

As Reported by the House Ways and Means Committee

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Sub. H. B. No. 375

Representative Huffman

**Cosponsors: Speaker Batchelder Representatives Hall, Grossman, Conditt,
Sears, Hayes, Boose, Beck, Stebelton, Hill, Wachtmann, Amstutz, Landis,
Scherer, Baker, Buchy, Retherford, Rosenberger**

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A B I L L

To amend sections 1509.02, 1509.071, 1509.11, 1
1509.34, 1513.08, 1513.182, 1514.11, 5703.052, 2
5705.27, 5705.32, 5747.98, 5749.01, 5749.02, 3
5749.03, 5749.06, 5749.07, 5749.08, 5749.10, 4
5749.11, 5749.12, 5749.13, 5749.14, 5749.15, and 5
5751.01, to enact sections 187.14, 190.01 to 6
190.05, 321.50, 1509.075, 5747.56, 5747.63, 7
5749.031, and 5749.18, and to repeal section 8
1509.50 of the Revised Code to change the basis, 9
rates, and revenue distribution of the severance 10
tax on oil and gas, authorize an income tax credit 11
for oil or gas royalty holders, and to exclude 12
some oil and gas sale receipts from the commercial 13
activity tax base. 14

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

Section 1. That sections 1509.02, 1509.071, 1509.11, 1509.34, 15
1513.08, 1513.182, 1514.11, 5703.052, 5705.27, 5705.32, 5747.98, 16
5749.01, 5749.02, 5749.03, 5749.06, 5749.07, 5749.08, 5749.10, 17
5749.11, 5749.12, 5749.13, 5749.14, 5749.15, and 5751.01 be 18

amended and sections 187.14, 190.01, 190.02, 190.03, 190.04, 19
190.05, 321.50, 1509.075, 5747.56, 5747.63, 5749.031, and 5749.18 20
of the Revised Code be enacted to read as follows: 21

Sec. 187.14. JobsOhio shall do both of the following: 22

(A) Determine the industries that may relocate to the state 23
to take advantage of inexpensive energy that is available in 24
counties with active oil and gas development, and research and 25
report on programs to encourage those industries to relocate to 26
those counties; 27

(B) Develop programs to encourage job creation related to the 28
industries described in division (A) of this section. 29

Sec. 190.01. As used in this chapter: 30

(A) "Subdivision" and "permanent improvement" have the same 31
meanings as in section 5705.01 of the Revised Code. 32

(B) "Eligible subdivision" means an eligible county or a 33
subdivision that is located in an eligible county. 34

(C) "Eligible county" means a county appearing on the most 35
recent determination certified by the chief of the division of oil 36
and gas resources management under division (C) of section 1509.11 37
of the Revised Code. 38

Sec. 190.02. (A) There is hereby created the Ohio shale gas 39
regional commission, which shall be composed of the following 40
eleven members: 41

(1) Three members appointed by the governor as follows: 42

(a) One county commissioner of an eligible county, selected 43
from a list of such commissioners submitted by the county 44
commissioners association of Ohio; 45

(b) One township trustee of a township that is an eligible subdivision, selected from a list of such trustees submitted by the Ohio township association; 46
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(c) One member of the legislative authority of a municipal corporation that is an eligible subdivision, selected from a list of such members submitted by the Ohio municipal league. 49
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(2) Four members appointed by the speaker of the house of representatives as follows: 52
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(a) One county commissioner of an eligible county, selected from a list of such commissioners submitted by the county commissioners association of Ohio; 54
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(b) One township trustee of a township that is an eligible subdivision, selected from a list of such trustees submitted by the Ohio township association; 57
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(c) One member of the legislative authority of a municipal corporation that is an eligible subdivision, selected from a list of such members submitted by the Ohio municipal league; 60
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(d) One member representing an economic development organization representing an area that includes one or more eligible counties. 63
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(3) Four members appointed by the president of the senate as follows: 66
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(a) One county commissioner of an eligible county, selected from a list of such commissioners submitted by the county commissioners association of Ohio; 68
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(b) One township trustee of a township that is an eligible subdivision, selected from a list of such trustees submitted by the Ohio township association; 71
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(c) One member of the legislative authority of a municipal corporation that is an eligible subdivision, selected from a list 74
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of such members submitted by the Ohio municipal league; 76

(d) One member representing the oil and gas industry. 77

(4) No two members of the commission may be representatives 78
of the same county, township, or municipal corporation. 79

(B) Members of the commission may be removed by the members' 80
appointing authority. Members may be reappointed to the 81
commission. For the first term occurring after the effective date 82
of this section: 83

(1) Members described in divisions (A)(1)(a), (2)(b), and 84
(3)(c) of this section shall serve a two-year term. 85

(2) Members described in divisions (A)(1)(b), (2)(c) and (d), 86
and (3)(a) of this section shall serve a three-year term. 87

(3) Members described in divisions (A)(1)(c), (2)(a), and 88
(3)(b) and (d) of this section shall serve a four-year term. 89

For every term thereafter, members shall serve four-year 90
terms. Any member appointed to the commission under this section 91
shall hold office until the later of the end of the term for which 92
the member is appointed or the date the member's successor takes 93
office. A vacancy occurring among the members shall be filled in 94
the same manner as the original appointment. Members of the 95
commission shall not be compensated or reimbursed for members' 96
expenses. 97

(C) At the first meeting, which shall occur not later than 98
one year after the effective date of this section, members of the 99
commission shall elect a chair. The commission shall meet annually 100
or more frequently at the call of the chair. A majority of the 101
commission constitutes a quorum. The commission is a public body 102
for purposes of section 121.22 of the Revised Code. Records of the 103
commission are public records for the purposes of section 149.43 104
of the Revised Code. 105

(D) Serving as a member of the Ohio shale gas regional commission does not constitute holding a public office or position of employment under the laws of this state and does not confer a right to compensation from any agency of this state. A member of the commission does not have an unlawful interest in a public contract under section 2921.42 of the Revised Code solely because the eligible subdivision of which the member is also a public official receives a grant from the Ohio shale gas infrastructure development fund or the severance tax legacy fund.

Sections 101.82 to 101.87 of the Revised Code do not apply to the Ohio shale gas regional commission.

Sec. 190.03. There is hereby created in the state treasury the Ohio shale gas infrastructure development fund. The fund shall consist of moneys transferred to it from the local government reimbursement fund under section 5747.56 of the Revised Code. Money in the fund shall be used to award grants under section 190.05 of the Revised Code to eligible subdivisions exclusively to pay for permanent improvements. Interest earned on the money in the fund shall be credited to the fund.

Sec. 190.04. There is hereby created in the state treasury the severance tax legacy fund. The fund shall consist of moneys transferred to it from the local government reimbursement fund under section 5747.56 of the Revised Code. The general assembly shall not appropriate money from the fund until fiscal year 2025. The general assembly shall not appropriate money from the severance tax legacy fund for any fiscal year in excess of the amount of interest earned by the fund in the preceding fiscal year. Beginning fiscal year 2025, money in the fund shall be used to award grants under section 190.05 of the Revised Code for projects in subdivisions that are or were eligible subdivisions for any fiscal year to foster long-term prosperity and a positive

legacy in the subdivision. Interest earned on the money in the 137
fund shall be credited to the fund. 138

Sec. 190.05. (A)(1) An eligible subdivision may submit a 139
request to the Ohio shale gas regional commission to receive a 140
grant from the Ohio shale gas infrastructure development fund to 141
fund permanent improvements. The commission shall review each 142
submitted request and recommend to the Ohio public works 143
commission whether the Ohio public works commission should approve 144
a grant from the fund to the requesting eligible subdivision to 145
pay all or a portion of the cost of permanent improvements. 146

(2) On or after July 1, 2024, a subdivision that is or has 147
been an eligible subdivision may submit a request to the Ohio 148
shale gas regional commission to receive a grant from the 149
severance tax legacy fund. The commission shall review each 150
submitted request and recommend to the Ohio public works 151
commission whether the Ohio public works commission should approve 152
a grant from the severance tax legacy fund to the requesting 153
subdivision. 154

(B) The Ohio public works commission shall not approve a 155
grant to a subdivision whose request does not meet the 156
requirements of this chapter. The director of the Ohio public 157
works commission shall notify the director of budget and 158
management of the amount of any grant awarded by the Ohio public 159
works commission under division (A) of this section. 160
Notwithstanding section 126.14 of the Revised Code, the director 161
of budget and management shall release appropriations from the 162
Ohio shale gas infrastructure development fund or the severance 163
tax legacy fund for the purpose of awarding a grant to a 164
subdivision on the presentation of a request to do so by the 165
director of the Ohio public works commission. 166

Sec. 321.50. Every county treasurer shall create in the 167
county treasury a severance tax infrastructure fund. The treasurer 168
shall deposit any money received by the treasurer under section 169
5747.56 of the Revised Code into the fund. The treasurer shall 170
notify the county auditor whenever the treasurer deposits money 171
into the fund. 172

Within ten days after receiving such a notice from the 173
treasurer, the auditor shall schedule a hearing of the county 174
budget commission and notify applicable taxing authorities as 175
provided in section 5705.27 of the Revised Code. 176

Sec. 1509.02. (A) There is hereby created in the department 177
of natural resources the division of oil and gas resources 178
management, which shall be administered by the chief of the 179
division of oil and gas resources management. The division has 180
sole and exclusive authority to regulate the permitting, location, 181
and spacing of oil and gas wells and production operations within 182
the state, excepting only those activities regulated under federal 183
laws for which oversight has been delegated to the environmental 184
protection agency and activities regulated under sections 6111.02 185
to 6111.028 of the Revised Code. The regulation of oil and gas 186
activities is a matter of general statewide interest that requires 187
uniform statewide regulation, and this chapter and rules adopted 188
under it constitute a comprehensive plan with respect to all 189
aspects of the locating, drilling, well stimulation, completing, 190
and operating of oil and gas wells within this state, including 191
site construction and restoration, permitting related to those 192
activities, and the disposal of wastes from those wells. In order 193
to assist the division in the furtherance of its sole and 194
exclusive authority as established in this section, the chief may 195
enter into cooperative agreements with other state agencies for 196
advice and consultation, including visitations at the surface 197

location of a well on behalf of the division. Such cooperative 198
agreements do not confer on other state agencies any authority to 199
administer or enforce this chapter and rules adopted under it. In 200
addition, such cooperative agreements shall not be construed to 201
dilute or diminish the division's sole and exclusive authority as 202
established in this section. Nothing in this section affects the 203
authority granted to the director of transportation and local 204
authorities in section 723.01 or 4513.34 of the Revised Code, 205
provided that the authority granted under those sections shall not 206
be exercised in a manner that discriminates against, unfairly 207
impedes, or obstructs oil and gas activities and operations 208
regulated under this chapter. 209

The chief shall not hold any other public office, nor shall 210
the chief be engaged in any occupation or business that might 211
interfere with or be inconsistent with the duties as chief. 212

~~All moneys~~ The following shall be credited to the oil and gas 213
well fund, which is hereby created in the state treasury: all 214
money collected by the chief pursuant to sections 1509.06, 215
1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.222, 1509.28, 216
and 1509.34, and 1509.50 of the Revised Code, ~~ninety per cent of~~ 217
~~moneys received by the treasurer of state from the tax levied in~~ 218
~~divisions (A)(5) and (6) of~~ money transferred from the oil and gas 219
severance tax fund created in section 5749.02 of the Revised Code, 220
all civil penalties paid under section 1509.33 of the Revised 221
Code, and, notwithstanding any section of the Revised Code 222
relating to the distribution or crediting of fines for violations 223
of the Revised Code, all fines imposed under divisions (A) and (B) 224
of section 1509.99 of the Revised Code and fines imposed under 225
divisions (C) and (D) of section 1509.99 of the Revised Code for 226
all violations prosecuted by the attorney general and for 227
violations prosecuted by prosecuting attorneys that do not involve 228
the transportation of brine by vehicle ~~shall be deposited into the~~ 229

~~state treasury to the credit of the oil and gas well fund, which~~ 230
~~is hereby created.~~ Fines imposed under divisions (C) and (D) of 231
section 1509.99 of the Revised Code for violations prosecuted by 232
prosecuting attorneys that involve the transportation of brine by 233
vehicle and penalties associated with a compliance agreement 234
entered into pursuant to this chapter shall be paid to the county 235
treasury of the county where the violation occurred. 236

The fund shall be used solely and exclusively for the 237
purposes enumerated in division (B) of section 1509.071 of the 238
Revised Code, for the expenses of the division associated with the 239
administration of this chapter and Chapter 1571. of the Revised 240
Code and rules adopted under them, and for expenses that are 241
critical and necessary for the protection of human health and 242
safety and the environment related to oil and gas production in 243
this state. The expenses of the division in excess of the moneys 244
available in the fund shall be paid from general revenue fund 245
appropriations to the department. 246

(B) Not less than fourteen per cent of the revenue credited 247
to the oil and gas well fund from sources other than the oil and 248
gas severance tax fund shall be transferred to the well plugging 249
fund created in section 1509.075 of the Revised Code. 250

Sec. 1509.071. (A) When the chief of the division of oil and 251
gas resources management finds that an owner has failed to comply 252
with a final nonappealable order issued or compliance agreement 253
entered into under section 1509.04, the restoration requirements 254
of section 1509.072, plugging requirements of section 1509.12, or 255
permit provisions of section 1509.13 of the Revised Code, or rules 256
and orders relating thereto, the chief shall make a finding of 257
that fact and declare any surety bond filed to ensure compliance 258
with those sections and rules forfeited in the amount set by rule 259
of the chief. The chief thereupon shall certify the total 260

forfeiture to the attorney general, who shall proceed to collect 261
the amount of the forfeiture. In addition, the chief may require 262
an owner, operator, producer, or other person who forfeited a 263
surety bond to post a new surety bond in the amount of fifteen 264
thousand dollars for a single well, thirty thousand dollars for 265
two wells, or fifty thousand dollars for three or more wells. 266

In lieu of total forfeiture, the surety or owner, at the 267
surety's or owner's option, may cause the well to be properly 268
plugged and abandoned and the area properly restored or pay to the 269
treasurer of state the cost of plugging and abandonment. 270

(B) All moneys collected because of forfeitures of bonds as 271
provided in this section shall be deposited in the state treasury 272
to the credit of the oil and gas well fund created in section 273
1509.02 of the Revised Code. 274

The chief ~~annually shall~~ may spend ~~not less than fourteen per~~ 275
~~cent of the~~ revenue credited to the oil and gas well fund ~~during~~ 276
~~the previous fiscal year~~ for the following purposes: 277

(1) In accordance with division (D) of this section, to plug 278
idle and orphaned wells or to restore the land surface properly as 279
required in section 1509.072 of the Revised Code; 280

(2) In accordance with division (E) of this section, to 281
correct conditions that the chief reasonably has determined are 282
causing imminent health or safety risks at an idle and orphaned 283
well or a well for which the owner cannot be contacted in order to 284
initiate a corrective action within a reasonable period of time as 285
determined by the chief. 286

Expenditures from the fund shall be made only for lawful 287
purposes. In addition, expenditures from the fund shall not be 288
made to purchase real property or to remove a dwelling in order to 289
access a well. 290

(C)(1) Upon determining that the owner of a well has failed 291

to properly plug and abandon it or to properly restore the land surface at the well site in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it or that a well is an abandoned well for which no funds are available to plug the well in accordance with this chapter, the chief shall do all of the following:

(a) Determine from the records in the office of the county recorder of the county in which the well is located the identity of the owner of the land on which the well is located, the identity of the owner of the oil or gas lease under which the well was drilled or the identity of each person owning an interest in the lease, and the identities of the persons having legal title to, or a lien upon, any of the equipment appurtenant to the well;

(b) Mail notice to the owner of the land on which the well is located informing the landowner that the well is to be plugged. If the owner of the oil or gas lease under which the well was drilled is different from the owner of the well or if any persons other than the owner of the well own interests in the lease, the chief also shall mail notice that the well is to be plugged to the owner of the lease or to each person owning an interest in the lease, as appropriate.

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state

for use to defray the cost of plugging and abandoning the well and 324
restoring the land surface at the well site. 325

(D) Expenditures from the fund for the purpose of division 326
(B)(1) of this section shall be made in accordance with either of 327
the following: 328

(1) The expenditures may be made pursuant to contracts 329
entered into by the chief with persons who agree to furnish all of 330
the materials, equipment, work, and labor as specified and 331
provided in such a contract for activities associated with the 332
restoration or plugging of a well as determined by the chief. The 333
activities may include excavation to uncover a well, geophysical 334
methods to locate a buried well when clear evidence of leakage 335
from the well exists, cleanout of wellbores to remove material 336
from a failed plugging of a well, plugging operations, 337
installation of vault and vent systems, including associated 338
engineering certifications and permits, restoration of property, 339
and repair of damage to property that is caused by such 340
activities. Expenditures shall not be used for salaries, 341
maintenance, equipment, or other administrative purposes, except 342
for costs directly attributed to the plugging of an idle and 343
orphaned well. Agents or employees of persons contracting with the 344
chief for a restoration or plugging project may enter upon any 345
land, public or private, on which the well is located for the 346
purpose of performing the work. Prior to such entry, the chief 347
shall give to the following persons written notice of the 348
existence of a contract for a project to restore or plug a well, 349
the names of the persons with whom the contract is made, and the 350
date that the project will commence: the owner of the well, the 351
owner of the land upon which the well is located, the owner or 352
agents of adjoining land, and, if the well is located in the same 353
township as or in a township adjacent to the excavations and 354
workings of a mine and the owner or lessee of that mine has 355

provided written notice identifying those townships to the chief 356
at any time during the immediately preceding three years, the 357
owner or lessee of the mine. 358

(2)(a) The owner of the land on which a well is located who 359
has received notice under division (C)(1)(b) of this section may 360
plug the well and be reimbursed by the division of oil and gas 361
resources management for the reasonable cost of plugging the well. 362
In order to plug the well, the landowner shall submit an 363
application to the chief on a form prescribed by the chief and 364
approved by the technical advisory council on oil and gas created 365
in section 1509.38 of the Revised Code. The application, at a 366
minimum, shall require the landowner to provide the same 367
information as is required to be included in the application for a 368
permit to plug and abandon under section 1509.13 of the Revised 369
Code. The application shall be accompanied by a copy of a proposed 370
contract to plug the well prepared by a contractor regularly 371
engaged in the business of plugging oil and gas wells. The 372
proposed contract shall require the contractor to furnish all of 373
the materials, equipment, work, and labor necessary to plug the 374
well properly and shall specify the price for doing the work, 375
including a credit for the equipment appurtenant to the well that 376
was forfeited to the state through the operation of division 377
(C)(2) of this section. Expenditures under division (D)(2)(a) of 378
this section shall be consistent with the expenditures for 379
activities described in division (D)(1) of this section. The 380
application also shall be accompanied by the permit fee required 381
by section 1509.13 of the Revised Code unless the chief, in the 382
chief's discretion, waives payment of the permit fee. The 383
application constitutes an application for a permit to plug and 384
abandon the well for the purposes of section 1509.13 of the 385
Revised Code. 386

(b) Within thirty days after receiving an application and 387

accompanying proposed contract under division (D)(2)(a) of this 388
section, the chief shall determine whether the plugging would 389
comply with the applicable requirements of this chapter and 390
applicable rules adopted and orders issued under it and whether 391
the cost of the plugging under the proposed contract is 392
reasonable. If the chief determines that the proposed plugging 393
would comply with those requirements and that the proposed cost of 394
the plugging is reasonable, the chief shall notify the landowner 395
of that determination and issue to the landowner a permit to plug 396
and abandon the well under section 1509.13 of the Revised Code. 397
Upon approval of the application and proposed contract, the chief 398
shall transfer ownership of the equipment appurtenant to the well 399
to the landowner. The chief may disapprove an application 400
submitted under division (D)(2)(a) of this section if the chief 401
determines that the proposed plugging would not comply with the 402
applicable requirements of this chapter and applicable rules 403
adopted and orders issued under it, that the cost of the plugging 404
under the proposed contract is unreasonable, or that the proposed 405
contract is not a bona fide, arm's length contract. 406

(c) After receiving the chief's notice of the approval of the 407
application and permit to plug and abandon a well under division 408
(D)(2)(b) of this section, the landowner shall enter into the 409
proposed contract to plug the well. 410

(d) Upon determining that the plugging has been completed in 411
compliance with the applicable requirements of this chapter and 412
applicable rules adopted and orders issued under it, the chief 413
shall reimburse the landowner for the cost of the plugging as set 414
forth in the proposed contract approved by the chief. The 415
reimbursement shall be paid from the oil and gas well fund. If the 416
chief determines that the plugging was not completed in accordance 417
with the applicable requirements, the chief shall not reimburse 418
the landowner for the cost of the plugging, and the landowner or 419

the contractor, as applicable, promptly shall transfer back to 420
this state title to and possession of the equipment appurtenant to 421
the well that previously was transferred to the landowner under 422
division (D)(2)(b) of this section. If any such equipment was 423
removed from the well during the plugging and sold, the landowner 424
shall pay to the chief the proceeds from the sale of the 425
equipment, and the chief promptly shall pay the moneys so received 426
to the treasurer of state for deposit into the oil and gas well 427
fund. 428

The chief may establish an annual limit on the number of 429
wells that may be plugged under division (D)(2) of this section or 430
an annual limit on the expenditures to be made under that 431
division. 432

As used in division (D)(2) of this section, "plug" and 433
"plugging" include the plugging of the well and the restoration of 434
the land surface disturbed by the plugging. 435

(E) Expenditures from the oil and gas well fund for the 436
purpose of division (B)(2) of this section may be made pursuant to 437
contracts entered into by the chief with persons who agree to 438
furnish all of the materials, equipment, work, and labor as 439
specified and provided in such a contract. The competitive bidding 440
requirements of Chapter 153. of the Revised Code do not apply if 441
the chief reasonably determines that an emergency situation exists 442
requiring immediate action for the correction of the applicable 443
health or safety risk. A contract or purchase of materials for 444
purposes of addressing the emergency situation is not subject to 445
division (B) of section 127.16 of the Revised Code. The chief, 446
designated representatives of the chief, and agents or employees 447
of persons contracting with the chief under this division may 448
enter upon any land, public or private, for the purpose of 449
performing the work. 450

(F) Contracts entered into by the chief under this section 451

are not subject to any of the following:	452
(1) Chapter 4115. of the Revised Code;	453
(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract;	454 455 456 457
(3) Section 4733.17 of the Revised Code.	458
(G) The owner of land on which a well is located who has received notice under division (C)(1)(b) of this section, in lieu of plugging the well in accordance with division (D)(2) of this section, may cause ownership of the well to be transferred to an owner who is lawfully doing business in this state and who has met the financial responsibility requirements established under section 1509.07 of the Revised Code, subject to the approval of the chief. The transfer of ownership also shall be subject to the landowner's filing the appropriate forms required under section 1509.31 of the Revised Code and providing to the chief sufficient information to demonstrate the landowner's or owner's right to produce a formation or formations. That information may include a deed, a lease, or other documentation of ownership or property rights.	459 460 461 462 463 464 465 466 467 468 469 470 471 472
The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:	473 474 475 476 477
(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;	478 479 480 481
(2) Taking title to and possession of the equipment	482

appurtenant to the well that has been identified by the chief as 483
having been abandoned by the former owner; 484

(3) Complying with all applicable requirements that are 485
necessary to drill deeper, plug the well, or plug back the well. 486

(H) The chief shall issue an order that requires the owner of 487
a well to pay the actual documented costs of a corrective action 488
that is described in division (B)(2) of this section concerning 489
the well. The chief shall transmit the money so recovered to the 490
treasurer of state who shall deposit the money in the state 491
treasury to the credit of the oil and gas well fund. 492

(I) The chief may engage in cooperative projects under this 493
section with any agency of this state, another state, or the 494
United States; any other governmental agencies; or any state 495
university or college as defined in section 3345.27 of the Revised 496
Code. A contract entered into for purposes of a cooperative 497
project is not subject to division (B) of section 127.16 of the 498
Revised Code. 499

(J) On or before the last day of June of each year, the chief 500
shall deliver to the speaker of the house of representatives and 501
the president of the senate a report listing the projected amount 502
of money to be spent from the oil or gas well fund or the well 503
plugging fund to plug each idle or orphaned well that the chief 504
estimates will begin to be plugged in the following fiscal year 505
and the locations of such wells, and the number and location of 506
all idle or orphaned wells plugged in the preceding fiscal year 507
using money from the oil or gas well fund or the well plugging 508
fund and the amount spent from each fund to plug such wells. 509

Sec. 1509.075. (A) There is hereby created in the division of 510
oil and gas resources management the idle and orphaned well 511
program. The chief shall provide staff for the program sufficient 512
to identify, locate, and plug idle and orphaned wells located in 513

this state and perform the duties required under this section. 514

(B) Subject to the supervision of the chief, the idle and orphaned well program shall do both of the following: 515
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(1) Develop and maintain an inventory of all known and suspected idle and orphaned wells located in this state; 517
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(2) Prioritize the plugging of idle and orphaned wells identified in that inventory based on the relative risk of those wells to public health and safety. 519
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(C) There is hereby created in the state treasury the well plugging fund, which shall consist of money transferred to the fund from the oil and gas severance tax fund under division (D)(7) of section 5749.02 of the Revised Code and the oil and gas well fund under division (B) of section 1509.02 of the Revised Code. The chief shall use the money in the well plugging fund exclusively for the purposes described in division (B) of section 1509.071 of the Revised Code and subject to the requirements and limitations imposed by that section related to the expenditure of funds for those purposes. 522
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Expenditures from the fund shall be made only for lawful purposes and shall not be made to purchase real property or to remove a dwelling in order to access a well. 532
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534

Sec. 1509.11. (A)(1) The owner of any well, except a 535
horizontal well, that is producing or capable of producing oil or 536
gas shall file with the chief of the division of oil and gas 537
resources management, on or before the thirty-first day of March, 538
a statement of production of oil, gas, and brine for the last 539
preceding calendar year in such form as the chief may prescribe. 540
An owner that has more than one hundred such wells in this state 541
shall submit electronically the statement of production in a 542
format that is approved by the chief. The chief shall include on 543

the form, at the minimum, a request for the submittal of the 544
information that a person who is regulated under this chapter is 545
required to submit under the "Emergency Planning and Community 546
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001, and 547
regulations adopted under it, and that the division of oil and gas 548
resources management does not obtain through other reporting 549
mechanisms. 550

(2) The owner of any horizontal well that is producing or 551
capable of producing oil or gas shall file with the chief, on the 552
forty-fifth day following the close of each calendar quarter, a 553
statement of production of oil, gas, and brine for the preceding 554
calendar quarter in a form that the chief prescribes. An owner 555
that has more than one hundred horizontal wells in this state 556
shall submit electronically the statement of production in a 557
format that is approved by the chief. The chief shall include on 558
the form, at a minimum, a request for the submittal of the 559
information that a person who is regulated under this chapter is 560
required to submit under the "Emergency Planning and Community 561
Right-To-Know Act of 1986," 100 Stat. 1728, 42 U.S.C. 11001, and 562
regulations adopted under it, and that the division does not 563
obtain through other reporting mechanisms. 564

(B) The chief shall not disclose information received from 565
the department of taxation under division (C)(12) of section 566
5703.21 of the Revised Code until the related statement of 567
production required by division (A) of this section is filed with 568
the chief. 569

(C) Not later than the fifteenth day of June of each year, 570
the chief shall determine the counties in the state in which at 571
least one well producing oil or gas in the Utica or Marcellus 572
formation in the preceding calendar year was located and certify 573
that determination to the chair of the Ohio shale gas regional 574
commission and the director of the Ohio public works commission. 575

(D) The chief, through the idle and orphaned well program, 576
shall investigate a well to determine if it is an idle or orphaned 577
well if either of the following occurs, unless the well is under 578
temporary inactive well status pursuant to section 1509.062 of the 579
Revised Code: 580

(1) If the well is not a horizontal well, the owner of the 581
well does not submit a statement of production required under 582
division (A)(1) of this section for two consecutive years. 583

(2) If the well is a horizontal well, the owner of the well 584
does not submit a statement of production required under division 585
(A)(2) of this section for eight consecutive calendar quarters. 586

Sec. 1509.34. (A)(1) If an owner fails to pay the fees 587
imposed by this chapter, or if the chief of the division of oil 588
and gas resources management incurs costs under division (E) of 589
section 1509.071 of the Revised Code to correct conditions 590
associated with the owner's well that the chief reasonably has 591
determined are causing imminent health or safety risks, the 592
division of oil and gas resources management shall have a priority 593
lien against that owner's interest in the applicable well in front 594
of all other creditors for the amount of any such unpaid fees and 595
costs incurred. The chief shall file a statement in the office of 596
the county recorder of the county in which the applicable well is 597
located of the amount of the unpaid fees and costs incurred as 598
described in this division. The statement shall constitute a lien 599
on the owner's interest in the well as of the date of the filing. 600
The lien shall remain in force so long as any portion of the lien 601
remains unpaid or until the chief issues a certificate of release 602
of the lien. If the chief issues a certificate of release of the 603
lien, the chief shall file the certificate of release in the 604
office of the applicable county recorder. 605

(2) A lien imposed under division (A)(1) of this section 606

shall be in addition to any lien imposed by the attorney general 607
for failure to pay ~~the assessment imposed by section 1509.50 of~~ 608
~~the Revised Code or~~ the tax levied under division ~~(A)~~(B)(5) or (6) 609
or (C) of section 5749.02 of the Revised Code, as applicable. 610

(3) If the attorney general cannot collect from a severer or 611
an owner for an outstanding balance of ~~amounts due under section~~ 612
~~1509.50 of the Revised Code or of~~ unpaid taxes levied under 613
division ~~(A)~~(B)(5) or (6) or (C) of section 5749.02 of the Revised 614
Code, as applicable, the tax commissioner may request the chief to 615
impose a priority lien against the owner's interest in the 616
applicable well. Such a lien has priority in front of all other 617
creditors. 618

(B) The chief promptly shall issue a certificate of release 619
of a lien under either of the following circumstances: 620

(1) Upon the repayment in full of the amount of unpaid fees 621
imposed by this chapter or costs incurred by the chief under 622
division (E) of section 1509.071 of the Revised Code to correct 623
conditions associated with the owner's well that the chief 624
reasonably has determined are causing imminent health or safety 625
risks; 626

(2) Any other circumstance that the chief determines to be in 627
the best interests of the state. 628

(C) The chief may modify the amount of a lien under this 629
section. If the chief modifies a lien, the chief shall file a 630
statement in the office of the county recorder of the applicable 631
county of the new amount of the lien. 632

(D) An owner regarding which the division has recorded a lien 633
against the owner's interest in a well in accordance with this 634
section shall not transfer a well, lease, or mineral rights to 635
another owner or person until the chief issues a certificate of 636
release for each lien against the owner's interest in the well. 637

(E) All money from the collection of liens under this section 638
shall be deposited in the state treasury to the credit of the oil 639
and gas well fund created in section 1509.02 of the Revised Code. 640

Sec. 1513.08. (A) After a coal mining and reclamation permit 641
application has been approved, the applicant shall file with the 642
chief of the division of mineral resources management, on a form 643
prescribed and furnished by the chief, the performance security 644
required under this section that shall be payable to the state and 645
conditioned on the faithful performance of all the requirements of 646
this chapter and rules adopted under it and the terms and 647
conditions of the permit. 648

(B) Using the information contained in the permit 649
application; the requirements contained in the approved permit and 650
reclamation plan; and, after considering the topography, geology, 651
hydrology, and revegetation potential of the area of the approved 652
permit, the probable difficulty of reclamation; the chief shall 653
determine the estimated cost of reclamation under the initial term 654
of the permit if the reclamation has to be performed by the 655
division of mineral resources management in the event of 656
forfeiture of the performance security by the applicant. The chief 657
shall send written notice of the amount of the estimated cost of 658
reclamation by certified mail to the applicant. The applicant 659
shall send written notice to the chief indicating the method by 660
which the applicant will provide the performance security pursuant 661
to division (C) of this section. 662

(C) The applicant shall provide the performance security in 663
an amount using one of the following: 664

(1) If the applicant elects to provide performance security 665
without reliance on the reclamation forfeiture fund created in 666
section 1513.18 of the Revised Code, the amount of the estimated 667
cost of reclamation as determined by the chief under division (B) 668

of this section for the increments of land on which the operator 669
will conduct a coal mining and reclamation operation under the 670
initial term of the permit as indicated in the application; 671

(2) If the applicant elects to provide performance security 672
together with reliance on the reclamation forfeiture fund through 673
payment of the additional tax on the severance of coal that is 674
levied under division ~~(A)~~(B)(8) of section 5749.02 of the Revised 675
Code, an amount of twenty-five hundred dollars per acre of land on 676
which the operator will conduct coal mining and reclamation under 677
the initial term of the permit as indicated in the application. 678
However, in order for an applicant to be eligible to provide 679
performance security in accordance with division (C)(2) of this 680
section, the applicant, an owner and controller of the applicant, 681
or an affiliate of the applicant shall have held a permit issued 682
under this chapter for any coal mining and reclamation operation 683
for a period of not less than five years. In the event of 684
forfeiture of performance security that was provided in accordance 685
with division (C)(2) of this section, the difference between the 686
amount of that performance security and the estimated cost of 687
reclamation as determined by the chief under division (B) of this 688
section shall be obtained from money in the reclamation forfeiture 689
fund as needed to complete the reclamation. 690

The performance security provided under division (C) of this 691
section for the entire area to be mined under one permit issued 692
under this chapter shall not be less than ten thousand dollars. 693

The performance security shall cover areas of land affected 694
by mining within or immediately adjacent to the permitted area, so 695
long as the total number of acres does not exceed the number of 696
acres for which the performance security is provided. However, the 697
authority for the performance security to cover areas of land 698
immediately adjacent to the permitted area does not authorize a 699
permittee to mine areas outside an approved permit area. As 700

succeeding increments of coal mining and reclamation operations 701
are to be initiated and conducted within the permit area, the 702
permittee shall file with the chief additional performance 703
security to cover the increments in accordance with this section. 704
If a permittee intends to mine areas outside the approved permit 705
area, the permittee shall provide additional performance security 706
in accordance with this section to cover the areas to be mined. 707

If an applicant or permittee has not held a permit issued 708
under this chapter for any coal mining and reclamation operation 709
for a period of five years or more, the applicant or permittee 710
shall provide performance security in accordance with division 711
(C)(1) of this section in the full amount of the estimated cost of 712
reclamation as determined by the chief for a permitted coal 713
preparation plant or coal refuse disposal area that is not located 714
within a permitted area of a mine. If an applicant for a permit 715
for a coal preparation plant or coal refuse disposal area or a 716
permittee of a permitted coal preparation plant or coal refuse 717
disposal area that is not located within a permitted area of a 718
mine has held a permit issued under this chapter for any coal 719
mining and reclamation operation for a period of five years or 720
more, the applicant or permittee may provide performance security 721
for the coal preparation plant or coal refuse disposal area either 722
in accordance with division (C)(1) of this section in the full 723
amount of the estimated cost of reclamation as determined by the 724
chief or in accordance with division (C)(2) of this section in an 725
amount of twenty-five hundred dollars per acre of land with 726
reliance on the reclamation forfeiture fund. If a permittee has 727
previously provided performance security under division (C)(1) of 728
this section for a coal preparation plant or coal refuse disposal 729
area that is not located within a permitted area of a mine and 730
elects to provide performance security in accordance with division 731
(C)(2) of this section, the permittee shall submit written notice 732
to the chief indicating that the permittee elects to provide 733

performance security in accordance with division (C)(2) of this 734
section. Upon receipt of such a written notice, the chief shall 735
release to the permittee the amount of the performance security 736
previously provided under division (C)(1) of this section that 737
exceeds the amount of performance security that is required to be 738
provided under division (C)(2) of this section. 739

(D) A permittee's liability under the performance security 740
shall be limited to the obligations established under the permit, 741
which include completion of the reclamation plan in order to make 742
the land capable of supporting the postmining land use that was 743
approved in the permit. The period of liability under the 744
performance security shall be for the duration of the coal mining 745
and reclamation operation and for a period coincident with the 746
operator's responsibility for revegetation requirements under 747
section 1513.16 of the Revised Code. 748

(E) The amount of the estimated cost of reclamation 749
determined under division (B) of this section and the amount of a 750
permittee's performance security provided in accordance with 751
division (C)(1) of this section shall be adjusted by the chief as 752
the land that is affected by mining increases or decreases or if 753
the cost of reclamation increases or decreases. If the performance 754
security was provided in accordance with division (C)(2) of this 755
section and the chief has issued a cessation order under division 756
(D)(2) of section 1513.02 of the Revised Code for failure to abate 757
a violation of the contemporaneous reclamation requirement under 758
division (A)(15) of section 1513.16 of the Revised Code, the chief 759
may require the permittee to increase the amount of performance 760
security from twenty-five hundred dollars per acre of land to five 761
thousand dollars per acre of land. 762

The chief shall notify the permittee, each surety, and any 763
person who has a property interest in the performance security and 764
who has requested to be notified of any proposed adjustment to the 765

performance security. The permittee may request an informal 766
conference with the chief concerning the proposed adjustment, and 767
the chief shall provide such an informal conference. 768

If the chief increases the amount of performance security 769
under this division, the permittee shall provide additional 770
performance security in an amount determined by the chief. If the 771
chief decreases the amount of performance security under this 772
division, the chief shall determine the amount of the reduction of 773
the performance security and send written notice of the amount of 774
reduction to the permittee. The permittee may reduce the amount of 775
the performance security in the amount determined by the chief. 776

(F) A permittee may request a reduction in the amount of the 777
performance security by submitting to the chief documentation 778
proving that the amount of the performance security provided by 779
the permittee exceeds the estimated cost of reclamation if the 780
reclamation would have to be performed by the division in the 781
event of forfeiture of the performance security. The chief shall 782
examine the documentation and determine whether the permittee's 783
performance security exceeds the estimated cost of reclamation. If 784
the chief determines that the performance security exceeds that 785
estimated cost, the chief shall determine the amount of the 786
reduction of the performance security and send written notice of 787
the amount to the permittee. The permittee may reduce the amount 788
of the performance security in the amount determined by the chief. 789
Adjustments in the amount of performance security under this 790
division shall not be considered release of performance security 791
and are not subject to section 1513.16 of the Revised Code. 792

(G) If the performance security is a bond, it shall be 793
executed by the operator and a corporate surety licensed to do 794
business in this state. If the performance security is a cash 795
deposit or negotiable certificates of deposit of a bank or savings 796
and loan association, the bank or savings and loan association 797

shall be licensed and operating in this state. The cash deposit or 798
market value of the securities shall be equal to or greater than 799
the amount of the performance security required under this 800
section. The chief shall review any documents pertaining to the 801
performance security and approve or disapprove the documents. The 802
chief shall notify the applicant of the chief's determination. 803

(H) If the performance security is a bond, the chief may 804
accept the bond of the applicant itself without separate surety 805
when the applicant demonstrates to the satisfaction of the chief 806
the existence of a suitable agent to receive service of process 807
and a history of financial solvency and continuous operation 808
sufficient for authorization to self-insure or bond the amount. 809

(I) Performance security provided under this section may be 810
held in trust, provided that the state is the primary beneficiary 811
of the trust and the custodian of the performance security held in 812
trust is a bank, trust company, or other financial institution 813
that is licensed and operating in this state. The chief shall 814
review the trust document and approve or disapprove the document. 815
The chief shall notify the applicant of the chief's determination. 816

(J) If a surety, bank, savings and loan association, trust 817
company, or other financial institution that holds the performance 818
security required under this section becomes insolvent, the 819
permittee shall notify the chief of the insolvency, and the chief 820
shall order the permittee to submit a plan for replacement 821
performance security within thirty days after receipt of notice 822
from the chief. If the permittee provided performance security in 823
accordance with division (C)(1) of this section, the permittee 824
shall provide the replacement performance security within ninety 825
days after receipt of notice from the chief. If the permittee 826
provided performance security in accordance with division (C)(2) 827
of this section, the permittee shall provide the replacement 828
performance security within one year after receipt of notice from 829

the chief, and, for a period of one year after the permittee's 830
receipt of notice from the chief or until the permittee provides 831
the replacement performance security, whichever occurs first, 832
money in the reclamation forfeiture fund shall be the permittee's 833
replacement performance security in an amount not to exceed the 834
estimated cost of reclamation as determined by the chief. 835

(K) If a permittee provided performance security in 836
accordance with division (C)(1) of this section, the permittee's 837
responsibility for repairing material damage and replacement of 838
water supply resulting from subsidence shall be satisfied by 839
either of the following: 840

(1) The purchase prior to mining of a noncancelable 841
premium-prepaid liability insurance policy in lieu of the 842
permittee's performance security for subsidence damage. The 843
insurance policy shall contain terms and conditions that 844
specifically provide coverage for repairing material damage and 845
replacement of water supply resulting from subsidence. 846

(2) The provision of additional performance security in the 847
amount of the estimated cost to the division of mineral resources 848
management to repair material damage and replace water supplies 849
resulting from subsidence until the repair or replacement is 850
completed. However, if such repair or replacement is completed, or 851
compensation for structures that have been damaged by subsidence 852
is provided, by the permittee within ninety days of the occurrence 853
of the subsidence, additional performance security is not 854
required. In addition, the chief may extend the ninety-day period 855
for a period not to exceed one year if the chief determines that 856
the permittee has demonstrated in writing that subsidence is not 857
complete and that probable subsidence-related damage likely will 858
occur and, as a result, the completion of repairs of 859
subsidence-related material damage to lands or protected 860
structures or the replacement of water supply within ninety days 861

of the occurrence of the subsidence would be unreasonable. 862

(L) If the performance security provided in accordance with 863
this section exceeds the estimated cost of reclamation, the chief 864
may authorize the amount of the performance security that exceeds 865
the estimated cost of reclamation together with any interest or 866
other earnings on the performance security to be paid to the 867
permittee. 868

(M) A permittee that held a valid coal mining and reclamation 869
permit immediately prior to April 6, 2007, shall provide, not 870
later than a date established by the chief, performance security 871
in accordance with division (C)(1) or (2) of this section, rather 872
than in accordance with the law as it existed prior to that date, 873
by filing it with the chief on a form that the chief prescribes 874
and furnishes. Accordingly, for purposes of this section, 875
"applicant" is deemed to include such a permittee. 876

(N) As used in this section: 877

(1) "Affiliate of the applicant" means an entity that has a 878
parent entity in common with the applicant. 879

(2) "Owner and controller of the applicant" means a person 880
that has any relationship with the applicant that gives the person 881
authority to determine directly or indirectly the manner in which 882
the applicant conducts coal mining operations. 883

Sec. 1513.182. (A) There is hereby created the reclamation 884
forfeiture fund advisory board consisting of the director of 885
natural resources, the director of insurance, and seven members 886
appointed by the governor with the advice and consent of the 887
senate. Of the governor's appointments, one shall be a certified 888
public accountant, one shall be a registered professional engineer 889
with experience in reclamation of mined land, two shall represent 890
agriculture, agronomy, or forestry, one shall be a representative 891

of operators of coal mining operations that have valid permits 892
issued under this chapter and that have provided performance 893
security under division (C)(1) of section 1513.08 of the Revised 894
Code, one shall be a representative of operators of coal mining 895
operations that have valid permits issued under this chapter and 896
that have provided performance security under division (C)(2) of 897
section 1513.08 of the Revised Code, and one shall be a 898
representative of the public. 899

Of the original members appointed by the governor, two shall 900
serve an initial term of two years, three an initial term of three 901
years, and two an initial term of four years. Thereafter, terms of 902
appointed members shall be for four years, with each term ending 903
on the same date as the original date of appointment. An appointed 904
member shall hold office from the date of appointment until the 905
end of the term for which the member was appointed. Vacancies 906
shall be filled in the same manner as original appointments. A 907
member appointed to fill a vacancy occurring prior to the 908
expiration of the term for which the member's predecessor was 909
appointed shall hold office for the remainder of that term. A 910
member shall continue in office subsequent to the expiration date 911
of the member's term until the member's successor takes office or 912
until a period of sixty days has elapsed, whichever occurs first. 913
The governor may remove an appointed member of the board for 914
misfeasance, nonfeasance, or malfeasance. 915

The directors of natural resources and insurance shall not 916
receive compensation for serving on the board, but shall be 917
reimbursed for the actual and necessary expenses incurred in the 918
performance of their duties as members of the board. The members 919
appointed by the governor shall receive per diem compensation 920
fixed pursuant to division (J) of section 124.15 of the Revised 921
Code and reimbursement for the actual and necessary expenses 922
incurred in the performance of their duties. 923

(B) The board annually shall elect from among its members a chairperson, a vice-chairperson, and a secretary to record the board's meetings.

(C) The board shall hold meetings as often as necessary as the chairperson or a majority of the members determines.

(D) The board shall establish procedures for conducting meetings and for the election of its chairperson, vice-chairperson, and secretary.

(E) The board shall do all of the following:

(1) Review the deposits into and expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code;

(2) Retain periodically a qualified actuary to perform an actuarial study of the reclamation forfeiture fund;

(3) Based on an actuarial study and as determined necessary by the board, adopt rules in accordance with Chapter 119. of the Revised Code to adjust the rate of the tax levied under division ~~(A)~~(B)(8) of section 5749.02 of the Revised Code and the balance of the reclamation forfeiture fund that pertains to that rate;

(4) Evaluate any rules, procedures, and methods for estimating the cost of reclamation for purposes of determining the amount of performance security that is required under section 1513.08 of the Revised Code; the collection of forfeited performance security; payments to the reclamation forfeiture fund; reclamation of sites for which operators have forfeited the performance security; and the compliance of operators with their reclamation plans;

(5) Provide a forum for discussion of issues related to the reclamation forfeiture fund and the performance security that is required under section 1513.08 of the Revised Code;

(6) Submit a report biennially to the governor that describes 954
the financial status of the reclamation forfeiture fund and the 955
adequacy of the amount of money in the fund to accomplish the 956
purposes of the fund and that may discuss any matter related to 957
the performance security that is required under section 1513.08 of 958
the Revised Code; 959

(7) Make recommendations to the governor, if necessary, of 960
alternative methods of providing money for or using money in the 961
reclamation forfeiture fund and issues related to the reclamation 962
of land or water resources that have been adversely affected by 963
past coal mining for which the performance security was forfeited; 964

(8) Adopt rules in accordance with Chapter 119. of the 965
Revised Code that are necessary to administer this section. 966

Sec. 1514.11. In addition to the purposes authorized in 967
section 1514.06 of the Revised Code, the chief of the division of 968
mineral resources management may use moneys in the surface mining 969
fund created under that section for the administration and 970
enforcement of this chapter, for the reclamation of land affected 971
by surface or in-stream mining under a permit issued under this 972
chapter that the operator failed to reclaim and for which the 973
performance bond filed by the operator is insufficient to complete 974
the reclamation, and for the reclamation of land affected by 975
surface or in-stream mining that was abandoned and left 976
unreclaimed and for which no permit was issued or bond filed under 977
this chapter. Also, the chief may use the portion of the surface 978
mining fund that consists of moneys collected from the severance 979
taxes levied under section 5749.02 of the Revised Code for mine 980
safety and first aid training. For purposes of this section, the 981
chief shall expend moneys in the fund in accordance with the 982
procedures and requirements established in section 1514.06 of the 983
Revised Code and may enter into contracts and perform work in 984

accordance with that section. 985

Fees collected under sections 1514.02 and 1514.03 of the 986
Revised Code, one-half of the moneys collected from the severance 987
taxes levied under divisions ~~(A)~~(B)(3) and (4) of section 5749.02 988
of the Revised Code, and all of the moneys collected from the 989
severance tax levied under division ~~(A)~~(B)(7) of section 5749.02 990
of the Revised Code shall be credited to the fund in accordance 991
with those sections. Notwithstanding any section of the Revised 992
Code relating to the distribution or crediting of fines for 993
violations of the Revised Code, all fines imposed under section 994
1514.99 of the Revised Code shall be credited to the fund. 995

Sec. 5703.052. (A) There is hereby created in the state 996
treasury the tax refund fund, from which refunds shall be paid for 997
taxes illegally or erroneously assessed or collected, or for any 998
other reason overpaid, that are levied by Chapter 4301., 4305., 999
5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 1000
5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 1001
3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 1002
5727.81, and 5727.811 of the Revised Code. Refunds for fees or 1003
wireless 9-1-1 charges illegally or erroneously assessed or 1004
collected, or for any other reason overpaid, that are levied by 1005
sections 128.42 or 3734.90 to 3734.9014 of the Revised Code also 1006
shall be paid from the fund. Refunds for amounts illegally or 1007
erroneously assessed or collected by the tax commissioner, or for 1008
any other reason overpaid, that are due under former section 1009
1509.50 of the Revised Code as that section existed before its 1010
repeal by H.B. 375 of the 130th general assembly shall be paid 1011
from the fund. However, refunds for taxes levied under section 1012
5739.101 of the Revised Code shall not be paid from the tax refund 1013
fund, but shall be paid as provided in section 5739.104 of the 1014
Revised Code. 1015

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, a wireless 9-1-1 charge refund, or another amount refunded, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from the receipts of the same tax, fee, wireless 9-1-1 charge, or other amount from which the refund arose.

(2) When a refund is for a tax, fee, wireless 9-1-1 charge, or other amount that is not levied by the state or that was illegally or erroneously distributed to a taxing jurisdiction, the tax commissioner shall recover the amount of that refund from the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed twenty-four months.

Sec. 5705.27. There is hereby created in each county a county budget commission consisting of the county auditor, the county treasurer, and the prosecuting attorney. Upon petition filed with the board of elections, signed by the number of electors of the county equal in amount to three per cent of the total number of votes cast for governor at the most recent election therefor, there shall be submitted to the electors of the county at the next general election occurring not sooner than ninety days after the filing of the petition, the question "Shall the county budget commission consist of two additional members to be elected from the county?" Provision shall be made on the ballot for the

election from the county at large of two additional members of the 1048
county budget commission who shall be electors of the county if a 1049
majority of the electors voting on the question shall have voted 1050
in the affirmative. In such counties, where the electors have 1051
voted in the affirmative, the county budget commission shall 1052
consist of such two elected members in addition to the county 1053
auditor, the county treasurer and the prosecuting attorney. Such 1054
members, who shall not hold any other public office, shall serve 1055
for a term of four years. ~~The~~ 1056

The commission shall meet at the office of the county auditor 1057
~~in each county~~ on the first Monday in February and on the first 1058
Monday in August, annually, and shall complete its work on or 1059
before the first day of September, annually, unless for good cause 1060
the tax commissioner extends the time for completing the work. ~~A~~ 1061
The commission shall meet at the call of the county auditor to 1062
hold a hearing not later than forty days following the deposit of 1063
any money into the severance tax infrastructure fund created under 1064
section 321.50 of the Revised Code for the purpose of distributing 1065
such money to subdivisions in accordance with division (G) of 1066
section 5705.32 of the Revised Code. At least thirty days before 1067
the hearing, the auditor shall notify the taxing authorities of 1068
all subdivisions located in the county that money has been 1069
deposited in the severance tax infrastructure fund and that each 1070
taxing authority receiving notice may appear and testify to 1071
demonstrate the subdivision's need, if any, for such money to pay 1072
for permanent improvements or for reconstructing, improving, 1073
repairing, or equipping roads or bridges. The notification shall 1074
require a subdivision to respond within fifteen days after the 1075
auditor sends the notification to the subdivision notifying the 1076
auditor that a representative of the subdivision will appear and 1077
give testimony or evidence at the hearing. If no subdivision 1078
responds within this period, the commission may cancel the 1079
scheduled hearing. In any event, the commission shall proceed as 1080

provided in division (G) of section 5705.32 of the Revised Code. 1081

A majority of members shall constitute a quorum, provided 1082
that no action of the commission shall be valid unless agreed to 1083
by a majority of the members of the commission. The auditor shall 1084
be the secretary of the commission and shall keep a full and 1085
accurate record of all proceedings. ~~The~~ 1086

The county auditor shall appoint ~~such~~ messengers and clerks 1087
as the commission deems necessary, and the budget commissioners 1088
shall be allowed their actual and necessary expenses. The elected 1089
members of the commission shall also receive twenty dollars for 1090
each day in attendance at commission meetings and in discharge of 1091
official duties. Any vacancy among such elected members shall be 1092
filled by the presiding judge of the court of common pleas. ~~It~~ 1093

In adjusting the rates of taxation and fixing the amount of 1094
taxes to be levied each year, the commissioners shall be governed 1095
by the amount of the taxable property shown on the auditor's tax 1096
list for the current year; provided that if the auditor's tax list 1097
has not been completed, the auditor shall estimate, as nearly as 1098
practicable, the amount of the taxable property for such year, and 1099
such officers shall be governed by such estimate. 1100

In any county in which two members of the commission are 1101
elected, upon petition filed with the board of elections, signed 1102
by the number of electors of the county equal in amount to three 1103
per cent of the votes cast for governor at the most recent 1104
election therefor, there shall be submitted to the electors of the 1105
county at the next general election occurring not sooner than 1106
ninety days after the filing of the petition, the question "Shall 1107
the elected members be eliminated from the county budget 1108
commission?" If the majority of the electors voting thereon shall 1109
have voted in the affirmative, the county budget commission shall 1110
consist solely of the county auditor, the county treasurer, and 1111
the prosecuting attorney. 1112

Sec. 5705.32. (A) The county budget commission shall adjust 1113
the estimated amounts required from the general property tax for 1114
each fund, as shown by the tax budgets or other information 1115
required to be provided under section 5705.281 of the Revised 1116
Code, so as to bring the tax levies required therefor within the 1117
limitations specified in sections 5705.01 to 5705.47 of the 1118
Revised Code, for such levies, but no levy shall be reduced below 1119
a minimum fixed by law. The commission may revise and adjust the 1120
estimate of balances and receipts from all sources for each fund 1121
and shall determine the total appropriations that may be made 1122
therefrom. 1123

(B) The commission shall fix the amount of the county public 1124
library fund to be distributed to each board of public library 1125
trustees that has qualified under section 5705.28 of the Revised 1126
Code for participation in the proceeds of such fund. The amount 1127
paid to all libraries in the county from such fund shall never be 1128
a smaller per cent of the fund than the average of the percentages 1129
of the county's classified taxes that were distributed to 1130
libraries in 1982, 1983, and 1984, as determined by the county 1131
auditor. The commission shall base the amount for distribution on 1132
the needs of such library for the construction of new library 1133
buildings, parts of buildings, improvements, operation, 1134
maintenance, or other expenses. In determining the needs of each 1135
library board of trustees, and in calculating the amount to be 1136
distributed to any library board of trustees on the basis of its 1137
needs, the commission shall make no reduction in its allocation 1138
from the fund on account of additional revenues realized by a 1139
library from increased taxes or service charges voted by its 1140
electorate, from revenues received through federal or state 1141
grants, projects, or programs, or from grants from private 1142
sources. 1143

(C) Notwithstanding the fact that alternative methods of 1144

financing such needs are available, after fixing the amount to be 1145
distributed to libraries, the commission shall fix the amount, if 1146
any, of the county public library fund to be distributed to each 1147
board of township park commissioners, the county, and each 1148
municipal corporation in accordance with the following: 1149

(1) Each municipal corporation in the county shall receive a 1150
per cent of the remainder that equals the per cent that the county 1151
auditor determines the classified property taxes originating in 1152
such municipal corporation in 1984 were of the total of all of the 1153
county's classified property taxes in 1984. The commission may 1154
deduct from this amount any amount that the budget commission 1155
allows to the board of township park commissioners of a township 1156
park district, the boundaries of which are coextensive with or 1157
contained within the boundaries of the municipal corporation. 1158

(2) The county shall receive a per cent of the remainder that 1159
equals the per cent that the county auditor determines the 1160
classified property taxes originating outside of the boundaries of 1161
municipal corporations in the county in 1984 were of the total of 1162
all of the county's classified property taxes in 1984. The 1163
commission may deduct from this amount any amount that the budget 1164
commission allows to the board of township park commissioners of a 1165
township park district, the boundaries of which are not 1166
coextensive with or contained within those of any municipal 1167
corporation in the county. 1168

(D) The commission shall separately set forth the amounts 1169
fixed and determined under divisions (B) and (C) of this section 1170
in the "official certificate of estimated resources," as provided 1171
in section 5705.35 of the Revised Code, and separately certify 1172
such amount to the county auditor who shall be guided thereby in 1173
the distribution of the county public library fund for and during 1174
the fiscal year. In determining such amounts, the commission shall 1175
be guided by the estimate certified by the tax commissioner and 1176

presented by the auditor under section 5705.31 of the Revised Code, as to the total amount of revenue to be received in the county public library fund during such fiscal year.

(E)(1) At least five days before the date of any meeting at which the budget commission plans to discuss the distribution of the county public library fund, it shall notify each legislative authority and board of public library trustees, county commissioners, and township park commissioners eligible to participate in the distribution of the fund of the date, time, place, and agenda for the meeting. Any legislative authority or board entitled to notice under this division may designate an officer or employee of such legislative authority or board to whom the commission shall deliver the notice.

(2) Before the final determination of the amount to be allotted to each subdivision from any source, the commission shall permit representatives of each subdivision and of each board of public library trustees to appear before it to explain its financial needs.

(F) If any public library receives and expends any funds allocated to it under this section for the construction of new library buildings or parts of buildings, such library shall be free and open to the inhabitants of the county in which it is located. Any board of library trustees that receives funds under this section and section 5747.48 of the Revised Code shall have its financial records open for public inspection at all reasonable times.

(G)(1) A representative of a subdivision that has responded to the notice of a hearing as provided in section 5705.27 of the Revised Code may appear and give testimony and evidence demonstrating the need of the subdivision for money from the severance tax infrastructure fund to pay for permanent improvements or for reconstructing, improving, repairing, or

equipping roads or bridges. 1209

Subject to division (G)(2) of this section, the commission 1210
shall determine the amount, if any, to be distributed to each 1211
subdivision represented at the hearing on the basis of the 1212
testimony and evidence presented, and shall issue an order to the 1213
county treasurer distributing all or a portion of the money in the 1214
severance tax infrastructure fund to such subdivisions. An order 1215
of the commission under this division may not be appealed. If the 1216
commission canceled the hearing because no subdivisions responded 1217
to the notice, the commission shall hold a meeting to determine 1218
whether money in the fund shall be distributed and, if so, the 1219
amounts to be distributed, based on any information in the 1220
commission's possession. 1221

The county treasurer shall distribute money in the severance 1222
tax infrastructure fund in accordance with the order of the 1223
commission. A taxing authority may use money received from the 1224
severance tax infrastructure fund to pay for permanent 1225
improvements or for reconstructing, improving, repairing, or 1226
equipping roads or bridges. 1227

(2) The county budget commission shall distribute at least 1228
twenty per cent of any revenue deposited in the severance tax 1229
infrastructure fund to one or more townships for the purpose of 1230
reconstructing, improving, repairing, or equipping roads or 1231
bridges owned by the township, the necessity of which is directly 1232
associated with the presence of producing oil and gas wells. 1233

(3) In distributing funds under divisions (G)(1) and (2) of 1234
this section, the county budget commission shall prioritize 1235
permanent improvements and road or bridge repairs directly 1236
associated with the presence of producing oil and gas wells. 1237

Sec. 5747.56. (A) Not later than the fifteenth day of June of 1238
each year, the tax commissioner shall calculate and certify to the 1239

<u>director of budget and management both of the following:</u>	1240
<u>(1) Revenue forgone to the local government fund during the</u>	1241
<u>preceding calendar year because of the credit authorized under</u>	1242
<u>section 5747.63 and the exclusion authorized under division</u>	1243
<u>(F)(2)(jj) of section 5751.01 of the Revised Code.</u>	1244
<u>(2) Revenue forgone to the public library fund during the</u>	1245
<u>preceding calendar year because of the credit authorized under</u>	1246
<u>section 5747.63 and the exclusion authorized under division</u>	1247
<u>(F)(2)(jj) of section 5751.01 of the Revised Code.</u>	1248
<u>(B) There is hereby created in the state treasury the local</u>	1249
<u>government reimbursement fund. On or before the thirtieth day of</u>	1250
<u>June of each year, the director of budget and management shall</u>	1251
<u>transfer or distribute from the fund the following amounts:</u>	1252
<u>(1) An amount equal to the lesser of the money in the local</u>	1253
<u>government reimbursement fund or the sum of the amounts certified</u>	1254
<u>by the tax commissioner under divisions (A)(1) and (2) of this</u>	1255
<u>section to the undivided local government fund and the public</u>	1256
<u>library fund of each county and to each municipal corporation</u>	1257
<u>receiving money that calendar year under division (C) of section</u>	1258
<u>5747.50 of the Revised Code in the same proportions as money from</u>	1259
<u>the local government fund is distributed to undivided local</u>	1260
<u>government funds and those municipal corporations under divisions</u>	1261
<u>(B) and (C) of section 5747.50 of the Revised Code and from the</u>	1262
<u>public library fund to county public library funds under section</u>	1263
<u>5747.47 of the Revised Code for that calendar year.</u>	1264
<u>(2) Twenty-five per cent of any money remaining in the local</u>	1265
<u>government reimbursement fund after making the distribution</u>	1266
<u>described in division (B)(1) of this section to the severance tax</u>	1267
<u>infrastructure fund of each county in the county's proportion most</u>	1268
<u>recently certified to the director by the tax commissioner under</u>	1269
<u>division (J)(2) of section 5749.06 of the Revised Code.</u>	1270

(3) Sixty-three and three-fourths per cent of any money 1271
remaining in the local government reimbursement fund after making 1272
the distribution under division (B)(1) of this section to the Ohio 1273
shale gas infrastructure development fund created in section 1274
190.03 of the Revised Code. 1275

(4) Eleven and one-fourth per cent of any money remaining in 1276
the local government reimbursement fund after making the 1277
distribution described in division (B)(1) of this section to the 1278
severance tax legacy fund created in section 190.04 of the Revised 1279
Code. 1280

The county budget commission shall apportion money 1281
distributed to the undivided local government fund or public 1282
library fund of the county under this section to subdivisions or 1283
libraries according to the formula used by the county to 1284
distribute money from the undivided local government fund under 1285
section 5747.51 or 5747.53 or from the county public library fund 1286
under section 5705.32 or 5705.321 of the Revised Code. 1287

Payments received by a municipal corporation directly from 1288
the director of budget and management under this section shall be 1289
paid into its general fund and may be used for any lawful purpose. 1290
Money received by a subdivision under this section shall be paid 1291
into its general fund and used for the current operating expenses 1292
of the subdivision. 1293

Sec. 5747.63. (A) As used in this section: 1294

(1) "Royalty interest" and "well" have the same meanings as 1295
in section 1509.01 of the Revised Code. 1296

(2) "Oil and gas severance tax" means the tax imposed under 1297
division (B)(5) or (6) or (C) of section 5749.02 of the Revised 1298
Code. 1299

(3) "Severer" has the same meaning as in division (I)(2) of 1300

section 5749.01 of the Revised Code. 1301

(B) For taxable years beginning on or after January 1, 2014, 1302
a taxpayer holding a royalty interest in a well producing oil or 1303
gas may claim a nonrefundable credit against the tax imposed by 1304
section 5747.02 of the Revised Code. The amount of the credit 1305
equals the amount of oil and gas severance tax paid by the severer 1306
for calendar quarters that end in or coincide with the taxpayer's 1307
taxable year multiplied by the lesser of twelve and one-half per 1308
cent or the proportion on the last day of the taxable year of that 1309
tax by which the taxpayer's royalty payments are reduced or for 1310
which the taxpayer is contractually required to pay the severer. 1311

A taxpayer who has a direct or indirect ownership interest in 1312
a pass-through entity that owns a royalty interest may claim a 1313
credit under this section with respect to each well for which the 1314
pass-through entity receives a royalty payment. The amount of the 1315
credit with respect to each well shall be the taxpayer's 1316
distributive or proportionate share of oil and gas severance tax 1317
paid by the severer for the calendar quarters that end in or 1318
coincide with the taxpayer's taxable year multiplied by the lesser 1319
of twelve and one-half per cent or the proportion, on the last day 1320
of the taxable year, of that tax by which the pass-through 1321
entity's royalty payments are reduced or for which the 1322
pass-through entity is contractually required to pay the severer. 1323

(C) The taxpayer shall claim the credit in the order required 1324
under section 5747.98 of the Revised Code. If the credit exceeds 1325
the amount of tax otherwise due for the taxable year, the excess 1326
may not be carried forward. 1327

(D) On or before the last day of January of each year, a 1328
severer shall deliver to each taxpayer or pass-through entity that 1329
holds a royalty interest in the severer's well a written report 1330
that lists the amount of oil and gas severance tax the severer 1331
paid on oil and gas severed and sold from that well in the 1332

preceding calendar year unless that information has already been 1333
provided by a severer to each taxpayer or pass-through entity in 1334
one or more written periodic reports. If requested by the tax 1335
commissioner, a taxpayer or pass-through entity shall furnish to 1336
the commissioner such reports or other documentation 1337
substantiating the taxpayer's or entity's royalty interest or the 1338
proportion of oil and gas severance tax by which the taxpayer's or 1339
entity's royalty payments are reduced or for which the taxpayer or 1340
entity is required to pay the severer. 1341

(E) With respect to any well in which a taxpayer has a direct 1342
or indirect interest, the taxpayer may not claim the credit 1343
authorized by this section and deduct, under division (A)(31) of 1344
section 5747.01 of the Revised Code, the taxpayer's royalty 1345
payments received from the severer. 1346

Sec. 5747.98. (A) To provide a uniform procedure for 1347
calculating the amount of tax due under section 5747.02 of the 1348
Revised Code, a taxpayer shall claim any credits to which the 1349
taxpayer is entitled in the following order: 1350

(1) The retirement income credit under division (B) of 1351
section 5747.055 of the Revised Code; 1352

(2) The senior citizen credit under division (C) of section 1353
5747.05 of the Revised Code; 1354

(3) The lump sum distribution credit under division (D) of 1355
section 5747.05 of the Revised Code; 1356

(4) The dependent care credit under section 5747.054 of the 1357
Revised Code; 1358

(5) The lump sum retirement income credit under division (C) 1359
of section 5747.055 of the Revised Code; 1360

(6) The lump sum retirement income credit under division (D) 1361
of section 5747.055 of the Revised Code; 1362

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	1363 1364
(8) The low-income credit under section 5747.056 of the Revised Code;	1365 1366
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	1367 1368
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	1369 1370
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1371 1372
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1373 1374
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1375 1376
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1377 1378
(15) The earned income credit under section 5747.71 of the Revised Code;	1379 1380
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 <u>The oil and gas royalty interest holder credit for severance tax paid under section 5747.63</u> of the Revised Code;	1381 1382 1383 1384
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1385 1386
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1387 1388
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	1389 1390
(20) The credit for selling alternative fuel under section	1391

5747.77 of the Revised Code;	1392
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	1393 1394 1395
(22) The job training credit under section 5747.39 of the Revised Code;	1396 1397
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1398 1399
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1400 1401
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1402 1403
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1404 1405
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1406 1407
(28) The small business investment credit under section 5747.81 of the Revised Code;	1408 1409
(29) The enterprise zone credits under section 5709.65 of the Revised Code;	1410 1411
(30) The research and development credit under section 5747.331 of the Revised Code;	1412 1413
(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1414 1415
(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1416 1417
(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	1418 1419
(34) The refundable credit for taxes paid by a qualifying	1420

entity granted under section 5747.059 of the Revised Code;	1421
(35) The refundable credits for taxes paid by a qualifying	1422
pass-through entity granted under division (J) of section 5747.08	1423
of the Revised Code;	1424
(36) The refundable credit under section 5747.80 of the	1425
Revised Code for losses on loans made to the Ohio venture capital	1426
program under sections 150.01 to 150.10 of the Revised Code;	1427
(37) The refundable motion picture production credit under	1428
section 5747.66 of the Revised Code;	1429
(38) The refundable credit for financial institution taxes	1430
paid by a pass-through entity granted under section 5747.65 of the	1431
Revised Code.	1432
(B) For any credit, except the refundable credits enumerated	1433
in this section and the credit granted under division (I) of	1434
section 5747.08 of the Revised Code, the amount of the credit for	1435
a taxable year shall not exceed the tax due after allowing for any	1436
other credit that precedes it in the order required under this	1437
section. Any excess amount of a particular credit may be carried	1438
forward if authorized under the section creating that credit.	1439
Nothing in this chapter shall be construed to allow a taxpayer to	1440
claim, directly or indirectly, a credit more than once for a	1441
taxable year.	1442
Sec. 5749.01. As used in this chapter:	1443
(A) "Ton" shall mean two thousand pounds as measured at the	1444
point and time of severance, after the removal of any impurities,	1445
under such rules and regulations as the tax commissioner may	1446
prescribe.	1447
(B) "Taxpayer" means any person required to pay the tax	1448
levied by Chapter 5749. of the Revised Code.	1449
(C) "Natural resource" means all forms of coal, salt,	1450

limestone, dolomite, sand, gravel, ~~natural~~ gas, and oil. 1451

(D) "Owner," ~~has~~ "horizontal well," and "condensate" have the 1452
same ~~meaning~~ meanings as in section 1509.01 of the Revised Code. 1453

(E) "Person" means any individual, firm, partnership, 1454
association, joint stock company, corporation, or estate, or 1455
combination thereof. 1456

(F) "Return" means any report or statement required to be 1457
filed pursuant to Chapter 5749. of the Revised Code used to 1458
determine the tax due. 1459

(G) "Severance" means the extraction or other removal of a 1460
natural resource from the soil or water of this state. 1461

(H) "Severed" means the point at which the natural resource 1462
has been separated from the soil or water in this state. 1463

(I) "Severer" means ~~any~~ one of the following: 1464

(1) For the purposes of a tax levied under division (B) of 1465
section 5749.02 of the Revised Code, except for divisions (B)(5) 1466
and (6) of that section, the person who actually removes the 1467
natural resources from the soil or water in this state. 1468

(2) For the purposes of the taxes levied under divisions 1469
(B)(5) and (6) and (C) of section 5749.02 of the Revised Code, the 1470
person that has the right to first sell severed oil or gas. 1471

(J) "First day of production" means the date on which oil or 1472
gas is first severed through the use of a well. "First day of 1473
production" does not include days on which gas is flared from a 1474
well exclusively for testing and oil is not produced when the gas 1475
is flared. 1476

(K) "Oil" means crude petroleum oil and all other 1477
hydrocarbons, regardless of gravity, that are produced in liquid 1478
form by ordinary production methods, including condensate. 1479

(L) "Gas" means natural gas and all other hydrocarbons that 1480

are not oil. 1481

(M) "Wellhead gross receipts" means the total amount received 1482
by a severer or another person from the first sale of oil and gas, 1483
whether or not the sale occurs at the wellhead, after deduction 1484
for any fees paid or costs incurred or accrued by or on behalf of 1485
the severer or an affiliate of the severer for processing, 1486
gathering, transporting, fractionating, stabilizing, compressing, 1487
dehydrating, shrinkage, brokering, delivering, and market access 1488
for such oil and gas, but not including fees paid or costs 1489
incurred or accrued for oil and gas lease acquisitions, 1490
geophysical and geologic services, well site preparation, well 1491
drilling, well completion services, related tangible or intangible 1492
drilling costs, natural gas storage services, general 1493
merchandising, and lease operating costs for the production of oil 1494
and gas at the wellhead. 1495

(N) "Point of first sale" means the first point after the 1496
production of oil or gas from a well at which the severer or 1497
another person transfers ownership of the oil or gas for 1498
consideration. The point of first sale determines when oil or gas 1499
is first sold for the purposes of this chapter. 1500

(O) "Affiliate" means a person that owns or controls either 1501
directly or indirectly more than fifty per cent of the ownership 1502
interest of one or more other persons, or has more than fifty per 1503
cent of its ownership interests owned or controlled either 1504
directly or indirectly by another person, or by related interests 1505
that own or control either directly or indirectly more than fifty 1506
per cent of the ownership interests of one or more other persons. 1507

(P) "Former section 1509.50 of the Revised Code" means 1508
section 1509.50 of the Revised Code as it existed before its 1509
repeal by H.B. 375 of the 130th general assembly. 1510

Sec. 5749.02. (A) For the purpose of providing revenue to 1511

administer the state's coal mining and reclamation regulatory 1512
program and oil and gas regulatory program, to meet the 1513
environmental and resource management needs of this state, to 1514
provide revenue for local governments, to provide revenue for 1515
temporary income tax reductions, and to reclaim land affected by 1516
mining, ~~an~~ exercise a tax is hereby levied on the privilege of 1517
engaging in the severance of natural resources from the soil or 1518
water of this state under divisions (B) and (C) of this section. 1519
~~The tax~~ 1520

(B) There shall be a tax imposed upon the severer at the 1521
rates prescribed by divisions ~~(A)~~(B)(1) to (9) of this section: 1522

(1) Ten cents per ton of coal; 1523

(2) Four cents per ton of salt; 1524

(3) Two cents per ton of limestone or dolomite; 1525

(4) Two cents per ton of sand and gravel; 1526

(5) Ten cents per barrel of oil severed from a well that is 1527
not a horizontal well; 1528

(6) ~~Two~~ One and one-half cents per thousand cubic feet of 1529
~~natural~~ gas severed from a well that is not a horizontal well; 1530

(7) One cent per ton of clay, sandstone or conglomerate, 1531
shale, gypsum, or quartzite; 1532

(8) Except as otherwise provided in this division or in rules 1533
adopted by the reclamation forfeiture fund advisory board under 1534
section 1513.182 of the Revised Code, an additional fourteen cents 1535
per ton of coal produced from an area under a coal mining and 1536
reclamation permit issued under Chapter 1513. of the Revised Code 1537
for which the performance security is provided under division 1538
(C)(2) of section 1513.08 of the Revised Code. Beginning July 1, 1539
2007, if at the end of a fiscal biennium the balance of the 1540
reclamation forfeiture fund created in section 1513.18 of the 1541

Revised Code is equal to or greater than ten million dollars, the 1542
rate levied shall be twelve cents per ton. Beginning July 1, 2007, 1543
if at the end of a fiscal biennium the balance of the fund is at 1544
least five million dollars, but less than ten million dollars, the 1545
rate levied shall be fourteen cents per ton. Beginning July 1, 1546
2007, if at the end of a fiscal biennium the balance of the fund 1547
is less than five million dollars, the rate levied shall be 1548
sixteen cents per ton. Beginning July 1, 2009, not later than 1549
thirty days after the close of a fiscal biennium, the chief of the 1550
division of mineral resources management shall certify to the tax 1551
commissioner the amount of the balance of the reclamation 1552
forfeiture fund as of the close of the fiscal biennium. Any 1553
necessary adjustment of the rate levied shall take effect on the 1554
first day of the following January and shall remain in effect 1555
during the calendar biennium that begins on that date. 1556

(9) An additional one and two-tenths cents per ton of coal 1557
mined by surface mining methods. 1558

~~(B)~~(C)(1) For oil and gas severed from a horizontal well on 1559
or after October 1, 2014, there is hereby levied a tax on the 1560
severer. The tax shall be levied at the rate of two and one-half 1561
per cent of the severer's or other person's wellhead gross 1562
receipts from the first sale of that oil or gas. 1563

(2)(a) If the tax commissioner establishes by a preponderance 1564
of the evidence either that the first sale of oil and gas is 1565
between affiliates and is not comparable to other transactions in 1566
the Appalachian basin or that the first sale of oil or gas is 1567
between parties that are not affiliates and is not conducted at 1568
arm's length, the commissioner shall prescribe the price paid for 1569
that oil and gas as follows: 1570

(i) The price paid under the most comparable arm's length 1571
contract or contracts, to which the person paying the tax is a 1572
party, for the sale of oil or gas of similar quality, from the 1573

same well or, if none, from a nearby well. 1574

(ii) If the commissioner cannot apply the price described in 1575
division (C)(2)(a)(i) of this section to the oil or gas, the price 1576
paid under the most comparable arm's length contract or contracts, 1577
between parties other than the person paying the tax, for the sale 1578
of oil or gas of similar quality from a similar well. 1579

(iii) If the commissioner cannot apply the price described in 1580
division (C)(2)(a)(i) or (ii) of this section to the oil or gas, 1581
the price determined by consideration of a posted price that is 1582
relevant in valuing oil or gas of similar quality from a similar 1583
well. 1584

(b) When determining whether a contract is comparable for 1585
purposes of division (C)(2)(a)(i) or (ii) of this section, the 1586
commissioner shall consider the contract price for oil or gas, the 1587
time of the contract's execution, the basin where oil and gas is 1588
being sold, any markets served and costs to access the markets, 1589
the quality and volume of the oil or gas, and any other factor. 1590

(c) After prescribing a price under division (C)(2)(a) of 1591
this section, the commissioner shall recalculate wellhead gross 1592
receipts for that oil and gas based on the prescribed price. The 1593
commissioner may collect any amount resulting from the 1594
commissioner's recalculation by assessment in the manner provided 1595
under section 5749.07 of the Revised Code. 1596

(D) After the director of budget and management transfers 1597
money from the severance tax receipts fund as required in division 1598
(H) of section 5749.06 of the Revised Code, money remaining in the 1599
severance tax receipts fund, ~~except for money in the fund from the~~ 1600
~~amounts due under section 1509.50 of the Revised Code,~~ shall be 1601
credited as follows: 1602

(1) Of the moneys in the fund from the tax levied in division 1603
~~(A)~~(B)(1) of this section, four and seventy-six-hundredths per 1604

cent shall be credited to the geological mapping fund created in 1605
section 1505.09 of the Revised Code, eighty and 1606
ninety-five-hundredths per cent shall be credited to the coal 1607
mining administration and reclamation reserve fund created in 1608
section 1513.181 of the Revised Code, and fourteen and 1609
twenty-nine-hundredths per cent shall be credited to the 1610
unreclaimed lands fund created in section 1513.30 of the Revised 1611
Code. 1612

(2) The money in the fund from the tax levied in division 1613
~~(A)~~(B)(2) of this section shall be credited to the geological 1614
mapping fund. 1615

(3) Of the moneys in the fund from the tax levied in 1616
divisions ~~(A)~~(B)(3) and (4) of this section, seven and five-tenths 1617
per cent shall be credited to the geological mapping fund, 1618
forty-two and five-tenths per cent shall be credited to the 1619
unreclaimed lands fund, and the remainder shall be credited to the 1620
surface mining fund created in section 1514.06 of the Revised 1621
Code. 1622

~~(4) Of the moneys in the fund from the tax levied in 1623
divisions (A)(5) and (6) of this section, ninety per cent shall be 1624
credited to the oil and gas well fund created in section 1509.02 1625
of the Revised Code and ten per cent shall be credited to the 1626
geological mapping fund. All of the moneys in the fund from the 1627
tax levied in division ~~(A)~~(B)(7) of this section shall be credited 1628
to the surface mining fund. 1629~~

(5) All of the moneys in the fund from the tax levied in 1630
division ~~(A)~~(B)(8) of this section shall be credited to the 1631
reclamation forfeiture fund. 1632

(6) All of the moneys in the fund from the tax levied in 1633
division ~~(A)~~(B)(9) of this section shall be credited to the 1634
unreclaimed lands fund. 1635

(7) All of the money in the fund from the tax levied under 1636
divisions (B)(5) and (6) and (C) of this section shall be credited 1637
to the oil and gas severance tax fund, which is hereby created in 1638
the state treasury. 1639

On or before the twenty-fifth day of June of each year, the 1640
director of budget and management shall transfer the following 1641
amounts from the oil and gas severance tax fund: 1642

(a) Fifteen million dollars to the oil and gas well fund, 1643
three million dollars to the well plugging fund, and three million 1644
dollars to the geological mapping fund. If the balance in the oil 1645
and gas severance tax fund does not exceed twenty-one million 1646
dollars, the director shall proportionately reduce the amount 1647
transferred to the oil and gas well fund, well plugging fund, and 1648
geological mapping fund. 1649

(b) After transferring the amounts described in division 1650
(D)(7)(a) of this section, to the local government reimbursement 1651
fund created by section 5747.56 of the Revised Code, the lesser of 1652
the amount remaining in the oil and gas severance tax fund or 1653
fifteen per cent of the balance in the oil and gas severance tax 1654
fund before accounting for the transfer under division (D)(7)(a) 1655
of this section. 1656

(c) To the income tax reduction fund created by section 1657
131.44 of the Revised Code, any money remaining in the oil and gas 1658
severance tax fund after accounting for the transfers described in 1659
divisions (D)(7)(a) and (b) of this section. 1660

~~(C)~~(E) When, at the close of any fiscal year, the chief finds 1661
that the balance of the reclamation forfeiture fund, plus 1662
estimated transfers to it from the coal mining administration and 1663
reclamation reserve fund under section 1513.181 of the Revised 1664
Code, plus the estimated revenues from the tax levied by division 1665
~~(A)~~(B)(8) of this section for the remainder of the calendar year 1666

that includes the close of the fiscal year, are sufficient to 1667
complete the reclamation of all lands for which the performance 1668
security has been provided under division (C)(2) of section 1669
1513.08 of the Revised Code, the purposes for which the tax under 1670
division ~~(A)~~(B)(8) of this section is levied shall be deemed 1671
accomplished at the end of that calendar year. The chief, within 1672
thirty days after the close of the fiscal year, shall certify 1673
those findings to the tax commissioner, and the tax levied under 1674
division ~~(A)~~(B)(8) of this section shall cease to be imposed for 1675
the subsequent calendar year after the last day of that calendar 1676
year on coal produced under a coal mining and reclamation permit 1677
issued under Chapter 1513. of the Revised Code if the permittee 1678
has made tax payments under division ~~(A)~~(B)(8) of this section 1679
during each of the preceding five full calendar years. Not later 1680
than thirty days after the close of a fiscal year, the chief shall 1681
certify to the tax commissioner the identity of any permittees who 1682
accordingly no longer are required to pay the tax levied under 1683
division ~~(A)~~(B)(8) of this section for the subsequent calendar 1684
year. 1685

Sec. 5749.03. The following shall be exempt from the tax 1686
imposed by section 5749.02 of the Revised Code ~~and the amount due~~ 1687
~~under section 1509.50 of the Revised Code:~~ 1688

The severance of natural resources from land or water in this 1689
state owned legally or beneficially by the severer, which natural 1690
resources will be used on the land from which they are taken by 1691
the severer as part of the improvement of or use in the severer's 1692
homestead and which have a yearly cumulative market value of not 1693
greater than one thousand dollars. When severed natural resources 1694
so used exceed a cumulative market value of one thousand dollars 1695
during any year, the further severance of natural resources shall 1696
be subject to the tax imposed by section 5749.02 of the Revised 1697
Code. 1698

Sec. 5749.031. The first ten million dollars of wellhead 1699
gross receipts after deduction for payments to holders of a 1700
royalty interest from the first sale of oil and gas and received 1701
by a severer or other person for oil and gas severed from a 1702
horizontal well the first day of production of which is on or 1703
after October 1, 2013, is exempt from the tax imposed under 1704
division (C) of section 5749.02 of the Revised Code. As used in 1705
this section, "holder of a royalty interest" means a person 1706
authorized by written agreement to share in the value or proceeds 1707
of a horizontal well's production, except a person that has a 1708
working interest in that well. 1709

Sec. 5749.06. (A)(1) Each severer liable for the tax imposed 1710
by section 5749.02 of the Revised Code ~~and each severer or owner~~ 1711
~~liable for the amounts due under section 1509.50 of the Revised~~ 1712
~~Code~~ or required to report the information described in division 1713
(J)(1) of this section shall make and file returns with the tax 1714
commissioner in the prescribed form and as of the prescribed 1715
times, computing and reflecting therein the tax as required by 1716
this chapter ~~and amounts due under section 1509.50 of the Revised~~ 1717
~~Code.~~ 1718

(2) The returns shall be filed for every quarterly period, 1719
which periods shall end on the thirty-first day of March, the 1720
thirtieth day of June, the thirtieth day of September, and the 1721
thirty-first day of December of each year, as required by this 1722
section, unless a different return period is prescribed for a 1723
taxpayer by the commissioner. 1724

(B)(1) A separate return shall be filed for each calendar 1725
quarterly period, or other period, or any part thereof, during 1726
which the severer holds a license as provided by section 5749.04 1727
of the Revised Code, or is required to hold the license, ~~or during~~ 1728
~~which an owner is required to file a return.~~ The return shall be 1729

filed within ~~forty five~~ sixty days after the last day of each such 1730
calendar month, or other period, or any part thereof, for which 1731
the return is required. The tax due is payable along with the 1732
return. All such returns shall contain such information as the 1733
commissioner may require to fairly administer the tax. 1734

(2) All returns shall be signed by the severer ~~or owner, as~~ 1735
~~applicable~~, shall contain the full and complete information 1736
requested, and shall be made under penalty of perjury. 1737

(C) If the commissioner believes that quarterly payments of 1738
tax would result in a delay that might jeopardize the collection 1739
of such tax payments, the commissioner may order that such 1740
payments be made weekly, or more frequently if necessary, such 1741
payments to be made not later than seven days following the close 1742
of the period for which the jeopardy payment is required. Such an 1743
order shall be delivered to the taxpayer personally or by 1744
certified mail and shall remain in effect until the commissioner 1745
notifies the taxpayer to the contrary. 1746

(D) Upon good cause the commissioner may extend for thirty 1747
days the period for filing any notice or return required to be 1748
filed under this section, and may remit all or a part of penalties 1749
that may become due under this chapter. 1750

(E) Any tax ~~and any amount due under section 1509.50 of the~~ 1751
~~Revised Code~~ not paid by the day the tax ~~or amount~~ is due shall 1752
bear interest computed at the rate per annum prescribed by section 1753
5703.47 of the Revised Code ~~on that amount due~~ from the day that 1754
the ~~amount~~ tax was originally required to be paid to the day of 1755
actual payment or to the day an assessment was issued under 1756
section 5749.07 or 5749.10 of the Revised Code, whichever occurs 1757
first. 1758

(F) A severer ~~or owner, as applicable~~, that fails to file a 1759
complete return or pay the full amount due under this chapter 1760

within the time prescribed, including any extensions of time 1761
granted by the commissioner, shall be subject to a penalty not to 1762
exceed the greater of fifty dollars or ten per cent of the amount 1763
due for the period. 1764

(G)(1) A severer ~~or owner~~, ~~as applicable~~, shall remit 1765
payments electronically and, if required by the commissioner, file 1766
each return electronically. The commissioner may require that the 1767
severer ~~or owner~~ use the Ohio business gateway, as defined in 1768
section 718.051 of the Revised Code, or another electronic means 1769
to file returns and remit payments electronically. 1770

(2) A severer ~~or owner~~ that is required to remit payments 1771
electronically under this section may apply to the commissioner, 1772
in the manner prescribed by the commissioner, to be excused from 1773
that requirement. The commissioner may excuse a severer ~~or owner~~ 1774
from the requirements of division (G) of this section for good 1775
cause. 1776

(3) If a severer ~~or owner~~ that is required to remit payments 1777
or file returns electronically under this section fails to do so, 1778
the commissioner may impose a penalty on the severer ~~or owner~~ not 1779
to exceed the following: 1780

(a) For the first or second payment or return the severer ~~or~~ 1781
~~owner~~ fails to remit or file electronically, the greater of five 1782
per cent of the amount of the payment that was required to be 1783
remitted or twenty-five dollars; 1784

(b) For every payment or return after the second that the 1785
severer ~~or owner~~ fails to remit or file electronically, the 1786
greater of ten per cent of the amount of the payment that was 1787
required to be remitted or fifty dollars. 1788

(H)(1) All amounts that the commissioner receives under this 1789
section shall be deemed to be revenue from taxes imposed under 1790
this chapter or from the amount due under former section 1509.50 1791

of the Revised Code, as applicable, and shall be deposited in the 1792
severance tax receipts fund, which is hereby created in the state 1793
treasury. 1794

(2) The director of budget and management shall transfer from 1795
the severance tax receipts fund to the tax refund fund amounts 1796
equal to the refunds certified by the commissioner under section 1797
5749.08 of the Revised Code. Any amount transferred under division 1798
(H)(2) of this section shall be derived from receipts of the same 1799
tax ~~or other amount~~ from which the refund arose. 1800

(3) After the director of budget and management makes any 1801
transfer required by division (H)(2) of this section, but not 1802
later than the ~~fifteenth~~ first day of the second month following 1803
the end of each calendar quarter, the commissioner shall certify 1804
to the director the total amount remaining in the severance tax 1805
receipts fund organized according to the amount attributable to 1806
each natural resource and according to the amount attributable to 1807
a each tax imposed by this chapter ~~and the amounts due under~~ 1808
~~section 1509.50 of the Revised Code.~~ 1809

(I) Penalties imposed under this section are in addition to 1810
any other penalty imposed under this chapter and shall be 1811
considered as revenue arising from the tax levied under this 1812
chapter or the amount due under former section 1509.50 of the 1813
Revised Code, as applicable. The commissioner may collect any 1814
penalty or interest imposed under this section in the same manner 1815
as provided for the making of an assessment in section 5749.07 of 1816
the Revised Code. The commissioner may abate all or a portion of 1817
such interest or penalties and may adopt rules governing such 1818
abatements. 1819

(J)(1) Each severer subject to the tax levied under division 1820
(C) of section 5749.02 of the Revised Code shall report on its 1821
return filed under this section the severer's or other person's 1822
wellhead gross receipts, even if those receipts are exempt from 1823

that tax under section 5749.031 of the Revised Code, and the 1824
proportionate amount of such wellhead gross receipts that are 1825
attributable to horizontal wells located in each county, arranged 1826
according to those counties. 1827

(2) Not later than the fifteenth day of June of each year, 1828
the commissioner shall report to the director of budget and 1829
management the proportion of wellhead gross receipts attributable 1830
to each county by dividing wellhead gross receipts reported under 1831
division (J)(1) of this section attributable to each county for 1832
the preceding calendar year by the total amount of wellhead gross 1833
receipts for all counties reported under that division for the 1834
preceding calendar year. 1835

(K) For the purposes of this section: 1836

(1) "Tax imposed by section 5749.02 of the Revised Code" and 1837
"tax" includes amounts due under former section 1509.50 of the 1838
Revised Code. 1839

(2) "Severer" includes an owner with regard to amounts due 1840
from an owner under former section 1509.50 of the Revised Code. 1841

Sec. 5749.07. (A) If any severer required by this chapter to 1842
make and file returns and pay the tax ~~levied~~ imposed by section 1843
5749.02 of the Revised Code, ~~or any severer or owner liable for~~ 1844
~~the amounts due under section 1509.50 of the Revised Code,~~ fails 1845
to make such return or pay such tax or amounts, the tax 1846
commissioner may make an assessment against the severer ~~or owner~~ 1847
based upon any information in the commissioner's possession. 1848

No assessment shall be made or issued against any severer for 1849
any tax imposed by section 5749.02 of the Revised Code ~~or against~~ 1850
~~any severer or owner for any amount due under section 1509.50 of~~ 1851
~~the Revised Code~~ more than four years after the return was due or 1852
was filed, whichever is later. This section does not bar an 1853

assessment against a severer ~~or owner~~ who fails to file a return 1854
as required by this chapter, or who files a fraudulent return. 1855

The commissioner shall give the party assessed written notice 1856
of such assessment in the manner provided in section 5703.37 of 1857
the Revised Code. With the notice, the commissioner shall provide 1858
instructions on how to petition for reassessment and request a 1859
hearing on the petition. 1860

(B) Unless the party assessed files with the commissioner 1861
within sixty days after service of the notice of assessment, 1862
either personally or by certified mail, a written petition for 1863
reassessment signed by the party assessed or that party's 1864
authorized agent having knowledge of the facts, the assessment 1865
becomes final and the amount of the assessment is due and payable 1866
from the party assessed to the treasurer of state. The petition 1867
shall indicate the objections of the party assessed, but 1868
additional objections may be raised in writing if received by the 1869
commissioner prior to the date shown on the final determination. 1870
If the petition has been properly filed, the commissioner shall 1871
proceed under section 5703.60 of the Revised Code. 1872

(C) After an assessment becomes final, if any portion of the 1873
assessment remains unpaid, including accrued interest, a certified 1874
copy of the commissioner's entry making the assessment final may 1875
be filed in the office of the clerk of the court of common pleas 1876
in the county in which the party assessed resides or in which the 1877
party's business is conducted. If the party assessed maintains no 1878
place of business in this state and is not a resident of this 1879
state, the certified copy of the entry may be filed in the office 1880
of the clerk of the court of common pleas of Franklin county. 1881

Immediately upon the filing of such entry, the clerk shall 1882
enter a judgment for the state against the party assessed in the 1883
amount shown on the entry. The judgment may be filed by the clerk 1884
in a loose-leaf book entitled "special judgments for state 1885

severance tax," and shall have the same effect as other judgments. 1886
Execution shall issue upon the judgment upon the request of the 1887
commissioner, and all laws applicable to sales on execution shall 1888
apply to sales made under the judgment. 1889

If the assessment is not paid in its entirety within sixty 1890
days after the day the assessment is issued, the portion of the 1891
assessment consisting of tax due ~~or amounts due under section~~ 1892
~~1509.50 of the Revised Code~~ shall bear interest at the rate per 1893
annum prescribed by section 5703.47 of the Revised Code from the 1894
day the commissioner issues the assessment until it is paid or 1895
until it is certified to the attorney general for collection under 1896
section 131.02 of the Revised Code, whichever comes first. If the 1897
unpaid portion of the assessment is certified to the attorney 1898
general for collection, the entire unpaid portion of the 1899
assessment shall bear interest at the rate per annum prescribed by 1900
section 5703.47 of the Revised Code from the date of certification 1901
until the date it is paid in its entirety. Interest shall be paid 1902
in the same manner as the tax and may be collected by the issuance 1903
of an assessment under this section. 1904

(D) All money collected by the commissioner under this 1905
section shall be paid to the treasurer of state, and when paid 1906
shall be considered as revenue arising from the tax imposed by 1907
section 5749.02 of the Revised Code and the amount due under 1908
former section 1509.50 of the Revised Code, as applicable. 1909

(E) For the purposes of this section: 1910

(1) "Tax imposed by section 5749.02 of the Revised Code" and 1911
"tax" includes amounts due under former section 1509.50 of the 1912
Revised Code. 1913

(2) "Severer" includes an owner with regard to amounts due 1914
from an owner under former section 1509.50 of the Revised Code. 1915

Sec. 5749.08. The tax commissioner shall refund ~~to taxpayers~~ 1916
the amount of taxes levied by section 5749.02 of the Revised Code 1917
and amounts due under former section 1509.50 of the Revised Code 1918
that were paid illegally or erroneously or paid on an illegal or 1919
erroneous assessment. Applications for refund shall be filed with 1920
the commissioner, on the form prescribed by the commissioner, 1921
within four years from the date of the illegal or erroneous 1922
payment. On the filing of the application, the commissioner shall 1923
determine the amount of refund to which the applicant is entitled, 1924
plus interest computed in accordance with section 5703.47 of the 1925
Revised Code from the date of the payment of an erroneous or 1926
illegal assessment until the date the refund is paid. If the 1927
amount is not less than that claimed, the commissioner shall 1928
certify the amount to the director of budget and management and 1929
treasurer of state for payment from the tax refund fund created by 1930
section 5703.052 of the Revised Code. If the amount is less than 1931
that claimed, the commissioner shall proceed in accordance with 1932
section 5703.70 of the Revised Code. 1933

Sec. 5749.10. If the tax commissioner finds that a ~~taxpayer,~~ 1934
person liable for tax under this chapter or for any amount due 1935
under former section 1509.50 of the Revised Code is about to 1936
depart from the state, or remove the ~~taxpayer's~~ person's property 1937
therefrom, or conceal ~~the taxpayer's person~~ themselves or their 1938
property, or do any other act tending to prejudice or to render 1939
wholly or partly ineffectual proceedings to collect such tax or 1940
other amount due unless such proceedings are brought without 1941
delay, or if the commissioner believes that the collection of the 1942
tax or amount due from any ~~taxpayer~~ person will be jeopardized by 1943
delay, the commissioner shall give notice of such findings to ~~such~~ 1944
~~taxpayer~~ the person together with the demand for an immediate 1945
return and immediate payment of such tax or other amount due, with 1946

penalty as provided in section 5749.15 of the Revised Code, 1947
whereupon such tax or other amount due shall become immediately 1948
due and payable. In such cases the commissioner may immediately 1949
file an entry with the clerk of the court of common pleas in the 1950
same manner and with the same effect as provided in section 1951
5749.07 of the Revised Code, provided that if ~~such taxpayer~~ the 1952
person, within five days from notice of the assessment, furnishes 1953
evidence satisfactory to the commissioner, under ~~the regulations~~ 1954
~~prescribed~~ rules adopted by the commissioner, that the taxpayer is 1955
not in default in making returns or paying any tax prescribed by 1956
this chapter or amount due under former section 1509.50 of the 1957
Revised Code, or that the ~~taxpayer~~ person will duly return and 1958
pay, or post bond satisfactory to the commissioner conditioned 1959
upon payment of the tax or other amount finally determined to be 1960
due, then such tax or other amount due shall not be payable prior 1961
to the time and manner otherwise fixed for payment under section 1962
5749.07 of the Revised Code, and the person assessed shall be 1963
restored the rights granted under such section. Upon satisfaction 1964
of the assessment the commissioner shall order the bond cancelled, 1965
securities released, and judgment vacated. 1966

Any assessment issued under this section shall bear interest 1967
as prescribed under section 5749.07 of the Revised Code. 1968

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 1969
credit against the taxes imposed under division ~~(A)~~(B)(8) of 1970
section 5749.02 of the Revised Code for any severer to which a 1971
reclamation tax credit certificate is issued under section 1972
1513.171 of the Revised Code. The credit shall be claimed in the 1973
amount shown on the certificate. The credit shall be claimed by 1974
deducting the amount of the credit from the amount of the first 1975
tax payment due under section 5749.06 of the Revised Code after 1976
the certificate is issued. 1977

If the amount of the credit shown on a certificate exceeds 1978
the amount of the tax otherwise due with that first payment, the 1979
excess shall be claimed against the amount of tax otherwise due on 1980
succeeding payment dates until the entire credit amount has been 1981
deducted. The total amount of credit claimed against payments 1982
shall not exceed the total amount of credit shown on the 1983
certificate. 1984

(B) A severer claiming a credit under this section shall 1985
retain a reclamation tax credit certificate for not less than four 1986
years following the date of the last tax payment against which the 1987
credit allowed under that certificate was applied. Severers shall 1988
make tax credit certificates available for inspection by the tax 1989
commissioner upon the tax commissioner's request. 1990

Sec. 5749.12. Any nonresident of this state who accepts the 1991
privilege extended by the laws of this state to nonresidents 1992
severing natural resources in this state, and any resident of this 1993
state who subsequently becomes a nonresident or conceals the 1994
resident's whereabouts, makes the secretary of state of Ohio the 1995
person's agent for the service of process or notice in any 1996
assessment, action, or proceedings instituted in this state 1997
against such person under this chapter ~~or for purposes of amounts~~ 1998
~~due under section 1509.50 of the Revised Code.~~ 1999

Such process or notice shall be served as provided under 2000
section 5703.37 of the Revised Code. 2001

Sec. 5749.13. The tax commissioner may prescribe requirements 2002
as to the keeping of records and other pertinent documents and the 2003
filing of copies of federal income tax returns and determinations. 2004
The commissioner may require any person, by rule or by notice 2005
served on that person, to keep such records as the commissioner 2006
considers necessary to show whether that person is liable, and the 2007

extent of liability, for the tax imposed under this chapter and 2008
the amount due under former section 1509.50 of the Revised Code. 2009
Such records and other documents shall be open during business 2010
hours to the inspection of the commissioner, and shall be 2011
preserved for a period of four years after the date the return was 2012
required to be filed or actually was filed, whichever is later, 2013
unless the commissioner, in writing, consents to their destruction 2014
within that period, or by order requires that they be kept longer. 2015
2016

Sec. 5749.14. The tax commissioner shall enforce and 2017
administer this chapter ~~and applicable provisions of section~~ 2018
~~1509.50 of the Revised Code.~~ In addition to any other powers 2019
conferred upon the commissioner by law, the commissioner may: 2020

(A) Prescribe all forms required to be filed pursuant to this 2021
chapter; 2022

(B) ~~Promulgate~~ Adopt such rules as the commissioner finds 2023
necessary to carry out this chapter ~~and applicable provisions of~~ 2024
~~section 1509.50 of the Revised Code;~~ 2025

(C) Appoint and employ such personnel as may be necessary to 2026
carry out the duties imposed upon the commissioner by this 2027
chapter. 2028

Sec. 5749.15. Any person who fails to file a return or pay 2029
the tax as required under this chapter or other amount due under 2030
former section 1509.50 of the Revised Code who is assessed such 2031
taxes or other amount due pursuant to section 5749.07 or 5749.10 2032
of the Revised Code may be liable for a penalty of up to 2033
twenty-five per cent of the amount assessed. The tax commissioner 2034
may adopt rules relating to the imposition and remission of 2035
penalties imposed under this section. 2036

Sec. 5749.18. (A) Any term used in this section has the same meaning as in Chapter 5751. of the Revised Code. 2037
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(B) There is allowed a nonrefundable credit against the tax imposed under division (C) of section 5749.02 of the Revised Code to a severer that paid the tax imposed by section 5751.02 of the Revised Code in a calendar quarter beginning on or after October 1, 2014. The amount of the credit shall equal the amount of tax paid by the severer with respect to taxable gross receipts realized from the first sale of oil or gas severed from a horizontal well. The severer shall claim the credit for the calendar quarter in which the tax was paid. If the credit exceeds the tax otherwise due under section 5749.02 of the Revised Code for the calendar quarter, the excess shall not be carried forward to subsequent calendar quarters. 2039
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If a taxpayer is allowed a credit under this section and under section 5749.11 of the Revised Code for the same calendar quarter, the credit allowed under this section shall be subtracted from the amount of tax otherwise due before subtracting the credit allowed under section 5749.11 of the Revised Code. 2051
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Sec. 5751.01. As used in this chapter: 2056

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. 2057
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(B) "Consolidated elected taxpayer" means a group of two or 2066

more persons treated as a single taxpayer for purposes of this 2067
chapter as the result of an election made under section 5751.011 2068
of the Revised Code. 2069

(C) "Combined taxpayer" means a group of two or more persons 2070
treated as a single taxpayer for purposes of this chapter under 2071
section 5751.012 of the Revised Code. 2072

(D) "Taxpayer" means any person, or any group of persons in 2073
the case of a consolidated elected taxpayer or combined taxpayer 2074
treated as one taxpayer, required to register or pay tax under 2075
this chapter. "Taxpayer" does not include excluded persons. 2076

(E) "Excluded person" means any of the following: 2077

(1) Any person with not more than one hundred fifty thousand 2078
dollars of taxable gross receipts during the calendar year. 2079
Division (E)(1) of this section does not apply to a person that is 2080
a member of a consolidated elected taxpayer; 2081

(2) A public utility that paid the excise tax imposed by 2082
section 5727.24 or 5727.30 of the Revised Code based on one or 2083
more measurement periods that include the entire tax period under 2084
this chapter, except that a public utility that is a combined 2085
company is a taxpayer with regard to the following gross receipts: 2086

(a) Taxable gross receipts directly attributed to a public 2087
utility activity, but not directly attributed to an activity that 2088
is subject to the excise tax imposed by section 5727.24 or 5727.30 2089
of the Revised Code; 2090

(b) Taxable gross receipts that cannot be directly attributed 2091
to any activity, multiplied by a fraction whose numerator is the 2092
taxable gross receipts described in division (E)(2)(a) of this 2093
section and whose denominator is the total taxable gross receipts 2094
that can be directly attributed to any activity; 2095

(c) Except for any differences resulting from the use of an 2096

accrual basis method of accounting for purposes of determining 2097
gross receipts under this chapter and the use of the cash basis 2098
method of accounting for purposes of determining gross receipts 2099
under section 5727.24 of the Revised Code, the gross receipts 2100
directly attributed to the activity of a natural gas company shall 2101
be determined in a manner consistent with division (D) of section 2102
5727.03 of the Revised Code. 2103

As used in division (E)(2) of this section, "combined 2104
company" and "public utility" have the same meanings as in section 2105
5727.01 of the Revised Code. 2106

(3) A financial institution, as defined in section 5726.01 of 2107
the Revised Code, that paid the tax imposed by section 5726.02 of 2108
the Revised Code based on one or more taxable years that include 2109
the entire tax period under this chapter; 2110

(4) A person directly or indirectly owned by one or more 2111
financial institutions, as defined in section 5726.01 of the 2112
Revised Code, that paid the tax imposed by section 5726.02 of the 2113
Revised Code based on one or more taxable years that include the 2114
entire tax period under this chapter. 2115

For the purposes of division (E)(4) of this section, a person 2116
owns another person under the following circumstances: 2117

(a) In the case of corporations issuing capital stock, one 2118
corporation owns another corporation if it owns fifty per cent or 2119
more of the other corporation's capital stock with current voting 2120
rights; 2121

(b) In the case of a limited liability company, one person 2122
owns the company if that person's membership interest, as defined 2123
in section 1705.01 of the Revised Code, is fifty per cent or more 2124
of the combined membership interests of all persons owning such 2125
interests in the company; 2126

(c) In the case of a partnership, trust, or other 2127

unincorporated business organization other than a limited 2128
liability company, one person owns the organization if, under the 2129
articles of organization or other instrument governing the affairs 2130
of the organization, that person has a beneficial interest in the 2131
organization's profits, surpluses, losses, or distributions of 2132
fifty per cent or more of the combined beneficial interests of all 2133
persons having such an interest in the organization. 2134

(5) A domestic insurance company or foreign insurance 2135
company, as defined in section 5725.01 of the Revised Code, that 2136
paid the insurance company premiums tax imposed by section 5725.18 2137
or Chapter 5729. of the Revised Code, or an unauthorized insurance 2138
company whose gross premiums are subject to tax under section 2139
3905.36 of the Revised Code based on one or more measurement 2140
periods that include the entire tax period under this chapter; 2141

(6) A person that solely facilitates or services one or more 2142
securitizations of phase-in-recovery property pursuant to a final 2143
financing order as those terms are defined in section 4928.23 of 2144
the Revised Code. For purposes of this division, "securitization" 2145
means transferring one or more assets to one or more persons and 2146
then issuing securities backed by the right to receive payment 2147
from the asset or assets so transferred. 2148

(7) Except as otherwise provided in this division, a 2149
pre-income tax trust as defined in division (FF)(4) of section 2150
5747.01 of the Revised Code and any pass-through entity of which 2151
such pre-income tax trust owns or controls, directly, indirectly, 2152
or constructively through related interests, more than five per 2153
cent of the ownership or equity interests. If the pre-income tax 2154
trust has made a qualifying pre-income tax trust election under 2155
division (FF)(3) of section 5747.01 of the Revised Code, then the 2156
trust and the pass-through entities of which it owns or controls, 2157
directly, indirectly, or constructively through related interests, 2158
more than five per cent of the ownership or equity interests, 2159

shall not be excluded persons for purposes of the tax imposed 2160
under section 5751.02 of the Revised Code. 2161

(8) Nonprofit organizations or the state and its agencies, 2162
instrumentalities, or political subdivisions. 2163

(F) Except as otherwise provided in divisions (F)(2), (3), 2164
and (4) of this section, "gross receipts" means the total amount 2165
realized by a person, without deduction for the cost of goods sold 2166
or other expenses incurred, that contributes to the production of 2167
gross income of the person, including the fair market value of any 2168
property and any services received, and any debt transferred or 2169
forgiven as consideration. 2170

(1) The following are examples of gross receipts: 2171

(a) Amounts realized from the sale, exchange, or other 2172
disposition of the taxpayer's property to or with another; 2173

(b) Amounts realized from the taxpayer's performance of 2174
services for another; 2175

(c) Amounts realized from another's use or possession of the 2176
taxpayer's property or capital; 2177

(d) Any combination of the foregoing amounts. 2178

(2) "Gross receipts" excludes the following amounts: 2179

(a) Interest income except interest on credit sales; 2180

(b) Dividends and distributions from corporations, and 2181
distributive or proportionate shares of receipts and income from a 2182
pass-through entity as defined under section 5733.04 of the 2183
Revised Code; 2184

(c) Receipts from the sale, exchange, or other disposition of 2185
an asset described in section 1221 or 1231 of the Internal Revenue 2186
Code, without regard to the length of time the person held the 2187
asset. Notwithstanding section 1221 of the Internal Revenue Code, 2188
receipts from hedging transactions also are excluded to the extent 2189

the transactions are entered into primarily to protect a financial 2190
position, such as managing the risk of exposure to (i) foreign 2191
currency fluctuations that affect assets, liabilities, profits, 2192
losses, equity, or investments in foreign operations; (ii) 2193
interest rate fluctuations; or (iii) commodity price fluctuations. 2194
As used in division (F)(2)(c) of this section, "hedging 2195
transaction" has the same meaning as used in section 1221 of the 2196
Internal Revenue Code and also includes transactions accorded 2197
hedge accounting treatment under statement of financial accounting 2198
standards number 133 of the financial accounting standards board. 2199
For the purposes of division (F)(2)(c) of this section, the actual 2200
transfer of title of real or tangible personal property to another 2201
entity is not a hedging transaction. 2202

(d) Proceeds received attributable to the repayment, 2203
maturity, or redemption of the principal of a loan, bond, mutual 2204
fund, certificate of deposit, or marketable instrument; 2205

(e) The principal amount received under a repurchase 2206
agreement or on account of any transaction properly characterized 2207
as a loan to the person; 2208

(f) Contributions received by a trust, plan, or other 2209
arrangement, any of which is described in section 501(a) of the 2210
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 2211
1, Subchapter (D) of the Internal Revenue Code applies; 2212

(g) Compensation, whether current or deferred, and whether in 2213
cash or in kind, received or to be received by an employee, former 2214
employee, or the employee's legal successor for services rendered 2215
to or for an employer, including reimbursements received by or for 2216
an individual for medical or education expenses, health insurance 2217
premiums, or employee expenses, or on account of a dependent care 2218
spending account, legal services plan, any cafeteria plan 2219
described in section 125 of the Internal Revenue Code, or any 2220
similar employee reimbursement; 2221

(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;	2222
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(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	2225
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	2227
(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;	2228
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(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	2235
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(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;	2238
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	2240
(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;	2241
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(n) Pension reversions;	2251
(o) Contributions to capital;	2252

(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;

(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;

(r) Receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code;

(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;

(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 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;

(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, 2284
servicing, and management of loans or credit accounts, if such 2285
financial institution and the recipient of such receipts have at 2286
least fifty per cent of their ownership interests owned or 2287
controlled, directly or constructively through related interests, 2288
by common owners; 2289

(v) Receipts realized from administering anti-neoplastic 2290
drugs and other cancer chemotherapy, biologicals, therapeutic 2291
agents, and supportive drugs in a physician's office to patients 2292
with cancer; 2293

(w) Funds received or used by a mortgage broker that is not a 2294
dealer in intangibles, other than fees or other consideration, 2295
pursuant to a table-funding mortgage loan or warehouse-lending 2296
mortgage loan. Terms used in division (F)(2)(w) of this section 2297
have the same meanings as in section 1322.01 of the Revised Code, 2298
except "mortgage broker" means a person assisting a buyer in 2299
obtaining a mortgage loan for a fee or other consideration paid by 2300
the buyer or a lender, or a person engaged in table-funding or 2301
warehouse-lending mortgage loans that are first lien mortgage 2302
loans. 2303

(x) Property, money, and other amounts received by a 2304
professional employer organization, as defined in section 4125.01 2305
of the Revised Code, from a client employer, as defined in that 2306
section, in excess of the administrative fee charged by the 2307
professional employer organization to the client employer; 2308

(y) In the case of amounts retained as commissions by a 2309
permit holder under Chapter 3769. of the Revised Code, an amount 2310
equal to the amounts specified under that chapter that must be 2311
paid to or collected by the tax commissioner as a tax and the 2312
amounts specified under that chapter to be used as purse money; 2313

(z) Qualifying distribution center receipts. 2314

(i) For purposes of division (F)(2)(z) of this section:	2315
(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. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.	2316 2317 2318 2319 2320 2321 2322
(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 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. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing. "Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.	2323 2324 2325 2326 2327 2328 2329 2330 2331 2332 2333 2334 2335
(III) "Qualified distribution center" means a warehouse, 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. All warehouses or facilities similar to warehouses 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. 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.	2336 2337 2338 2339 2340 2341 2342 2343 2344 2345 2346

(IV) "Qualifying year" means the calendar year to which the
qualifying certificate applies.

(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.

(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.

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 situated 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
to have an independent certified public accountant certify that
the calculation of the minimum thresholds required for a qualified
distribution center by the operator of a distribution center has
been made in accordance with generally accepted accounting
principles. The commissioner shall issue or deny the issuance of a
certificate within sixty days after the receipt of the
application. A denial is subject to appeal under section 5717.02

of the Revised Code. If the operator files a timely appeal under 2379
section 5717.02 of the Revised Code, the operator shall be granted 2380
a qualifying certificate effective for the remainder of the 2381
qualifying year or until the appeal is finalized, whichever is 2382
earlier. If the operator does not prevail in the appeal, the 2383
operator shall pay the ineligible operator's supplier tax 2384
liability. 2385

(VII) "Ohio delivery percentage" means the proportion of the 2386
total property delivered to a destination inside Ohio from the 2387
qualified distribution center during the qualifying period 2388
compared with total deliveries from such distribution center 2389
everywhere during the qualifying period. 2390

(VIII) "Refining facility" means one or more buildings 2391
located in a county in the Appalachian region of this state as 2392
defined by section 107.21 of the Revised Code and utilized for 2393
refining or smelting gold, silver, platinum, or palladium to a 2394
grade and fineness acceptable for delivery to a registered 2395
commodities exchange. 2396

(IX) "Registered commodities exchange" means a board of 2397
trade, such as New York mercantile exchange, inc. or commodity 2398
exchange, inc., designated as a contract market by the commodity 2399
futures trading commission under the "Commodity Exchange Act," 7 2400
U.S.C. 1 et seq., as amended. 2401

(X) "Ineligible operator's supplier tax liability" means an 2402
amount equal to the tax liability of all suppliers of a 2403
distribution center had the distribution center not been issued a 2404
qualifying certificate for the qualifying year. Ineligible 2405
operator's supplier tax liability shall not include interest or 2406
penalties. The tax commissioner shall determine an ineligible 2407
operator's supplier tax liability based on information that the 2408
commissioner may request from the operator of the distribution 2409
center. An operator shall provide a list of all suppliers of the 2410

distribution center and the corresponding costs of qualified 2411
property for the qualifying year at issue within sixty days of a 2412
request by the commissioner under this division. 2413

(ii)(I) If the distribution center is new and was not open 2414
for the entire qualifying period, the operator of the distribution 2415
center may request that the commissioner grant a qualifying 2416
certificate. If the certificate is granted and it is later 2417
determined that more than fifty per cent of the qualified property 2418
during that year was not shipped to a location such that it would 2419
be situated outside of this state under the provisions of division 2420
(E) of section 5751.033 of the Revised Code or if it is later 2421
determined that the person that operates the distribution center 2422
had average monthly costs from its suppliers of less than forty 2423
million dollars during that year, then the operator of the 2424
distribution center shall pay the ineligible operator's supplier 2425
tax liability. (For purposes of division (F)(2)(z)(ii) of this 2426
section, "supplier" excludes any person that is part of the 2427
consolidated elected taxpayer group, if applicable, of the 2428
operator of the qualified distribution center.) 2429

(II) The commissioner may grant a qualifying certificate to a 2430
distribution center that does not qualify as a qualified 2431
distribution center for an entire qualifying period if the 2432
operator of the distribution center demonstrates that the business 2433
operations of the distribution center have changed or will change 2434
such that the distribution center will qualify as a qualified 2435
distribution center within thirty-six months after the date the 2436
operator first applies for a certificate. If, at the end of that 2437
thirty-six-month period, the business operations of the 2438
distribution center have not changed such that the distribution 2439
center qualifies as a qualified distribution center, the operator 2440
of the distribution center shall pay the ineligible operator's 2441
supplier tax liability for each year that the distribution center 2442

received a certificate but did not qualify as a qualified 2443
distribution center. For each year the distribution center 2444
receives a certificate under division (F)(2)(z)(ii)(II) of this 2445
section, the distribution center shall pay all applicable fees 2446
required under division (F)(2)(z) of this section and shall submit 2447
an updated business plan showing the progress the distribution 2448
center made toward qualifying as a qualified distribution center 2449
during the preceding year. 2450

(III) An operator may appeal a determination under division 2451
(F)(2)(z)(ii)(I) or (II) of this section that the ineligible 2452
operator is liable for the operator's supplier tax liability as a 2453
result of not qualifying as a qualified distribution center, as 2454
provided in section 5717.02 of the Revised Code. 2455

(iii) When filing an application for a qualifying certificate 2456
under division (F)(2)(z)(i)(VI) of this section, the operator of a 2457
qualified distribution center also shall provide documentation, as 2458
the commissioner requires, for the commissioner to ascertain the 2459
Ohio delivery percentage. The commissioner, upon issuing the 2460
qualifying certificate, also shall certify the Ohio delivery 2461
percentage. The operator of the qualified distribution center may 2462
appeal the commissioner's certification of the Ohio delivery 2463
percentage in the same manner as an appeal is taken from the 2464
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 2465
of this section. 2466

(iv)(I) In the case where the distribution center is new and 2467
not open for the entire qualifying period, the operator shall make 2468
a good faith estimate of an Ohio delivery percentage for use by 2469
suppliers in their reports of taxable gross receipts for the 2470
remainder of the qualifying period. The operator of the facility 2471
shall disclose to the suppliers that such Ohio delivery percentage 2472
is an estimate and is subject to recalculation. By the due date of 2473
the next application for a qualifying certificate, the operator 2474

shall determine the actual Ohio delivery percentage for the 2475
estimated qualifying period and proceed as provided in division 2476
(F)(2)(z)(iii) of this section with respect to the calculation and 2477
recalculation of the Ohio delivery percentage. The supplier is 2478
required to file, within sixty days after receiving notice from 2479
the operator of the qualified distribution center, amended reports 2480
for the impacted calendar quarter or quarters or calendar year, 2481
whichever the case may be. Any additional tax liability or tax 2482
overpayment shall be subject to interest but shall not be subject 2483
to the imposition of any penalty so long as the amended returns 2484
are timely filed. 2485

(II) The operator of a distribution center that receives a 2486
qualifying certificate under division (F)(2)(z)(ii)(II) of this 2487
section shall make a good faith estimate of the Ohio delivery 2488
percentage that the operator estimates will apply to the 2489
distribution center at the end of the thirty-six-month period 2490
after the operator first applied for a qualifying certificate 2491
under that division. The result of the estimate shall be 2492
multiplied by a factor of one and seventy-five one-hundredths. The 2493
product of that calculation shall be the Ohio delivery percentage 2494
used by suppliers in their reports of taxable gross receipts for 2495
each qualifying year that the distribution center receives a 2496
qualifying certificate under division (F)(2)(z)(ii)(II) of this 2497
section, except that, if the product is less than five per cent, 2498
the Ohio delivery percentage used shall be five per cent and that, 2499
if the product exceeds forty-nine per cent, the Ohio delivery 2500
percentage used shall be forty-nine per cent. 2501

(v) Qualifying certificates and Ohio delivery percentages 2502
issued by the commissioner shall be open to public inspection and 2503
shall be timely published by the commissioner. A supplier relying 2504
in good faith on a certificate issued under this division shall 2505
not be subject to tax on the qualifying distribution center 2506

receipts under division (F)(2)(z) of this section. An operator 2507
receiving a qualifying certificate is liable for the ineligible 2508
operator's supplier tax liability for each year the operator 2509
received a certificate but did not qualify as a qualified 2510
distribution center. 2511

(vi) The annual fee for a qualifying certificate shall be one 2512
hundred thousand dollars for each qualified distribution center. 2513
If a qualifying certificate is not issued, the annual fee is 2514
subject to refund after the exhaustion of all appeals provided for 2515
in division (F)(2)(z)(i)(VI) of this section. The first one 2516
hundred thousand dollars of the annual application fees collected 2517
each calendar year shall be credited to the revenue enhancement 2518
fund. The remainder of the annual application fees collected shall 2519
be distributed in the same manner required under section 5751.20 2520
of the Revised Code. 2521

(vii) The tax commissioner may require that adequate security 2522
be posted by the operator of the distribution center on appeal 2523
when the commissioner disagrees that the applicant has met the 2524
minimum thresholds for a qualified distribution center as set 2525
forth in division (F)(2)(z) of this section. 2526

(aa) Receipts of an employer from payroll deductions relating 2527
to the reimbursement of the employer for advancing moneys to an 2528
unrelated third party on an employee's behalf; 2529

(bb) Cash discounts allowed and taken; 2530

(cc) Returns and allowances; 2531

(dd) Bad debts from receipts on the basis of which the tax 2532
imposed by this chapter was paid in a prior quarterly tax payment 2533
period. For the purpose of this division, "bad debts" means any 2534
debts that have become worthless or uncollectible between the 2535
preceding and current quarterly tax payment periods, have been 2536
uncollected for at least six months, and that may be claimed as a 2537

deduction under section 166 of the Internal Revenue Code and the 2538
regulations adopted under that section, or that could be claimed 2539
as such if the taxpayer kept its accounts on the accrual basis. 2540
"Bad debts" does not include repossessed property, uncollectible 2541
amounts on property that remains in the possession of the taxpayer 2542
until the full purchase price is paid, or expenses in attempting 2543
to collect any account receivable or for any portion of the debt 2544
recovered; 2545

(ee) Any amount realized from the sale of an account 2546
receivable to the extent the receipts from the underlying 2547
transaction giving rise to the account receivable were included in 2548
the gross receipts of the taxpayer; 2549

(ff) Any receipts directly attributed to a transfer agreement 2550
or to the enterprise transferred under that agreement under 2551
section 4313.02 of the Revised Code. 2552

(gg)(i) As used in this division: 2553

(I) "Qualified uranium receipts" means receipts from the 2554
sale, exchange, lease, loan, production, processing, or other 2555
disposition of uranium within a uranium enrichment zone certified 2556
by the tax commissioner under division (F)(2)(gg)(ii) of this 2557
section. "Qualified uranium receipts" does not include any 2558
receipts with a situs in this state outside a uranium enrichment 2559
zone certified by the tax commissioner under division 2560
(F)(2)(gg)(ii) of this section. 2561

(II) "Uranium enrichment zone" means all real property that 2562
is part of a uranium enrichment facility licensed by the United 2563
States nuclear regulatory commission and that was or is owned or 2564
controlled by the United States department of energy or its 2565
successor. 2566

(ii) Any person that owns, leases, or operates real or 2567
tangible personal property constituting or located within a 2568

uranium enrichment zone may apply to the tax commissioner to have 2569
the uranium enrichment zone certified for the purpose of excluding 2570
qualified uranium receipts under division (F)(2)(gg) of this 2571
section. The application shall include such information that the 2572
tax commissioner prescribes. Within sixty days after receiving the 2573
application, the tax commissioner shall certify the zone for that 2574
purpose if the commissioner determines that the property qualifies 2575
as a uranium enrichment zone as defined in division (F)(2)(gg) of 2576
this section, or, if the tax commissioner determines that the 2577
property does not qualify, the commissioner shall deny the 2578
application or request additional information from the applicant. 2579
If the tax commissioner denies an application, the commissioner 2580
shall state the reasons for the denial. The applicant may appeal 2581
the denial of an application to the board of tax appeals pursuant 2582
to section 5717.02 of the Revised Code. If the applicant files a 2583
timely appeal, the tax commissioner shall conditionally certify 2584
the applicant's property. The conditional certification shall 2585
expire when all of the applicant's appeals are exhausted. Until 2586
final resolution of the appeal, the applicant shall retain the 2587
applicant's records in accordance with section 5751.12 of the 2588
Revised Code, notwithstanding any time limit on the preservation 2589
of records under that section. 2590

(hh) In the case of amounts collected by a licensed casino 2591
operator from casino gaming, amounts in excess of the casino 2592
operator's gross casino revenue. In this division, "casino 2593
operator" and "casino gaming" have the meanings defined in section 2594
3772.01 of the Revised Code, and "gross casino revenue" has the 2595
meaning defined in section 5753.01 of the Revised Code. 2596

(ii) Receipts realized from the sale of agricultural 2597
commodities by an agricultural commodity handler, both as defined 2598
in section 926.01 of the Revised Code, that is licensed by the 2599
director of agriculture to handle agricultural commodities in this 2600

state. 2601

(jj) Receipts realized by a taxpayer that is a severer from 2602
the first sale of oil or gas severed from the soil or water of 2603
this state on or after October 1, 2014, on the basis of which the 2604
severer is liable for a tax imposed under section 5749.02 of the 2605
Revised Code, if the severer is subject to the tax imposed under 2606
section 5747.02 of the Revised Code on income from that sale or is 2607
a pass-through entity, the direct or indirect owners of which are 2608
subject to that tax on the income from that sale. A pass-through 2609
entity may exclude only those receipts proportionate to such 2610
direct or indirect owners' distributive or proportionate shares of 2611
the pass-through entity. As used in division (F)(2)(jj) of this 2612
section, "severer" has the same meaning as in division (I)(2) of 2613
section 5749.01 of the Revised Code. 2614

(kk) Any receipts for which the tax imposed by this chapter 2615
is prohibited by the constitution or laws of the United States or 2616
the constitution of this state. 2617

(3) In the case of a taxpayer when acting as a real estate 2618
broker, "gross receipts" includes only the portion of any fee for 2619
the service of a real estate broker, or service of a real estate 2620
salesperson associated with that broker, that is retained by the 2621
broker and not paid to an associated real estate salesperson or 2622
another real estate broker. For the purposes of this division, 2623
"real estate broker" and "real estate salesperson" have the same 2624
meanings as in section 4735.01 of the Revised Code. 2625

(4) A taxpayer's method of accounting for gross receipts for 2626
a tax period shall be the same as the taxpayer's method of 2627
accounting for federal income tax purposes for the taxpayer's 2628
federal taxable year that includes the tax period. If a taxpayer's 2629
method of accounting for federal income tax purposes changes, its 2630
method of accounting for gross receipts under this chapter shall 2631
be changed accordingly. 2632

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.	2633 2634
(H) A person has "substantial nexus with this state" if any of the following applies. The person:	2635 2636
(1) Owns or uses a part or all of its capital in this state;	2637
(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;	2638 2639
(3) Has bright-line presence in this state;	2640
(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.	2641 2642 2643
(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:	2644 2645 2646
(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.	2647 2648 2649 2650 2651
(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:	2652 2653 2654
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	2655 2656
(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	2657 2658 2659
(c) Any amount the person pays for services performed in this state on its behalf by another.	2660 2661

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	2662 2663
(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.	2664 2665 2666
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	2667 2668
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	2669 2670
(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.	2671 2672 2673 2674 2675 2676 2677 2678
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	2679 2680 2681
(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.	2682 2683 2684
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	2685 2686
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	2687 2688
(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:	2689 2690 2691

(1) A person receiving a fee to sell financial instruments;	2692
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	2693 2694 2695
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	2696 2697
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	2698 2699
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	2700 2701
(Q) "Received" includes amounts accrued under the accrual method of accounting.	2702 2703
(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 member of such a group.	2704 2705 2706 2707 2708 2709 2710
Section 2. That existing sections 1509.02, 1509.071, 1509.11, 1509.34, 1513.08, 1513.182, 1514.11, 5703.052, 5705.27, 5705.32, 5747.98, 5749.01, 5749.02, 5749.03, 5749.06, 5749.07, 5749.08, 5749.10, 5749.11, 5749.12, 5749.13, 5749.14, 5749.15, and 5751.01, and section 1509.50 of the Revised Code are hereby repealed.	2711 2712 2713 2714 2715 2716
Section 3. This act takes effect October 1, 2014.	2717
Section 4. On or before the effective date of this act, the Chief of the Division of Oil and Gas Resources Management shall prepare a plan for the development of the inventory described in	2718 2719 2720

division (B) of section 1509.075 of the Revised Code and deliver	2721
that plan to the Speaker of the House of Representatives and the	2722
President of the Senate. The plan shall include the time and	2723
internal or external resources that the Chief believes are	2724
necessary to complete that inventory.	2725