall set forth the amounts for the current expenses of such district for the fiscal year

beginning on the first day of January next ensuing. The appropriation measure, together with an estimate in itemized form, of the several sources of revenue available to the district, including the amount due from the state for the next fiscal year as provided in section 3709.32 of the Revised Code and the amount which the board anticipates will be collected in fees during the next ensuing fiscal year, shall be certified to the county auditor and by ~~him~~ the county auditor submitted to the county budget commission which may reduce any item in such appropriation measure but may not increase any item or the aggregate of all items.

The aggregate appropriation, as fixed by the commission, less the amounts available to the general health district from the several sources of revenue, including the estimated balance from the previous appropriation, shall be apportioned, by the auditor among the townships and municipal corporations composing the health district on the basis of taxable valuations in such townships and municipal corporations. The auditor, when making ~~his~~ the auditor's semiannual apportionment of funds, shall retain at each semiannual apportionment one-half of the amount apportioned to each township and municipal corporation. Such moneys and all other sources of revenue shall be placed in a separate fund, to be known as the "district health fund." When a general health district is composed of townships and municipal corporations in two or more counties, the auditor making the original apportionment shall certify to the auditor of each county concerned the amount apportioned to each township and municipal corporation in such county. Each auditor shall withhold from the semiannual apportionment to each such township or municipal corporation the amount certified, and shall pay the amounts withheld to the custodian of the funds of the health district concerned, to be credited to the district health fund. In making the apportionment under this paragraph for each year from 2002 through 2016, the county auditor shall add to the taxable valuation of each township and municipal corporation the tax value loss determined for each township and municipal corporation under divisions (D) and (E) of section 5727.84 of the Revised Code multiplied by the percentage used for that year in determining replacement payments under division (A)(1) of section 5727.86 of the Revised Code. The tax commissioner shall certify to the county auditor the tax value loss for each township and municipal corporation for which the auditor must make an apportionment.

Subject to the aggregate amount as has been apportioned among the townships and municipalities and as may become available from the several sources of revenue, the board of health may, by resolution, transfer funds from one item in their appropriation to another item, reduce or increase any

item, create new items, and make additional appropriations or reduce the total appropriation. Any such action shall forthwith be certified by the secretary of the board of health to the auditor for submission to and approval by the budget commission.

When any general health district has been united with or has contracted with a city health district located therein, the chief executive of the city shall, annually, on or before the first day of June, certify to the county auditor the total amount due for the ensuing fiscal year from the municipal corporations and townships in the district as provided in the contract between such city and the district advisory council of the original general health district. After approval by the county budget commission, the county auditor shall thereupon apportion the amount certified to the townships and municipal corporations, and shall withhold the sums apportioned as provided in this section.

Sec. 4141.21. Except as provided in section 4141.162 of the Revised Code, and subject to section 4141.43 of the Revised Code, the information maintained by the director of job and family services or furnished to the director by employers or employees pursuant to this chapter is for the exclusive use and information of the department of job and family services in the discharge of its duties and shall not be open to the public or be used in any court in any action or proceeding pending therein, or be admissible in evidence in any action, other than one arising under this chapter or section 5733.42 of the Revised Code. All of the information and records necessary or useful in the determination of any particular claim for benefits or necessary in verifying any charge to an employer's account under sections 4141.23 to 4141.26 of the Revised Code shall be available for examination and use by the employer and the employee involved or their authorized representatives in the hearing of such cases, and that information may be tabulated and published in statistical form for the use and information of the state departments and the public.

Sec. 4933.33. (A) Annually, each electric distribution company, as defined in section 5727.80 of the Revised Code, shall ~~cause to appear state~~ on each customer bill, or shall distribute to each of its customers, the following statement:

"Under state law, the amount you are being billed includes:

- (1) Kilowatt-hour taxes that have been in effect since 2001 and are currently at \$..... (The current dollar figure of the kilowatt-hour taxes levied by section 5727.81 of the Revised Code shall be placed in the blank); and
- (2) Assessments to assist in the support of the operations of the PUCO

and the office of the consumers' counsel that have been in effect since 1912 and 1977, respectively."

(B) Annually, each natural gas distribution company, as defined in section 5727.80 of the Revised Code, shall state on each customer bill, or shall distribute to each of its customers, the following statement:

"Under state law, the amount you are being billed includes:

(1) Natural gas distribution taxes that have been in effect since 2001 and are currently at \$ ..... (The current dollar figure of the natural gas distribution excise taxes levied by section 5727.811 of the Revised Code shall be placed in the blank); and

(2) Assessments to assist in the support of the operations of the PUCO and the office of the consumers' counsel that have been in effect since 1912 and 1977, respectively."

(C) The notice required under division (A) or (B) of this section does not apply to an electric distribution company or a natural gas distribution company that is not subject to assessments to support the operations of the PUCO or the office of the consumers' counsel.

(D) Nothing in this section shall be construed to mean that an electric distribution company or a natural gas distribution company subject to this section may not cause such appearance or distribute such statement on a more frequent basis.

Sec. 5703.052. There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 5749., or 5753., and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, ~~and 5727.38, and 5727.81,~~ and 5727.811 of the Revised Code. Refunds for fees illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

Upon certification by the tax commissioner to the treasurer of state of a tax refund, fee refund, or tax credit due, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state may place the amount certified to the credit of the fund. The certified amount transferred shall be derived from current receipts of the same tax or the fee for which the refund arose or, in the case of a tax credit refund, from the current receipts of the taxes levied by sections 5739.02 and 5741.02 of

the Revised Code.

If the tax refund arises from a tax payable to the general revenue fund, and current receipts from that source are inadequate to make the transfer of the amount so certified, the treasurer of state may transfer such certified amount from current receipts of the sales tax levied by section 5739.02 of the Revised Code.

Sec. 5717.02. Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by such decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by such decision would primarily accrue. Appeals from the redetermination by the director of development under division (B) of section 5709.64 or division (A) of section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner concerning an application for a property tax exemption may be taken to the board of tax appeals by a school district that filed a statement concerning such application under division (C) of section 5715.27 of the Revised Code. Appeals from a redetermination by the director of job and family services under section 5733.42 of the Revised Code may be taken by the person to which the notice of the redetermination is required by law to be given under that section.

Such appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner if the tax commissioner's action is the subject of the appeal ~~or~~, with the director of development if ~~the~~ that director's action is the subject of the appeal, or with the director of job and family services if that director's action is the subject of the appeal. The notice of appeal shall be filed within sixty days after service of the notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner or redetermination by the director has been given as provided in section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. The notice of such appeal ~~is filed by~~ may be filed in person or by certified mail, express mail, or authorized delivery service. If the notice of such appeal is filed by certified mail, express mail,

r authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service of the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the notice sent by the commissioner or director to the taxpayer ~~or~~, enterprise, or other person of the final determination or redetermination complained of, and shall also specify the errors therein complained of, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

Upon the filing of a notice of appeal, the tax commissioner or the director, as appropriate, shall certify to the board a transcript of the record of the proceedings before the commissioner or director, together with all evidence considered by the commissioner or director in connection therewith. Such appeals or applications may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the commissioner or director, but upon the application of any interested party the board shall order the hearing of additional evidence, and it may make such investigation concerning the appeal as it considers proper.

Sec. 5725.31. (A) As used in this section:

(1) "Eligible employee" and "eligible training costs" have the same meanings as in section 5733.42 of the Revised Code.

(2) "Tax assessed under this chapter" means, in the case of a dealer in intangibles, the tax assessed under sections 5725.13 to 5725.17 of the Revised Code and, in the case of a domestic insurance company, the taxes assessed under sections 5725.18 to 5725.26 of the Revised Code.

(3) "Taxpayer" means a dealer in intangibles or a domestic insurance company subject to a tax assessed under this chapter.

(4) "Credit period" means, in the case of a dealer in intangibles, the calendar year ending on the thirty-first day of December next preceding the day the report is required to be returned under section 5725.14 of the Revised Code and, in the case of a domestic insurance company, the calendar year ending on the thirty-first day of December next preceding the day the annual statement is required to be returned under section 5725.18 or 5725.181 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against the tax imposed under this chapter for a taxpayer for which a tax credit certificate is

issued under section 5733.42 of the Revised Code. The credit may be claimed for credit periods beginning on or after January 1, 2001, and ending on or before December 31, 2003. The amount of the credit shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during the three calendar years immediately preceding the credit period for which the credit is claimed, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer. The credit claimed by a taxpayer each credit period shall not exceed one hundred thousand dollars.

A taxpayer shall apply to the director of job and family services for a tax credit certificate in the manner prescribed by division (C) of section 5733.42 of the Revised Code. Divisions (C) to (H) of that section govern the tax credit allowed by this section, except that "credit period" shall be substituted for "tax year with respect to a calendar year" wherever that phrase appears in those divisions and that a taxpayer under this section shall be considered a taxpayer for the purposes of that section.

A taxpayer may carry forward the credit allowed under this section to the extent that the credit exceeds the taxpayer's tax due for the credit period. The taxpayer may carry the excess credit forward for three credit periods following the credit period for which the credit is first claimed under this section. The credit allowed by this section is in addition to any credit allowed under section 5729.031 of the Revised Code.

Sec. 5727.11. (A) Except as otherwise provided in this section, the true value of all taxable property required by division (A)(2) or (3) of section 5727.06 of the Revised Code to be assessed by the tax commissioner shall be determined by a method of valuation using cost as capitalized on the public utility's books and records less composite annual allowances as prescribed by the commissioner. If the commissioner finds that application of this method will not result in the determination of true value of the public utility's taxable property, the commissioner may use another method of valuation.

(B) ~~The~~ (1) Except as provided in division (B)(2) of this section, the true value of current gas stored underground is the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(2) For tax year 2001 and thereafter, the true value of current gas stored underground is the quotient obtained by dividing (a) the average value of the current gas stored underground, which shall be determined by adding the value of the gas on hand at the end of each calendar month in the calendar year preceding the tax year, or, if applicable, the last day of business of each

month for a partial month, divided by (b) the total number of months the natural gas company was in business during the calendar year prior to the beginning of the tax year. with the approval of the tax commissioner, a natural gas company may use a date other than the end of a calendar month to value its current gas stored underground.

(C) The true value of noncurrent gas stored underground is thirty-five per cent of the cost of that gas shown on the books and records of the public utility on the thirty-first day of December of the preceding year.

(D)(1) Except as provided in division (D)(2) of this section, the true value of the production equipment of an electric company and the true value of all taxable property of a rural electric company is the equipment's or property's cost as capitalized on the company's books and records less fifty per cent of that cost as an allowance for depreciation and obsolescence.

(2) The true value of the production equipment of an electric company or rural electric company purchased, transferred, or placed into service after the effective date of this amendment is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property described in division (A)(2) or (3) of section 5727.06 of the Revised Code shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a public utility includes amounts capitalized that represent regulatory assets, if such amounts previously were included on the company's books and records as

capitalized costs of taxable personal property.

(I) Any change in the composite annual allowances as prescribed by the commissioner on a prospective basis shall not be admissible in any judicial or administrative action or proceeding as evidence of value with regard to prior years' taxes. Information about the business, property, or transactions of any taxpayer obtained by the commissioner for the purpose of adopting or modifying the composite annual allowances shall not be subject to discovery or disclosure.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A)(1) Except as provided in division (A)(2) of this section, fifty per cent in the case of a rural electric company;

(2) For tax year 2001 and thereafter, fifty per cent in the case of the taxable transmission and distribution property of a rural electric company, and twenty-five per cent for all its other taxable property;

(B) In the case of a telephone or telegraph company, twenty-five per cent for taxable property first subject to taxation in this state for tax year 1995 or thereafter, and eighty-eight per cent for all other taxable property;

(C) ~~Eighty-eight~~ (1) Except as provided in division (C)(2) of this section, eighty-eight per cent in the case of a natural gas ~~or pipe-line~~ company;

(2) For tax year 2001 and thereafter, twenty-five per cent in the case of a natural gas company.

(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;

(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty-eight per cent for all its other taxable property;

(2) For tax year 2001 and thereafter, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;

(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty-eight per cent for all such other taxable property until January 1, 2002.

(F) Twenty-five per cent in the case of an interexchange telecommunications company;

(G) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.33. (A) For the purpose of computing the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code, the entire gross receipts actually received from all sources for business done within this state are taxable gross receipts, excluding the receipts described in divisions (B), (C), (D), and (E) of this section. The gross receipts for the tax year of each telegraph and telephone company shall be computed for the period of the first day of July prior to the tax year to the thirtieth day of June of the tax year. The gross receipts of each natural gas company, including a combined company's taxable gross receipts attributed to a natural gas company activity, shall be computed in the manner required by section 5727.25 of the Revised Code. The gross receipts for the tax year of any other public utility subject to section 5727.30 of the Revised Code shall be computed for the period of the first day of May prior to the tax year to the thirtieth day of April of the tax year.

(B) In ascertaining and determining the gross receipts of each public utility subject to this section, the following gross receipts are excluded:

- (1) All receipts derived wholly from interstate business;
- (2) All receipts derived wholly from business done for or with the federal government;
- (3) All receipts derived wholly from the transmission or delivery of electricity to or for a rural electric company, provided that the electricity that has been so transmitted or delivered is for resale by the rural electric company. This division does not apply to tax years 2002 and thereafter.
- (4) All receipts from the sale of merchandise;
- (5) All receipts from sales to other public utilities, except railroad, telegraph, and telephone companies, for resale, provided the other public utility is subject to the tax levied by section 5727.24 or 5727.30 of the Revised Code.

(C) In ascertaining and determining the gross receipts of a telephone company, the following gross receipts are excluded:

- (1) Receipts of amounts billed on behalf of other entities;
- (2) Receipts from sales to other telephone companies for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code;
- (3) Receipts from incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service;
- (4) Receipts from private communications service as described in division (AA)(2) of section 5739.01 of the Revised Code;
- (5) Receipts from sales to providers of telecommunications service for resale, as defined in division (A)(7) of section 5727.32 of the Revised Code.

(D) In ascertaining and determining the gross receipts of an electric company, receipts derived from the provision of electricity and other services to a qualified former owner of the production facilities that generated the electricity from which those receipts were derived are excluded. This division does not apply to tax years 2002 and thereafter. As used in this division, a "qualified former owner" means a person who meets both of the following conditions:

(1) On or before October 11, 1991, the person had sold to an electric company part of the production facility at which the electricity is generated, and, for at least twenty years prior to that sale, the facility was used to generate electricity, but it was not owned in whole or part during that period by an electric company.

(2) At the time the electric company provided the electricity or other services for which the exclusion is claimed, the person, or a successor or assign of the person, owned not less than a twenty per cent ownership of the production facility and the rights to not less than twenty per cent of the production of that facility.

(E) In ascertaining and determining the gross receipts of a natural gas company, receipts ~~of amounts~~ billed on behalf of other entities are excluded. ~~Transportation~~ The tax imposed by section 5729.811 of the Revised Code, along with transportation and billing and collection fees charged to other entities, shall be included in the gross receipts of a natural gas company.

(F) In ascertaining and determining the gross receipts of a combined company subject to the tax imposed by section 5727.30 of the Revised Code, all receipts derived from operating as a natural gas company that are subject to the tax imposed by section 5727.24 of the Revised Code are excluded.

(G) Except as provided in division (H) of this section, the amount ascertained by the commissioner under this section, less a deduction of twenty-five thousand dollars, shall be the taxable gross receipts of such companies for business done within this state for that year.

(H) The amount ascertained under this section, less the following deduction, shall be the taxable gross receipts of a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code for business done within this state:

(1) For a natural gas company that files quarterly returns of the tax imposed by section 5727.24 of the Revised Code, six thousand two hundred fifty dollars for each quarterly return;

(2) For a natural gas company that files an annual return of the tax imposed by section 5727.24 of the Revised Code, twenty-five thousand

dollars for each annual return;

(3) For a combined company, twenty-five thousand dollars on the annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

Sec. 5727.80. As used in sections 5727.80 to 5727.95 of the Revised Code:

(A) "Electric distribution company" means either of the following:

(1) A person who distributes electricity through a meter of an end user in this state or to an unmetered location in this state;

(2) The end user of electricity in this state, if the end user obtains electricity that is not distributed or transmitted to the end user by an electric distribution company that is required to remit the tax imposed by section 5727.81 of the Revised Code. "Electric distribution company" does not include the end user of electricity in this state who self-generates electricity that is used directly by that end user on the same site that the electricity is generated.

(B) "Kilowatt hour" means one thousand watt hours of electricity.

(C) ~~"Meter. For an electric distribution company, "meter~~ of an end user in this state" means the last meter used to measure the kilowatt hours distributed by an electric distribution company to a location in this state, or the last meter located outside of this state that is used to measure the kilowatt hours consumed at a location in this state, ~~or, if no meter is used, the estimated kilowatt hours distributed to an unmetered location in this state.~~

(D) "Person" has the same meaning as in section 5701.01 of the Revised Code, but also includes a political subdivision of the state.

(E) "Municipal electric utility" means a municipal corporation that owns or operates a system for the distribution of electricity.

(F) "Qualified end user" means an end user of electricity that uses more than three million kilowatt hours of electricity at one manufacturing location in this state for a calendar day for use in a qualifying manufacturing process ~~that features.~~

(G) "qualified regeneration" means a process to convert electricity to a form of stored energy by means such as using electricity to compress air for storage or to pump water to an elevated storage reservoir, if such stored energy is subsequently used to generate electricity for sale to others primarily during periods when there is peak demand for electricity.

(H) "qualified regeneration meter" means the last meter used to measure electricity used in a qualified regeneration process.

(I) "qualifying manufacturing process" means the performance of an electrochemical reaction in which electrons from direct current electricity remain a part of the product being manufactured.

~~(G)~~(J) "Self-assessing purchaser" means a purchaser that meets all the requirements of, and pays the excise tax in accordance with, division (C) of section 5727.81 of the Revised Code.

~~(H) "Six month revenue differential for self assessing purchasers" means thirty one million six hundred fifty thousand dollars less the amount paid under division (C)(1)(a) of section 5727.81 of the Revised Code by all self-assessing purchasers for the six month period ending in the month prior to the date of the calculations required under divisions (C)(1)(b) and (c) of section 5727.81 of the Revised Code.~~

~~(I) "Twelve month revenue differential for self assessing purchasers" means sixty three million three hundred thousand dollars less the amount paid under division (C)(1)(a) of section 5727.81 of the Revised Code by all self-assessing purchasers for the twelve month period ending in the month prior to the date of the calculation required under division (C)(1)(d) of section 5727.81 of the Revised Code.~~

(K) "Natural gas distribution company" means a natural gas company or a combined company, as defined in section 5727.01 of the Revised Code, that is subject to the excise tax imposed by section 5727.24 of the Revised Code and that distributes natural gas through a meter of an end user in this state or to an unmetered location in this state.

(L) "MCF" means one thousand cubic feet.

(M) For a natural gas distribution company, "meter of an end user in this state" means the last meter used to measure the MCF of natural gas distributed by a natural gas distribution company to a location in this state, or the last meter located outside of this state that is used to measure the natural gas consumed at a location in this state.

(N) "Flex customer" means an industrial or a commercial facility that has consumed more than one billion cubic feet of natural gas a year at a single location during any of the previous five years, or an industrial or a commercial end user of natural gas that purchases natural gas distribution services from a natural gas distribution company at discounted rates or charges established in any of the following:

(1) A special arrangement subject to review and regulation by the public utilities commission under section 4905.31 of the Revised Code;

(2) A special arrangement with a natural gas distribution company pursuant to a municipal ordinance;

mounts, provided that the schedule is on file with the public utilities commission.

An end user that meets this definition on January 1, 2000, or thereafter is a "flex customer" for purposes of determining the rate of taxation under division (D) of section 5727.811 of the Revised Code.

Sec. 5727.81. (A) For the purpose of raising revenue for public education and state and local government operations, an excise tax is hereby levied and imposed on an electric distribution company for all electricity distributed by such company beginning with the measurement period that has includes May 1, 2001, ~~as part of its measurement period~~, at the following rates per kilowatt hour of electricity distributed in a thirty-day period by the company through a meter of an end user in this state:

| KILOWATT HOURS DISTRIBUTED   | RATE PER      |
|------------------------------|---------------|
| TO                           |               |
| AN END USER                  | KILOWATT HOUR |
| For the first 2,000          | \$.00465      |
| For the next 2,001 to 15,000 | \$.00419      |
| For 15,001 and above         | \$.00363      |

If no meter is used to measure the kilowatt hours of electricity distributed by the company, the rates shall apply to the estimated kilowatt hours of electricity distributed to an unmetered location in this state.

The electric distribution company shall base the monthly tax on the kilowatt hours of electricity distributed to an end user through the meter of the end user that is not measured for a thirty-day period by dividing the days in the measurement period into the total kilowatt hours measured during the measurement period to obtain a daily average usage. The tax shall be determined by obtaining the sum of divisions (A)(1), (2), and (3) of this section and multiplying that amount by the number of days in the measurement period:

- (1) Multiplying \$0.00465 per kilowatt hour for the first sixty-seven kilowatt hours distributed using a daily average;
- (2) Multiplying \$0.00419 for the next sixty-eight to five hundred kilowatt hours distributed using a daily average;
- (3) Multiplying \$0.00363 for the remaining kilowatt hours distributed using a daily average.

Except as provided in division (C) of this section, the electric distribution company shall pay the tax to the treasurer of state in accordance with section 5727.82 of the Revised Code.

Only the distribution of electricity through a meter of an end user in this state shall be used by the electric distribution company to compute the

amount or estimated amount of tax due. In the event a meter is not actually read for a measurement period, the estimated kilowatt hours distributed by an electric distribution company to ~~collect~~ bill for its distribution charges ~~may~~ shall be used.

(B) Except as provided in division (C) of this section, each electric distribution company shall pay the tax imposed by this section in all of the following circumstances:

(1) The electricity is distributed by the company through a meter of an end user in this state;

(2) The company is distributing electricity through a meter located in another state, but the electricity is consumed in this state in the manner prescribed by the tax commissioner;

(3) The company is distributing electricity in this state without the use of a meter, but the electricity is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(C)(1)~~(a)~~ As used in division (C) of this section:

(a) "Total price of electricity" means the aggregate value in money of anything paid or transferred, or promised to be paid or transferred, to obtain electricity or electric service, including but not limited to the value paid or promised to be paid for the transmission or distribution of electricity and for transition costs as described in Chapter 4928. of the Revised Code.

(b) "Package" means the provision or the acquisition, at a combined price, of electricity with other services or products, or any combination thereof, such as natural gas or other fuels; energy management products, software, and services; machinery and equipment acquisition; and financing agreements.

(c) "single location" means a facility located on contiguous property separated only by a roadway, railway, or waterway.

(2) Division (C) of this section applies to any commercial or industrial purchaser that receives purchaser's receipt of electricity through a meter of an end user in this state and consumes, over the course of the previous calendar year, more than one hundred twenty or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request by an applicant for registration as a self-assessing purchaser under this division. Such a purchaser may elect to self-assess the excise tax imposed by this

section at the rate of \$.00075 per kilowatt hour on not more than five hundred four million kilowatt hours, and four per cent of the total price of electricity ~~delivered~~ distributed to that meter or location. A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location in this state and that consumes, over the course of the previous calendar year, more than forty-five million kilowatt hours in other than its qualifying manufacturing process, may elect to self-assess the tax as allowed by this division with respect to the electricity used in other than its qualifying manufacturing process. Payment of the tax shall be made directly to the treasurer of state in accordance with divisions (A)~~(3)~~(4) and ~~(4)~~(5) of section 5727.82 of the Revised Code ~~or, if~~. If the electric distribution company serving the self-assessing purchaser is a municipal electric utility and the purchaser is within the municipal corporation's corporate limits, payment shall be made to such municipal corporation's general fund and reports shall be filed in accordance with ~~division~~ divisions (A)~~(2)~~(4) and (5) of section 5727.82 of the Revised Code, and upon paying in this manner, the ~~except that~~ "municipal corporation" shall be substituted for "treasurer of state" and "tax commissioner." A self-assessing purchaser that pays the excise tax as provided in this division shall not be required to pay the excise tax to the electric distribution company from which its electricity is ~~delivered~~ distributed. If a self-assessing purchaser's receipt of electricity is not subject to the tax as measured under this division, the tax on the receipt of such electricity shall be measured and paid as provided in division (A) of this section.

~~(b) On or before December 10, 2001, the tax commissioner shall calculate the six month revenue differential for self-assessing purchasers. If the six month revenue differential is greater than five hundred thousand dollars, the tax commissioner shall increase the percentage of total price tax rate to be charged for the six month period beginning in the month following that in which the calculation is done. The new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus the product of (i) a fraction, the numerator of which is the six month revenue differential multiplied by two and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of total price basis and (ii) a fraction, the numerator of which is total kilowatt hours consumed during the period by self-assessing purchasers and the denominator of which is eleven billion twenty five million.~~

~~If the six month revenue differential is less than negative five hundred thousand dollars, the tax commissioner shall decrease the percentage of total~~

~~price tax rate to be charged for the six month period beginning in the month following that in which the calculation is made. The new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus the product of (i) a fraction, the numerator of which is the six month revenue differential multiplied by two and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of total price basis and (ii) a fraction, the numerator of which is eleven billion twenty five million and the denominator of which is total kilowatt hours consumed during the period by self-assessing purchasers.~~

~~(c) On or before June 10, 2002, the tax commissioner shall calculate the six month revenue differential for self-assessing purchasers. If the six month revenue differential is greater than five hundred thousand dollars, the tax commissioner shall increase the percentage of total price tax rate to be charged for the twelve month period beginning in the month following that in which the calculation is made. The new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus the product of (i) a fraction, the numerator of which is the six month revenue differential and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of total price basis and (ii) a fraction, the numerator of which is total kilowatt hours consumed during the period by self-assessing purchasers and the denominator of which is eleven billion twenty five million.~~

~~If the six month revenue differential is less than negative five hundred thousand dollars, the tax commissioner shall decrease the percentage of total price tax rate to be charged for the twelve month period beginning in the month following that in which the calculation is made. The new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus the product of (i) a fraction, the numerator of which is the six month revenue differential and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of total price basis and (ii) a fraction, the numerator of which is eleven billion twenty five million and the denominator of which is total kilowatt hours consumed during the period by self-assessing purchasers.~~

~~(d) On or before June 10, 2003, 2004, 2005, 2006, and 2007, the tax commissioner shall calculate the twelve month revenue differential for self-assessing purchasers. If the twelve month revenue differential is greater than one million dollars, the tax commissioner shall increase the percentage of total price tax rate to be charged for the twelve month period beginning in the month following that in which the calculation is made, except that the rate calculated in 2007 shall become the permanent tax rate. In each year,~~

~~the new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus a fraction, the numerator of which is the twelve month revenue differential and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of total price basis.~~

~~If the revenue differential is less than negative one million dollars, the tax commissioner shall decrease the percentage of total price tax rate to be charged for the twelve month period beginning in the month following that in which the calculation is made, except that the rate calculated in 2007 shall become the permanent tax rate. In each year, the new tax rate shall be the rate in effect during the current period multiplied by the sum of one plus a fraction, the numerator of which is the twelve month revenue differential and the denominator of which is the amount paid during the period by all self-assessing purchasers on the percentage of price basis.~~

(2)(3) In the case of the acquisition of a package, unless the elements of the package are separately stated isolating the total price of electricity from the price of the remaining elements of the package, the tax imposed under this section applies to the entire price of the package. if the elements of the package are separately stated, the tax imposed under this section applies to the total price of the electricity.

(4) Any electric supplier that sells electricity as part of a package shall separately state to the purchaser the total price of the electricity and, upon request by the tax commissioner, the total price of each of the other elements of the package.

(5) The tax commissioner may adopt rules relating to the computation of the total PRICE of electricity with respect to self-assessing purchasers, which may include rules to establish the total price of electricity purchased as part of a package.

(6) Application for registration as a self-assessing purchaser shall be made for each qualifying meter or location, on a form prescribed by the tax commissioner. In the case of an applicant applying on the basis of an estimated consumption of forty-five million kilowatt hours over the course of the succeeding twelve months, the applicant shall provide such information as the tax commissioner considers to be necessary to estimate such consumption. At the time of making the application and by the first day of May of each year, excluding May 1, 2000, a self-assessing purchaser shall pay a fee of five hundred dollars to the treasurer of state for each qualifying meter or location. The treasurer of state shall deposit to such fees into the kilowatt hour excise tax administration fund, which is hereby created in the state treasury. Money in the fund shall be used to defray the

tax commissioner's cost in administering the tax owed under section 5727.81 of the Revised Code by self-assessing purchasers. After the application is approved by the tax commissioner, the registration shall remain in effect until canceled by the registrant upon written notification to the commissioner of the election to pay the tax in accordance with division (A) of this section, or by the tax commissioner for not paying the tax or fee under division (C) of this section, or meeting the qualifications in division (C)~~(4)~~(2) of this section. The tax commissioner shall give written notice to the electric distribution company from which electricity is delivered to a self-assessing purchaser of the purchaser's self-assessing status, and the electric distribution company is relieved of the obligation to pay the tax imposed by division (A) of this section for electricity distributed to that self-assessing purchaser until it is notified by the tax commissioner that the self-assessing purchaser's registration is canceled. Within fifteen days of notification of the canceled registration, the electric distribution company shall be responsible for payment of the tax imposed by division (A) of this section on electricity distributed to a purchaser that is no longer registered as a self-assessing purchaser. A self-assessing purchaser with a canceled registration must file a report and remit the tax imposed by division (A) of this section on all electricity it receives for any measurement period prior to the tax being reported and paid by the electric distribution company. A self-assessing purchaser whose registration is canceled by the tax commissioner is not eligible to register as a self-assessing purchaser for two years after the registration is canceled.

(7) If the tax commissioner cancels the self-assessing registration of a purchaser registered on the basis of its estimated consumption because the purchaser does not consume at least forty-five million kilowatt hours of electricity over the course of the twelve-month period for which the estimate was made, the tax commissioner shall assess and collect from the purchaser the difference between (a) the amount of tax that would have been payable under division (A) of this section on the electricity distributed to the purchaser during that period and (b) the amount of tax paid by the purchaser on such electricity pursuant to division (C)(2)(a) of this section. The assessment shall be paid within sixty days after the tax commissioner issues it, regardless of whether the purchaser files a petition for reassessment under section 5727.89 of the Revised Code covering that period. If the purchaser does not pay the assessment within the time prescribed, the amount assessed is subject to the additional charge and the interest prescribed by divisions (B) and (C) of section 5727.82 of the Revised Code, and is subject to assessment under section 5727.89 of the Revised Code. If the purchaser is a

qualified end user, division (C)(7) of this section applies only to electricity it consumes in other than its qualifying manufacturing process.

(D) The tax imposed by this section does not apply to the distribution of any kilowatt hours of electricity to the federal government, to an end user located at a federal facility that uses electricity for the enrichment of uranium, to a qualified regeneration meter, or to an end user for any day the end user is a qualified end user. The exemption under this division for a qualified end user only applies to the manufacturing location where the qualified end user uses more than three million kilowatt hours per day in a qualifying manufacturing process.

Sec. 5727.811. (A) For the purpose of raising revenue for public education and state and local government operations, an excise tax is hereby levied on every natural gas distribution company for all natural gas volumes billed by, or on behalf of, the company on and after July 1, 2001. Except as provided in divisions (C) or (D) of this section, the tax shall be levied at the following rates per MCF of natural gas distributed by the company through a meter of an end user in this state:

| <u>MCF DISTRIBUTED TO AN END USER</u>         | <u>RATE PER</u> |
|---|-----------------|
|   | <u>MCF</u>      |
| <u>For the first 100 MCF per month</u>        | <u>\$.1593</u>  |
| <u>For the next 101 to 2000 MCF per month</u> | <u>\$.0877</u>  |
| <u>For 2001 and above MCF per month</u>       | <u>\$.0411</u>  |

If no meter is used to measure the MCF of natural gas distributed by the company, the rates shall apply to the estimated mcf of natural gas distributed to an unmetered location in this state.

(B) A natural gas distribution company shall base the tax on the MCF of natural gas distributed to an end user through the meter of the end user in this state that is estimated to be consumed by the end user as reflected on the end user's customer statement from the natural gas distribution company. The natural gas distribution company shall pay the tax levied by this section to the treasurer of state in accordance with section 5727.82 of the Revised Code.

(C) A natural gas distribution company with fifty thousand customers or less may elect to apply the rates specified in division (A) of this section to the aggregate of the natural gas distributed by the company through the meter of all its customers in this state, and upon such election, this method shall be used to determine the amount of tax to be paid by such company.

(D) A natural gas distribution company shall pay the tax imposed by this section at the rate of \$.02 per MCF of natural gas distributed by the company through the meter of a flex customer. The natural gas distribution

company correspondingly shall reduce the per MCF rate that it charges the flex customer for natural gas distribution services by \$.02 per MCF of natural gas distributed to the flex customer.

(E) Except as provided in division (F) of this section, each natural gas distribution company shall pay the tax imposed by this section in all of the following circumstances:

(1) The natural gas is distributed by the company through a meter of an end user in this state;

(2) The natural gas distribution company is distributing natural gas through a meter located in another state, but the natural gas is consumed in this state in the manner prescribed by the tax commissioner;

(3) The natural gas distribution company is distributing natural gas in this state without the use of a meter, but the natural gas is consumed in this state as estimated and in the manner prescribed by the tax commissioner.

(F) The tax levied by this section does not apply to the distribution of natural gas to the federal government, or natural gas produced by an end user in this state that is consumed by that end user or its affiliates and is not distributed through the facilities of a natural gas company.

Sec. 5727.82. (A)(1) Except as provided in divisions (A)~~(2)~~(3) and (D) of this section, by the twentieth day of each month, each electric distribution company required to pay the tax imposed by section 5727.81 of the Revised Code shall file with the treasurer of state a return as prescribed by the tax commissioner and shall make payment of the full amount of tax due for the preceding month. The first payment of this tax shall be made on or before June 20, 2001.

(2) By the twentieth day of May, August, November, and February, each natural gas distribution company required to pay the tax imposed by section 5727.811 of the Revised Code shall file with the treasurer of state a return as prescribed by the tax commissioner and shall make payment of the full amount of tax due for the preceding quarter. The first payment of this tax shall be made on or before November 20, 2001, for the quarter ending September 30, 2001.

(3) If the electric distribution company required to pay the tax imposed by section 5727.81 of the Revised Code is a municipal electric utility, it may retain in its general fund that portion of the tax on the kilowatt hours distributed to end users located within the boundaries of the municipal corporation. However, the municipal electric utility shall make payment in accordance with division (A)(1) of this section of the tax due on the kilowatt hours distributed to end users located outside the boundaries of the municipal corporation.

~~(3)~~(4) By the twentieth day of each month, each self-assessing purchaser that under division (C) of section 5727.81 of the Revised Code pays directly to the treasurer of state the tax imposed by section 5727.81 of the Revised Code shall file with the treasurer of state a return as prescribed by the tax commissioner and shall make payment of the full amount of the tax due for the preceding month.

~~(4)~~(5) As prescribed by the tax commissioner, ~~the~~ a return shall be signed by the company or self-assessing purchaser required to file it, or an authorized employee, officer, or agent of the company or purchaser. The treasurer of state shall mark on the return the date it was received and indicate payment or nonpayment of the tax shown to be due on the return. The treasurer of state immediately shall transmit all returns to the tax commissioner. The return shall be deemed filed when received by the treasurer of state.

(B) Any natural gas distribution company, electric distribution company, or self-assessing purchaser required by this section to file a return who fails to file it and pay the tax within the period prescribed shall pay an additional charge of fifty dollars or ten per cent of the tax required to be paid for the reporting period, whichever is greater. The tax commissioner may collect the additional charge by assessment pursuant to section 5727.89 of the Revised Code. The commissioner may abate all or a portion of the additional charge and may adopt rules governing such abatements.

(C) If any tax due is not paid timely in accordance with this section, the natural gas distribution company, electric distribution company, or self-assessing purchaser liable for the tax shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment is issued, whichever occurs first. Interest shall be paid in the same manner as the tax, and the commissioner may collect the interest by assessment pursuant to section 5727.89 of the Revised Code.

(D) Not later than the tenth day of each month, a qualified end user not making the election to self-assess under division (c) of section 5727.81 of the Revised Code shall report in writing to the electric distribution company that distributes electricity to the end user the kilowatt hours that were consumed as a qualified end user in a qualifying manufacturing process for the prior month and the number of days, if any, on which the end user was not a qualified end user. For each calendar day during that month, a qualified end user shall report the kilowatt hours that were not used in a qualifying manufacturing process. For each calendar day the end user was not a qualified end user, the end user shall report in writing to the electric

distribution company the total number of kilowatt hours used on that day, and the electric distribution company shall pay the tax imposed under section 5727.81 of the Revised Code on each kilowatt hour that was not distributed to a qualified end user in a qualifying manufacturing process. The electric distribution company may rely in good faith on a qualified end user's report filed under this division. If it is determined that the end user was not a qualified end user for any calendar day or the quantity of electricity used by the qualified end user in a qualifying manufacturing process was overstated, the tax commissioner shall assess and collect any tax imposed under section 5727.81 of the Revised Code directly from the qualified end user. As requested by the commissioner, each end user reporting to an electric distribution company that it is a qualified end user shall provide documentation to the commissioner that establishes the volume of electricity consumed daily by the qualified end user and the total number of kilowatt hours consumed in a qualifying manufacturing process.

Sec. 5727.83. (A) ~~An~~ A natural gas distribution company, an electric distribution company, or a self-assessing purchaser shall remit each ~~monthly~~ tax payment by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

The tax commissioner shall notify each natural gas distribution company, electric distribution company, and self-assessing purchaser of the obligation to remit taxes by electronic funds transfer, shall maintain an updated list of those companies and purchasers, and shall timely certify to the treasurer of state the list and any additions thereto or deletions therefrom. Failure by the tax commissioner to notify a company or self-assessing purchaser subject to this section to remit taxes by electronic funds transfer does not relieve the company or self-assessing purchaser of its obligation to remit taxes in that manner.

(B) ~~An~~ A natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the dates specified under section 5727.82 of the Revised Code. The payment of taxes by electronic funds transfer does not affect a company's or self-assessing purchaser's obligation to file ~~the monthly~~ a return as required under section 5727.82 of the Revised Code.

(C) ~~An~~ A natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the

manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the company or self-assessing purchaser from remittance by electronic funds transfer for good cause shown for the period of time requested by the company or self-assessing purchaser or for a portion of that period. The treasurer of state shall notify the tax commissioner and the company or self-assessing purchaser of the treasurer of state's decision as soon as is practicable.

(D) If ~~an~~ a natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5727.89 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter, and shall be considered as revenue arising from the tax imposed under this chapter. The tax commissioner may abate all or a portion of such a charge and may adopt rules governing such abatements.

No additional charge shall be assessed under this division against a natural gas distribution company, an electric distribution company, or a self-assessing purchaser that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the company or purchaser remits by some means other than electronic funds transfer.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created

under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid" means the sum of the state basic aid and state special education aid amounts computed for a school district under divisions (A) and (C) of section 3317.022 of the Revised Code.

(5) "State education aid offset" means the amount certified for each school district under division (A)(1) of section 5727.85 of the Revised Code.

(6) "Adjusted total taxable value" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Electric company tax value loss" means the amount determined under division (D) of this section.

(8) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

~~(9)~~ "Tax value loss" means the amount determined under division (C) of this section sum of the electric company tax value loss and the natural gas company tax value loss.

~~(8)~~(10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

~~(9)~~(11) "Fixed-rate levy loss" means the amount determined under division ~~(D)~~(G) of this section.

~~(10)~~(12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

~~(11)~~(13) "Fixed-sum levy loss" means the amount determined under division ~~(E)~~(H) of this section.

~~(12)~~(14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(B) All money arising from the tax imposed by section 5727.81 of the Revised Code shall be credited as follows:

(1) Fifty-nine and nine hundred seventy-six one-thousandths per cent, plus an amount equal to seventy per cent of the total state education aid offset, shall be credited to the general revenue fund.

(2) Two and six hundred forty-six one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with

section 5747.50 of the Revised Code.

(3) Three hundred seventy-eight one-thousandths per cent shall be credited to the local government revenue assistance fund, for distribution in accordance with section 5747.61 of the Revised Code.

(4) Twenty-five and nine-tenths per cent, less an amount equal to seventy per cent of the total state education aid offset, shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.

(5) Eleven and one-tenth per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.

(6) Beginning in the fiscal year in which payments are required to be made under sections 5727.85 and 5727.86 of the Revised Code, if the revenue arising from the tax levied by section 5727.81 of the Revised Code is less than five hundred fifty-two million dollars, the amount credited to the general revenue fund under division (B)(1) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (B)(2), (3), (4), and (5) of this section the amount it would have received if the tax did raise five hundred fifty-two million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.

(C) All money arising from the tax imposed by section 5727.811 of the Revised Code shall be credited as follows:

(1) Seventy per cent, less an amount equal to thirty per cent of the total state education aid offset, shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

(2) Thirty per cent shall be credited to the local government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(3) An amount equal to thirty per cent of the total state education aid offset shall be credited to the general revenue fund.

(4) Beginning in the fiscal year in which payments are required to be made under sections 5727.85 and 5727.86 of the Revised Code, if the revenue arising from the tax levied by section 5727.811 of the Revised Code is less than ninety million dollars, the amount credited to the general revenue fund under division (c)(3) of this section shall be reduced by the amount necessary to credit to each of the funds in divisions (C)(1) and (2) of

this section the amount that it would have received if the tax did raise ninety million dollars for that fiscal year. The tax commissioner shall certify to the director of budget and management the amounts that shall be credited under this division.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the amounts described in divisions ~~(C)(D)~~(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division ~~(C)(D)~~(1)(b) from the amount described in division ~~(C)(D)~~(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division ~~(C)(D)~~(2)(b) from the amount described in division ~~(C)(D)~~(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division ~~(C)(D)~~(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (e)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed

by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (e)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (e)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under ~~division (C)~~ divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

~~The tax commissioner shall certify to the department of education the tax value loss determined under this division for each school district and joint vocational school district.~~

~~(D)~~(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

~~(E)~~(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division ~~(E)~~(H)(2) of this section from the amount described in division ~~(E)~~(H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax

rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the ~~computation~~ amount computed under division ~~(E)~~(H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, ~~the one-fourth of one mill that is subtracted~~ amount shall equal the fixed-sum levy loss reimbursed pursuant to division (E) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

~~(F)~~(I) Notwithstanding divisions ~~(C)~~, (D), ~~and (E)~~, (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or

the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss, but the 2000 tax rate shall not include for this purpose any tax levy approved by the voters after November 7, 2000.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district eligible for payment under division (C) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district for the current fiscal year on the basis of the adjusted total taxable value;

(b) The state education aid that would be computed for the school district for the current fiscal year if the district's adjusted total taxable value included the tax value loss for all taxing districts in the school district.

(2) The difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss determined under division ~~(D)~~(G) of section 5727.84 of the Revised Code for all taxing districts in each school district. The department of education shall certify the amount so determined to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss determined under division ~~(D)~~(G) of section 5727.84 of the Revised Code for all taxing districts in each school district plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund. If the difference is greater than zero, the department of education shall certify the amount calculated in division (A)(2) of this section to the director of budget and management not later than the thirty-first day of December of each year, beginning in 2006 and ending in 2016.

(C) For all taxing districts in each school district, the director of budget and management shall pay from the school district property tax replacement fund to the county undivided income tax fund in the proper county treasury all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division ~~(D)~~(G) of section 5727.84 of the Revised Code on or before the day prescribed for the settlement under division (A) of section 321.24 of the Revised Code.

(2) From August 2002 through August 2006, one-half of the amount certified for that fiscal year under division (A)(2) of this section on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code.

(3) From February 2007 through August 2016, one-half of the amount certified for that calendar year under division (B)(3) of this section on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code.

The county treasurer shall distribute amounts paid under divisions (C)(1), (2), and (3) of this section to the proper school district as if they had been levied and collected as taxes, and the school district shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the director of budget and management the fixed-rate levy loss determined under division ~~(D)~~(G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the director shall pay from the school district property tax replacement fund to the county undivided income tax fund in the proper county treasury, one-half of the fixed-rate levy loss so certified for each year on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code. The county treasurer shall distribute such amounts to the proper joint vocational school district as

if they had been levied and collected as taxes, and the joint vocational school district shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a ~~certification~~ determination is made under division ~~(E)~~(H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the director of budget and management the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies ~~in effect in 1998 to June 30, 1999~~, for which the tax commissioner made such a determination. The director shall pay from the school district property tax replacement fund to the county undivided income tax fund in the proper county treasury one-half of the fixed-sum levy loss so certified for each year on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code. The county treasurer shall distribute the amounts to the proper school district or joint vocational school district as if they had been levied and collected as taxes, and the district shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. ~~No payments shall be made under this division once all fixed sum levies in effect in 1998 to June 30, 1999, are no longer in effect.~~

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the director of budget and management.

(F) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments in that month under divisions (C), (D), and (E) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one-half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with

annual losses from permanent improvement fixed-rate levies in excess of twenty thousand dollars, or annual losses from any other fixed-rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.

(G) On the thirty-first day of July of 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), and (E) of this section in the following month, the director of budget and management shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint vocational school district.

If, in the opinion of the director of budget and management, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.

(H) If the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section, the payments required under division (E) of this section shall be made first in their entirety. After all payments are made under division (E) of this section, payments under divisions (C) and (D) of this section shall be made from the balance of money available in the proportion of each school district's or joint vocational school district's payment amount to the total amount of payments under divisions (C) and (D) of this section.

(I) If all or a part of the territory of a school district or joint vocational school district is merged with or transferred to another district, the tax commissioner shall adjust the payments made under this section to each of the districts in proportion to the tax value loss apportioned to the merged or transferred territory.

(J) There is hereby created the ~~electric~~ public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the

house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.

The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.

The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall certify to the director of budget and management, for all taxing districts in each local taxing unit, the fixed-rate levy loss determined under division ~~(D)~~(G), and the fixed-sum levy loss determined under division ~~(E)~~(H), of section 5727.84 of the Revised Code. Based on that certification, the director shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), and (3) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The certification of the fixed-sum levy loss shall cover a period of time period sufficient to include all fixed-sum levies in effect in 1998 to June 30, 1999, until they are no longer in effect for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in division (A)(3) of this section, for fixed-rate levy losses determined under division ~~(D)~~(G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed-rate levy loss certified under division (A) of this section:

| YEAR | PERCENTAGE |
|------|------------|
| 2002 | 100%       |
| 2003 | 100%       |
| 2004 | 100%       |
| 2005 | 100%       |

|                     |       |
|---------------------|-------|
| 2006                | 100%  |
| 2007                | 80%   |
| 2008                | 80%   |
| 2009                | 80%   |
| 2010                | 80%   |
| 2011                | 80%   |
| 2012                | 66.7% |
| 2013                | 53.4% |
| 2014                | 40.1% |
| 2015                | 26.8% |
| 2016                | 13.5% |
| 2017 and thereafter | 0%    |

(2) For fixed-sum levy losses determined under division ~~(E)~~(H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss certified under division (A) of this section for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to 2016.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division (A) of this section of the fixed-sum levy loss determined under division ~~(E)~~(H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. One-half of the amount certified under those divisions shall be paid on or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code. The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its

funds in the same proportions as if those amounts had been levied and collected as taxes. Amounts distributed under division (E) of this section shall be credited to the general fund of the local taxing unit that receives them.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 and each year thereafter, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the director of budget and management shall distribute the excess to each county as follows:

(1) One-half shall be distributed to each county in proportion to each county's population.

(2) One-half shall be distributed to each county in the proportion that the amounts determined under divisions ~~(D)(G)~~ and ~~(E)(H)~~ of section 5727.84 of the Revised Code for all local taxing districts units in the county is of the total amounts so determined for all local taxing districts units in the state.

The amounts distributed to each county under this division shall be distributed by the county budget commission to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. As used in this division, "current taxes charged and payable"

means the taxes charged and payable as most recently determined for local taxing units in the county.

If, in the opinion of the director of budget and management, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.

(F) If the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section, the payments required under division (A)(2) of this section shall be made first in their entirety. After all such payments are made, payments under divisions (A)(1) and (3) of this section shall be made from the balance of money available in the proportion of each local taxing unit's payment amount to the total amount of all payments to be made under divisions (A)(1) and (3) of this section.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the tax value loss apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5727.87. (A) As used in this section:

(1) "Administrative fees" means the dollar percentages allowed by the county auditor for services or by the county treasurer as fees, or paid to the credit of the real estate assessment fund, under divisions (A) and (B) of section 319.54 and division (A) of section 321.26 of the Revised Code.

(2) "Administrative fee loss" means a county's loss of administrative fees due to its tax value loss, determined as follows:

(a) For purposes of the determination made under division (B) of this section in the years 2002 through 2006, the administrative fee loss shall be computed by multiplying the amounts determined for all taxing districts in the county under divisions ~~(D)~~(G) and ~~(E)~~(H) of section 5727.84 of the Revised Code by nine thousand six hundred fifty-nine ten-thousandths of a per cent, if total taxes collected in the county in tax year 1998 exceeded one hundred fifty million dollars, or one and one thousand one hundred fifty-nine ten-thousandths of a per cent, if total taxes collected in the county in tax year 1998 were one hundred fifty million dollars or less;

(b) For purposes of the determination under division (B) of this section in the years 2007 through 2011, the administrative fee loss shall be

determined by subtracting from the dollar amount of administrative fees collected in the county in tax year 1998, the dollar amount of administrative fees collected in the county in the current calendar year.

(B) Not later than the first day of June of 2002 through 2011, the county auditor shall determine the administrative fee loss for the county and certify it to the county budget commission. Notwithstanding divisions (C), (D), and (E) of section 5727.85 and division (C) of section 5727.86 of the Revised Code, prior to distribution by the county treasurer of the payments provided under those divisions, the county budget commission shall deduct from those payments the amount of the administrative fee loss certified by the county auditor, as follows:

(1) Seventy per cent of the administrative fee loss shall be deducted from the payments provided under divisions (C), (D), and (E) of section 5727.85 of the Revised Code.

(2) Thirty per cent of the administrative fee loss shall be deducted from the payments provided under division (C) of section 5727.86 of the Revised Code.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2002 through 2011, the county budget commission shall pay one-half of the amount of the administrative fee loss to the county auditor, county treasurer, or real estate assessment fund as if the amount had been allowed as administrative fees, and shall deposit the amount in the same funds as if allowed as administrative fees.

After payment of the administrative fee loss on or before August 10, 2011, all payments under this section shall cease.

Sec. 5727.88. The tax commissioner shall administer sections 5727.80 to 5727.95 of the Revised Code and may adopt such rules as are necessary to administer those sections. Upon request of the tax commissioner, the public utilities commission shall assist the tax commissioner by providing information regarding any natural gas distribution company or electric distribution company that is subject to regulation by the commission.

Sec. 5727.89. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas distribution company, electric distribution company, self-assessing purchaser, or qualified end user that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.80 to 5727.95 of the Revised Code.

When information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5727.81 or 5727.811 of

the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit. The commissioner shall give the person assessed written notice of the assessment by personal service or certified mail.

The tax commissioner may issue an assessment for which the tax imposed by section 5727.81 or 5727.811 of the Revised Code was due and unpaid on the date the person was informed by an agent of the tax commissioner of an investigation or audit of the person. Any payment of the tax for the period covered by the assessment, after the person is so informed, shall be credited against the assessment.

A penalty of fifteen per cent may be added to all amounts assessed under this section. The commissioner may adopt rules providing for the imposition and remission of penalties.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or the party's authorized agent having knowledge of the facts, the assessment is final and the amount of the assessment is due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing prior to the date shown on the final determination of the tax commissioner. The commissioner shall grant the petitioner a hearing on the petition, unless waived by the petitioner.

(C) The commissioner may make any correction to the assessment that the commissioner finds proper and shall issue a final determination thereon. The commissioner shall serve a copy of the final determination on the petitioner either by personal service or by certified mail as provided in section 5703.37 of the Revised Code, and the commissioner's decision in the matter is final, subject to appeal under section 5717.02 of the Revised Code.

(D) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the party's business is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state against the person assessed in the amount shown on

the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for the ~~kilowatt-hour tax~~ distribution excise taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

The portion of the assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the day the assessment is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(E) If the tax commissioner believes that collection of the tax imposed by section 5727.81 or 5727.811 of the Revised Code will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the ~~electric distribution company, self-assessing purchaser, or qualified end user~~ person liable for the tax. Upon issuance of the jeopardy assessment, the commissioner immediately shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (D) of this section. Notice of the jeopardy assessment shall be served on the party assessed or the party's legal representative within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the party assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) All money collected by the tax commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the ~~tax~~ taxes imposed by ~~section~~ sections 5727.81 and 5727.811 of the Revised Code.

Sec. 5727.90. No assessment of the tax imposed by section 5727.81 or 5727.811 of the Revised Code shall be made by the tax commissioner more than four years after the date on which the return for the period assessed was due or filed, whichever date is later. This section does not bar an assessment when any of the following occur:

(A) The party assessed failed to file a return as required by section 5727.82 of the Revised Code;

(B) The party assessed knowingly filed a false or fraudulent return;

(C) The party assessed and the tax commissioner waived in writing the time limitation.

Sec. 5727.91. (A) The treasurer of state shall refund the amount of tax paid under section 5727.81 or 5727.811 of the Revised Code that was paid illegally or erroneously, or paid on an illegal or erroneous assessment. ~~An~~ A natural gas distribution company, an electric distribution company, or a self-assessing purchaser shall file an application for a refund with the tax commissioner on a form prescribed by the commissioner, within four years of the illegal or erroneous payment of the tax.

Upon the filing of the application, the commissioner shall determine the amount of refund due and certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund under section 5703.052 of the Revised Code. If the application for refund is for taxes paid on an illegal or erroneous assessment, the tax commissioner shall include in the certified amount interest calculated at the rate per annum under section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(B) If a natural gas distribution company or an electric distribution company entitled to a refund of taxes under this section is indebted to the state for any tax or fee administered by the tax commissioner that is paid to the state or any charge, penalty, or interest arising from such a tax or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the natural gas distribution company or electric distribution company has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

(C)(1) Any electric distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.81 of the Revised Code was paid on electricity distributed via wires and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(2) Any natural gas distribution company that can substantiate to the tax commissioner that the tax imposed by section 5727.811 of the Revised Code was paid on natural gas distributed via its facilities and consumed at a location outside of this state may claim a refund in the manner and within the time period prescribed in division (A) of this section.

(D) Before a refund is issued under this section, a natural gas company

or an electric distribution company shall certify, as prescribed by the tax commissioner, that it either did not include the tax imposed by section 5727.81 of the Revised Code in the case of an electric distribution company, or the tax imposed by section 5727.811 of the Revised Code in the case of a natural gas distribution company, in its distribution charge to ~~an electric~~ its customer upon which a refund of the tax is claimed, or it has refunded or credited to the ~~electric~~ customer the excess distribution charge related to the tax that was erroneously included in the ~~electric~~ customer's distribution charge.

Sec. 5727.92. Every person liable for the tax imposed by section 5727.81 or 5727.811 of the Revised Code shall keep complete and accurate records of all electric and natural gas distributions and other records as required by the tax commissioner. The records shall be preserved for four years after the return for the taxes to which the records pertain is due or filed, whichever is later. The records shall be available for inspection by the tax commissioner or the commissioner's authorized agent, upon request of the commissioner or such agent.

Sec. 5727.93. (A) No person shall distribute electricity or natural gas to a meter of an end user in this state ~~who~~ or to an unmetered location in this state if that person is not registered with the tax commissioner as an electric distribution company or a natural gas distribution company.

(B) Each person required to register under division (A) of this section shall register prior to distributing electricity or natural gas to a meter of an end user in this state or to an unmetered location in this state. The tax commissioner shall prescribe the form of the registration application. The commissioner shall assign an identification number to each registration and notify the registrant of that number. The registration shall remain in effect until canceled in writing by the registrant upon the cessation of distributing electricity or natural gas to a meter of an end user in this state or to an unmetered location in this state, or until such registration is denied, revoked, or canceled by the commissioner. A registration may be revoked or canceled by the tax commissioner as provided by Chapter 119. of the Revised Code, for failure of an electric distribution company to pay the tax imposed by section 5727.81 of the Revised Code, failure of a natural gas distribution company to pay the tax imposed by section 5727.811 of the Revised Code, or failure of an electric distribution company or a natural gas distribution company to comply with sections 5727.80 and 5727.82 to 5727.95 of the Revised Code. ~~An electric distribution~~ A company whose registration is denied may petition for a hearing, in accordance with the procedures set forth in divisions (B) and (C) of section 5727.89 of the Revised Code, not

later than thirty days after receiving the denial, and the final determination is subject to appeal under section 5717.02 of the Revised Code.

(C) The tax commissioner shall maintain a list of the ~~electric distribution~~ companies registered under this section. The list shall contain the name and address of each company registered by the commissioner. The list and subsequent updates of it shall be open to public inspection.

Sec. 5727.94. Each electric distribution company required to pay the tax imposed by section 5727.81 of the Revised Code and each natural gas distribution company required to pay the tax imposed by section 5727.811 of the Revised Code shall provide to its customers in this state the statement required by section 4933.33 of the Revised Code.

Sec. 5727.95. (A) No natural gas distribution company, electric distribution company, or self-assessing purchaser shall fail to file any return or report required to be filed pursuant to section 5727.82 of the Revised Code, or file or cause to be filed any incomplete, false, or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) No person shall distribute natural gas or electricity to a meter of an end user in this state or to an unmetered location in this state without holding a valid registration issued under section 5727.93 of the Revised Code.

Sec. 5729.07. As used in this section:

(A) "Eligible employee" and "eligible training costs" have the same meanings as in section 5733.42 of the Revised Code.

(B) "Credit period" means the calendar year ending on the thirty-first day of December next preceding the day the annual statement is required to be returned under section 5729.02 of the Revised Code.

There is hereby allowed a nonrefundable credit against the tax imposed under this chapter for a foreign insurance company for which a tax credit certificate is issued under section 5733.42 of the Revised Code. The credit may be claimed for credit periods beginning on or after January 1, 2001, and ending on or before December 31, 2003. The amount of the credit shall equal one-half of the average of the eligible training costs paid or incurred by the company during the three calendar years immediately preceding the credit period for which the credit is claimed, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the company. The credit claimed by a company for each credit period shall not exceed one hundred thousand dollars.

amily services for a tax credit certificate in the manner prescribed by division (C) of section 5733.42 of the Revised Code. Divisions (C) to (H) of that section govern the tax credit allowed by this section, except that "credit period" shall be substituted for "tax year with respect to a calendar year" wherever that phrase appears in those divisions and that the company shall be considered a taxpayer for the purposes of those divisions.

A foreign insurance company may carry forward the credit allowed under this section to the extent that the credit exceeds the company's tax due for the credit period. The company may carry the excess credit forward for three credit periods following the credit period for which the credit is first claimed under this section. The credit allowed by this section is in addition to any credit allowed under section 5729.031 of the Revised Code.

The reduction in the tax due under this chapter to the extent of the credit allowed by this section does not increase the amount of the tax otherwise due under section 5729.06 of the Revised Code.

Sec. 5733.053. (A) As used in this section:

(1) "Transfer" means a transaction or series of related transactions in which a corporation directly or indirectly transfers or distributes substantially all of its assets or equity to another corporation.

(2) "Transferor" means a corporation that has made a transfer ~~if on the completion of the transfer the corporation no longer does business in this state or owns or uses any capital or property in this state.~~

(3) "Transferee" means a corporation that received substantially all of the assets or equity of a transferor in a transfer.

~~(B) A taxpayer is subject to this section only if all of the following apply:~~

~~(1) It received the assets or equity of a transferor in a transfer;~~

~~(2) The transferor is not subject to the tax imposed by section 5733.06 of the Revised Code for the tax year;~~

~~(3) The taxpayer would have met the ownership or control requirements of division (A) of section 5733.052 of the Revised Code for a combined report with the transferor if both had been in existence on the first day of January immediately before and after the transfer and if the transfer had not been made.~~

(C) For purposes of valuing its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, a ~~taxpayer~~ transferee shall add to its net income allocated or apportioned to this state; its transferor's net income allocated or apportioned to this state. The ~~taxpayer~~ transferee shall add such income in computing its tax for the same tax year or years that such income would have been

reported by the transferor if the transfer had not been made ~~and the transferor had remained subject to the tax imposed by section 5733.06 of the Revised Code on the first day of January of the tax year.~~ the transferee shall add such income only to the extent the income is not required to be reported by the transferor for the purposes of the tax imposed by divisions (A) and (B) of section 5733.06 of the Revised Code.

~~(D)(C)~~ The following shall be determined in the same manner as if the transfer had not been made ~~and the transferor remained subject to the tax imposed by section 5733.06 of the Revised Code on the first day of January of the tax year:~~

(1) The transferor's net income allocated or apportioned to this state for the tax year under divisions (B)(1) and (2) of section 5733.05 of the Revised Code;

(2) The transferor's requirements for the combination of net income under section 5733.052 of the Revised Code;

(3) Any other determination regarding the transferor that is necessary to avoid an absurd or unreasonable result in the application of this chapter.

~~(E)(D)~~ A taxpayer transferee shall be allowed the following credits and deductions shall make the following adjustments in the same manner that they would have been available to ~~its~~ the transferor:

(1) ~~The credit allowed by~~ credits enumerated in section ~~5733.061-5733.98~~ of the Revised Code ~~with regard to property acquired from its transferor;~~

(2) The deduction under division (I)(1) of section 5733.04 of the Revised Code for net operating losses incurred by its transferor, subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code concerning net operating loss carryovers;

~~(3) The deductions allowed by divisions (C)(2), (D)(2), (E)(2), (F)(2), (G)(2), and (H) of section 5733.041 of the Revised Code for prior depreciation addbacks of its transferor;~~

~~(4) The credit allowed under section 5733.069 of the Revised Code, and any~~ Any other deduction from or credit addition to net income under this chapter involving the transferor the disallowance of which would be absurd or unreasonable. ~~The allowance of such a deduction or credit~~ such adjustments to net income and allowance of credits shall be subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code and regulations prescribed thereunder ~~concerning an acquiring corporation's taking into account the credits of a transferor corporation.~~

~~(F)(E)~~ If a taxpayer transferee subject to this section subsequently becomes a transferor, any net income that the ~~taxpayer~~ transferee would

have been required to add under division ~~(C)~~(B) of this section shall be included in its income as a transferor and any credits or ~~deductions that adjustments to which~~ the ~~taxpayer~~ transferee would have been entitled to under division ~~(E)~~(D) of this section shall be available to it as a transferor.

Sec. 5733.06. The tax hereby charged each corporation subject to this chapter shall be the greater of the sum of divisions (A) and (B) of this section, after the reduction, if any, provided by division (J) of this section, or division (C) of this section, after the reduction, if any, provided by division (J) of this section, except that the tax hereby charged each financial institution subject to this chapter shall be the amount computed under division (D) of this section:

(A) Except as set forth in division (F) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(B) Except as set forth in division (F) of this section, eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; or

(C) Except as otherwise provided under division (G) of this section, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. For the purposes of division (C) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of a qualified holding company is zero.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

- (1) For tax years prior to the 1999 tax year, fifteen mills;
- (2) For the 1999 tax year, fourteen mills;
- (3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for all corporations shall be fifty dollars.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value

of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code in this state to impose an income tax on the income of such corporations.

(F) If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For the purpose of making that computation, the taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a ~~taxpayer corporation~~ corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) ~~The~~ If the corporation was ~~not~~ a transferor as defined in section 5733.053 of the Revised Code ~~during any portion of that calendar year, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;~~

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, ~~or~~ 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), (F), and (G) of this section if the corporation is

~~med to have had nexus with or in this state under the Constitution of the United States~~ be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year referred to in which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, ~~or~~ 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year ~~referred to in which~~ division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), (B), and (F) of this section to that income.

(4) Divisions (C) and (G) of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year ~~referred to in which~~ division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by divisions (A) and (B) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in divisions (A) and (B) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code:

(A)(1) "Adjusted qualifying amount" means either of the following:

(a) The net sum of a qualifying investor's distributive share of the income, gain, expense, or loss of a qualifying pass-through entity for the qualifying taxable year of the qualifying pass-through entity multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to (6) of this section;

(b) The sum of a qualifying beneficiary's share of the qualifying net income and qualifying net gain distributed by a qualifying trust for the qualifying taxable year of the qualifying trust multiplied by the apportionment fraction defined in division (B) of this section, subject to section 5733.401 of the Revised Code and divisions (A)(2) to (5) of this section.

(2) The sum shall exclude any amount which, pursuant to the Constitution of the United States, the Constitution of Ohio, or any federal law is not subject to a tax on or measured by net income.

(3) The sum shall be increased by all amounts representing expenses other than amounts described in division (A)(6) of this section that the taxpayer paid to or incurred with respect to direct or indirect transactions with one or more related members, excluding the cost of goods sold calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(3) of this section shall be construed to limit solely to this chapter the application of section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(4) The sum shall be increased by all recognized losses, other than losses from sales of inventory the cost of which is calculated in accordance with section 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder, with respect to all direct or indirect transactions with one or more related members. Losses from the sales of such inventory shall be calculated in accordance with section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder. Nothing in division (A)(4) of this section shall be construed to limit solely to this section the application of section ~~236A~~ 263A and section 482 of the Internal Revenue Code and United States department of the treasury regulations issued thereunder.

(5) The sum shall be computed without regard to section 5733.051 or division (D) of section 5733.052 of the Revised Code.

(6) For the purposes of Chapters 5733. and 5747. of the Revised Code, guaranteed payments made by a partnership or by a limited liability company that is not subject to the tax imposed by section 5733.06 of the Revised Code, and compensation paid by an S corporation to its shareholders, shall be considered a distributive share of income of the partnership, limited liability company, or S corporation. Division (A)(6) of this section applies only to such payments or such compensation made or paid to ~~a qualifying an investor who is a related member to or~~ at any time during the qualifying entity's taxable year holds at least a twenty per cent direct or indirect interest in the profits or capital of the qualifying entity.

(B) "Apportionment fraction" means:

(1) With respect to a qualifying pass-through entity other than a financial institution, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying pass-through entity were a corporation subject to the tax imposed by section 5733.06 of the Revised Code;

(2) With respect to a qualifying pass-through entity that is a financial institution, the fraction calculated pursuant to division (C) of section

5733.056 of the Revised Code as if the qualifying pass-through entity were a financial institution subject to the tax imposed by section 5733.06 of the Revised Code.

(3) With respect to a qualifying trust, the fraction calculated pursuant to division (B)(2) of section 5733.05 of the Revised Code as if the qualifying trust were a corporation subject to the tax imposed by section 5733.06 of the Revised Code, except that the property, payroll, and sales fractions shall be calculated by including in the numerator and denominator of the fractions only the property, payroll, and sales, respectively, directly related to the production of income or gain from acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the qualifying trust's qualifying taxable year or of real property located in this state.

(C) "Qualifying beneficiary" means any individual that, during the qualifying taxable year of a qualifying trust, is a beneficiary of that trust, but does not include an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying trust.

(D) "Fiscal year" means an accounting period ending on any day other than the thirty-first day of December.

(E) "Individual" means a natural person.

(F) "Month" means a calendar month.

(G) "Partnership" has the same meaning as in section 5747.01 of the Revised Code.

(H) "Investor" means any person that, during any portion of a taxable year of a qualifying pass-through entity, is a partner, member, shareholder, or investor in that qualifying pass-through entity.

(I) Except as otherwise provided in section 5733.402 or 5747.401 of the Revised Code, "qualifying investor" means any investor except those described in divisions (I)(1) to (9) of this section.

(1) An investor satisfying one of the descriptions under section 501(a) or (c) of the Internal Revenue Code, an electing small business trust, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the "Securities Exchange Act of 1934," as amended, or an investor described in division (F) of section 3334.01, or division (A) or (C) of section 5733.09 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(2) An investor who is either an individual or an estate and is a resident taxpayer for the purposes of section 5747.01 of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity.

(3) An investor who is an individual for whom the qualifying pass-through entity makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to the individual's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(4) An investor that is another qualifying pass-through entity having only investors described in division (I)(1), (2), (3), or (6) of this section during the three-year period beginning twelve months prior to the first day of the qualifying taxable year of the qualifying pass-through entity.

(5) An investor that is another pass-through entity having no investors other than individuals and estates during the qualifying taxable year of the qualifying pass-through entity in which it is an investor, and that makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the Revised Code and section 5747.09 of the Revised Code with respect to investors that are not resident taxpayers of this state for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity in which it is an investor.

(6) An investor that is a financial institution required to calculate the tax in accordance with division (D) of section 5733.06 of the Revised Code on the first day of January of the calendar year immediately following the last day of the financial institution's calendar or fiscal year in which ends the taxpayer's taxable year.

(7) An investor other than an individual that satisfies all the following:

(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States and is subject to and liable for the tax calculated under division (B) of section 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. The statement is subject to the penalties of perjury, shall be retained by the qualifying pass-through entity for no fewer than seven years, and shall be delivered to the tax commissioner upon request.

(b) The investor makes a good faith and reasonable effort to comply timely and fully with all the reporting and payment requirements set forth in Chapter 5733. of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(c) Neither the investor nor the qualifying pass-through entity in which

it is an investor, before, during, or after the qualifying pass-through entity's qualifying taxable year, carries out any transaction or transactions with one or more related members of the investor or the qualifying pass-through entity resulting in a reduction or deferral of tax imposed by Chapter 5733. of the Revised Code with respect to all or any portion of the investor's adjusted qualifying amount for the qualifying pass-through entity's taxable year, or that constitute a sham, lack economic reality, or are part of a series of transactions the form of which constitutes a step transaction or transactions or does not reflect the substance of those transactions.

(8) Any other investor that the tax commissioner may designate by rule. The tax commissioner may adopt rules including a rule defining "qualifying investor" or "qualifying beneficiary" and governing the imposition of the withholding tax imposed by section 5747.41 of the Revised Code with respect to an individual who is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for only a portion of the qualifying taxable year of the qualifying entity.

(9) An investor that is a trust or fund the beneficiaries of which, during the qualifying taxable year of the qualifying pass-through entity, are limited to the following:

(a) A person that is or may be the beneficiary of a trust subject to Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code.

(b) A person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person satisfies division (I)(9) of this section.

(c) A person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (I)(9)(c) of this section applies only if the trust, prior to the due date for filing the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, irrevocably agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax, as required under sections 5747.40 to 5747.453 of the Revised Code.

For the purposes of division (I)(9) of this section, a trust or fund shall be considered to have a beneficiary other than persons described under

divisions (I)(9)(a) to (c) of this section if a beneficiary would not qualify under those divisions under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." A trust or fund described in division (I)(9) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to the tax benefits provided under division (I)(9) of this section does not have as a principal purpose a claim of those tax benefits. Nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in this paragraph.

(J) "Qualifying net gain" means any recognized net gain with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during a trust's qualifying taxable year or real property located in this state.

(K) "Qualifying net income" means any recognized income, net of related deductible expenses, other than distributions deductions with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state.

(L) "Qualifying entity" means a qualifying pass-through entity or a qualifying trust.

(M) "Qualifying trust" means a trust subject to subchapter J of the Internal Revenue Code that, during any portion of the trust's qualifying taxable year, has income or gain from the acquisition, management, ownership, use, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state. "Qualifying trust" does not include a person described in section 501(c) of the Internal Revenue Code or a person described in division (C) of section 5733.09 of the Revised Code.

(N) "Qualifying pass-through entity" means a pass-through entity as defined in section 5733.04 of the Revised Code, excluding a person described in section 501(c) of the Internal Revenue Code, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the Securities Exchange Act of 1934, as amended, or a person described in division (C) of section 5733.09 of the Revised Code.

(O) "Quarter" means the first three months, the second three months, the third three months, or the last three months of a qualifying entity's qualifying taxable year.

(P) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that

section. However, for the purposes of divisions (A)(3) and (4) of this section only, "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section, but shall be applied by substituting "forty per cent" for "twenty per cent" wherever "twenty per cent" appears in division (A) of that section.

(Q) "Return" or "report" means the notifications and reports required to be filed pursuant to sections 5747.42 to 5747.45 of the Revised Code for the purpose of reporting the tax imposed under section 5733.41 or 5747.41 of the Revised Code, and included declarations of estimated tax when so required.

(R) "Qualifying taxable year" means the calendar year or the qualifying entity's fiscal year ending during the calendar year, or fractional part thereof, for which the adjusted qualifying amount is calculated pursuant to sections 5733.40 and 5733.41 or sections 5747.40 to 5747.453 of the Revised Code.

Sec. 5733.42. (A) As used in this section:

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, ~~career development,~~ or personal enrichment training programs, or training programs intended exclusively for personal career development.

(2) "Eligible employee" means an individual who is employed in this state by a taxpayer and has been so employed by the same taxpayer for at least one hundred eighty consecutive days ~~and on the same job for at least ninety consecutive days working at least twenty-four hours per week before the day an application for the credit is filed under this section.~~ "Eligible employee" does not include any employee for which a credit is claimed pursuant to division (A)(5) of section 5709.65 of the Revised Code for all or any part of the same year, an employee who is not a full-time employee, or executive or managerial personnel except for the immediate supervisors of nonexecutive, nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries, materials and supplies, textbooks and manuals, videotapes, and other instructional media and training equipment used exclusively for the purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted exclusively to an eligible training program during normal paid working hours.

(4) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours per week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(5) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for taxpayers for which a tax credit certificate is issued under division (C) of this section. ~~The credit shall be claimed for the tax year immediately following the calendar year in which the taxpayer pays or incurs the eligible training costs for which the credit is being claimed. The credit may not be claimed for any tax year after tax year 2004, except for amounts carried forward to subsequent tax years to the extent allowed under division (J) of this section .~~ The amount of the credit for each tax year shall equal one-half of the average of ~~the excess of~~ (1) eligible training costs paid or incurred by the taxpayer during the three calendar year years immediately preceding the tax year for which the credit is claimed, over ~~(2) the taxpayer's average annual eligible training costs for the three preceding calendar years. The credit allowed shall not to exceed five hundred one thousand dollars times the number of for each eligible employees employee on account of whom eligible training costs were paid or incurred by the taxpayer during the those calendar year immediately preceding the tax year for which the credit is claimed, and shall not exceed the lesser of one hundred thousand dollars or one half of the taxpayer's tax liability under section 5733.06 of the Revised Code for the preceding tax year years.~~ The credit claimed by a taxpayer each tax year shall not exceed one hundred thousand dollars.

(C) A taxpayer who proposes to conduct an eligible training program may apply to the director of job and family services for a tax credit certificate under this section. The taxpayer may apply for such a certificate for each tax year with respect to a calendar year in which the taxpayer paid or incurred eligible training costs, subject to division (L) of this section. The director shall prescribe the form of the application, which shall require a detailed description of the proposed training program. The director may require applicants to remit an application fee with each application filed with the director. The fee shall not exceed the reasonable and necessary expenses incurred by the director in receiving, reviewing, and approving such applications and issuing tax credit certificates. Proceeds from fees shall

be used solely for the purpose of receiving, reviewing, and approving such applications and issuing such certificates.

After receipt of an application, the director shall authorize a credit under this section by issuing a tax credit certificate, in the form prescribed by the director, if the director determines all of the following:

~~(1) The taxpayer's primary business activity falls within one of the following classifications in the standard industrial classification manual (1987) published by the United States office of management and budget in the executive office of the president:~~

- ~~(a) Division D~~ Manufacturing
- ~~(b) Division H~~ Finance,  
insurance,  
and  
real  
estate
- ~~(c) Major group 73~~ Business  
services
- ~~(d) Major group 81~~ Legal  
services
- ~~(e) Major group 87~~ Engineering,  
accounting,  
research,  
management,  
and  
related  
services

~~(2)~~ The proposed training program is an eligible training program under this section;

~~(3)~~~~(2)~~ The proposed training program is economically sound and will benefit the people of this state by improving workforce skills and strengthening the economy of this state;

~~(4)~~~~(3)~~ Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the training program;

~~(5)~~~~(4)~~ Authorization of the credit is consistent with division (H) of this section.

The credit also is allowed for a taxpayer that is a partner in a partnership that pays or incurs eligible training costs. Such a taxpayer shall determine the taxpayer's credit amount in the manner prescribed by division (K) of this section.

(D) If the director of job and family services denies an application for a

tax credit certificate, the director shall send notice of the denial and the reason for denial to the applicant by certified mail, return receipt requested. If the director determines that an authorized training program, as actually conducted, fails to meet the requirements of this section or to comply with any condition set forth in the authorization, the director may reduce the amount of the tax credit previously granted. If the director reduces a tax credit, the director shall send notice of the reduction and the reason for the reduction to the taxpayer by certified mail, return receipt requested, and shall certify the reduction to the tax commissioner, and the or, in the case of the reduction of a credit claimed by an insurance company, the superintendent of insurance. The tax commissioner or superintendent of insurance shall reduce the credit that may be claimed by the taxpayer accordingly. Within sixty days after receiving a notice of denial or notice of reduction of the tax credit, an applicant or taxpayer may request, in writing, a hearing before the director to review the denial or reduction. Within sixty days after receiving a request that is filed within the prescribed time, the director shall hold such a hearing at a location to be determined by the director. Within thirty days after the hearing is adjourned, the director shall issue a redetermination affirming, reversing, or modifying the denial or reduction of the tax credit and send notice of the redetermination to the applicant or taxpayer by certified mail, return receipt requested, and shall issue a notice of the redetermination to the tax commissioner or superintendent of insurance. If an applicant or taxpayer is aggrieved by the director's redetermination, the applicant or taxpayer may appeal the redetermination to the board of tax appeals in the manner prescribed by section 5717.02 of the Revised Code.

(E) ~~Financial~~ A taxpayer to which a tax credit certificate is issued shall retain records indicating the eligible training costs it pays or incurs for the eligible training program for which the certificate is issued for four years following the end of the tax year for which the credit is claimed. Such records shall be open to inspection by the director of job and family services upon the director's request during business hours.

Financial statements and other information submitted by an applicant to the director of job and family services for a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the director of job and family services ~~or~~, the tax commissioner, or superintendent of insurance may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credits allowed under this section and

sections 5725.31, 5729.07, and 5747.39 of the Revised Code.

(F) The director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The rules shall be adopted after consultation with the tax commissioner and the superintendent of insurance. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons and ranking minority members of the standing committees in the senate and the house of representatives to which legislation on economic development matters are customarily referred.

(G) On or before the thirtieth day of September of 2001, 2002, 2003, and 2004, the director of job and family services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code. The report shall include information on the number of training programs that were authorized under ~~this section~~ those sections during the preceding calendar year, a description of each authorized training program, the dollar amounts of the credits granted, and an estimate of the impact of the credits on the economy of this state.

(H) The aggregate amount of credits authorized under ~~the~~ this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code shall not exceed twenty million dollars per calendar year. No more than ten million dollars in credits per calendar year shall be authorized for ~~corporations~~ persons engaged primarily in manufacturing. No less than five million dollars in credits per calendar year shall be set aside for ~~corporations~~ persons engaged primarily in activities other than manufacturing and having fewer than five hundred employees. Subject to such limits, credits shall be authorized for applicants meeting the requirements of this section in the order in which they submit complete and accurate applications.

(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code.

(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section.

(K) ~~In the case of a qualifying controlled group, the credit allowed under this section to taxpayers in the qualifying controlled group shall be~~

~~computed as if all corporations in the qualifying controlled group were a consolidated, single taxpayer. The credit shall be allocated to such taxpayers in any amount elected for the taxable year by the qualifying controlled group. The election shall be revocable and amendable during the period prescribed by division (B) of section 5733.12 of the Revised Code. A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership.~~

(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31, 5729.07, and 5747.39 of the Revised Code for eligible training costs paid or incurred after December 31, 2003.

Sec. 5745.01. As used in this chapter:

(A) "Electric company" and "combined company" have the same meanings as in section 5727.01 of the Revised Code.

(B) "Electric light company" has the same meaning as in section 4928.01 of the Revised Code, and includes the activities of a combined company as an electric company, but excludes nonprofit companies and municipal corporations.

(C) "Taxpayer" means an electric light company subject to taxation by a municipal corporation in this state for a taxable year, excluding an electric light company that is not an electric company or a combined company and for which an election made under section 5745.031 of the Revised Code is not in effect with respect to the taxable year. If such a company is a qualified subchapter S subsidiary as defined in section 1361 of the Internal Revenue Code or a disregarded entity, the company's parent S corporation or owner is the taxpayer for the purposes of this chapter and is hereby deemed to have nexus with this state under the Constitution of the United States for the purposes of this chapter.

(D) "Disregarded entity" means an entity that, for its taxable year, is by default, or has elected to be, disregarded as an entity separate from its owner pursuant to 26 C.F.R. 301.7701-3.

(E) "Taxable year" of a taxpayer is the taxpayer's taxable year for federal income tax purposes.

(F) "Federal taxable income" means taxable income, before operating loss deduction and special deductions, as required to be reported for the

taxpayer's taxable year under the Internal Revenue Code.

(G) "Adjusted federal taxable income" means federal taxable income adjusted as follows:

(1) Deduct intangible income as defined in section 718.01 of the Revised Code to the extent included in federal taxable income;

(2) Add expenses incurred in the production of such intangible income;

(3) If the taxpayer is a, with respect to a qualifying taxpayer and a qualifying asset there occurs a qualifying taxable event, the qualifying taxpayer under section 5733.0510 of the Revised Code, deduct the amount by which the taxpayer reduced its net income to the extent that amount is included in federal taxable income, or add the amount by which the taxpayer increased its net income, for the taxable year under division (B)(1) of that section, shall reduce its federal taxable income by the amount of the book-tax differential for that qualifying asset if the book-tax differential is greater than zero, and shall increase its federal taxable income by the absolute value of the amount of the book-tax differential for that qualifying asset if the book-tax differential is less than zero. the adjustments provided in division (G)(3) of this section are subject to divisions (B)(3), (4), and (5) of that section 5733.0510 of the Revised Code to the extent those divisions apply to the adjustments in division (B)(1) of that section for the taxable year. A taxpayer shall not deduct or add any amount under division (G)(3) of this section with respect to a qualifying asset the sale, exchange, or other disposition of which resulted in the recognition of a gain or loss that the taxpayer deducted or added, respectively, under division (G)(1) or (2) of this section.

For the purposes of division (G)(3) of this section, "net income" has the same meaning as in section 5733.04 of the Revised Code, and "book-tax differential," "qualifying taxpayer," "qualifying asset," and "qualifying taxable event" have the same meanings as in section 5733.0510 of the Revised Code.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Ohio net income" means the amount determined under division (B) of section 5745.02 of the Revised Code.

Sec. 5745.02. (A) The annual report filed under section 5745.03 of the Revised Code determines a taxpayer's Ohio net income and the portion of Ohio net income to be apportioned to a municipal corporation.

(B) A taxpayer's Ohio net income is determined by multiplying the taxpayer's adjusted federal taxable income by the sum of the property factor multiplied by one-third, the payroll factor multiplied by one-third, and the

sales factor multiplied by one-third. If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. The property, payroll, and sales factors shall be determined in the manner prescribed by divisions (B)(1), (2), and (3) of this section.

(1) The property factor is a fraction the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented, and used in business in this state during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented, and used in business everywhere during such year. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the taxpayer's property.

(2) The payroll factor is a fraction the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere by the taxpayer during such year. Compensation means any form of remuneration paid to an employee for personal services. Compensation is paid in this state if: (a) the recipient's service is performed entirely within this state, (b) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, or (c) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

~~(3)(a) Sales of electricity shall be situated in this state as provided in section 5733.059 of the Revised Code.~~

~~(b) For all other sales, the~~ The sales factor is a fraction the numerator of which is the total sales in this state by the taxpayer during the taxable year, and the denominator of which is the total sales by the taxpayer everywhere during such year. Sales of electricity shall be situated to this state in the

manner provided under section 5733.059 of the Revised Code. In determining the numerator and denominator of the sales factor, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting taxpayer owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the reporting taxpayer from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of division (B)(3)(~~b~~) of this section, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales other than sales of electricity or tangible personal property are in this state if either the income-producing activity is performed solely in this state, or the income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

(C) The portion of a taxpayer's Ohio net income taxable by each municipal corporation imposing an income tax shall be determined by multiplying the taxpayer's Ohio net income by the sum of the municipal property factor multiplied by one-third, the municipal payroll factor multiplied by one-third, and the municipal sales factor multiplied by one-third, and subtracting from the product so obtained any "municipal net operating loss carryforward from prior taxable years." If the denominator of one of the factors is zero, the remaining two factors each shall be multiplied by one-half instead of one-third; if the denominator of two of the factors is zero, the remaining factor shall be multiplied by one. In calculating the "municipal net operating loss carryforward from prior taxable years" for

each municipal corporation, net operating losses are apportioned in and out of a municipal corporation for the taxable year in which the net operating loss occurs in the same manner that positive net income would have been so apportioned. Any net operating loss for a municipal corporation may be applied to subsequent net income in that municipal corporation to reduce that income to zero or until the net operating loss has been fully used as a deduction. The unused portion of net operating losses for each taxable year apportioned to a municipal corporation may only be applied against the income apportioned to that municipal corporation for five subsequent taxable years. Net operating losses occurring in taxable years ending before 2002 may not be subtracted under this section.

A taxpayer's municipal property, municipal payroll, and municipal sales factors for a municipal corporation shall be determined as provided in divisions (C)(1), (2), and (3) of this section.

(1) The municipal property factor is the quotient obtained by dividing (a) the average value of real and tangible personal property owned or rented by the taxpayer and used in business in the municipal corporation during the taxable year by (b) the average value of all of the taxpayer's real and tangible personal property owned or rented and used in business during that taxable year in this state. The value and average value of such property shall be determined in the same manner provided in division (B)(1) of this section.

(2) The municipal payroll factor is the quotient obtained by dividing (a) the total amount of compensation ~~paid~~ earned in the municipal corporation by the ~~taxpayer to its~~ taxpayer's employees during the taxable year for services performed for the taxpayer and that is subject to income tax withholding by the municipal corporation by (b) the total amount of compensation paid ~~in this state~~ by the taxpayer to its employees in this state during the taxable year. Compensation has the same meaning as in division (B)(2) of this section.

(3) The municipal sales factor is a fraction the numerator of which is the taxpayer's total sales in a municipal corporation during the taxable year, and the denominator of which is the taxpayer's total sales in this state during such year.

For the purpose of division (C)(3) of this section, sales of tangible personal property are in the municipal corporation where such property is received in the municipal corporation by the purchaser. Sales of electricity directly to the consumer, as defined in section 5733.059 of the Revised Code, shall be considered sales of tangible personal property. In the case of the delivery of tangible personal property by common carrier or by other

means of transportation, the place at which such property ultimately is received after all transportation has been completed shall be considered as the place at which the property is received by the purchaser. Direct delivery in the municipal corporation, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in that municipal corporation, and direct delivery outside the municipal corporation to a person or firm designated by a purchaser does not constitute delivery to the purchaser in that municipal corporation, regardless of where title passes or other conditions of sale. Sales, other than sales of tangible personal property, are in the municipal corporation if either:

(a) The income-producing activity is performed solely in the municipal corporation;

(b) The income-producing activity is performed both within and without the municipal corporation and a greater proportion of the income-producing activity is performed within that municipal corporation than any other location in this state, based on costs of performance.

(D) If a taxpayer is a combined company as defined in section 5727.01 of the Revised Code, the municipal property, payroll, and sales factors under division (C) of this section shall be adjusted as follows:

(1) The numerator of the municipal property factor shall include only the value, as determined under division (C)(1) of this section, of the company's real and tangible property in the municipal corporation attributed to the company's activity as an electric company using the same methodology prescribed under section 5727.03 of the Revised Code for taxable tangible personal property.

(2) The numerator of the municipal payroll factor shall include only compensation paid in the municipal corporation by the company to its employees for personal services rendered in the company's activity as an electric company.

(3) The numerator of the municipal sales factor shall include only the sales of tangible personal property and services, as determined under division (C)(3) of this section, made in the municipal corporation in the course of the company's activity as an electric company.

(E)(1) If the provisions for apportioning adjusted federal taxable income or Ohio net income under division (B), (C), and (D) of this section do not fairly represent business activity in this state or among municipal corporations, the tax commissioner may adopt rules for apportioning such income by an alternative method that fairly represents business activity in this state or among municipal corporations.

(2) If any of the factors determined under division (B), (C), or (D) of this section does not fairly represent the extent of a taxpayer's business activity in this state or among municipal corporations, the taxpayer may request, or the tax commissioner may require, that the taxpayer's adjusted federal taxable income or Ohio net income be determined by an alternative method, including any of the alternative methods enumerated in division (B)(2)(d) of section 5733.05 of the Revised Code. A taxpayer requesting an alternative method shall make the request in writing to the tax commissioner either with the annual report, a timely filed amended report, or a timely filed petition for reassessment. When the tax commissioner requires or permits an alternative method under division (E)(2) of this section, the tax commissioner shall cause a written notice to that effect to be delivered to any municipal corporation that would be affected by application of the alternative method. Nothing in this division shall be construed to extend any statute of limitations under this chapter.

(F)(1) The tax commissioner may adopt rules providing for the combination of adjusted federal taxable incomes of taxpayers satisfying the ownership or control requirements of section 5733.052 of the Revised Code if the tax commissioner finds that such combinations are necessary to properly reflect adjusted federal taxable income, Ohio net income, or the portion of Ohio net income to be taxable by municipal corporations.

(2) A taxpayer satisfying the ownership or control requirements of section 5733.052 of the Revised Code with respect to one or more other taxpayers may not combine their adjusted federal taxable incomes for the purposes of this section unless rules are adopted under division (F)(1) of this section allowing such a combination or the tax commissioner finds that such a combination is necessary to properly reflect the taxpayers' adjusted federal taxable incomes, Ohio net incomes, or the portion of Ohio net incomes to be subject to taxation within a municipal corporation.

Sec. 5745.03. (A) For each taxable year, each taxpayer shall file an annual report with the treasurer of state not later than the fifteenth day of the fourth month after the end of the taxpayer's taxable year, and shall remit with that report the amount of tax due as shown on the report less the amount paid for the year under section 5745.04 of the Revised Code. The remittance shall be made in the form prescribed by the treasurer of state, including electronic funds transfer if the amount payable with the report exceeds one thousand dollars. The treasurer of state shall credit ninety-eight and one-half per cent of such remittances to the municipal income tax fund, which is hereby created in the state treasury, and credit the remainder to the municipal income tax administrative fund, which is hereby created in the

state treasury. The treasurer of state shall indicate on the report the date it was filed and the amount remitted, and immediately shall transmit the report to the tax commissioner.

(B) Any taxpayer that has been granted an extension for filing a federal income tax return may request an extension for filing the return required under this section by filing with the tax commissioner a copy of the taxpayer's request for the federal filing extension. The request shall be filed not later than the last day for filing the return as required under division (A) of this section. If such a request is properly and timely filed, the tax commissioner shall extend the last day for filing the return required under this section for the same period for which the federal filing extension was granted. The tax commissioner may deny the filing extension request only if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request, owes past due taxes, interest, or penalty under this chapter, or has failed to file a required report or other document for a prior taxable year. The granting of an extension under this section does not extend the last day for paying taxes without penalty pursuant to this chapter unless the tax commissioner extends the payment date.

(C) The annual report shall include statements of the following facts as of the last day of the taxpayer's taxable year:

- (1) The name of the taxpayer;
- (2) The name of the state or country under the laws of which it is incorporated;
- (3) The location of its principal office in this state and, in the case of a taxpayer organized under the laws of another state, the principal place of business in this state and the name and address of the officer or agent of the taxpayer in charge of the business conducted in this state;
- (4) The names of the president, secretary, treasurer, and statutory agent in this state, with the post-office address of each;
- (5) The date on which the taxpayer's taxable year begins and ends;
- (6) The taxpayer's federal taxable income during the taxpayer's taxable year;
- (7) Any other information the tax commissioner requires for the proper administration of this chapter.

(D) The tax commissioner may require any reports required under this chapter to be filed in an electronic format.

(E) A municipal corporation may not require a taxpayer required to file a report under this section to file a report of the taxpayer's income, but a municipal corporation may require a taxpayer to report to the municipal corporation the value of the taxpayer's real and tangible personal property

situated in the municipal corporation, compensation paid by the taxpayer to its employees in the municipal corporation ~~to employees by the taxpayer~~, and sales made in the municipal corporation by the taxpayer, to the extent necessary for the municipal corporation to compute the taxpayer's municipal property, payroll, and sales factors for the municipal corporation.

(F) On or before the thirty-first day of January each year, each municipal corporation imposing a tax on income shall certify to the tax commissioner the rate of the tax in effect on the first day of January of that year. If any municipal corporation fails to certify its income tax rate as required by this division, the tax commissioner shall notify the director of budget and management, who, upon receiving such notification, shall withhold from each payment made to the municipal corporation under section 5745.05 of the Revised Code fifty per cent of the amount of the payment otherwise due the municipal corporation under that section as computed on the basis of the tax rate most recently certified until the municipal corporation certifies the tax rate in effect on the first day of January of that year.

The tax rate used to determine the tax payable to a municipal corporation under this section for a taxpayer's taxable year shall be the tax rate in effect in a municipal corporation on the first day of January in that taxable year. If a taxpayer's taxable year is for a period less than twelve months that does not include the first day of January, the tax rate used to determine the tax payable to a municipal corporation under this section for the taxpayer's taxable year shall be the tax rate in effect in a municipal corporation on the first day of January in the preceding taxable year.

Sec. 5745.04. (A) As used in this section, "combined tax liability" means the total of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.

(B) Beginning with its taxable year beginning in 2003, each taxpayer shall file a declaration of estimated tax report with, and remit estimated taxes to, the treasurer of state at the times and in the amounts prescribed in divisions (B)(1) to (4) of this section, except as provided in division (C) of this section; this division also applies to a taxpayer having a taxable year consisting of fewer than twelve months, at least one of which is in 2002, that ends before January 1, 2003.

(1) Not less than twenty-five per cent of the combined tax liability for the preceding taxable year or twenty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the fourth month after the end of the preceding taxable year;.

(2) Not less than fifty per cent of the combined tax liability for the preceding taxable year or forty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the sixth month after the end of the preceding taxable year.

(3) Not less than seventy-five per cent of the combined tax liability for the preceding taxable year or sixty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the ninth month after the end of the preceding taxable year.

(4) Not less than one hundred per cent of the combined tax liability for the preceding taxable year or eighty per cent of the combined tax liability for the current taxable year shall have been remitted not later than the fifteenth day of the twelfth month after the end of the preceding taxable year.

(C) Each taxpayer shall report on the declaration of estimated tax report the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(D) Upon receiving a declaration of estimated tax report and remittance of estimated taxes under this section, the treasurer of state shall credit ninety-eight and one-half per cent of the remittance to the municipal income tax fund and credit the remainder to the municipal income tax administrative fund, and shall transmit the report to the tax commissioner.

(E) If any remittance of estimated taxes is for one thousand dollars or more, the taxpayer shall make the remittance by electronic funds transfer as prescribed by section 5745.04 of the Revised Code.

(F) Notwithstanding section 5745.08 or 5745.09 of the Revised Code, no penalty or interest shall be imposed on a taxpayer if the declaration of estimated tax report is properly filed, and the estimated tax is remitted, within the time prescribed by division (B) of this section.

Sec. 5745.05. (A) Prior to the first day of March, June, September, and December, the tax commissioner shall certify to the director of budget and management the amount to be paid to each municipal corporation, as indicated on the declaration of estimated tax reports and annual reports received under sections 5745.03 and 5745.04 of the Revised Code, less any amounts previously distributed ~~for the taxable year~~ and net of any audit adjustments made by the tax commissioner. Not later than the first day of March, June, September, and December, the director of budget and management shall provide for payment of the amount certified to each municipal corporation from the municipal income tax fund, plus a pro rata share of any investment earnings accruing to the fund since the previous payment under this section apportioned among municipal corporations

bled to such payments in proportion to the amount certified by the tax commissioner.

(B) If the tax commissioner determines that the amount of tax paid by a taxpayer and distributed to a municipal corporation under this section for a taxable year exceeds the amount payable to that municipal corporation under this chapter after accounting for amounts remitted with the annual report and as estimated taxes, the tax commissioner shall permit the taxpayer to credit the excess against the taxpayer's payments to the municipal corporation of estimated taxes remitted for an ensuing taxable year under section 5745.04 of the Revised Code. If, upon the written request of the taxpayer, the tax commissioner determines that the excess to be so credited is likely to exceed the amount of estimated taxes payable by the taxpayer to the municipal corporation during the ensuing twelve months, the tax commissioner shall so notify the municipal corporation and the municipal corporation shall issue a refund of the excess to the taxpayer within ninety days after receiving such a notice. Interest shall accrue on the amount to be refunded and is payable to the taxpayer at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after the notice is received by the municipal corporation until the day the refund is paid.

Sec. 5745.07. If the tax required to be paid under this chapter, or any portion of that tax, ~~whether determined by the tax commissioner or the taxpayer,~~ is not paid on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the day an assessment is issued under section 5745.12 of the Revised Code, whichever occurs first.

Sec. 5745.08. (A) The following penalties shall apply under the circumstances indicated:

(1) If a taxpayer required to file a report or remit tax as required by this chapter fails to make and file the report within the time prescribed, including any extensions of time granted by the tax commissioner, the tax commissioner may impose a penalty not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the tax required to be shown on the report, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the day on which the report is filed.

(2) If a taxpayer fails to pay any amount of estimated tax required to be

paid under division (B) of section 5745.04 of the Revised Code by the dates prescribed for payment, the tax commissioner may impose a penalty not to exceed twice the interest charged under section 5745.09 of the Revised Code for the delinquent payment.

(3) If a taxpayer files what purports to be a report required by this chapter that does not contain information upon which the substantial correctness of the report may be judged or contains information that on its face indicates that the report is substantially incorrect, and the filing of the report in that manner is due to a position that is frivolous or a desire that is apparent from the report to delay or impede the administration of this chapter, a penalty of up to five hundred dollars may be imposed.

(4) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any report required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the report.

(5) If any person makes a false or fraudulent claim for a refund under section 5745.11 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under division (A)(5) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5745.12 of the Revised Code without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For the purposes of this section, the tax required to be shown on the report shall be reduced by the amount of any part of the tax paid on or before the date, including extensions of the date, prescribed for filing the report.

(C) Each penalty imposed under this section shall be in addition to any other penalty provided in this section. All or part of any penalty imposed under this section may be abated by the commissioner. The tax commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section from a taxpayer shall be considered as taxes collected under this chapter and shall be credited and distributed to municipal corporations in the same proportions as the taxpayer's taxes are distributed for the reporting period under section 5745.05 of the Revised Code or, if the taxpayer has filed the annual report for the year under section 5745.03 of the Revised Code, in the amounts found to be due such municipal corporations on the basis of the annual

report.

Sec. 5745.09. (A) In case of any underpayment of the estimated tax under section 5745.04 of the Revised Code, there shall be added to the tax an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment for the period of underpayment.

(B) The amount of the underpayment shall be the excess of division (B)(1) over division (B)(2) of this section:

(1) The amount of the estimated tax payment that would be required to be paid for the taxable year if the total estimated tax were equal to the total tax shown to be due on the annual report, or if no report was filed, the tax for such year;

(2) The amount, if any, of the estimated tax paid on or before the last day prescribed for such payment.

(C) The period of the underpayment shall run from the date the estimated tax payment was required to be made to the date on which such payment is made. For purposes of this section, a payment of estimated tax on any payment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the payment presently due.

(D) All amounts collected under this section shall be considered as taxes collected under this chapter and shall be credited and distributed to municipal corporations in the same proportions as the taxpayer's taxes are distributed for the reporting period under section 5745.05 of the Revised Code or, if the taxpayer has filed the annual report for the year under section 5745.03 of the Revised Code, in the amounts found to be due to such municipal corporations on the basis of the annual report.

Sec. 5745.11. An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive ~~assessment, with interest on that amount as provided by section 5745.07 of the Revised Code~~ payment of tax under this chapter, including assessments, shall be filed with the tax commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 5745.12 of the Revised Code. The application shall be filed in the form prescribed by the tax commissioner.

Upon the filing of a refund application, the tax commissioner shall determine the amount of refund due and certify the amount of the refund to each municipal corporation to which the overpayment was made. The municipal corporation shall issue a refund to the taxpayer, or, upon the taxpayer's written request, shall credit the amount of the refund against the

taxpayer's estimated tax payments to the municipal corporation for an ensuing taxable year. Any portion of the refund not issued within ninety days after the tax commissioner's notice is received by the municipal corporation shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninetieth day after such notice is received by the municipal corporation until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

Sec. 5745.13. If, upon examination of any books, records, reports, or other documents of a taxpayer, the tax commissioner determines that an adjustment shall be made in the portion of the taxpayer's income that is to be apportioned to a municipal corporation, the tax commissioner shall notify the taxpayer and, if the adjustment causes an adjustment in the taxpayer's tax of more than five hundred dollars, shall notify each affected municipal corporation to that the taxpayer's income tax has been adjusted.

Any municipal corporation to which such a notice is issued may request a review and redetermination of the taxpayer's federal taxable income, Ohio net income, or the portion of Ohio net income apportioned to the municipal corporation by filing a petition with the tax commissioner not later than sixty days after the tax commissioner issues the notice. The petition shall be filed either personally or by certified mail, and shall indicate the objections of the municipal corporation.

Upon receiving such a petition, if a hearing is requested the tax commissioner shall assign a time and place for a hearing on the petition and shall notify the petitioner of the time and place of the hearing by ordinary mail. The tax commissioner may continue the hearing from time to time as necessary. The tax commissioner shall make any correction to the taxpayer's federal taxable income, Ohio net income, or apportionment of Ohio net income that the commissioner finds proper, and issue notice of any correction by ordinary mail to the petitioner, to each other municipal corporation affected by the correction of the apportionment, and to the taxpayer. The tax commissioner's decision on the matter is final, and is not subject to further appeal.

Sec. 5747.15. (A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a taxpayer, qualifying entity, or employer required to file any report or return, including an informational notice, report, or return, under this chapter fails to make and file the report or return within the time

prescribed, including any extensions of time granted by the tax commissioner, a penalty may be imposed not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the sum of the taxes required to be shown on the report or return, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which filed.

(2) If a taxpayer fails to pay any amount of tax required to be paid under section 5733.41 or ~~5747.41 or Chapter~~ Chapters 5747. or 5748. of the Revised Code, except estimated tax under section 5747.09 or 5747.43 of the Revised Code, by the dates prescribed for payment, a penalty may be imposed not exceeding twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(3)(a) If an employer fails to pay any amount of tax imposed by section 5747.02 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the interest charged under division (F)(5) of section 5747.07 of the Revised Code for the delinquent payment.

(b) If a qualifying entity fails to pay any amount of tax imposed by section 5733.41 or 5747.41 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty may be imposed not exceeding the sum of ten per cent of the delinquent payment plus twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(4)(a) If an employer withholds from employees the tax imposed by section 5747.02 of the Revised Code and fails to remit the tax withheld to the state as required by this chapter on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(b) If a qualifying entity withholds any amount of tax imposed under section 5747.41 of the Revised Code from an individual's qualifying amount and fails to remit that amount to the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty may be imposed not exceeding fifty per cent of the delinquent payment.

(5) If a taxpayer, qualifying entity, or employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially

incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by section 5733.41, 5747.02, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of up to five hundred dollars may be imposed.

(6) If a taxpayer or qualifying entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A)(7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under section 5733.41, 5747.02, or 5747.41 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the provisions of this chapter or Chapter 5733. of the Revised Code, and without regard to any time limitation for the assessment imposed by division (A) of section 5747.13 of the Revised Code.

(B) For purposes of this section, the taxes required to be shown on the return shall be reduced by the amount of any part of the taxes paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Any penalty imposed under this section shall be in addition to all other penalties imposed under this section. All or part of any penalty imposed under this section may be abated by the commissioner. All or part of any penalty imposed under this section may be abated by the commissioner if the taxpayer, qualifying entity, or employer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.

Sec. 5747.221. For the purposes of sections 5747.20, 5747.21, and 5747.22 of the Revised Code, no item of income or deduction shall be allocated or apportioned to this state to the extent that such item represents or relates to the portion of an adjusted qualifying amount for which the withholding tax is not imposed under section 5747.41 of the Revised Code by reason of division (C) of section 5733.401 of the Revised Code. This section shall be applied without regard to division (I) of section 5733.40 of the Revised Code.

Sec. 5747.24. This section is to be used solely for the purposes of Chapters 5747. and 5748. of the Revised Code.

(A)(1) As used in this section and section 5747.25 of the Revised Code:

~~(1) An~~ (a) Except as otherwise provided in division (A)(2) of this section, an individual "has one contact period in this state" if the individual is away overnight from his the individual's abode located outside this state and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in this state.

~~(2)(b)~~ (b) An individual is considered to be "away overnight from his the individual's abode located outside this state" if the individual is away from his the individual's abode located outside this state for a continuous period of time, however minimal, beginning at any time on one day and ending at any time on the next day.

(c) "Medical hardship" includes circumstances under which the individual or a member of the individual's immediate or extended family is admitted as a patient into a hospital located in this state, examined in this state by a medical professional, admitted into a nursing home in this state, receiving nursing care in this state while staying in a dwelling located in this state, or otherwise receiving ongoing, necessary medical care in this state. "Medical hardship" includes receiving treatment or care for acute or chronic illness or obstetric treatment or care.

(d) "Medical professional" means a person licensed under Chapter 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4734., 4753., 4755., 4757., 4759., 4760., 4761., 4762., or 4773. of the Revised Code.

(e) "Immediate or extended family" of an individual means the individual's spouse, children, grandchildren, parents, grandparents, siblings, in-laws, or any of the individual's dependents.

(2) Up to thirty periods that would otherwise constitute contact periods under division (A)(1)(a) of this section shall not be considered contact periods during a taxable year if the individual spends any portion of either day of each such contact period for one or more of the following purposes:

(a) To provide services for no consideration or to raise funds for an organization described in section 501(c)(3) of the Internal Revenue Code. "Consideration" does not include any reimbursement of the individual's actual expenses directly or indirectly related to such activity.

(b) To attend to a medical hardship involving the individual or a member of the individual's immediate or extended family or to attend a funeral involving a member of the individual's immediate or extended family.

(B) An individual who during a taxable year has no more than one

hundred twenty contact periods in this state, which need not be consecutive, and who during the entire taxable year has at least one abode outside this state, is presumed to be not domiciled in this state during the taxable year. The tax commissioner, in writing and by personal service or certified mail, return receipt requested, may request a statement from an individual verifying that the individual was not domiciled in this state under this division during the taxable year. The commissioner shall not make such a request after the expiration of the period, if any, within which the commissioner may make an assessment under section 5747.13 of the Revised Code against the individual for the taxable year. Within sixty days after receiving the commissioner's request, the individual shall submit a written statement to the commissioner stating both of the following:

- (1) During the entire taxable year, the individual was not domiciled in this state;
- (2) During the entire taxable year, the individual had at least one abode outside this state.

The presumption that the individual was not domiciled in this state is irrebuttable unless the individual fails to submit the statement as required. If the individual fails to submit the statement as required, ~~he~~ the individual is presumed under division (C) of this section to have been domiciled in this state the entire taxable year.

In the case of an individual who dies, the personal representative of the estate of the deceased individual may comply with this division by making to the best of the representative's knowledge and belief the statement under this division with respect to the deceased individual, and submitting the statement to the commissioner within sixty days after receiving the commissioner's request for it.

An individual or personal representative of an estate who knowingly makes a false statement under this division is guilty of perjury under section 2921.11 of the Revised Code.

(C) An individual who during a taxable year has less than one hundred eighty-three contact periods in this state, which need not be consecutive, and who is not irrebuttably presumed under division (B) of this section to be not domiciled in this state with respect to that taxable year, is presumed to be domiciled in this state for the entire taxable year. An individual can rebut this presumption for any portion of the taxable year only with a preponderance of the evidence to the contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which ~~he~~ the individual does not provide a preponderance of the

evidence to the contrary.

(D) An individual who during a taxable year has at least one hundred eighty-three contact periods in this state, which need not be consecutive, is presumed to be domiciled in this state for the entire taxable year. An individual can rebut this presumption for any portion of the taxable year only with clear and convincing evidence to the contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which ~~he~~ the individual does not provide clear and convincing evidence to the contrary.

(E) If the tax commissioner challenges the number of contact periods an individual claims to have in this state during a taxable year, the individual bears the burden of proof to verify such number, by a preponderance of the evidence. An individual challenged by the commissioner is presumed to have a contact period in this state for any period for which he does not prove by a preponderance of the evidence that ~~he~~ the individual had no such contact period.

Sec. 5747.39. As used in this section, "eligible employee" and "eligible training costs" have the same meanings as in section 5733.42 of the Revised Code, and "pass-through entity" includes a sole proprietorship.

For taxable years beginning after December 31, 2000 there is hereby allowed a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code for a taxpayer that is an investor in a pass-through entity for which a tax credit certificate is issued under section 5733.42 of the Revised Code. The amount of eligible training costs for which a credit may be claimed by all taxpayers that are investors in an entity shall equal one-half of the average of the eligible training costs incurred by the entity during the three calendar years that end in the taxable year for which the credit is claimed, but shall not exceed one thousand dollars for each eligible employee on account of whom such costs were paid or incurred by the entity, and the total amount of credits that may be claimed by all such taxpayers shall not exceed one hundred thousand dollars each year. Each taxpayer's credit shall be claimed for the taxpayer's taxable year that includes the last day of the third calendar year of the three-year period during which eligible training costs are paid or incurred by the entity. The credit may be claimed for eligible training costs paid or incurred on or before December 31, 2003. The amount of a taxpayer's credit shall equal the taxpayer's interest in the entity on the last day of the third calendar year of the three-year period ending in or with the last day of the taxpayer's taxable year, multiplied by the credit available to the entity as computed by the

entity.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code. A taxpayer may carry forward the credit to the extent that the taxpayer's credit exceeds the taxpayer's tax due after allowing for any other credits that precede the credit allowed by this section in the order prescribed by section 5747.98 of the Revised Code. The taxpayer may carry the excess credit forward for three taxable years following the taxable year for which the taxpayer first claims the credit under this section.

A pass-through entity shall apply to the director of job and family services for a tax credit certificate in the manner prescribed by division (C) of section 5733.42 of the Revised Code, divisions (C) to (H) of that section govern the tax credit allowed by this section, except that "taxable year" shall be substituted for "tax year" wherever that phrase appears in those divisions, and that "pass-through entity" shall be substituted for "taxpayer" wherever "taxpayer" appears in those divisions.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

- (1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
- (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;
- (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;
- (4) The dependent care credit under section 5747.054 of the Revised Code;
- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (9) The campaign contribution credit under section 5747.29 of the Revised Code;
- (10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (11) The joint filing credit under division (G) of section 5747.05 of the

Revised Code;

(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;

(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(17) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(18) The credit for manufacturing investments under section 5747.051 of the Revised Code;

(19) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

(20) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(21) The job training credit under section 5747.39 of the Revised Code;

~~(22)~~ (22) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(22)~~(23) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

~~(23)~~(24) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

~~(24)~~(25) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

~~(25)~~(26) The export sales credit under section 5747.057 of the Revised Code;

~~(26)~~(27) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

~~(27)~~(28) The enterprise zone credits under section 5709.65 of the Revised Code;

~~(28)~~(29) The refundable jobs creation credit under section 5747.058 of the Revised Code;

~~(29)~~(30) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

~~(30)~~(31) The refundable credits for taxes paid by a qualifying

pass-through entity granted under division (J) of section 5747.08 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in divisions (A)~~(28)~~, (29), ~~and (30), and (31)~~ of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

SECTION 2. That existing sections 9.66, 718.011, 718.09, 718.10, 718.14, 3318.035, 3709.28, 4141.21, 4933.33, 5703.052, 5727.11, 5727.111, 5727.33, 5727.80, 5727.81, 5727.82, 5727.83, 5727.84, 5727.85, 5727.86, 5727.87, 5727.88, 5727.89, 5727.90, 5727.91, 5727.92, 5727.93, 5727.94, 5727.95, 5733.053, 5733.06, 5733.40, 5733.42, 5745.01, 5745.02, 5745.03, 5745.04, 5745.05, 5745.07, 5745.08, 5745.09, 5745.11, 5745.13, 5747.15, 5747.24, and 5747.98 of the Revised Code are hereby repealed.

SECTION 3. That Sections 3, 4, and 16 of Am. Sub. S.B. 3 of the 123rd General Assembly be amended to read as follows:

" Sec. 3. ~~Sections 5727.111 and Section 5727.15~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 3 of the 123rd General Assembly, shall first apply to tax year 2001.

Sec. 4. Sections 4933.33, 5727.30, and 5727.32, ~~and 5727.33~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 3 of the 123rd General Assembly, shall first apply to the excise tax assessed by the Tax Commissioner for tax year 2002.

Sec. 16. The Director of Development shall study and report to the General Assembly concerning the desirability of implementing a tax credit program for the creation of new jobs in Ohio to manufacture or assemble generating equipment and components for global use. The director shall determine and recommend how the tax credit should be structured to encourage investments in facilities, equipment, and services related to the manufacture, assembly, shipping preparation, and transportation of generation equipment or components for global use, and to create new jobs as a result of such investments.

On or before ~~December 31, 2000~~ June 30, 2001, the Director of

Development shall issue a report of its findings to the Senate and House of Representatives in accordance with division (B) of section 101.68 of the Revised Code."

SECTION 4. That existing Sections 3, 4, and 16 of Am. Sub. S.B. 3 of the 123rd General Assembly are hereby repealed.

SECTION 5. That Section 174 of Am. Sub. H.B. 283 of the 123rd General Assembly be amended to read as follows:

" Sec. 174. Sections 122.15, 122.152, 129.55, 129.63, 129.73, 718.01, 1555.12, 5528.36, 5703.052, 5703.053, 5727.01, 5727.30, 5727.31, 5727.311, 5727.32, ~~5727.33~~, 5727.38, 5727.42, 5727.48, 5727.50, 5727.60, and 5733.16 of the Revised Code, as amended by ~~this act~~ Am. Sub. H.B. 283 of the 123rd General Assembly, first apply to the excise tax year beginning May 1, 2000. Sections 5727.24, 5727.25, 5727.26, 5727.27, 5727.28, and 5727.29 of the Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 283 of the 123rd General Assembly, first apply to gross receipts derived from taxable activities that occur after April 30, 2000. Natural gas companies and combined electric and gas companies must file an annual statement pursuant to section 5727.31 of the Revised Code on or before August 1, 2000, and the Tax Commissioner shall issue an assessment pursuant to section 5727.38 of the Revised Code on or before the first Monday in November for the period ending April 30, 2000. Such companies shall have made and shall make payments of the excise tax on gross receipts imposed by section 5727.30 of the Revised Code on or before October 15, 1999, March 1, 2000, and June 1, 2000, in accordance with section 5727.31 of the Revised Code. Division (D) of section 5727.42 of the Revised Code does not apply to the portion of any assessment issued by the Tax Commissioner for the period ending April 30, 2000, that reflects the excise tax owed on those gross receipts from operating as a natural gas company that would have been subject to the tax under section 5727.24 of the Revised Code, as enacted by ~~this act~~ Am. Sub. h.B. 283 of the 123rd General Assembly."

SECTION 6. That existing Section 174 of Am. Sub. H.B. 283 of the 123rd General Assembly is hereby repealed.

SECTION 7. That Sections 3, 4, and 5 of Sub. H.B. 483 of the 123rd

General Assembly be amended to read as follows:

" Sec. 3. Sections 113.061, ~~718.01, 718.011, 718.02, 718.08,~~ 5703.053, 5703.19, 5703.21, and 5745.01 to 5745.16 of the Revised Code, as amended or enacted by ~~this act~~ Sub. H.B. 483 of the 123rd General Assembly, take effect January 1, ~~2002~~ 2001, or the earliest date thereafter permitted by law.

Sec. 4. ~~Notwithstanding division (B) of section 5745.04 of the Revised Code as enacted by this act:~~ Any term used in this section has the same meaning as in section 5745.01 of the Revised Code.

(A) A taxpayer is first subject to the tax reporting and payment requirements of Chapter 5745. of the Revised Code for its taxable year that includes January 1, 2002, subject to division (c) of this section in the case of an electric light company that is not an electric company or combined company. An electric company or a combined company having a taxable year that includes days in both calendar year 2001 and calendar year 2002 shall adjust its adjusted federal taxable income for that taxable year to include only that income attributable to calendar year 2002. The adjustment shall be effected by multiplying the company's adjusted federal taxable income by a fraction, the numerator of which is the number of days of the company's taxable year that are in 2002, and the denominator of which is the total number of days in that taxable year.

~~(A)(B)~~ Each electric company and combined company, as defined in section 5727.01 of the Revised Code, shall file a declaration of estimated tax report and remit 20% of the combined tax liability for its taxable year ending in 2002 on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of that taxable year. The, unless the company's taxable year begins before September 1, 2001. If the company's taxable year begins before that date, the company's first report and remittance shall be made on the fifteenth day of the fourth, sixth, ninth, or twelfth month of its taxable year, whichever such day occurs first on or after January 15, 2002. The first remittance shall equal 20% of the combined tax liability multiplied by the number of such estimated reporting and payment days occurring on or before January 15, 2002.

The company shall indicate on the report the portion of the remittance that is payable to each municipal corporation to which the company estimates its Ohio net income will be apportioned for that taxable year under section 5745.02 of the Revised Code as enacted by ~~this act~~ Sub. H.B. 483 of the 123rd General Assembly No penalty or interest shall be imposed on such a company if the estimated tax ~~remitted under division (B) of this section~~ is remitted within the time prescribed by ~~that~~ this division and the total of the estimated taxes remitted equals at least 80% of the combined tax liability for

the taxable year.

~~(B)(C)(1)~~ Except as otherwise provided in division ~~(B)(C)(2)~~ of this section, each electric light company that is not an electric company or combined company as defined in section 5727.01 of the Revised Code and that paid a municipal corporation's income tax in ~~2001~~ the taxable year prior to the taxable year that begins on or after January 1, 2002, shall file a declaration of estimated tax report and remit 25% of the company's combined tax liability for ~~2001, in lieu of the estimated combined tax liability for 2002, on the prior taxable year on or before~~ the fifteenth day of the fourth, sixth, ninth, and twelfth month after the end of the company's ~~prior taxable year ending in 2001~~. The company shall indicate on the report the portion of the remittance that is payable to each municipal corporation to which the company estimates its Ohio net income will be apportioned for that taxable year under section 5745.02 of the Revised Code as enacted by ~~this act~~ Sub. H.B. 483 of the 123rd General Assembly. No penalty or interest shall be imposed on such a company if the total of the estimated taxes remitted equals ~~at least 80%~~ 100% of the combined tax liability for the ~~prior taxable year ending in 2001 or 100% of the combined tax liability for the taxable year ending in 2000~~.

(2) Division ~~(B)(C)(1)~~ of this section applies only to an electric light company described in that division that makes an election under section 5745.031 of the Revised Code that is in effect for ~~tax its taxable year that includes December 31, 2002, or its taxable year beginning on or after January 1, 2002, but ending before December 31, 2002, if the company's taxable year is less than twelve months~~. An electric light company may not elect to be a taxpayer under that section for any taxable year that begins before January 1, 2002.

Sec. 5. Notwithstanding sections 5745.03 and 5745.04 of the Revised Code, as enacted by ~~this act~~ Sub. H.B. 483 of the 123rd General Assembly, the Treasurer of State shall credit to the Municipal Income Tax Administrative Fund, from remittances received under those sections for taxable years ending in 2002 and 2003, the amount certified by the Tax Commissioner as the amount necessary to defray the Tax Commissioner's expenses of administering Chapter 5745. of the Revised Code for 2002 and 2003, respectively. ~~The amount shall not exceed 5% of the remittances received for the respective year.~~ The Tax Commissioner shall certify that amount to the Treasurer of State not later than January 31, 2002, and January 31, 2003, respectively."

SECTION 8. That existing Sections 3, 4, and 5 of Sub. H.B. 483 of the

123rd General Assembly are hereby repealed.

SECTION 9. That sections 718.01, 718.011, 718.02, and 718.08 of the Revised Code as amended or enacted by Sub. H.B. 483 of the 123rd General Assembly shall take effect on the effective date of this section.

This section is intended to accelerate the effective date of sections 718.01, 718.011, 718.02, and 718.08 of the Revised Code from January 1, 2002, to the earliest time permitted by law upon the enactment of this act. The effective date of those sections was delayed unintentionally to correspond with delayed effective dates contained in Sub. S.B. 3 of the 123rd General Assembly (January 1, 2002), but the delay inadvertently postpones the effect of other amendments and enactments made by Sub. H.B. 477 of the 123rd General Assembly.

SECTION 10. The excise tax imposed by section 5727.811 of the Revised Code shall first apply to natural gas distributed on and after July 1, 2001. Before that date, a natural gas distribution company shall register with the Tax Commissioner in accordance with section 5727.93 of the Revised Code, as amended by this act.

SECTION 11. (A) Not later than 90 days after the effective date of this act, each natural gas distribution company in this state having more than 50,000 customers, and each natural gas distribution company in this state with 50,000 customers or less that does not make an election under division (C) of section 5727.811 of the Revised Code, as enacted by this act, shall file with the Public Utilities Commission revised schedules that do both of the following:

(1) For all customers, reduce natural gas MCF rates, effective April 1, 2001, in an amount equal to the amount included in rates in each company's last base rate case for the differential resulting from the reduction in the personal property tax assessment rate to 25% of true value as provided by section 5727.111 of the Revised Code, as amended by this act;

(2) Establish a rider that provides for the collection, beginning July 1, 2001, of the excise tax imposed by section 5727.811 of the Revised Code, as enacted by this act. The Commission shall approve a revised schedule filed under this section within 60 days after it is filed.

(B) To the extent possible, the rate reduction provided by division (A)(1) of this section and the tax rider provided by division (A)(2) of this

section shall be designed to avoid revenue responsibility shifts among the natural gas distribution company's customer rate schedules or between the natural gas distribution company's commodity sales service and distribution service.

SECTION 12. The Department of Taxation, in conjunction with the Public Utilities Commission, shall study the effects, fairness, and structure of the kilowatt-hour tax imposed by section 5727.81 of the Revised Code, as amended by this act, with respect to commercial and industrial purchasers of electricity.

Not later than September 30, 2007, the Department shall issue a report of its findings to the President of the Senate, the Speaker of the House of Representatives, the majority leaders of the Senate and the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the chairpersons of the standing committee of the House of Representatives and the Senate that primarily considers tax legislation.

SECTION 13. The amendment or enactment by this act of sections 5733.053, 5733.06, 5733.40, 5747.221, and 5747.24 of the Revised Code first applies to tax year 2002.

SECTION 14. As used in this section, "Appalachian region" has the same meaning as in section 107.21 of the Revised Code.

There is hereby created the Appalachian Energy Grant Authority. The purpose of the Authority is to make grants to eligible applicants to enhance and maintain the economic welfare of the Appalachian region through the support of manufacturing in the region, which is hereby declared to be a public purpose. The Authority shall consist of the Director of Development and the Director of Budget and Management, or their respective designees, and the Deputy Director of the Governor's Office of Appalachian Ohio created under section 107.21 of the Revised Code. The Authority shall conduct its first meeting not later than July 1, 2001, and shall designate a chairperson from among its members. Thereafter, the Authority shall meet at the call of the chairperson.

The Authority may make grants to any business enterprise satisfying all of the following:

(A) The enterprise is engaged in manufacturing in the Appalachian

region.

(B) During 1999, the enterprise consumed at least 550 million kilowatt hours of electricity.

(C) The average cost per kilowatt hour of electricity consumed by the enterprise during 1999 was less than \$0.025.

(D) The imposition of the tax under section 5727.81 of the Revised Code significantly increases the enterprise's per-kilowatt-hour cost of electricity, including the tax, compared to the enterprise's per-kilowatt-hour cost before the tax was imposed.

(E) The awarding of the grant to the enterprise is likely, in the opinion of the Authority, to enhance or maintain the economic welfare of the Appalachian region.

To receive a grant under this section, an enterprise shall apply to the Authority in the manner and within the time prescribed by the Authority. The Authority may require the applicant to provide such information as the Authority considers necessary to determine the applicant's eligibility for the grant. The employees of the Department of Development, Office of Budget and Management, and the Governor's Office of Appalachian Ohio shall provide any staff assistance necessary to carry out this section, as directed by the Authority.

Grants may be made under this section beginning July 1, 2001, and before July 1, 2004, from money appropriated for that purpose by the General Assembly. The Authority shall cease to exist on July 1, 2004. The Authority is not an agency subject to section 101.82 and 101.84 of the Revised Code.

This section is hereby repealed, effective July 1, 2004.

SECTION 15. The amendment by this act of section 5733.42 of the Revised Code first applies to credits claimed by a taxpayer, as defined in section 5733.04 of the Revised Code, for tax year 2002.

Section 16. Section 5703.052 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 283 and Am. Sub. S.B. 3 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 17. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to provide, at the earliest possible time, for equitable taxation of participants in the natural gas markets. Therefore, this act shall go into immediate effect.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_