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Representative Beck

**Cosponsors: Representatives Letson, Antonio, Barnes, Boose, Combs,
Gardner, Garland, Hackett, Newbold, O'Brien, Sears, Sprague, Thompson,
Wachtmann, Winburn, Young Speaker Batchelder
Senators Peterson, Beagle, Kearney, Obhof, Oelslager, Smith, Tavares,
Turner, Wagoner**

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A B I L L

To amend sections 5701.11 and 5751.01 of the Revised	1
Code, to contingently amend sections 5502.011,	2
5507.01, 5507.02, 5507.18, 5507.34, 5507.40,	3
5507.42, 5507.44, 5507.46, 5507.53, 5507.55,	4
5507.57, 5507.63, 5507.65, 5507.66, and 5733.55,	5
to contingently enact section 5507.54, and to	6
contingently repeal section 5507.51 of the Revised	7
Code, and to terminate certain provisions of this	8
act on January 1, 2014, by contingently repealing	9
sections 5507.40 and 5507.53 of the Revised Code	10
on that date, to contingently revise the 9-1-1	11
law, to expressly incorporate changes in the	12
Internal Revenue Code since March 7, 2011, into	13
Ohio law, to extend the existing commercial	14
activity tax exemption for "qualified distribution	15
centers" to include precious metal refineries in	16
the Appalachian region, thereby exempting	17
suppliers of unrefined metals to such a refinery	18
from the tax to the extent that the refinery ships	19

the refined metals outside Ohio, to permit, for a 20
limited time, the abatement of unpaid property 21
taxes, penalties, and interest owed on property 22
owned by a municipal corporation that would have 23
been tax exempt except for a failure to comply 24
with certain tax-exemption procedures, to 25
contingently make an appropriation, and to declare 26
an emergency. 27

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

Section 1. That sections 5701.11 and 5751.01 be amended and 28
that sections 5502.011, 5507.01, 5507.02, 5507.18, 5507.34, 29
5507.40, 5507.42, 5507.44, 5507.46, 5507.53, 5507.55, 5507.57, 30
5507.63, 5507.65, 5507.66, and 5733.55 be contingently amended and 31
section 5507.54 of the Revised Code be contingently enacted to 32
read as follows: 33

Sec. 5502.011. (A) As used in this section, "department of 34
public safety" and "department" include all divisions within the 35
department of public safety. 36

(B) The director of public safety is the chief executive and 37
administrative officer of the department. The director may 38
establish policies governing the department, the performance of 39
its employees and officers, the conduct of its business, and the 40
custody, use, and preservation of departmental records, papers, 41
books, documents, and property. The director also may authorize 42
and approve investigations to be conducted by any of the 43
department's divisions. Whenever the Revised Code imposes a duty 44
upon or requires an action of the department, the director may 45
perform the action or duty in the name of the department or direct 46
such performance to be performed by the director's designee. 47

(C) In addition to any other duties enumerated in the Revised Code, the director or the director's designee shall do all of the following:	48 49 50
(1) Administer and direct the performance of the duties of the department;	51 52
(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;	53 54 55
(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;	56 57 58 59
(4) Make appointments for the department as needed to comply with requirements of the Revised Code;	60 61
(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;	62 63 64
(6) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law;	65 66 67 68
(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;	69 70 71
(8) Develop a list of disqualifying offenses for licensure as a private investigator or a security guard provider pursuant to sections 4749.03, 4749.04, 4749.10, and 4776.10 of the Revised Code;	72 73 74 75
(9) Do all other acts necessary or desirable to carry out this chapter.	76 77

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:	78 79 80 81
(a) A check, draft, or money order that is returned or dishonored;	82 83
(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;	84 85
(c) Any financial transaction device that is returned or dishonored for any reason.	86 87
(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid.	88 89 90
(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.	91 92
(E) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts. The advisory council shall include, but not be limited to, state and local government officials who have homeland security or emergency management responsibilities and who represent first responders. The director shall appoint the members of the council, who shall serve without compensation.	93 94 95 96 97 98 99 100
<u>(F)(1) The director or the director's designee shall carry out the duties required of the director under Chapter 5507. of the Revised Code. The director may, at the director's discretion, assign employees of the department to provide assistance in carrying out those duties as the director considers necessary.</u>	101 102 103 104 105
<u>(2) The director may adopt rules under Chapter 111. of the Revised Code to approve, adopt, and prescribe such forms and</u>	106 107

<u>processes as are necessary to carry out the duties required of the director under Chapter 5507. of the Revised Code.</u>	108
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Sec. 5507.01. As used in this chapter:	110
(A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.	111
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(B) "Basic 9-1-1" means a 9-1-1 system in which a caller provides information on the nature of and the location of an emergency, and the personnel receiving the call must determine the appropriate emergency service provider to respond at that location.	113
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(C) "Enhanced 9-1-1" means a 9-1-1 system capable of providing both enhanced wireline 9-1-1 and wireless enhanced 9-1-1.	118
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(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which the wireline telephone network, in providing wireline 9-1-1, automatically routes the call to emergency service providers that serve the location from which the call is made and immediately provides to personnel answering the 9-1-1 call information on the location and the telephone number from which the call is being made.	121
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(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in providing wireless 9-1-1, has the capabilities of phase I and, to the extent available, phase II enhanced 9-1-1 services as described in 47 C.F.R. 20.18 (d) to (h).	128
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(F)(1) "Wireless service" means federally licensed commercial mobile service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and includes service provided by any wireless, two-way communications device, including a radio-telephone communications line used in cellular telephone service or personal communications service, a network	132
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radio access line, or any functional or competitive equivalent of such a radio-telephone communications or network radio access line.	138 139 140
(2) Nothing in this chapter applies to paging or any service that cannot be used to call 9-1-1.	141 142
(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.	143 144 145
(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.	146 147 148
(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.	149 150 151
(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.	152 153 154
(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.	155 156 157 158 159
(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.	160 161 162 163
(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance district, or joint emergency medical services district that provides	164 165 166 167

emergency service within its territory, or that contracts with another municipal corporation, township, or district or with a private entity to provide such service; and a state college or university, port authority, or park district of any kind that employs law enforcement officers that act as the primary police force on the grounds of the college or university or port authority or in the parks operated by the district.	168 169 170 171 172 173 174
(N) "Emergency service" means emergency law enforcement, firefighting, ambulance, rescue, and medical service.	175 176
(O) "Emergency service provider" means the state highway patrol and an emergency service department or unit of a subdivision or that provides emergency service to a subdivision under contract with the subdivision.	177 178 179 180
(P) "Public safety answering point" means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.	181 182 183 184 185 186
(Q) "Customer premises equipment" means telecommunications equipment, including telephone instruments, on the premises of a public safety answering point that is used in answering and responding to 9-1-1 system calls.	187 188 189 190
(R) "Municipal corporation in the county" includes any municipal corporation that is wholly contained in the county and each municipal corporation located in more than one county that has a greater proportion of its territory in the county to which the term refers than in any other county.	191 192 193 194 195
(S) "Board of county commissioners" includes the legislative authority of a county established under Section 3 of Article X, Ohio Constitution, or Chapter 302. of the Revised Code.	196 197 198

(T) "Final plan" means a final plan adopted under division	199
(B) of section 5507.08 of the Revised Code and, except as otherwise expressly provided, an amended final plan adopted under section 5507.12 of the Revised Code.	200
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(U) "Subdivision served by a public safety answering point" means a subdivision that provides emergency service for any part of its territory that is located within the territory of a public safety answering point whether the subdivision provides the emergency service with its own employees or pursuant to a contract.	203
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(V) A township's population includes only population of the unincorporated portion of the township.	209
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(W) "Telephone company" means a company engaged in the business of providing local exchange telephone service by making available or furnishing access and a dial tone to persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and gaining access to other telecommunications services. "Telephone company" includes a wireline service provider and a wireless service provider unless otherwise expressly specified. For purposes of sections 5507.25 and 5507.26 of the Revised Code, "telephone company" means a wireline service provider.	211
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(X) "Prepaid wireless calling service" has the same meaning as in division (AA)(5) of section 5739.01 of the Revised Code.	222
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(Y) "Provider of a prepaid wireless calling service" means a wireless service provider that provides a prepaid wireless calling service.	224
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(Z) "Retail sale" has the same meaning as in section 5739.01 of the Revised Code.	227
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(AA) "Seller" means a person that sells a prepaid wireless	229

calling service to another person by retail sale.	230
<u>(BB) "Consumer" means the person for whom the prepaid wireless calling service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the prepaid wireless calling service is charged, or to whom the admission is granted.</u>	231 232 233 234 235
<u>(CC) "Reseller" means a nonfacilities-based provider of wireless service that provides wireless service under its own name to one or more end users in this state using the network of a wireless service provider.</u>	236 237 238 239
Sec. 5507.02. (A)(1) There is hereby created the statewide emergency services internet protocol network steering committee, consisting of the following ten members:	240 241 242
(a) The state chief information officer or the officer's designee;	243 244
(b) Two members of the house of representatives appointed by the speaker, one from the majority party and one from the minority party;	245 246 247
(c) Two members of the senate appointed by the president, one from the majority party and one from the minority party;	248 249
(d) Five members appointed by the governor.	250
(2) In appointing the five members under division (A)(1)(d) of this section, the governor shall appoint two representatives of the county commissioners' association of Ohio or a successor organization, two representatives of the Ohio municipal league or a successor organization, and one representative of the Ohio township association or a successor organization. For each of these appointments, the governor shall consider a nominee proposed by the association or successor organization. The governor may reject any of the nominees and may request that a nominating	251 252 253 254 255 256 257 258 259

entity submit alternative nominees.	260
(3) Initial appointments shall be made not later than ten days after September 28, 2012.	261
(B)(1) The state chief information officer or the officer's designee shall serve as the chairperson of the steering committee and shall be a nonvoting member. All other members shall be voting members.	263
(2) A member of the steering committee appointed from the membership of the senate or the house of representatives shall serve during the member's term as a member of the general assembly and until a successor is appointed and qualified, notwithstanding adjournment of the general assembly or the expiration of the member's term as a member of the general assembly.	267
(3) The initial terms of one of the representatives of the county commissioners' association of Ohio, one of the representatives of the Ohio municipal league, and the representative of the Ohio township association shall all expire on December 31, 2016. The initial terms of the other representatives of the county commissioners' association of Ohio and the Ohio municipal league shall expire on December 31, 2014. Thereafter, terms of the members appointed by the governor shall be for four years, with each term ending on the same day of the same month as the term it succeeds. Each member appointed by the governor shall hold office from the date of the member's appointment until the end of the term for which the member was appointed, and may be reappointed. A member appointed by the governor shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members appointed by the governor shall serve without compensation and shall not be reimbursed for expenses.	273

(4) A vacancy in the position of any member of the steering committee shall be filled for the unexpired term in the same manner as the original appointment.	291 292 293
(C) The steering committee shall generally advise the state on the implementation, operation, and maintenance of a statewide emergency services internet protocol network that would support state and local government next-generation 9-1-1 and the dispatch of emergency service providers. The steering committee shall do all of the following:	294 295 296 297 298 299
(1) On or before May 15, 2013, deliver an initial report to the speaker of the house of representatives, the president of the senate, and the governor providing recommendations for the state to address the development of a statewide emergency services internet protocol network, which recommendations shall include a review of the current funding model for this state's 9-1-1 systems and may include a recommendation for a reduction in wireless 9-1-1 charges;	300 301 302 303 304 305 306 307
(2) Examine the readiness of the state's current technology infrastructure for a statewide emergency services internet protocol network;	308 309 310
(3) Research legislative authority with regard to governance and funding of a statewide emergency services internet protocol network, and provide recommendations on best practices to limit duplicative efforts to ensure an effective transition to next-generation 9-1-1;	311 312 313 314 315
(4) Make recommendations for consolidation of public-safety-answering-point operations in this state, including recommendations for accelerating the consolidation schedule established in section 5507.571 of the Revised Code, to accommodate next-generation 9-1-1 technology and to facilitate a more efficient and effective emergency services system;	316 317 318 319 320 321

(5) Recommend policies, procedures, and statutory or regulatory authority to effectively govern a statewide emergency services internet protocol network;	322 323 324
(6) Designate a next-generation 9-1-1 statewide coordinator to serve as the primary point of contact for federal initiatives;	325 326
(7) Coordinate with statewide initiatives and associations such as the state interoperable executive committee, the Ohio geographically referenced information program council, the Ohio multi-agency radio communications system steering committee, and other interested parties.	327 328 329 330 331
(D)(1) Not later than February 15, 2013, each chairperson of a countywide 9-1-1 planning committee or the chairperson's designee shall report the following information to the steering committee:	332 333 334 335
(a) The geographic location and population of the area for which the planning committee is responsible;	336 337
(b) Statistics detailing the number of 9-1-1 calls received;	338
(c) A report of expenditures made from disbursements from the wireless 9-1-1 government assistance fund;	339 340
(d) An inventory of and the technical specifications for the current 9-1-1 network and equipment;	341 342
(e) Any other information requested by the steering committee.	343 344
(2)(a) If, by February 15, 2013, a countywide 9-1-1 planning committee fails to provide to the steering committee the information required under division (D)(1) of this section, the steering committee shall notify the tax commissioner <u>Ohio 9-1-1 coordinator</u> of the failure and the tax commissioner <u>coordinator</u> shall suspend disbursements from the wireless 9-1-1 government assistance fund to that county. Disbursements to the county shall	345 346 347 348 349 350 351

resume after the steering committee receives the required information and notifies the tax commissioner <u>coordinator</u> that the requirement has been met.	352 353 354
<u>(b) Beginning January 1, 2014, the notification that the steering committee has received the required information shall be sent to the tax commissioner, and the disbursements to the county shall resume after the tax commissioner receives that notice.</u>	355 356 357 358
(E) The steering committee shall hold its inaugural meeting not later than thirty days after September 28, 2012. Thereafter, the steering committee shall meet at least once a month, either in person or utilizing telecommunication-conferencing technology. A majority of the voting members shall constitute a quorum.	359 360 361 362 363
(F)(1) The steering committee shall have a permanent technical-standards subcommittee and a permanent public-safety-answering-point-operations subcommittee, and may, from time to time, establish additional subcommittees, to advise and assist the steering committee based upon the subcommittees' areas of expertise.	364 365 366 367 368 369
(2) The membership of subcommittees shall be determined by the steering committee.	370 371
(a) The technical-standards subcommittee shall include one member representing a wireline or wireless service provider that participates in the state's 9-1-1 system, one representative of the Ohio academic resources network, one representative of the Ohio multi-agency radio communications system steering committee, one representative of the Ohio geographically referenced information program, and one member representing each of the following associations selected by the steering committee from nominations received from that association:	372 373 374 375 376 377 378 379 380
(i) The Ohio telephone association;	381
(ii) The Ohio chapter of the association of public-safety	382

communications officials;	383
(iii) The Ohio chapter of the national emergency number association.	384
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(b) The public-safety-answering-point-operations subcommittee shall include one member representing the division of emergency management of the department of public safety, one member representing the state highway patrol, two members recommended by the county commissioners' association of Ohio who are managers of public safety answering points, two members recommended by the Ohio municipal league who are managers of public safety answering points, and one member from each of the following associations selected by the steering committee from nominations received from that association:	386
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(i) The buckeye state sheriffs' association;	396
(ii) The Ohio association of chiefs of police;	397
(iii) The Ohio association of fire chiefs;	398
(iv) The Ohio chapter of the association of public-safety communications officials;	399
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(v) The Ohio chapter of the national emergency number association.	401
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(G) The committee is not an agency, as defined in section 101.82 of the Revised Code, for purposes of sections 101.82 to 101.87 of the Revised Code.	403
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(H) As used in this section, "9-1-1 system," "wireless service provider," "wireline service provider," "emergency service provider," and "public safety answering point" have the same meanings as in section 5507.01 of the Revised Code.	406
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Sec. 5507.18. (A) In accordance with this chapter <u>and</u> Chapters 4901., 4903., 4905., and 4909. of the Revised Code, the	410
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~~tax commissioner~~ public utilities commission shall determine the 412
just, reasonable, and compensatory rates, tolls, classifications, 413
charges, or rentals to be observed and charged for the wireline 414
telephone network portion of a basic or enhanced 9-1-1 system, and 415
each telephone company that is a wireline service provider 416
participating in the system shall be subject to ~~this chapter those~~ 417
chapters, to the extent ~~it applies they apply~~, as to the service 418
provided by its portion of the wireline telephone network for the 419
system as described in the final plan or to be installed pursuant 420
to agreements under section 5507.09 of the Revised Code, and as to 421
the rates, tolls, classifications, charges, or rentals to be 422
observed and charged for that service. 423

(B) Only the customers of a participating telephone company 424
described in division (A) of this section that are served within 425
the area covered by a 9-1-1 system shall pay the recurring rates 426
for the maintenance and operation of the company's portion of the 427
wireline telephone network of the system. Such rates shall be 428
computed by dividing the total monthly recurring rates set forth 429
in the company's schedule as filed in accordance with section 430
4905.30 of the Revised Code, by the total number of residential 431
and business customer access lines, or their equivalent, within 432
the area served. Each residential and business customer within the 433
area served shall pay the recurring rates based on the number of 434
its residential and business customer access lines or their 435
equivalent. No company shall include such amount on any customer's 436
bill until the company has completed its portion of the wireline 437
telephone network in accordance with the terms, conditions, 438
requirements, and specifications of the final plan or an agreement 439
made under section 5507.09 of the Revised Code. 440

(C)(1) Except as otherwise provided in division (C)(2) of 441
this section, a participating telephone company described in 442
division (A) of this section may receive through the credit 443

authorized by section 5733.55 of the Revised Code the total nonrecurring charges for its portion of the wireline telephone network of the system and the total nonrecurring charges for any updating or modernization of that wireline telephone network in accordance with the terms, conditions, requirements, and specifications of the final plan or pursuant to agreements under section 5507.09 of the Revised Code, as such charges are set forth in the schedule filed by the telephone company in accordance with section 4905.30 of the Revised Code. However, that portion, updating, or modernization shall not be for or include the provision of wireless 9-1-1. As applicable, the receipt of permissible charges shall occur only upon the completion of the installation of the network or the completion of the updating or modernization.	444 445 446 447 448 449 450 451 452 453 454 455 456 457
(2) The credit shall not be allowed under division (C)(1) of this section for the upgrading of a system from basic to enhanced wireline 9-1-1 if both of the following apply:	458 459 460
(a) The telephone company received the credit for the wireline telephone network portion of the basic 9-1-1 system now proposed to be upgraded.	461 462 463
(b) At the time the final plan or agreement pursuant to section 5507.09 of the Revised Code calling for the basic 9-1-1 system was agreed to, the telephone company was capable of reasonably meeting the technical and economic requirements of providing the wireline telephone network portion of an enhanced 9-1-1 system within the territory proposed to be upgraded, as determined by the department of public safety under division (A) or (H) of section 5507.03 or division (C) of section 5507.09 of the Revised Code.	464 465 466 467 468 469 470 471 472
(3) If the credit is not allowed under division (C)(2) of this section, the total nonrecurring charges for the wireline telephone network used in providing 9-1-1 service, as set forth in	473 474 475

the schedule filed by a telephone company in accordance with 476
section 4905.30 of the Revised Code, on completion of the 477
installation of the network in accordance with the terms, 478
conditions, requirements, and specifications of the final plan or 479
pursuant to section 5507.09 of the Revised Code, shall be paid by 480
the municipal corporations and townships with any territory in the 481
area in which such upgrade from basic to enhanced 9-1-1 is made. 482

(D) If customer premises equipment for a public safety 483
answering point is supplied by a telephone company that is 484
required to file a schedule under section 4905.30 of the Revised 485
Code pertaining to customer premises equipment, the recurring and 486
nonrecurring rates and charges for the installation and 487
maintenance of the equipment specified in the schedule shall 488
apply. 489

Sec. 5507.34. (A) The attorney general, upon request of the 490
department of public safety ~~or the tax commissioner~~, or on the 491
attorney general's own initiative, shall begin proceedings against 492
a telephone company that is a wireline service provider to enforce 493
compliance with this chapter or with the terms, conditions, 494
requirements, or specifications of a final plan or of an agreement 495
under section 5507.09 of the Revised Code as to wireline or 496
wireless 9-1-1. 497

(B) The attorney general, upon the attorney general's own 498
initiative, or any prosecutor, upon the prosecutor's initiative, 499
shall begin proceedings against a subdivision or a regional 500
council of governments as to wireline or wireless 9-1-1 to enforce 501
compliance with this chapter or with the terms, conditions, 502
requirements, or specifications of a final plan or of an agreement 503
under section 5507.09 of the Revised Code as to wireline or 504
wireless 9-1-1. 505

Sec. 5507.40. (A) There is hereby created within the department of public safety utilities commission the 9-1-1 service program, headed by the director of public safety in consultation with an Ohio 9-1-1 coordinator in the unclassified civil service pursuant to division (A)(9) of section 124.11 of the Revised Code. The coordinator shall be appointed by and serve at the pleasure of the director of public safety commission chairperson and shall report directly to the director chairperson. On the effective date of this section May 6, 2005, the director chairperson shall appoint an interim coordinator and, upon submission of a list of nominees by the Ohio 9-1-1 council pursuant to section 5507.66 5507.65 of the Revised Code, shall consider those nominees in making the final appointment and in appointing any subsequent coordinator. The director chairperson may request the council to submit additional nominees and may reject any of the nominees. The director chairperson shall fix the compensation of the coordinator. The director chairperson shall evaluate the performance of the coordinator after considering the evaluation and recommendations of the council under section 5507.65 of the Revised Code.

The tax commissioner Ohio 9-1-1 coordinator shall administer the wireless 9-1-1 government assistance fund as specified in sections 5507.53 and 5507.55 of the Revised Code. The coordinator shall carry out the coordinator's duties under this chapter. The director chairperson may establish additional duties of the coordinator based on a list of recommended duties submitted by the Ohio 9-1-1 council pursuant to section 5507.65 of the Revised Code. The director chairperson may assign one or more department commission employees to assist the coordinator in carrying out the coordinator's duties.

Sec. 5507.42. (A) There is hereby imposed,—on a wireless

<u>9-1-1 charge of twenty-five cents per month as follows:</u>	537
(1) On each wireless telephone number of a wireless service subscriber who has a billing address in this state, except prepaid wireless telephone numbers, a wireless 9-1-1 charge of twenty five cents per month. The subscriber shall pay the wireless 9-1-1 charge for each such wireless telephone number assigned to the subscriber. Each wireless service provider and each reseller of wireless service shall collect the wireless 9-1-1 charge as a specific line item on each subscriber's monthly bill. The line item shall be expressly designated "State/Local Wireless-E911 Costs (\$0.25/billed number)." If a provider bills a subscriber for any wireless enhanced 9-1-1 costs that the provider may incur, the charge or amount is not to appear in the same line item as the state/local line item. If the charge or amount is to appear in its own, separate line item on the bill, the charge or amount shall be expressly designated "[Name of Provider] Federal Wireless-E911 Costs."	538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553
(2)(a) Prior to January 1, 2014, on each subscriber of prepaid wireless service. A wireless service provider or reseller shall collect the wireless 9-1-1 charge in either of the following manners:	554 555 556 557
(i) If the subscriber has a positive account balance on the last day of the month and has used the service during that month, by reducing that balance not later than the end of the first week of the following month by twenty-five cents or an equivalent number of airtime minutes;	558 559 560 561 562
(ii) By dividing the total earned prepaid wireless telephone revenue from sales within this state received by the wireless service provider or reseller during the month by fifty, multiplying the quotient by twenty-five cents.	563 564 565 566
(b) Amounts collected under division (A)(2) of this section	567

<u>shall be remitted pursuant to division (A)(1) of section 5507.46 of the Revised Code.</u>	568
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The wireless 9-1-1 charge <u>charges</u> authorized under this section shall not be imposed on a <u>subscriber of</u> wireless lifeline service <u>or a provider of that service</u> .	570
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(B)(1) Beginning <u>July January 1, 2013, there 2014:</u>	573
(1) <u>There</u> is hereby imposed, on each retail sale of a prepaid wireless calling service occurring in this state, a wireless 9-1-1 charge of <u>fifty hundredths five tenths</u> of a <u>one</u> per cent of the sale price.	574
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(2) For purposes of division (B)(1) of this section, a retail sale occurs in this state if it is effected by the consumer appearing in person at a seller's business location in this state, or if the sale is sourced to this state under division (E)(3) of section 5739.034 of the Revised Code, except that under that division, in lieu of sourcing a sale under division (C)(5) of section 5739.033 of the Revised Code, the seller, rather than the service provider, may elect to source the sale to the location associated with the mobile telephone number.	578
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(3)(a) Except as provided in division (B)(4)(c) of this section, the seller of the prepaid wireless calling service shall collect the charge from the consumer at the time of each retail sale and disclose the amount of the charge to the consumer at the time of the sale by itemizing the charge on the receipt, invoice, or similar form of written documentation provided to the consumer.	587
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(b) <u>The seller shall comply with the reporting and remittance requirements under section 5507.46 of the Revised Code.</u>	593
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(4) When a prepaid wireless calling service is sold with one or more other products or services for a single, nonitemized price, the wireless 9-1-1 charge imposed under division (B)(1) of this section shall apply to the entire nonitemized price, except	595
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as provided in divisions (B)(4)(a) to (c) of this section. 599

(a) If the amount of the prepaid wireless calling service is 600
disclosed to the consumer as a dollar amount, the seller may elect 601
to apply the charge only to that dollar amount. 602

(b) If the seller can identify the portion of the nonitemized 603
price that is attributable to the prepaid wireless calling 604
service, by reasonable and verifiable standards from the seller's 605
books and records that are kept in the regular course of business 606
for other purposes, including nontax purposes, the seller may 607
elect to apply the charge only to that portion. 608

(c) If a minimal amount of a prepaid wireless calling service 609
is sold with a prepaid wireless calling device for the single, 610
nonitemized price, the seller may elect not to collect the charge. 611
As used in this division, "minimal" means either ten minutes or 612
less or five dollars or less. 613

(C) The wireless 9-1-1 charges shall be exempt from state or 614
local taxation. 615

Sec. 5507.44. Beginning July January 1, 2013 2014, the tax 616
commissioner shall provide notice to all known wireless service 617
providers, resellers ~~of wireless service~~, and sellers of prepaid 618
wireless calling services of any increase or decrease in either of 619
the wireless 9-1-1 charges imposed under section 5507.42 of the 620
Revised Code. Each notice shall be provided not less than thirty 621
days before the effective date of the increase or decrease. 622

Sec. 5507.46. (A) Prior to January 1, 2014: 623

(1) ~~Beginning with the second month following the month in which the wireless 9-1-1 charge is first imposed under division (A) of section 5507.42 of the Revised Code, a~~ A wireless service provider or reseller ~~of wireless service~~, not later than the last 624
day of each month, shall remit the full amount of all ~~such~~ 625
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wireless 9-1-1 charges it collected under division (A) of section 5507.42 of the Revised Code for the second preceding calendar month to the ~~tax commissioner~~ Ohio 9-1-1 coordinator, with the exception of charges equivalent to the amount authorized as a billing and collection fee under division (A)(2) of this section. In doing so, the provider or reseller may remit the requisite amount in any reasonable manner consistent with its existing operating or technological capabilities, such as by customer address, location associated with the wireless telephone number, or another allocation method based on comparable, relevant data. If the wireless service provider or reseller receives a partial payment for a bill from a wireless service subscriber, the wireless service provider or reseller shall apply the payment first against the amount the subscriber owes the wireless service provider or reseller and shall remit to the ~~tax commissioner~~ coordinator such lesser amount, if any, as results from that invoice.

(2) A wireless service provider or reseller ~~of wireless service~~ may retain as a billing and collection fee two per cent of the total wireless 9-1-1 charges it collects in any a month and shall account to the ~~tax commissioner~~ coordinator for the amount retained.

(3) The ~~tax commissioner~~ coordinator shall return to, or credit against the next month's remittance of, a wireless service provider or ~~service~~ reseller the amount of any remittances the ~~tax commissioner~~ coordinator determines were erroneously submitted by the provider or reseller.

(B) Beginning January 1, 2014:

(1) ~~Subject to division (B)(2) of this section, each~~ Each seller of a prepaid wireless calling service ~~required to collect~~ prepaid wireless 9-1-1 charges under division (B) of section 5507.42 of the Revised Code, wireless service provider, and

reseller shall, on or before the twenty-third day of each month, 661
except as provided in divisions (B)(2)(a), (b), and ~~(e)(3)~~ of this 662
section, do both of the following: 663

(a) Make and file a return for the preceding month, in the 664
form prescribed by the tax commissioner, showing the amount of the 665
wireless 9-1-1 charges collected during due under section 5507.42 666
of the Revised Code for that month; 667

(b) Remit the full amount due, as shown on the return, with 668
the exception of charges equivalent to the amount authorized as a 669
collection fee under division (B)(4) of this section. 670

(2)(a) The commissioner may ~~extend the time grant one or more~~ 671
~~thirty-day extensions~~ for making and filing returns and ~~paying~~ 672
~~remitting~~ amounts due. 673

(b) The commissioner may require that the return for the last 674
month of any annual or semiannual period, as determined by the 675
commissioner, be a reconciliation return detailing the prepaid 676
wireless 9-1-1 charges collected during the preceding annual or 677
semiannual period. A reconciliation return shall be filed on or 678
before the last day of the month following the last month of the 679
annual or semiannual period. 680

(e)(3) If a seller is required to collect prepaid wireless 681
9-1-1 charges in amounts that do not merit monthly returns, the 682
commissioner may authorize the seller to make and file returns 683
less frequently. The commissioner shall ascertain whether this 684
authorization is warranted upon the basis of administrative costs 685
to the state. 686

(d)(4) A wireless service provider, reseller, and seller may 687
each retain as a collection fee three per cent of the total 688
wireless 9-1-1 charges described in division (B)(1) of this 689
required to be collected under section 5507.42 of the Revised 690
Code, and shall account to the tax commissioner for the amount 691

retained. 692

(E)(5) The return required under division (B)(1)(a) of this 693
section shall be filed electronically using the Ohio business 694
gateway, as defined in section 718.051 of the Revised Code, the 695
Ohio telefile system, or any other electronic means prescribed by 696
the tax commissioner. Payment Remittance of the amount due shall 697
be made electronically in a manner approved by the commissioner. A 698
wireless service provider, reseller, or seller may apply to the 699
commissioner on a form prescribed by the commissioner to be 700
excused from either electronic requirement of this division. For 701
good cause shown, the commissioner may excuse the provider, 702
reseller, or seller from either or both of the requirements and 703
may permit the provider, reseller, or seller to file returns or 704
make payments remittances by nonelectronic means. 705

(D)(C)(1) Prior to January 1, 2014, each subscriber on which 706
a wireless 9-1-1 charge is imposed under division (A) of section 707
5507.42 of the Revised Code is liable to the state for the amount 708
of the charge. If a wireless service provider or reseller fails to 709
collect the charge under that division from a subscriber of 710
prepaid wireless service, or fails to bill any other subscriber 711
for the charge, the wireless service provider or reseller is 712
liable to the state for the amount not collected or billed. If a 713
wireless service provider or reseller collects charges under that 714
division and fails to remit the money to the coordinator, the 715
wireless service provider or reseller is liable to the state for 716
any amount collected and not remitted. 717

(2) Beginning January 1, 2014: 718

(a) Each subscriber or consumer on which a wireless 9-1-1 719
charge is imposed under section 5507.42 of the Revised Code is 720
liable to the state for the amount of the charge. If a wireless 721
service provider or reseller fails to bill any subscriber for or 722
collect the charge imposed under division (A) of section 5507.42 723

~~of the Revised Code, or if a seller fails to collect the charge,~~ 724
~~the wireless service provider or reseller, or seller~~ is liable to 725
the state for the amount not billed or collected. If a wireless 726
~~service provider or reseller collects charges under that division~~ 727
~~and, or seller~~ fails to remit the money to the tax commissioner as 728
required under this section, the ~~wireless service provider or~~ 729
~~reseller, or seller~~ is liable to the state for any the amount 730
~~collected and not remitted, regardless of whether the amount was~~ 731
collected. 732

(2)(b) No provider of a prepaid wireless calling service 733
shall be liable to the state for any wireless 9-1-1 charge imposed 734
under division (B)(1) of section 5507.42 of the Revised Code that 735
was not collected or remitted. 736

(E)(D) Prior to January 1, 2014: 737

(1) If the ~~tax commissioner~~ public utilities commission has 738
reason to believe that a wireless service provider or reseller has 739
failed to bill, collect, or remit the wireless 9-1-1 charge as 740
required by divisions (A)(1) and ~~(D)(C)(1)~~ of this section or has 741
retained more than the amount authorized under division (A)(2)(d) 742
of this section, and after written notice to the provider or 743
reseller, the ~~tax commissioner~~ commission may audit the provider 744
or reseller for the sole purpose of making such a determination. 745
The audit may include, but is not limited to, a sample of the 746
provider's or reseller's billings, collections, remittances, or 747
retentions for a representative period, and the ~~tax commissioner~~ 748
commission shall make a good faith effort to reach agreement with 749
the provider or reseller in selecting that sample. 750

(2) Upon written notice to the wireless service provider or 751
reseller, the ~~tax commissioner~~ commission, by order after 752
completion of the audit, may make an assessment against the 753
provider or reseller if, pursuant to the audit, the ~~tax~~ 754
~~commissioner~~ commission determines that the provider or reseller 755

has failed to bill, collect, or remit the wireless 9-1-1 charge as required by divisions (A)(1) and ~~(D)(C)~~(1) of this section or has retained more than the amount authorized under division (A)(2) of this section. The assessment shall be in the amount of any remittance that was due and unpaid on the date notice of the audit was sent by the ~~tax commissioner~~ commission to the provider or reseller or, as applicable, in the amount of the excess amount under division (A)(2) of this section retained by the provider or reseller as of that date.

(3) The portion of any assessment not paid within sixty days after the date of service by the ~~tax commissioner~~ commission of the assessment notice under division ~~(E)(D)~~(2) of this section shall bear interest from that date until paid at the rate per annum prescribed by section 5703.47 of the Revised Code. That interest may be collected by making an assessment under division ~~(E)(D)~~(2) of this section. An assessment under this division and any interest due shall be remitted in the same manner as the wireless 9-1-1 charge imposed under division (A) of section 5507.42 of the Revised Code.

(4) An assessment is final and due and payable and shall be remitted to the ~~tax commissioner~~ commission unless the assessed party petitions for rehearing under section 4903.10 of the Revised Code. The proceedings of the ~~tax commissioner~~ commission specified in division ~~(E)(D)~~(4) of this section are subject to and governed by Chapter 4903. of the Revised Code, except that the court of appeals of Franklin county has exclusive, original jurisdiction to review, modify, or vacate an order of the ~~tax commissioner~~ commission under division ~~(E)(D)~~(2) of this section. The court shall hear and determine such appeal in the same manner and under the same standards as the Ohio supreme court hears and determines appeals under Chapter 4903. of the Revised Code.

The judgment of the court of appeals is final and conclusive

unless reversed, vacated, or modified on appeal. Such an appeal 788
may be made by the ~~tax commissioner~~ commission or the person to 789
whom the order under division ~~(E)~~(D)(2) of this section was issued 790
and shall proceed as in the case of appeals in civil actions as 791
provided in Chapter 2505. of the Revised Code. 792

(5) After an assessment becomes final, if any portion of the 793
assessment remains unpaid, including accrued interest, a certified 794
copy of the final commission's entry making the assessment final 795
may be filed in the office of the clerk of the court of common 796
pleas in the county in which the place of business of the assessed 797
party is located. If the party maintains no place of business in 798
this state, the certified copy of the entry may be filed in the 799
office of the clerk of the court of common pleas of Franklin 800
county. Immediately upon the filing, the clerk shall enter a 801
judgment for the state against the assessed party in the amount 802
shown on the entry. The judgment may be filed by the clerk in a 803
loose-leaf book entitled "special judgments for wireless 9-1-1 804
charges" and shall have the same effect as other judgments. The 805
judgment shall be executed upon the request of the ~~tax~~ 806
commissioner commission. 807

(6) An assessment under this division does not discharge a 808
subscriber's liability to reimburse the provider or reseller for 809
the wireless 9-1-1 charge imposed under division (A) of section 810
5507.42 of the Revised Code. If, after the date of service of the 811
audit notice under division ~~(E)~~(D)(1) of this section, a 812
subscriber pays a wireless 9-1-1 charge for the period covered by 813
the assessment, the payment shall be credited against the 814
assessment. 815

(7) All money collected by the ~~tax commissioner~~ commission 816
under division ~~(E)~~(D) of this section shall be paid to the 817
treasurer of state, for deposit to the credit of the wireless 818
9-1-1 government assistance fund. 819

<u>(E) Beginning January 1, 2014:</u>	820
<u>(1) If the tax commissioner has reason to believe that a wireless service provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section 5507.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section, and after written notice to the provider, reseller, or seller, the tax commissioner may audit the provider, reseller, or seller for the sole purpose of making such a determination. The audit may include, but is not limited to, a sample of the provider's, reseller's, or seller's billings, collections, remittances, or retentions for a representative period, and the tax commissioner shall make a good faith effort to reach agreement with the provider, reseller, or seller in selecting that sample.</u>	821 822 823 824 825 826 827 828 829 830 831 832 833
<u>(2) Upon written notice to the wireless service provider, reseller, or seller, the tax commissioner, after completion of the audit, may make an assessment against the provider, reseller, or seller if, pursuant to the audit, the tax commissioner determines that the provider, reseller, or seller has failed to bill, collect, or remit the wireless 9-1-1 charge as required by this section and section 5507.42 of the Revised Code or has retained more than the amount authorized under division (B)(4) of this section. The assessment shall be in the amount of any remittance that was due and unpaid on the date notice of the audit was sent by the tax commissioner to the provider, reseller, or seller or, as applicable, in the amount of the excess amount under division (B)(4) of this section retained by the provider, reseller, or seller as of that date.</u>	834 835 836 837 838 839 840 841 842 843 844 845 846 847
<u>(3) The portion of any assessment not paid within sixty days after the date of service by the tax commissioner of the assessment notice under division (E)(2) of this section shall bear interest from that date until paid at the rate per annum</u>	848 849 850 851

prescribed by section 5703.47 of the Revised Code. That interest 852
may be collected by making an assessment under division (E)(2) of 853
this section. An assessment under this division and any interest 854
due shall be remitted in the same manner as the wireless 9-1-1 855
charges imposed under section 5507.42 of the Revised Code. 856

(4) The portion of the assessment not paid within sixty days 857
after the day the assessment was issued shall bear interest at the 858
rate per annum prescribed by section 5703.47 of the Revised Code 859
from the day the commissioner issues the assessment until it is 860
paid. Interest shall be remitted in the same manner as the 9-1-1 861
charges and may be collected by the issuance of an assessment 862
under division (E) of this section. 863

(5) Unless the provider, reseller, or seller assessed files 864
with the tax commissioner within sixty days after service of the 865
notice of assessment, either personally or by certified mail, a 866
written petition for reassessment, signed by the party assessed or 867
that party's authorized agent having knowledge of the facts, the 868
assessment shall become final and the amount of the assessment 869
shall be due and payable from the party assessed to the treasurer 870
of state, for deposit to the next generation 9-1-1 fund, which is 871
created under section 5507.54 of the Revised Code. The petition 872
shall indicate the objections of the party assessed, but 873
additional objections may be raised in writing if received by the 874
commissioner prior to the date shown on the final determination. 875
If the petition has been properly filed, the commissioner shall 876
proceed under section 5703.60 of the Revised Code. 877

(6) After an assessment becomes final, if any portion of the 878
assessment remains unpaid, including accrued interest, a certified 879
copy of the final assessment may be filed in the office of the 880
clerk of the court of common pleas in the county in which the 881
business of the assessed party is conducted. If the party assessed 882
maintains no place of business in this state, the certified copy 883

of the final assessment may be filed in the office of the clerk of 884
the court of common pleas of Franklin county. Immediately upon the 885
filing, the clerk shall enter a judgment for the state against the 886
assessed party in the amount shown on the final assessment. The 887
judgment may be filed by the clerk in a loose-leaf book entitled 888
"special judgments for wireless 9-1-1 charges" and shall have the 889
same effect as other judgments. The judgment shall be executed 890
upon the request of the tax commissioner. 891

(7) If the commissioner determines that the commissioner 892
erroneously has refunded a wireless 9-1-1 charge to any person, 893
the commissioner may make an assessment against that person for 894
recovery of the erroneously refunded charge. 895

(8) An assessment under division (E) of this section does not 896
discharge a subscriber's or consumer's liability to reimburse the 897
provider, reseller, or seller for a wireless 9-1-1 charge. If, 898
after the date of service of the audit notice under division 899
(E)(1) of this section, a subscriber or consumer pays a wireless 900
9-1-1 charge for the period covered by the assessment, the payment 901
shall be credited against the assessment. 902

Sec. 5507.53. (A) There is hereby created the wireless 9-1-1 903
administrative fund in the state treasury. Periodic A sufficient 904
percentage, determined by the chairperson of the public utilities 905
commission but not to exceed two per cent, of the periodic 906
remittances of the wireless 9-1-1 charges under section 5507.46 of 907
the Revised Code shall be deposited to the credit of the fund and 908
used as follows: 909

(1) One per cent of the remittances shall, to be used by the 910
director of public safety commission to cover such nonpayroll 911
costs and, at the discretion of the director commission such 912
payroll costs, of the department of public safety commission as 913
are incurred in assisting the director coordinator in carrying out 914

sections 5507.40 to 5507.66 of the Revised Code and in conducting 915
audits under division ~~(E)(D)~~ of section 5507.46 of the Revised 916
Code. In addition, the compensation of the Ohio 9-1-1 coordinator, 917
and any expenses of the coordinator in carrying out those 918
sections, shall be paid from the fund. 919

~~(2) One per cent of the remittances shall be used by the 920
department of taxation to defray the costs in carrying out 921
sections 5507.40 to 5507.66 of the Revised Code.~~ 922

~~(3) Annually, the tax commissioner and the director of public 923
safety, after paying administrative costs incurred in carrying out 924
sections 5507.40 to 5507.66 of the Revised Code, shall transfer 925
any excess remaining in the wireless 9-1-1 administrative fund to 926
the wireless 9-1-1 government assistance fund.~~ 927

(B) There is hereby created the wireless 9-1-1 government 928
assistance fund, which shall be in the custody of the treasurer of 929
state but shall not be part of the state treasury. The periodic 930
remittances of the wireless 9-1-1 charges under section 5507.46 of 931
the Revised Code, remaining after the ~~deposits~~ deposit required by 932
division (A) of this section, shall be deposited to the credit of 933
the wireless 9-1-1 government assistance fund. The treasurer of 934
state shall deposit or invest the moneys in this fund in 935
accordance with Chapter 135. of the Revised Code and any other 936
provision of law governing public moneys of the state as defined 937
in section 135.01 of the Revised Code. The treasurer of state 938
shall credit the interest earned to the fund. The treasurer of 939
state shall disburse money from the fund solely upon order of the 940
~~tax commissioner coordinator~~ as authorized under division (A) of 941
section 5507.55 of the Revised Code. Annually, until unless the 942
fund is depleted, the treasurer of state shall certify to the 943
~~director of public safety and the tax commissioner coordinator~~ the 944
amount of moneys in the treasurer of state's custody belonging to 945
the fund. 946

(C) ~~There is hereby created the next generation 9-1-1 fund, which shall be in the custody of the treasurer but shall not be a part of the state treasury. The commission shall transfer the funds remaining in the wireless 9-1-1 government assistance fund after the disbursements made under division (A) of section 5507.55 of the Revised Code, shall be deposited to the credit of the next generation 9-1-1 fund, created in section 5507.54 of the Revised Code. The treasurer of state shall deposit or invest the moneys in this fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the interest earned to the fund. The treasurer of state shall disburse money from the fund solely upon order of the tax commissioner according to policies established by the statewide emergency services internet protocol network steering committee as authorized under section 5507.021 of the Revised Code. Annually, until the fund is depleted, the treasurer of state shall certify to the commissioner the amount of moneys in the treasurer of state's custody belonging to the fund.~~ 947
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Sec. 5507.54. (A) Beginning January 1, 2014: 966

(1) The periodic remittances of the wireless 9-1-1 charges under section 5507.46 of the Revised Code shall be paid to the treasurer of state for deposit as follows: 967
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(a) Ninety-eight per cent to the wireless 9-1-1 government assistance fund, which is hereby created in the custody of the treasurer of state but which shall not be a part of the state treasury. The treasurer of state shall deposit or invest the moneys in this fund in accordance with Chapter 135. of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the interest earned to the fund. 970
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<u>The treasurer of state shall disburse money from the fund solely upon order of the tax commissioner according to policies established by the statewide emergency services internet protocol network steering committee as authorized under section 5507.021 of the Revised Code. Annually, until the fund is depleted, the treasurer of state shall certify to the commissioner the amount of moneys in the treasurer of state's custody belonging to the fund.</u>	978
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<u>(b) One per cent to the wireless 9-1-1 administrative fund, which is hereby created in the state treasury. The treasurer of state shall credit the interest earned to the fund.</u>	985
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<u>(c) One per cent to the wireless 9-1-1 public safety administrative fund, which is hereby created in the state treasury. The treasurer of state shall credit the interest earned to the fund.</u>	988
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<u>(2) The tax commissioner shall use the remittances in the wireless 9-1-1 administrative fund to defray the costs in carrying out this chapter.</u>	992
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<u>(3) The director of public safety shall use the remittances in the wireless 9-1-1 public safety administrative fund to defray the costs incurred by the department in carrying out this chapter.</u>	995
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<u>(4) Annually, the tax commissioner and the director of public safety, after paying administrative costs under division (B) of this section, shall transfer any excess remaining in the administrative funds to the next generation 9-1-1 fund, created under this section.</u>	998
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<u>(B)(1) There is hereby created the next generation 9-1-1 fund, which shall be in the custody of the treasurer but shall not be a part of the state treasury.</u>	1003
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<u>(2) Beginning on January 1, 2014, the tax commissioner shall transfer the funds remaining in the wireless 9-1-1 government assistance fund after the disbursements made under division (B)(1)</u>	1006
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of section 5507.55 of the Revised Code to the credit of the next generation 9-1-1 fund. 1009
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(3) The treasurer of state shall deposit or invest the moneys in the next generation 9-1-1 fund in accordance with Chapter 135. 1011
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of the Revised Code and any other provision of law governing public moneys of the state as defined in section 135.01 of the Revised Code. The treasurer of state shall credit the interest earned to the fund. The treasurer of state shall disburse money from the fund solely upon order of the tax commissioner according to policies established by the statewide emergency services internet protocol network steering committee as authorized under section 5507.021 of the Revised Code. Annually, until the fund is depleted, the treasurer of state shall certify to the commissioner the amount of moneys in the treasurer of state's custody belonging to the fund. 1013
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~~Sec. 5507.55. (A) Prior to the first disbursement under this section and annually thereafter not later than the twenty fifth day of January, until the wireless 9 1 1 government assistance fund is depleted, the tax commissioner shall do both of the following for the purposes of division (B) of this section:~~ 1024
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~~(1) Determine, for a county that has adopted a final plan under this chapter for the provision of wireless enhanced 9 1 1 within the territory covered by the countywide 9 1 1 system established under the plan, the number of wireless telephone numbers assigned to wireless service subscribers that have billing addresses within the county. That number shall be adjusted between any two counties so that the number of wireless telephone numbers assigned to wireless service subscribers who have billing addresses within any portion of a municipal corporation that territorially lies primarily in one of the two counties but extends into the other county is added to the number already~~ 1029
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determined for that primary county and subtracted for the other
county. 1040
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(2) Determine each county's proportionate share of the
wireless 9-1-1 government assistance fund for the ensuing calendar
year on the basis set forth in division (B) of this section;
estimate the ensuing calendar year's fund balance; compute each
such county's estimated proceeds for the ensuing calendar year
based on its proportionate share and the estimated fund balance;
and certify such amount of proceeds to the county auditor of each
such county January 1, 2014, the public utilities commission shall
disburse moneys from the wireless 9-1-1 government assistance fund
to each county in the same manner as the 2012 disbursements, in
accordance with divisions (A) and (B) of section 4931.64 of the
Revised Code as those divisions existed prior to the effective
date of H.B. 360 of the 129th general assembly. 1042
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(B) Except as provided in division (F) of this section, the
Beginning January 1, 2014: 1055
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(1) The tax commissioner, in accordance with this division
and not later than the last day of each month, shall disburse the
amount credited as remittances to moneys from the wireless 9-1-1
government assistance fund during the second preceding month, plus
any accrued interest on the fund. Such a disbursement shall be
paid to each county treasurer. The amount to be so disbursed
monthly to a particular county shall be a proportionate share of
the wireless 9-1-1 government assistance fund balance based on the
ratio between the following: 1057
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(1) The number of wireless telephone numbers determined for
the county by the tax commissioner pursuant to division (A) of
this section; 1066
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(2) The total number of wireless telephone numbers assigned
to subscribers who have billing addresses within this state. To
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the extent that the fund balance permits, the disbursements to 1071
each county shall total at least ninety thousand dollars annually. 1072

(C)(1) Each county that has not adopted a final plan for the 1073
provision of wireless enhanced 9 1 1 under this chapter shall be 1074
deemed as having done so for the purposes of making the 1075
determinations under divisions (A)(1) and (2) of this section. 1076

(2) For each county described in division (C)(1) of this 1077
section, the tax commissioner shall retain in the wireless 9 1 1 1078
government assistance fund an amount equal to what would otherwise 1079
be paid as the county's disbursements under division (B) of this 1080
section if it had adopted such a final plan, plus any related 1081
accrued interest, to be set aside for that county. If the board of 1082
county commissioners notifies the tax commissioner prior to 1083
January 1, 2010, that a final plan for the provision of wireless 1084
enhanced 9 1 1 has been adopted, the tax commissioner shall 1085
disburse and pay to the county treasurer, not later than the last 1086
day of the month following the month the notification is made, the 1087
total amount so set aside for the county plus any related accrued 1088
interest. As of January 1, 2010, any money and interest so 1089
retained and not disbursed as authorized under this division shall 1090
be available for disbursement only as provided in division (B) of 1091
this section in the same manner as the 2012 disbursements, in 1092
accordance with divisions (A) and (B) of section 4931.64 of the 1093
Revised Code as those divisions existed prior to the effective 1094
date of H.B. 360 of the 129th general assembly. 1095

(2) The tax commissioner shall disburse moneys from the next 1096
generation 9-1-1 fund in accordance with the guidelines 1097
established under section 5507.022 of the Revised Code. 1098

(D)(C) Immediately upon receipt by a county treasurer of a 1099
disbursement under division (A) or (B) or (C)(1) of this section, 1100
the county shall disburse, in accordance with the allocation 1101
formula set forth in the final plan, the amount the county so 1102

received to any other subdivisions in the county and any regional	1103
councils of governments in the county that pay the costs of a	1104
public safety answering point providing wireless enhanced 9-1-1	1105
under the plan.	1106
(E)(D) Nothing in this chapter affects the authority of a	1107
subdivision operating or served by a public safety answering point	1108
of a 9-1-1 system or a regional council of governments operating a	1109
public safety answering point of a 9-1-1 system to use, as	1110
provided in the final plan for the system or in an agreement under	1111
section 5507.09 of the Revised Code, any other authorized revenue	1112
of the subdivision or the regional council of governments for the	1113
purposes of providing basic or enhanced 9-1-1.	1114
(F) On and after July 1, 2013, disbursements made by the tax	1115
commissioner under this section shall remain at the level	1116
disbursed in 2012. After the disbursements are made, the balances	1117
of the remittances in the wireless 9-1-1 government assistance	1118
fund shall be deposited in the next generation 9-1-1 fund.	1119
Sec. 5507.57. Except as otherwise provided in section	1120
5507.571 of the Revised Code:	1121
(A) A countywide 9-1-1 system receiving a disbursement under	1122
section 5507.55 of the Revised Code shall provide countywide	1123
wireless enhanced 9-1-1 in accordance with this chapter beginning	1124
as soon as reasonably possible after receipt of the first	1125
disbursement or, if that service is already implemented, shall	1126
continue to provide such service. Except as provided in divisions	1127
(B), (C), and (E) of this section, a disbursement shall be used	1128
solely for the purpose of paying either or both of the following:	1129
(1) Any costs of designing, upgrading, purchasing, leasing,	1130
programming, installing, testing, or maintaining the necessary	1131
data, hardware, software, and trunking required for the public	1132
safety answering point or points of the 9-1-1 system to provide	1133

wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005, and consist of such additional costs of the 9-1-1 system over and above any costs incurred to provide wireline 9-1-1 or to otherwise provide wireless enhanced 9-1-1. Annually, up to twenty-five thousand dollars of the disbursements received on or after January 1, 2009, may be applied to data, hardware, and software that automatically alerts personnel receiving a 9-1-1 call that a person at the subscriber's address or telephone number may have a mental or physical disability, of which that personnel shall inform the appropriate emergency service provider. On or after the provision of technical and operational standards pursuant to division (D)(1) of section 5507.65 of the Revised Code, a regional council of governments operating a public safety answering point or a subdivision shall consider the standards before incurring any costs described in this division.	1134 1135 1136 1137 1138 1139 1140 1141 1142 1143 1144 1145 1146 1147 1148
(2) Any costs of training the staff of the public safety answering point or points to provide wireless enhanced 9-1-1, which costs are incurred before or on or after May 6, 2005.	1149 1150 1151
(B) A subdivision or a regional council of governments that certifies to the tax commissioner <u>department of public safety</u> that it has paid the costs described in divisions (A)(1) and (2) of this section and is providing countywide wireless enhanced 9-1-1 may use disbursements received under section 5507.55 of the Revised Code to pay any of its personnel costs of one or more public safety answering points providing countywide wireless enhanced 9-1-1.	1152 1153 1154 1155 1156 1157 1158 1159
(C) After receiving its July 2013 disbursement under <u>division</u> <u>(A)</u> of section 5507.55 of the Revised Code, a regional council of governments operating a public safety answering point or a subdivision may use any remaining balance of disbursements it received under that section <u>division</u> to pay any of its costs of providing countywide wireless 9-1-1, including the personnel costs	1160 1161 1162 1163 1164 1165

of one or more public safety answering points providing that 1166
service. 1167

(D) The costs described in divisions (A), (B), (C), and (E) 1168
of this section may include any such costs payable pursuant to an 1169
agreement under division (J) of section 5507.03 of the Revised 1170
Code. 1171

(E)(1) No disbursement to a countywide 9-1-1 system for costs 1172
of a public safety answering point shall be made from the wireless 1173
9-1-1 government assistance fund or the next generation 9-1-1 fund 1174
unless the public safety answering point meets the standards set 1175
by rule of the statewide emergency services internet protocol 1176
network steering committee under section 5507.025507.021 of the 1177
Revised Code. 1178

(2) The department of public safety shall monitor compliance 1179
with the standards set by the steering committee. The department 1180
shall notify the tax commissioner to suspend disbursements to a 1181
countywide 9-1-1 system that fails to meet the standards. Upon 1182
receipt of this notification, the commissioner shall suspend 1183
disbursements until the commissioner is notified of compliance 1184
with the standards. 1185

(F) The auditor of state may audit and review each county's 1186
expenditures of funds received from the wireless 9-1-1 government 1187
assistance fund to verify that the funds were used in accordance 1188
with the requirements of this chapter. 1189

Sec. 5507.63. (A) The tax commissioner ~~and the director of~~ 1190
~~public safety, after consultation with each other, shall~~ may adopt 1191
rules in accordance with Chapter 119. of the Revised Code to carry 1192
out ~~sections 5507.40 to 5507.55 of the Revised Code~~ this chapter, 1193
including rules prescribing the necessary accounting for the 1194
~~billing and collection fee under division (A)(2)(B)(4) of section~~ 1195
5507.46 of the Revised Code. ~~The~~ 1196

(B) The amounts of the wireless 9-1-1 charges shall be 1197
prescribed only by act of the general assembly. 1198

Sec. 5507.65. (A) There is hereby created the Ohio 9-1-1 1199
council, consisting of eleven members as follows: the Ohio 9-1-1 1200
coordinator, until January 1, 2014; the director of public safety 1201
or a designee of the department of public safety, selected by the 1202
director of public safety, beginning January 1, 2014; and ten 1203
members appointed by the governor. In appointing the ten members, 1204
the governor shall select at least one representative of public 1205
safety communications officials in this state, one representative 1206
of administrators of 9-1-1 service in this state, one 1207
representative of countywide 9-1-1 systems in this state, three 1208
representatives of wireline service providers in this state, and 1209
three representatives of wireless service providers in this state. 1210
For each such appointment, the governor shall consider a nominee 1211
proposed, respectively, by the Ohio chapter of the association of 1212
public-safety communications officials, the Ohio chapter of the 1213
national emergency number association, the county commissioners 1214
association of Ohio; and nominees proposed, respectively, by the 1215
Ohio telecom association and the wireless operators of Ohio; or 1216
any successor organization of each such entity. 1217

Initial appointments shall be made not later than thirty days 1218
after May 6, 2005. Nothing in this section shall prevent the 1219
governor from rejecting any of the nominees or requesting that a 1220
nominating entity under this division submit the names of 1221
alternative nominees for consideration. 1222

(B) The term of the initial appointee to the council 1223
representing public safety communications officials and the terms 1224
of one of the initial appointees representing wireline service 1225
providers and one representing wireless service providers shall 1226
expire on January 31, 2007. The term of the initial appointee to 1227

the council representing administrators of 9-1-1 service and the terms of another one of the initial appointees representing wireline service providers and another representing wireless service providers shall expire on January 31, 2008. The term of the initial appointee to the council representing countywide 9-1-1 systems and the terms of another one of the initial appointees representing wireline service providers and another representing wireless service providers shall expire on January 31, 2009.	1228 1229 1230 1231 1232 1233 1234 1235
Thereafter, terms of appointed members shall be for three years, with each term ending on the same day of the same month as the term it succeeds.	1236 1237 1238
Each council member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Members may be reappointed.	1239 1240 1241
Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office after the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.	1242 1243 1244 1245 1246 1247 1248 1249
Appointed members shall serve without compensation and shall not be reimbursed for expenses.	1250 1251
(C) The council shall select a chairperson from among the appointed members. Each member shall have one vote in all deliberations of the council. A majority of the voting members constitutes a quorum.	1252 1253 1254 1255
(D) The duties of the council shall consist of both of the following:	1256 1257
(1) Arbitrating or establishing relative to 9-1-1 systems in	1258

this state nondiscriminatory, competitively neutral, and uniform	1259
technical and operational standards consistent with recognized	1260
industry standards and federal law. This authority does not	1261
include authority to prescribe the technology that a telephone	1262
company or reseller uses to deliver 9-1-1 calls.	1263
(2) Including for the purpose of reporting to the general	1264
assembly, conducting research and making recommendations or	1265
reports regarding any wireline and wireless 9-1-1 issues, any	1266
improvements in the provision of service by 9-1-1 systems in this	1267
state, or any legislation or policies concerning such systems;	1268
(3) Regarding the position of Ohio 9-1-1 coordinator,	1269
submitting names of nominees and recommended duties as authorized	1270
under section 5507.40 of the Revised Code and, at least	1271
biennially, conducting and submitting with recommendations to the	1272
public utilities commission a performance evaluation of the	1273
coordinator.	1274
(E) The council is not an agency, as defined in section	1275
101.82 of the Revised Code, for purposes of sections 101.82 to	1276
101.87 of the Revised Code.	1277
 Sec. 5507.66. (A) There is hereby created the wireless 9-1-1	1278
advisory board, consisting of the Ohio 9-1-1 council appointee	1279
that represents public safety communications officials and five	1280
members appointed by the governor as follows: one of the council	1281
appointees that represents wireless service providers in this	1282
state, whose council term expires after the council term of the	1283
council appointee representing public safety communications	1284
officials, one noncouncil representative of wireless service	1285
providers in this state, one noncouncil representative of public	1286
safety communications officials in this state, and two noncouncil	1287
representatives of municipal and county governments in this state.	1288
(B) The terms of the advisory board members who are also	1289

council members shall be concurrent with their terms as members of the council, as prescribed under division (B) of section 5507.65 of the Revised Code. The terms of the initial noncouncil appointee to the advisory board who represents wireless service providers and of one of the initial noncouncil appointees who represents municipal and county government shall expire on January 31, 2009.	1290 1291 1292 1293 1294 1295
The terms of the initial noncouncil appointee to the advisory board representing public safety communications officials and of the other initial noncouncil appointee representing municipal and county government shall expire on January 31, 2010. Thereafter, terms of the noncouncil appointees shall be for three years, with each term ending on the same day of the same month as the term it succeeds. The conditions of holding office, manner of filling vacancies, and other matters concerning service by any member of the advisory board shall be the same as set forth for council members under division (B) of section 5507.65 of the Revised Code.	1296 1297 1298 1299 1300 1301 1302 1303 1304 1305
(C) The director of public safety shall appoint the chairperson of the advisory board. Each member of the board shall be a voting member and shall have one vote in all deliberations of the board. A majority of the members constitutes a quorum.	1306 1307 1308 1309
(D) The advisory board shall make recommendations to and consult with the director regarding any rules to be adopted under section 5507.63 of the Revised Code.	1310 1311 1312
(E) The advisory board is not an agency, as defined in section 101.82 of the Revised Code, for purposes of sections 101.82 to 101.87 of the Revised Code.	1313 1314 1315
Sec. 5701.11. The effective date to which this section refers is the effective date of this section as amended by H.B. <u>58 472</u> of the 129th general assembly.	1316 1317 1318
(A)(1) Except as provided under division (A)(2) or (B) of this section, any reference in Title LVII of the Revised Code to	1319 1320

the Internal Revenue Code, to the Internal Revenue Code "as amended," to other laws of the United States, or to other laws of the United States, "as amended," means the Internal Revenue Code or other laws of the United States as they exist on the effective date.	1321 1322 1323 1324 1325
(2) This section does not apply to any reference in Title LVII of the Revised Code to the Internal Revenue Code as of a date certain specifying the day, month, and year, or to other laws of the United States as of a date certain specifying the day, month, and year.	1326 1327 1328 1329 1330
(B)(1) For purposes of applying section 5733.04, 5745.01, or 5747.01 of the Revised Code to a taxpayer's taxable year ending after December 15, 2010 <u>March 7, 2011</u> , and before the effective date, a taxpayer may irrevocably elect to incorporate the provisions of the Internal Revenue Code or other laws of the United States that are in effect for federal income tax purposes for that taxable year if those provisions differ from the provisions that, under division (A) of this section, would otherwise apply. The filing by the taxpayer for that taxable year of a report or return that incorporates the provisions of the Internal Revenue Code or other laws of the United States applicable for federal income tax purposes for that taxable year, and that does not include any adjustments to reverse the effects of any differences between those provisions and the provisions that would otherwise apply, constitutes the making of an irrevocable election under this division for that taxable year.	1331 1332 1333 1334 1335 1336 1337 1338 1339 1340 1341 1342 1343 1344 1345 1346
(2) Elections under prior versions of division (B)(1) of this section remain in effect for the taxable years to which they apply.	1347 1348 1349
Sec. 5733.55. (A) As used in this section:	1350
(1) "9-1-1 system" has the same meaning as in section 5507.01	1351

of the Revised Code.	1352
(2) "Nonrecurring 9-1-1 charges" means nonrecurring charges approved by the tax commissioner <u>public utilities commission</u> for the telephone network portion of a 9-1-1 system pursuant to section 5507.18 of the Revised Code.	1353 1354 1355 1356
(3) "Eligible nonrecurring 9-1-1 charges" means all nonrecurring 9-1-1 charges for a 9-1-1 system except both of the following:	1357 1358 1359
(a) Charges for a system that was not established pursuant to a plan adopted under section 5507.08 of the Revised Code or an agreement under section 5507.09 of the Revised Code;	1360 1361 1362
(b) Charges for that part of a system established pursuant to such a plan or agreement that are excluded from the credit by division (C)(2) of section 5507.18 of the Revised Code.	1363 1364 1365
(4) "Telephone company" has the same meaning as in section 5727.01 of the Revised Code.	1366 1367
(B) Beginning in tax year 2005, a telephone company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code equal to the amount of its eligible nonrecurring 9-1-1 charges. The credit shall be claimed for the company's taxable year that covers the period in which the 9-1-1 service for which the credit is claimed becomes available for use. The credit shall be claimed in the order required by section 5733.98 of the Revised Code. If the credit exceeds the total taxes due under section 5733.06 of the Revised Code for the tax year, the tax commissioner shall credit the excess against taxes due under that section for succeeding tax years until the full amount of the credit is granted.	1368 1369 1370 1371 1372 1373 1374 1375 1376 1377 1378 1379
(C) After the last day a return, with any extensions, may be filed by any telephone company that is eligible to claim a credit under this section, the commissioner shall determine whether the	1380 1381 1382

sum of the credits allowed for prior tax years commencing with tax 1383
year 2005 plus the sum of the credits claimed for the current tax 1384
year exceeds fifteen million dollars. If it does, the credits 1385
allowed under this section for the current tax year shall be 1386
reduced by a uniform percentage such that the sum of the credits 1387
allowed for the current tax year do not exceed fifteen million 1388
dollars claimed by all telephone companies for all tax years. 1389
Thereafter, no credit shall be granted under this section, except 1390
for the remaining portions of any credits allowed under division 1391
(B) of this section. 1392

(D) A telephone company that is entitled to carry forward a 1393
credit against its public utility excise tax liability under 1394
section 5727.39 of the Revised Code is entitled to carry forward 1395
any amount of that credit remaining after its last public utility 1396
excise tax payment for the period of July 1, 2003, through June 1397
30, 2004, and claim that amount as a credit against its 1398
corporation franchise tax liability under this section. Nothing in 1399
this section authorizes a telephone company to claim a credit 1400
under this section for any eligible nonrecurring 9-1-1 charges for 1401
which it has already claimed a credit under this section or 1402
section 5727.39 of the Revised Code. 1403

Sec. 5751.01. As used in this chapter: 1404

(A) "Person" means, but is not limited to, individuals, 1405
combinations of individuals of any form, receivers, assignees, 1406
trustees in bankruptcy, firms, companies, joint-stock companies, 1407
business trusts, estates, partnerships, limited liability 1408
partnerships, limited liability companies, associations, joint 1409
ventures, clubs, societies, for-profit corporations, S 1410
corporations, qualified subchapter S subsidiaries, qualified 1411
subchapter S trusts, trusts, entities that are disregarded for 1412
federal income tax purposes, and any other entities. 1413

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.	1414 1415 1416 1417
(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.	1418 1419 1420
(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.	1421 1422 1423 1424
(E) "Excluded person" means any of the following:	1425
(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year.	1426 1427
Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;	1428 1429
(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:	1430 1431 1432 1433 1434
(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;	1435 1436 1437 1438
(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;	1439 1440 1441 1442 1443

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.	1444 1445 1446 1447 1448 1449 1450 1451
As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.	1452 1453 1454
(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;	1455 1456 1457 1458 1459
(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;	1460 1461 1462 1463 1464
(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);	1465 1466
(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);	1467 1468
(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);	1469 1470 1471 1472
(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding	1473 1474

companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.	1475 1476 1477 1478 1479 1480 1481 1482 1483
For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:	1484 1485
(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;	1486 1487 1488 1489
(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;	1490 1491 1492 1493 1494
(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;	1495 1496 1497 1498 1499 1500 1501 1502
(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each	1503 1504 1505

such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.	1506 1507 1508 1509 1510 1511
(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;	1512 1513 1514 1515 1516 1517 1518
(10) A person that solely facilitates or services one or more securitizations or similar transactions for any person described in division (E)(3), (5), (6), (7), (8), or (9) of this section, or a person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.	1519 1520 1521 1522 1523 1524 1525 1526 1527 1528
(11) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls,	1529 1530 1531 1532 1533 1534 1535 1536 1537

directly, indirectly, or constructively through related interests,	1538
more than five per cent of the ownership or equity interests,	1539
shall not be excluded persons for purposes of the tax imposed	1540
under section 5751.02 of the Revised Code.	1541
(12) Nonprofit organizations or the state and its agencies,	1542
instrumentalities, or political subdivisions.	1543
(F) Except as otherwise provided in divisions (F)(2), (3),	1544
and (4) of this section, "gross receipts" means the total amount	1545
realized by a person, without deduction for the cost of goods sold	1546
or other expenses incurred, that contributes to the production of	1547
gross income of the person, including the fair market value of any	1548
property and any services received, and any debt transferred or	1549
forgiven as consideration.	1550
(1) The following are examples of gross receipts:	1551
(a) Amounts realized from the sale, exchange, or other	1552
disposition of the taxpayer's property to or with another;	1553
(b) Amounts realized from the taxpayer's performance of	1554
services for another;	1555
(c) Amounts realized from another's use or possession of the	1556
taxpayer's property or capital;	1557
(d) Any combination of the foregoing amounts.	1558
(2) "Gross receipts" excludes the following amounts:	1559
(a) Interest income except interest on credit sales;	1560
(b) Dividends and distributions from corporations, and	1561
distributive or proportionate shares of receipts and income from a	1562
pass-through entity as defined under section 5733.04 of the	1563
Revised Code;	1564
(c) Receipts from the sale, exchange, or other disposition of	1565
an asset described in section 1221 or 1231 of the Internal Revenue	1566
Code, without regard to the length of time the person held the	1567

asset. Notwithstanding section 1221 of the Internal Revenue Code,	1568
receipts from hedging transactions also are excluded to the extent	1569
the transactions are entered into primarily to protect a financial	1570
position, such as managing the risk of exposure to (i) foreign	1571
currency fluctuations that affect assets, liabilities, profits,	1572
losses, equity, or investments in foreign operations; (ii)	1573
interest rate fluctuations; or (iii) commodity price fluctuations.	1574
As used in division (F)(2)(c) of this section, "hedging	1575
transaction" has the same meaning as used in section 1221 of the	1576
Internal Revenue Code and also includes transactions accorded	1577
hedge accounting treatment under statement of financial accounting	1578
standards number 133 of the financial accounting standards board.	1579
For the purposes of division (F)(2)(c) of this section, the actual	1580
transfer of title of real or tangible personal property to another	1581
entity is not a hedging transaction.	1582
(d) Proceeds received attributable to the repayment,	1583
maturity, or redemption of the principal of a loan, bond, mutual	1584
fund, certificate of deposit, or marketable instrument;	1585
(e) The principal amount received under a repurchase	1586
agreement or on account of any transaction properly characterized	1587
as a loan to the person;	1588
(f) Contributions received by a trust, plan, or other	1589
arrangement, any of which is described in section 501(a) of the	1590
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter	1591
1, Subchapter (D) of the Internal Revenue Code applies;	1592
(g) Compensation, whether current or deferred, and whether in	1593
cash or in kind, received or to be received by an employee, former	1594
employee, or the employee's legal successor for services rendered	1595
to or for an employer, including reimbursements received by or for	1596
an individual for medical or education expenses, health insurance	1597
premiums, or employee expenses, or on account of a dependent care	1598
spending account, legal services plan, any cafeteria plan	1599

described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	1600 1601
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	1602 1603 1604
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	1605 1606 1607
(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;	1608 1609 1610 1611 1612 1613 1614
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	1615 1616 1617
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;	1618 1619 1620
(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;	1621 1622 1623 1624 1625 1626 1627 1628 1629 1630

(n) Pension reversions;	1631
(o) Contributions to capital;	1632
(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;	1633 1634 1635 1636 1637
(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;	1638 1639 1640 1641 1642 1643 1644
(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;	1645 1646 1647 1648 1649 1650
(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;	1651 1652 1653 1654 1655 1656 1657
(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the	1658 1659 1660 1661

purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;	1662 1663 1664
(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;	1665 1666 1667 1668 1669 1670 1671 1672
(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;	1673 1674 1675 1676
(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.	1677 1678 1679 1680 1681 1682 1683 1684 1685 1686
(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;	1687 1688 1689 1690 1691
(y) In the case of amounts retained as commissions by a	1692

permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;	1693 1694 1695 1696
(z) Qualifying distribution center receipts.	1697
(i) For purposes of division (F)(2)(z) of this section:	1698
(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. <u>If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.</u>	1699 1700 1701 1702 1703 1704 1705
(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere <u>or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange.</u> "Further shipping" includes storing and repackaging <u>such</u> property into smaller or larger bundles, so long as <u>such</u> <u>the</u> property is not subject to further manufacturing or processing. <u>"Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.</u>	1706 1707 1708 1709 1710 1711 1712 1713 1714 1715 1716 1717 1718
(III) "Qualified distribution center" means a warehouse or other similar, a facility similar to a warehouse, or a refining facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all All warehouses or other	1719 1720 1721 1722 1723

<u>similar facilities similar to warehouses</u> that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center. <u>All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center.</u>	1724 1725 1726 1727 1728 1729 1730
(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.	1731 1732
(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.	1733 1734 1735
(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.	1736 1737 1738 1739 1740 1741 1742
The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be sitused outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant	1743 1744 1745 1746 1747 1748 1749 1750 1751 1752 1753 1754 1755

to have an independent certified public accountant certify that 1756
the calculation of the minimum thresholds required for a qualified 1757
distribution center by the operator of a distribution center has 1758
been made in accordance with generally accepted accounting 1759
principles. The commissioner shall issue or deny the issuance of a 1760
certificate within sixty days after the receipt of the 1761
application. A denial is subject to appeal under section 5717.02 1762
of the Revised Code. If the operator files a timely appeal under 1763
section 5717.02 of the Revised Code, the operator shall be granted 1764
a qualifying certificate, provided that the operator is liable for 1765
any tax, interest, or penalty upon amounts claimed as qualifying 1766
distribution center receipts, other than those receipts exempt 1767
under division (C)(1) of section 5751.011 of the Revised Code, 1768
that would have otherwise not been owed by its suppliers if the 1769
qualifying certificate was valid. 1770

(VII) "Ohio delivery percentage" means the proportion of the 1771
total property delivered to a destination inside Ohio from the 1772
qualified distribution center during the qualifying period 1773
compared with total deliveries from such distribution center 1774
everywhere during the qualifying period. 1775

(VIII) "Refining facility" means one or more buildings 1776
located in a county in the Appalachian region of this state as 1777
defined by section 107.21 of the Revised Code and utilized for 1778
refining or smelting gold, silver, platinum, or palladium to a 1779
grade and fineness acceptable for delivery to a registered 1780
commodities exchange. 1781

(IX) "Registered commodities exchange" means a board of 1782
trade, such as New York mercantile exchange, inc. or commodity 1783
exchange, inc., designated as a contract market by the commodity 1784
futures trading commission under the "Commodity Exchange Act," 7 1785
U.S.C. 1 et seq., as amended. 1786

(ii) If the distribution center is new and was not open for 1787

the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if the qualifying certificate was valid. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

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

Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall notify the

affected suppliers of qualified property that such suppliers are 1820
required to file, within sixty days after receiving notice from 1821
the operator of the qualified distribution center, amended reports 1822
for the impacted calendar quarter or quarters or calendar year, 1823
whichever the case may be. Any additional tax liability or tax 1824
overpayment shall be subject to interest but shall not be subject 1825
to the imposition of any penalty so long as the amended returns 1826
are timely filed. The supplier of tangible personal property 1827
delivered to the qualified distribution center shall include in 1828
its report of taxable gross receipts the receipts from the total 1829
sales of property delivered to the qualified distribution center 1830
for the calendar quarter or calendar year, whichever the case may 1831
be, multiplied by the Ohio delivery percentage for the qualifying 1832
year. Nothing in division (F)(2)(z)(iii) of this section shall be 1833
construed as imposing liability on the operator of a qualified 1834
distribution center for the tax imposed by this chapter arising 1835
from any change to the Ohio delivery percentage. 1836

(iv) In the case where the distribution center is new and not 1837
open for the entire qualifying period, the operator shall make a 1838
good faith estimate of an Ohio delivery percentage for use by 1839
suppliers in their reports of taxable gross receipts for the 1840
remainder of the qualifying period. The operator of the facility 1841
shall disclose to the suppliers that such Ohio delivery percentage 1842
is an estimate and is subject to recalculation. By the due date of 1843
the next application for a qualifying certificate, the operator 1844
shall determine the actual Ohio delivery percentage for the 1845
estimated qualifying period and proceed as provided in division 1846
(F)(2)(z)(iii) of this section with respect to the calculation and 1847
recalculation of the Ohio delivery percentage. The supplier is 1848
required to file, within sixty days after receiving notice from 1849
the operator of the qualified distribution center, amended reports 1850
for the impacted calendar quarter or quarters or calendar year, 1851
whichever the case may be. Any additional tax liability or tax 1852

overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.	1853 1854 1855
(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.	1856 1857 1858 1859 1860 1861 1862 1863 1864 1865 1866 1867 1868
(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.	1869 1870 1871 1872 1873 1874 1875 1876 1877 1878 1879
(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this	1880 1881 1882 1883 1884

section.	1885
(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;	1886 1887 1888
(bb) Cash discounts allowed and taken;	1889
(cc) Returns and allowances;	1890
(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;	1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904
(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;	1905 1906 1907 1908
(ff) Any receipts directly attributed to providing public services pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	1909 1910 1911 1912 1913
(gg)(i) As used in this division:	1914

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(gg)(ii) of this section.	1915 1916 1917 1918 1919 1920 1921 1922
(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.	1923 1924 1925 1926 1927
(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F)(2)(gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall	1928 1929 1930 1931 1932 1933 1934 1935 1936 1937 1938 1939 1940 1941 1942 1943 1944 1945 1946

expire when all of the applicant's appeals are exhausted. Until 1947
final resolution of the appeal, the applicant shall retain the 1948
applicant's records in accordance with section 5751.12 of the 1949
Revised Code, notwithstanding any time limit on the preservation 1950
of records under that section. 1951

(hh) Amounts realized by licensed motor fuel dealers or 1952
licensed permissive motor fuel dealers from the exchange of 1953
petroleum products, including motor fuel, between such dealers, 1954
provided that delivery of the petroleum products occurs at a 1955
refinery, terminal, pipeline, or marine vessel and that the 1956
exchanging dealers agree neither dealer shall require monetary 1957
compensation from the other for the value of the exchanged 1958
petroleum products other than such compensation for differences in 1959
product location or grade. Division (F)(2)(hh) of this section 1960
does not apply to amounts realized as a result of differences in 1961
location or grade of exchanged petroleum products or from 1962
handling, lubricity, dye, or other additive injections fees, 1963
pipeline security fees, or similar fees. As used in this division, 1964
"motor fuel," "licensed motor fuel dealer," "licensed permissive 1965
motor fuel dealer," and "terminal" have the same meanings as in 1966
section 5735.01 of the Revised Code. 1967

(ii) In the case of amounts collected by a licensed casino 1968
operator from casino gaming, amounts in excess of the casino 1969
operator's gross casino revenue. In this division, "casino 1970
operator" and "casino gaming" have the meanings defined in section 1971
3772.01 of the Revised Code, and "gross casino revenue" has the 1972
meaning defined in section 5753.01 of the Revised Code. 1973

(jj) Any receipts for which the tax imposed by this chapter 1974
is prohibited by the constitution or laws of the United States or 1975
the constitution of this state. 1976

(3) In the case of a taxpayer when acting as a real estate 1977
broker, "gross receipts" includes only the portion of any fee for 1978

the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 1979
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(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 1985
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(G) "Taxable gross receipts" means gross receipts sitused to this state under section 5751.033 of the Revised Code. 1992
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(H) A person has "substantial nexus with this state" if any of the following applies. The person: 1994
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(1) Owns or uses a part or all of its capital in this state; 1996

(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; 1997
1998

(3) Has bright-line presence in this state; 1999

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States. 2000
2001
2002

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person: 2003
2004
2005

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. 2006
2007
For the purpose of division (I)(1) of this section, owned property 2008

is valued at original cost and rented property is valued at eight times the net annual rental charge.	2009 2010
(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:	2011 2012 2013
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	2014 2015
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	2016 2017 2018
(c) Any amount the person pays for services performed in this state on its behalf by another.	2019 2020
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	2021 2022
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	2023 2024 2025
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	2026 2027
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	2028 2029
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	2030 2031 2032 2033 2034 2035 2036 2037
(L) "Calendar quarter" means a three-month period ending on	2038

the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	2039 2040
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	2041 2042 2043
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	2044 2045
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	2046 2047
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	2048 2049 2050
(1) A person receiving a fee to sell financial instruments;	2051
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	2052 2053 2054
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	2055 2056
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	2057 2058
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	2059 2060
(Q) "Received" includes amounts accrued under the accrual method of accounting.	2061 2062
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a	2063 2064 2065 2066 2067 2068

member of such a group. 2069

Section 2. That existing sections 5502.011, 5507.01, 5507.02, 5507.18, 5507.34, 5507.40, 5507.42, 5507.44, 5507.46, 5507.53, 5507.55, 5507.57, 5507.63, 5507.65, 5507.66, 5701.11, 5733.55, and 5751.01 and section 5507.51 of the Revised Code are hereby repealed. 2070
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Section 3. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2012 and the amounts in the second column are for fiscal year 2013. 2075
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TAX DEPARTMENT OF TAXATION 2081

General Revenue Fund Group					2082
GRF 110321 Operating Expenses	\$	0	\$	1,174,000	2083
TOTAL GRF General Revenue Fund Group	\$	0	\$	1,174,000	2084
TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	1,174,000	2085

Section 4. That sections 5507.40 and 5507.53 of the Revised Code are hereby repealed. 2087
2088

Section 5. Section 4 of this act shall take effect on January 1, 2014. 2089
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Section 6. As used in this section, "qualified property" means real property that satisfies the qualifications for tax exemption under the terms of section 5709.08 of the Revised Code and that is owned by a municipal corporation. 2091
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Notwithstanding section 5713.081 of the Revised Code, when qualified property has not received tax exemption due to a failure 2095
2096

to comply with Chapter 5713. or section 5715.27 of the Revised 2097
Code, the current owner of the property, or the prior owner of the 2098
property requesting exemption from prior taxes, at any time on or 2099
before twelve months after the effective date of this section, may 2100
file with the Tax Commissioner an application requesting that the 2101
property be placed on the tax-exempt list and that all unpaid 2102
taxes, penalties, and interest on the property be abated. 2103

The application shall be made on the form prescribed by the 2104
Tax Commissioner under section 5715.27 of the Revised Code and 2105
shall list the name of the county in which the property is 2106
located; the property's legal description; its taxable value; the 2107
amount in dollars of the unpaid taxes, penalties, and interest; 2108
the date of acquisition of title to the property; the use of the 2109
property during any time that the unpaid taxes accrued; and any 2110
other information required by the Tax Commissioner. The county 2111
auditor shall supply the required information upon request of the 2112
applicant. 2113

Upon request of the applicant, the county treasurer shall 2114
determine if all taxes, penalties, and interest that became a lien 2115
on the qualified property before it first was used for an exempt 2116
purpose and all special assessments charged against the property 2117
have been paid in full. If so, the county treasurer shall issue a 2118
certificate to the applicant stating that all such taxes, 2119
penalties, interest, and assessments have been paid in full. Prior 2120
to filing the application with the Tax Commissioner, the applicant 2121
shall attach the county treasurer's certificate to it. The Tax 2122
Commissioner shall not consider an application filed under this 2123
section unless such a certificate is attached to it. 2124

Upon receipt of the application and after consideration of 2125
it, the Tax Commissioner shall determine if the applicant meets 2126
the qualifications set forth in this section, and if so shall 2127
issue an order directing that the property be placed on the 2128

tax-exempt list of the county and that all unpaid taxes,	2129
penalties, and interest for every year the property met the	2130
qualifications for exemption described in section 5709.08 of the	2131
Revised Code be abated. If the Tax Commissioner finds that the	2132
property is not now being so used or is being used for a purpose	2133
that would foreclose its right to tax exemption, the Tax	2134
Commissioner shall issue an order denying the application.	2135
If the Tax Commissioner finds that the property is not	2136
entitled to tax exemption and to the abatement of unpaid taxes,	2137
penalties, and interest for any of the years for which the current	2138
or prior owner claims an exemption or abatement, the Tax	2139
Commissioner shall order the county treasurer of the county in	2140
which the property is located to collect all taxes, penalties, and	2141
interest due on the property for those years in accordance with	2142
law.	2143
The Tax Commissioner may apply this section to any qualified	2144
property that is the subject of an application for exemption	2145
pending before the Tax Commissioner on the effective date of this	2146
section, without requiring the property owner to file an	2147
additional application. The Tax Commissioner also may apply this	2148
section to any qualified property that is the subject of an	2149
application for exemption filed on or after the effective date of	2150
this section and on or before twelve months after that effective	2151
date, even though the application does not expressly request	2152
abatement of unpaid taxes, penalties, and interest.	2153
Section 7. For the purposes of this section, "qualified	2154
distribution center," "qualifying year," "qualifying period,"	2155
"qualifying certificate," "Ohio delivery percentage," and	2156
"refining facility" have the same meanings as in division	2157
(F)(2)(z) of section 5751.01 of the Revised Code.	2158
Notwithstanding divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(iii)	2159

of section 5751.01 of the Revised Code, the operator of a refining facility may apply for a qualifying certificate and pay the annual fee for qualifying year 2013 within thirty days after the effective date of this act and shall not be required to do any of the following:	2160 2161 2162 2163 2164
(A) Substantiate for the qualifying periods preceding qualifying years 2013 and 2014 that all persons operating the qualified distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be sitused outside the state;	2165 2166 2167 2168 2169
(B) Obtain certification from an independent certified public accountant that the calculation of the minimum thresholds otherwise required for a qualified distribution center by the operator of the distribution center has been made in accordance with generally accepted accounting principles;	2170 2171 2172 2173 2174
(C) Provide documentation for the Tax Commissioner to ascertain the Ohio delivery percentage for qualifying years 2013 and 2014.	2175 2176 2177
Notwithstanding division (F)(2)(z)(i)(VII) of section 5751.01 of the Revised Code, the Ohio delivery percentage for qualifying years 2013 and 2014, for qualified distribution centers that are refining facilities that otherwise comply with this section and with division (F)(2)(z) of section 5751.01 of the Revised Code shall equal zero per cent.	2178 2179 2180 2181 2182 2183
Section 8. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in	2184 2185 2186 2187 2188 2189 2190

this act:	2191
Section 5502.011 of the Revised Code as amended by both Am.	2192
Sub. H.B. 487 and Am. Sub. S.B. 337 of the 129th General Assembly.	2193
Section 5751.01 of the Revised Code as amended by both Am.	2194
Sub. H.B. 508 and Am. Sub. S.B. 315 of the 129th General Assembly.	2195
Section 9. This act is hereby declared to be an emergency	2196
measure necessary for the immediate preservation of the public	2197
peace, health, and safety. The reason for such necessity lies in	2198
the need to update Ohio's tax law to enable taxpayers to rely on	2199
recent rules, rulings, and interpretations of the Internal Revenue	2200
Service for their 2011 tax returns, and also to advance and ensure	2201
the provision of wireless enhanced 9-1-1 service in an efficient	2202
and effective manner, including by maintaining the prepaid	2203
wireless 9-1-1 charge, which would otherwise lapse. Therefore,	2204
this act shall go into immediate effect.	2205
Section 10. The amendment, enactment, or repeal by this act	2206
of sections 5502.011, 5507.01, 5507.02, 5507.18, 5507.34, 5507.40,	2207
5507.42, 5507.44, 5507.46, 5507.51, 5507.53, 5507.54, 5507.55,	2208
5507.57, 5507.63, 5507.65, 5507.66, and 5733.55 of the Revised	2209
Code and of Section 3 of this act is contingent upon Sub. H.B. 360	2210
of the 129th General Assembly becoming law in the same form as it	2211
passed the Senate.	2212