

As Reported by the Senate Finance Committee

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Representative Scherer

Cosponsors: Representatives Amstutz, McClain, Anielski, Beck, Blessing, Boose, Brown, Budish, Burkley, Carney, Celebrezze, Damschroder, Duffey, Green, Hackett, Hagan, C., Henne, Huffman, Letson, McGregor, Milkovich, O'Brien, Patmon, Pelanda, Rogers, Ruhl, Sears, Sprague, Stebelton, Stinziano, Terhar, Thompson Speaker Batchelder

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A B I L L

To amend sections 122.17, 122.171, 122.86, 166.21, 1
718.15, 718.151, 3734.905, 4921.13, 4921.19, 2
5703.05, 5703.056, 5703.059, 5703.21, 5727.47, 3
5727.91, 5735.01, 5735.026, 5735.05, 5735.062, 4
5735.07, 5735.09, 5735.12, 5735.141, 5735.23, 5
5736.01, 5736.02, 5736.03, 5736.04, 5736.06, 6
5736.09, 5736.13, 5743.01, 5743.021, 5743.024, 7
5743.025, 5743.03, 5743.04, 5743.05, 5743.051, 8
5743.112, 5743.52, 5743.65, 5747.08, 5747.98, 9
5751.01, and 5751.20, to enact sections 5703.77, 10
5736.041, and 5736.50, and to repeal sections 11
183.35, 5726.08, 5733.30, 5735.16, 5743.06, and 12
5745.10 of the Revised Code to provide 13
authorization and conditions for the levy and 14
administration of taxes in this state and to make 15
an appropriation. 16

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

Section 1. That sections 122.17, 122.171, 122.86, 166.21, 17
718.15, 718.151, 3734.905, 4921.13, 4921.19, 5703.05, 5703.056, 18
5703.059, 5703.21, 5727.47, 5727.91, 5735.01, 5735.026, 5735.05, 19
5735.062, 5735.07, 5735.09, 5735.12, 5735.141, 5735.23, 5736.01, 20
5736.02, 5736.03, 5736.04, 5736.06, 5736.09, 5736.13, 5743.01, 21
5743.021, 5743.024, 5743.025, 5743.03, 5743.04, 5743.05, 5743.051, 22
5743.112, 5743.52, 5743.65, 5747.08, 5747.98, 5751.01, and 5751.20 23
be amended and sections 5703.77, 5736.041, and 5736.50 of the 24
Revised Code be enacted to read as follows: 25

Sec. 122.17. (A) As used in this section: 26

(1) "Income tax revenue" means the total amount withheld 27
under section 5747.06 of the Revised Code by the taxpayer during 28
the taxable year, or during the calendar year that includes the 29
tax period, from the compensation of each employee or each 30
home-based employee employed in the project to the extent the 31
employee's withholdings are not used to determine the credit under 32
section 122.171 of the Revised Code. "Income tax revenue" excludes 33
amounts withheld before the day the taxpayer becomes eligible for 34
the credit. 35

(2) "Baseline income tax revenue" means income tax revenue 36
except that the applicable withholding period is the twelve months 37
immediately preceding the date the tax credit authority approves 38
the taxpayer's application or the date the tax credit authority 39
receives the recommendation described in division (C)(2)(a) of 40
this section, whichever occurs first, multiplied by the sum of one 41
plus an annual pay increase factor to be determined by the tax 42
credit authority. ~~If the taxpayer becomes eligible for the credit 43
after the first day of the taxpayer's taxable year or after the 44
first day of the calendar year that includes the tax period, the 45
taxpayer's baseline income tax revenue for the first such taxable 46
or calendar year of credit eligibility shall be reduced in 47~~

~~proportion to the number of days during the taxable or calendar 48
year for which the taxpayer was not eligible for the credit. For 49
subsequent taxable or calendar years, "baseline income tax 50
revenue" equals the unreduced baseline income tax revenue for the 51
preceding taxable or calendar year multiplied by the sum of one 52
plus the pay increase factor. 53~~

(3) "Excess income tax revenue" means income tax revenue 54
minus baseline income tax revenue. 55

(4) "Home-based employee" means an employee whose services 56
are performed primarily from the employee's residence in this 57
state exclusively for the benefit of the project and whose rate of 58
pay is at least one hundred thirty-one per cent of the federal 59
minimum wage under 29 U.S.C. 206. 60

(B) The tax credit authority may make grants under this 61
section to foster job creation in this state. Such a grant shall 62
take the form of a refundable credit allowed against the tax 63
imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, or 64
5747.02 or levied under Chapter 5751. of the Revised Code. The 65
credit shall be claimed for the taxable years or tax periods 66
specified in the taxpayer's agreement with the tax credit 67
authority under division (D) of this section. With respect to 68
taxes imposed under section 5726.02, 5733.06, or 5747.02 or 69
Chapter 5751. of the Revised Code, the credit shall be claimed in 70
the order required under section 5726.98, 5733.98, 5747.98, or 71
5751.98 of the Revised Code. The amount of the credit available 72
for a taxable year or for a calendar year that includes a tax 73
period equals the excess income tax revenue for that year 74
multiplied by the percentage specified in the agreement with the 75
tax credit authority. Any credit granted under this section 76
against the tax imposed by section 5733.06 or 5747.02 of the 77
Revised Code, to the extent not fully utilized against such tax 78
for taxable years ending prior to 2008, shall automatically be 79

converted without any action taken by the tax credit authority to 80
a credit against the tax levied under Chapter 5751. of the Revised 81
Code for tax periods beginning on or after July 1, 2008, provided 82
that the person to whom the credit was granted is subject to such 83
tax. The converted credit shall apply to those calendar years in 84
which the remaining taxable years specified in the agreement end. 85

(C)(1) A taxpayer or potential taxpayer who proposes a 86
project to create new jobs in this state may apply to the tax 87
credit authority to enter into an agreement for a tax credit under 88
this section. 89

An application shall not propose to include both home-based 90
employees and employees who are not home-based employees in the 91
computation of income tax revenue for the purposes of the same tax 92
credit agreement. If a taxpayer or potential taxpayer employs both 93
home-based employees and employees who are not home-based 94
employees in a project, the taxpayer shall submit separate 95
applications for separate tax credit agreements for the project, 96
one of which shall include home-based employees in the computation 97
of income tax revenue and one of which shall include all other 98
employees in the computation of income tax revenue. 99

The director of development services shall prescribe the form 100
of the application. After receipt of an application, the authority 101
may enter into an agreement with the taxpayer for a credit under 102
this section if it determines all of the following: 103

(a) The taxpayer's project will increase payroll and income 104
tax revenue; 105

(b) The taxpayer's project is economically sound and will 106
benefit the people of this state by increasing opportunities for 107
employment and strengthening the economy of this state; 108

(c) Receiving the tax credit is a major factor in the 109
taxpayer's decision to go forward with the project. 110

(2)(a) A taxpayer that chooses to begin the project prior to receiving the determination of the authority may, upon submitting the taxpayer's application to the authority, request that the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code and the director review the taxpayer's application and recommend to the authority that the taxpayer's application be considered. As soon as possible after receiving such a request, the chief investment officer and the director shall review the taxpayer's application and, if they determine that the application warrants consideration by the authority, make that recommendation to the authority not later than six months after the application is received by the authority.

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

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

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

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

(b) If the tax credit is computed on the basis of home-based employees, the term of the credit shall expire on or before the last day of the taxable or calendar year ending before the

beginning of the seventh year after September 6, 2012, the 142
effective date of H.B. 327 of the 129th general assembly. 143

(3) A requirement that the taxpayer shall maintain operations 144
at the project location for at least the greater of seven years or 145
the term of the credit plus three years; 146

(4) The percentage, as determined by the tax credit 147
authority, of excess income tax revenue that will be allowed as 148
the amount of the credit for each taxable year or for each 149
calendar year that includes a tax period; 150

(5) The pay increase factor to be applied to the taxpayer's 151
baseline income tax revenue; 152

(6) A requirement that the taxpayer annually shall report to 153
the director of development services employment, tax withholding, 154
investment, the provision of health care benefits and tuition 155
reimbursement if required in the agreement, and other information 156
the director needs to perform the director's duties under this 157
section; 158

(7) A requirement that the director of development services 159
annually review the information reported under division (D)(6) of 160
this section and verify compliance with the agreement; if the 161
taxpayer is in compliance, a requirement that the director issue a 162
certificate to the taxpayer stating that the information has been 163
verified and identifying the amount of the credit that may be 164
claimed for the taxable or calendar year; 165

(8) A provision providing that the taxpayer may not relocate 166
a substantial number of employment positions from elsewhere in 167
this state to the project location unless the director of 168
development services determines that the legislative authority of 169
the county, township, or municipal corporation from which the 170
employment positions would be relocated has been notified by the 171
taxpayer of the relocation. 172

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced.

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

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

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the excess income tax revenue from the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this division, and are eligible for tax credits under this section.

(G) Financial statements and other information submitted to the development services agency or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or

information, are not public records subject to section 149.43 of 205
the Revised Code. However, the chairperson of the authority may 206
make use of the statements and other information for purposes of 207
issuing public reports or in connection with court proceedings 208
concerning tax credit agreements under this section. Upon the 209
request of the tax commissioner or, if the applicant or recipient 210
is an insurance company, upon the request of the superintendent of 211
insurance, the chairperson of the authority shall provide to the 212
commissioner or superintendent any statement or information 213
submitted by an applicant or recipient of a tax credit in 214
connection with the credit. The commissioner or superintendent 215
shall preserve the confidentiality of the statement or 216
information. 217

(H) A taxpayer claiming a credit under this section shall 218
submit to the tax commissioner or, if the taxpayer is an insurance 219
company, to the superintendent of insurance, a copy of the 220
director of development services' certificate of verification 221
under division (D)(7) of this section with the taxpayer's tax 222
report or return for the taxable year or for the calendar year 223
that includes the tax period. Failure to submit a copy of the 224
certificate with the report or return does not invalidate a claim 225
for a credit if the taxpayer submits a copy of the certificate to 226
the commissioner or superintendent within sixty days after the 227
commissioner or superintendent requests it. 228

(I) The director of development services, after consultation 229
with the tax commissioner and the superintendent of insurance and 230
in accordance with Chapter 119. of the Revised Code, shall adopt 231
rules necessary to implement this section, including rules that 232
establish a procedure to be followed by the tax credit authority 233
and the development services agency in the event the authority 234
considers a taxpayer's application for which it receives a 235
recommendation under division (C)(2)(a) of this section but does 236

not approve it. The rules may provide for recipients of tax 237
credits under this section to be charged fees to cover 238
administrative costs of the tax credit program. The fees collected 239
shall be credited to the business assistance fund created in 240
section 122.174 of the Revised Code. At the time the director 241
gives public notice under division (A) of section 119.03 of the 242
Revised Code of the adoption of the rules, the director shall 243
submit copies of the proposed rules to the chairpersons of the 244
standing committees on economic development in the senate and the 245
house of representatives. 246

(J) For the purposes of this section, a taxpayer may include 247
a partnership, a corporation that has made an election under 248
subchapter S of chapter one of subtitle A of the Internal Revenue 249
Code, or any other business entity through which income flows as a 250
distributive share to its owners. A partnership, S-corporation, or 251
other such business entity may elect to pass the credit received 252
under this section through to the persons to whom the income or 253
profit of the partnership, S-corporation, or other entity is 254
distributed. The election shall be made on the annual report 255
required under division (D)(6) of this section. The election 256
applies to and is irrevocable for the credit for which the report 257
is submitted. If the election is made, the credit shall be 258
apportioned among those persons in the same proportions as those 259
in which the income or profit is distributed. 260

(K) If the director of development services determines that a 261
taxpayer who has received a credit under this section is not 262
complying with the requirement under division (D)(3) of this 263
section, the director shall notify the tax credit authority of the 264
noncompliance. After receiving such a notice, and after giving the 265
taxpayer an opportunity to explain the noncompliance, the tax 266
credit authority may require the taxpayer to refund to this state 267
a portion of the credit in accordance with the following: 268

(1) If the taxpayer maintained operations at the project 269
location for a period less than or equal to the term of the 270
credit, an amount not exceeding one hundred per cent of the sum of 271
any credits allowed and received under this section; 272

(2) If the taxpayer maintained operations at the project 273
location for a period longer than the term of the credit, but less 274
than the greater of seven years or the term of the credit plus 275
three years, an amount not exceeding seventy-five per cent of the 276
sum of any credits allowed and received under this section. 277

In determining the portion of the tax credit to be refunded 278
to this state, the tax credit authority shall consider the effect 279
of market conditions on the taxpayer's project and whether the 280
taxpayer continues to maintain other operations in this state. 281
After making the determination, the authority shall certify the 282
amount to be refunded to the tax commissioner or superintendent of 283
insurance, as appropriate. If the amount is certified to the 284
commissioner, the commissioner shall make an assessment for that 285
amount against the taxpayer under Chapter 5726., 5733., 5736., 286
5747., or 5751. of the Revised Code. If the amount is certified to 287
the superintendent, the superintendent shall make an assessment 288
for that amount against the taxpayer under Chapter 5725. or 5729. 289
of the Revised Code. The time limitations on assessments under 290
those chapters do not apply to an assessment under this division, 291
but the commissioner or superintendent, as appropriate, shall make 292
the assessment within one year after the date the authority 293
certifies to the commissioner or superintendent the amount to be 294
refunded. 295

(L) On or before the first day of August each year, the 296
director of development services shall submit a report to the 297
governor, the president of the senate, and the speaker of the 298
house of representatives on the tax credit program under this 299
section. The report shall include information on the number of 300

agreements that were entered into under this section during the 301
preceding calendar year, a description of the project that is the 302
subject of each such agreement, and an update on the status of 303
projects under agreements entered into before the preceding 304
calendar year. 305

(M) There is hereby created the tax credit authority, which 306
consists of the director of development services and four other 307
members appointed as follows: the governor, the president of the 308
senate, and the speaker of the house of representatives each shall 309
appoint one member who shall be a specialist in economic 310
development; the governor also shall appoint a member who is a 311
specialist in taxation. Of the initial appointees, the members 312
appointed by the governor shall serve a term of two years; the 313
members appointed by the president of the senate and the speaker 314
of the house of representatives shall serve a term of four years. 315
Thereafter, terms of office shall be for four years. Initial 316
appointments to the authority shall be made within thirty days 317
after January 13, 1993. Each member shall serve on the authority 318
until the end of the term for which the member was appointed. 319
Vacancies shall be filled in the same manner provided for original 320
appointments. Any member appointed to fill a vacancy occurring 321
prior to the expiration of the term for which the member's 322
predecessor was appointed shall hold office for the remainder of 323
that term. Members may be reappointed to the authority. Members of 324
the authority shall receive their necessary and actual expenses 325
while engaged in the business of the authority. The director of 326
development services shall serve as chairperson of the authority, 327
and the members annually shall elect a vice-chairperson from among 328
themselves. Three members of the authority constitute a quorum to 329
transact and vote on the business of the authority. The majority 330
vote of the membership of the authority is necessary to approve 331
any such business, including the election of the vice-chairperson. 332

The director of development services may appoint a 333
professional employee of the development services agency to serve 334
as the director's substitute at a meeting of the authority. The 335
director shall make the appointment in writing. In the absence of 336
the director from a meeting of the authority, the appointed 337
substitute shall serve as chairperson. In the absence of both the 338
director and the director's substitute from a meeting, the 339
vice-chairperson shall serve as chairperson. 340

(N) For purposes of the credits granted by this section 341
against the taxes imposed under sections 5725.18 and 5729.03 of 342
the Revised Code, "taxable year" means the period covered by the 343
taxpayer's annual statement to the superintendent of insurance. 344

(O) On or before the first day of March of each of the five 345
calendar years beginning with 2014, each taxpayer subject to an 346
agreement with the tax credit authority under this section on the 347
basis of home-based employees shall report the number of 348
home-based employees and other employees employed by the taxpayer 349
in this state to the development services agency. 350

(P) On or before the first day of January of 2019, the 351
director of development services shall submit a report to the 352
governor, the president of the senate, and the speaker of the 353
house of representatives on the effect of agreements entered into 354
under this section in which the taxpayer included home-based 355
employees in the computation of income tax revenue. The report 356
shall include information on the number of such agreements that 357
were entered into in the preceding six years, a description of the 358
projects that were the subjects of such agreements, and an 359
analysis of nationwide home-based employment trends, including the 360
number of home-based jobs created from July 1, 2011, through June 361
30, 2017, and a description of any home-based employment tax 362
incentives provided by other states during that time. 363

(Q) The director of development services may require any 364

agreement entered into under this section for a tax credit 365
computed on the basis of home-based employees to contain a 366
provision that the taxpayer makes available health care benefits 367
and tuition reimbursement to all employees. 368

Sec. 122.171. (A) As used in this section: 369

(1) "Capital investment project" means a plan of investment 370
at a project site for the acquisition, construction, renovation, 371
or repair of buildings, machinery, or equipment, or for 372
capitalized costs of basic research and new product development 373
determined in accordance with generally accepted accounting 374
principles, but does not include any of the following: 375

(a) Payments made for the acquisition of personal property 376
through operating leases; 377

(b) Project costs paid before January 1, 2002; 378

(c) Payments made to a related member as defined in section 379
5733.042 of the Revised Code or to a consolidated elected taxpayer 380
or a combined taxpayer as defined in section 5751.01 of the 381
Revised Code. 382

(2) "Eligible business" means a taxpayer and its related 383
members with Ohio operations satisfying all of the following: 384

(a) The taxpayer employs at least five hundred full-time 385
equivalent employees or has an annual payroll of at least 386
thirty-five million dollars at the time the tax credit authority 387
grants the tax credit under this section; 388

(b) The taxpayer makes or causes to be made payments for the 389
capital investment project of one of the following: 390

(i) If the taxpayer is engaged at the project site primarily 391
as a manufacturer, at least fifty million dollars in the aggregate 392
at the project site during a period of three consecutive calendar 393
years, including the calendar year that includes a day of the 394

taxpayer's taxable year or tax period with respect to which the 395
credit is granted; 396

(ii) If the taxpayer is engaged at the project site primarily 397
in significant corporate administrative functions, as defined by 398
the director of development services by rule, at least twenty 399
million dollars in the aggregate at the project site during a 400
period of three consecutive calendar years including the calendar 401
year that includes a day of the taxpayer's taxable year or tax 402
period with respect to which the credit is granted; 403

(iii) If the taxpayer is applying to enter into an agreement 404
for a tax credit authorized under division (B)(3) of this section, 405
at least five million dollars in the aggregate at the project site 406
during a period of three consecutive calendar years, including the 407
calendar year that includes a day of the taxpayer's taxable year 408
or tax period with respect to which the credit is granted. 409

(c) The taxpayer had a capital investment project reviewed 410
and approved by the tax credit authority as provided in divisions 411
(C), (D), and (E) of this section. 412

(3) "Full-time equivalent employees" means the quotient 413
obtained by dividing the total number of hours for which employees 414
were compensated for employment in the project by two thousand 415
eighty. "Full-time equivalent employees" shall exclude hours that 416
are counted for a credit under section 122.17 of the Revised Code. 417

(4) "Income tax revenue" means the total amount withheld 418
under section 5747.06 of the Revised Code by the taxpayer during 419
the taxable year, or during the calendar year that includes the 420
tax period, from the compensation of all employees employed in the 421
project whose hours of compensation are included in calculating 422
the number of full-time equivalent employees. 423

(5) "Manufacturer" has the same meaning as in section 424
5739.011 of the Revised Code. 425

(6) "Project site" means an integrated complex of facilities 426
in this state, as specified by the tax credit authority under this 427
section, within a fifteen-mile radius where a taxpayer is 428
primarily operating as an eligible business. 429

(7) "Related member" has the same meaning as in section 430
5733.042 of the Revised Code as that section existed on the 431
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 432
general assembly, September 29, 1997. 433

(8) "Taxable year" includes, in the case of a domestic or 434
foreign insurance company, the calendar year ending on the 435
thirty-first day of December preceding the day the superintendent 436
of insurance is required to certify to the treasurer of state 437
under section 5725.20 or 5729.05 of the Revised Code the amount of 438
taxes due from insurance companies. 439

(B) The tax credit authority created under section 122.17 of 440
the Revised Code may grant tax credits under this section for the 441
purpose of fostering job retention in this state. Upon application 442
by an eligible business and upon consideration of the 443
recommendation of the director of budget and management, tax 444
commissioner, the superintendent of insurance in the case of an 445
insurance company, and director of development services under 446
division (C) of this section, the tax credit authority may grant 447
the following credits against the tax imposed by section 5725.18, 448
5726.02, 5729.03, 5733.06, 5736.02, 5747.02, or 5751.02 of the 449
Revised Code: 450

(1) A nonrefundable credit to an eligible business; 451

(2) A refundable credit to an eligible business meeting the 452
following conditions, provided that the director of budget and 453
management, tax commissioner, superintendent of insurance in the 454
case of an insurance company, and director of development services 455
have recommended the granting of the credit to the tax credit 456

authority before July 1, 2011: 457

(a) The business retains at least one thousand full-time 458
equivalent employees at the project site. 459

(b) The business makes or causes to be made payments for a 460
capital investment project of at least twenty-five million dollars 461
in the aggregate at the project site during a period of three 462
consecutive calendar years, including the calendar year that 463
includes a day of the business' taxable year or tax period with 464
respect to which the credit is granted. 465

(c) In 2010, the business received a written offer of 466
financial incentives from another state of the United States that 467
the director determines to be sufficient inducement for the 468
business to relocate the business' operations from this state to 469
that state. 470

(3) A refundable credit to an eligible business with a total 471
annual payroll of at least twenty million dollars, provided that 472
the tax credit authority grants the tax credit on or after July 1, 473
2011, and before January 1, 2014. 474

The credits authorized in divisions (B)(1), (2), and (3) of 475
this section may be granted for a period up to fifteen taxable 476
years or, in the case of the tax levied by section 5736.02 or 477
5751.02 of the Revised Code, for a period of up to fifteen 478
calendar years. The credit amount for a taxable year or a calendar 479
year that includes the tax period for which a credit may be 480
claimed equals the income tax revenue for that year multiplied by 481
the percentage specified in the agreement with the tax credit 482
authority. The percentage may not exceed seventy-five per cent. 483
The credit shall be claimed in the order required under section 484
5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the 485
Revised Code. In determining the percentage and term of the 486
credit, the tax credit authority shall consider both the number of 487

full-time equivalent employees and the value of the capital 488
investment project. The credit amount may not be based on the 489
income tax revenue for a calendar year before the calendar year in 490
which the tax credit authority specifies the tax credit is to 491
begin, and the credit shall be claimed only for the taxable years 492
or tax periods specified in the eligible business' agreement with 493
the tax credit authority. In no event shall the credit be claimed 494
for a taxable year or tax period terminating before the date 495
specified in the agreement. Any credit granted under this section 496
against the tax imposed by section 5733.06 or 5747.02 of the 497
Revised Code, to the extent not fully utilized against such tax 498
for taxable years ending prior to 2008, shall automatically be 499
converted without any action taken by the tax credit authority to 500
a credit against the tax levied under Chapter 5751. of the Revised 501
Code for tax periods beginning on or after July 1, 2008, provided 502
that the person to whom the credit was granted is subject to such 503
tax. The converted credit shall apply to those calendar years in 504
which the remaining taxable years specified in the agreement end. 505

If a nonrefundable credit allowed under division (B)(1) of 506
this section for a taxable year or tax period exceeds the 507
taxpayer's tax liability for that year or period, the excess may 508
be carried forward for the three succeeding taxable or calendar 509
years, but the amount of any excess credit allowed in any taxable 510
year or tax period shall be deducted from the balance carried 511
forward to the succeeding year or period. 512

(C) A taxpayer that proposes a capital investment project to 513
retain jobs in this state may apply to the tax credit authority to 514
enter into an agreement for a tax credit under this section. The 515
director of development services shall prescribe the form of the 516
application. After receipt of an application, the authority shall 517
forward copies of the application to the director of budget and 518
management, the tax commissioner, the superintendent of insurance 519

in the case of an insurance company, and the director of 520
development services, each of whom shall review the application to 521
determine the economic impact the proposed project would have on 522
the state and the affected political subdivisions and shall submit 523
a summary of their determinations and recommendations to the 524
authority. 525

(D) Upon review and consideration of the determinations and 526
recommendations described in division (C) of this section, the tax 527
credit authority may enter into an agreement with the taxpayer for 528
a credit under this section if the authority determines all of the 529
following: 530

(1) The taxpayer's capital investment project will result in 531
the retention of employment in this state. 532

(2) The taxpayer is economically sound and has the ability to 533
complete the proposed capital investment project. 534

(3) The taxpayer intends to and has the ability to maintain 535
operations at the project site for at least the greater of (a) the 536
term of the credit plus three years, or (b) seven years. 537

(4) Receiving the credit is a major factor in the taxpayer's 538
decision to begin, continue with, or complete the project. 539

(5) If the taxpayer is applying to enter into an agreement 540
for a tax credit authorized under division (B)(3) of this section, 541
the taxpayer's capital investment project will be located in the 542
political subdivision in which the taxpayer maintains its 543
principal place of business or maintains a unit or division with 544
at least four thousand two hundred employees at the project site. 545

(E) An agreement under this section shall include all of the 546
following: 547

(1) A detailed description of the project that is the subject 548
of the agreement, including the amount of the investment, the 549

period over which the investment has been or is being made, the 550
number of full-time equivalent employees at the project site, and 551
the anticipated income tax revenue to be generated. 552

(2) The term of the credit, the percentage of the tax credit, 553
the maximum annual value of tax credits that may be allowed each 554
year, and the first year for which the credit may be claimed. 555

(3) A requirement that the taxpayer maintain operations at 556
the project site for at least the greater of (a) the term of the 557
credit plus three years, or (b) seven years. 558

(4)(a) In the case of a credit granted under division (B)(1) 559
of this section, a requirement that the taxpayer retain at least 560
five hundred full-time equivalent employees at the project site 561
and within this state for the entire term of the credit, or a 562
requirement that the taxpayer maintain an annual payroll of at 563
least thirty-five million dollars for the entire term of the 564
credit; 565

(b) In the case of a credit granted under division (B)(2) of 566
this section, a requirement that the taxpayer retain at least one 567
thousand full-time equivalent employees at the project site and 568
within this state for the entire term of the credit; 569

(c) In the case of a credit granted under division (B)(3) of 570
this section, either of the following: 571

(i) A requirement that the taxpayer retain at least five 572
hundred full-time equivalent employees at the project site and 573
within this state for the entire term of the credit and a 574
requirement that the taxpayer maintain an annual payroll of at 575
least twenty million dollars for the entire term of the credit; 576

(ii) A requirement that the taxpayer maintain an annual 577
payroll of at least thirty-five million dollars for the entire 578
term of the credit. 579

(5) A requirement that the taxpayer annually report to the director of development services employment, tax withholding, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development services annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development services determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the

taxpayer's failure to comply with the agreement. 612

(F) If a taxpayer fails to meet or comply with any condition 613
or requirement set forth in a tax credit agreement, the tax credit 614
authority may amend the agreement to reduce the percentage or term 615
of the credit. The reduction of the percentage or term may take 616
effect in the current taxable or calendar year. 617

(G) Financial statements and other information submitted to 618
the department of development services or the tax credit authority 619
by an applicant for or recipient of a tax credit under this 620
section, and any information taken for any purpose from such 621
statements or information, are not public records subject to 622
section 149.43 of the Revised Code. However, the chairperson of 623
the authority may make use of the statements and other information 624
for purposes of issuing public reports or in connection with court 625
proceedings concerning tax credit agreements under this section. 626
Upon the request of the tax commissioner, or the superintendent of 627
insurance in the case of an insurance company, the chairperson of 628
the authority shall provide to the commissioner or superintendent 629
any statement or other information submitted by an applicant for 630
or recipient of a tax credit in connection with the credit. The 631
commissioner or superintendent shall preserve the confidentiality 632
of the statement or other information. 633

(H) A taxpayer claiming a tax credit under this section shall 634
submit to the tax commissioner or, in the case of an insurance 635
company, to the superintendent of insurance, a copy of the 636
director of development services' certificate of verification 637
under division (E)(6) of this section with the taxpayer's tax 638
report or return for the taxable year or for the calendar year 639
that includes the tax period. Failure to submit a copy of the 640
certificate with the report or return does not invalidate a claim 641
for a credit if the taxpayer submits a copy of the certificate to 642
the commissioner or superintendent within sixty days after the 643

commissioner or superintendent requests it. 644

(I) For the purposes of this section, a taxpayer may include 645
a partnership, a corporation that has made an election under 646
subchapter S of chapter one of subtitle A of the Internal Revenue 647
Code, or any other business entity through which income flows as a 648
distributive share to its owners. A partnership, S-corporation, or 649
other such business entity may elect to pass the credit received 650
under this section through to the persons to whom the income or 651
profit of the partnership, S-corporation, or other entity is 652
distributed. The election shall be made on the annual report 653
required under division (E)(5) of this section. The election 654
applies to and is irrevocable for the credit for which the report 655
is submitted. If the election is made, the credit shall be 656
apportioned among those persons in the same proportions as those 657
in which the income or profit is distributed. 658

(J) If the director of development services determines that a 659
taxpayer that received a certificate under division (E)(6) of this 660
section is not complying with the requirement under division 661
(E)(3) of this section, the director shall notify the tax credit 662
authority of the noncompliance. After receiving such a notice, and 663
after giving the taxpayer an opportunity to explain the 664
noncompliance, the authority may terminate the agreement and 665
require the taxpayer, or any related member or members that 666
claimed the tax credit under division (N) of this section, to 667
refund to the state all or a portion of the credit claimed in 668
previous years, as follows: 669

(1) If the taxpayer maintained operations at the project site 670
for less than or equal to the term of the credit, an amount not to 671
exceed one hundred per cent of the sum of any tax credits allowed 672
and received under this section. 673

(2) If the taxpayer maintained operations at the project site 674
longer than the term of the credit, but less than the greater of 675

(a) the term of the credit plus three years, or (b) seven years, 676
the amount required to be refunded shall not exceed seventy-five 677
per cent of the sum of any tax credits allowed and received under 678
this section. 679

In determining the portion of the credit to be refunded to 680
this state, the authority shall consider the effect of market 681
conditions on the taxpayer's project and whether the taxpayer 682
continues to maintain other operations in this state. After making 683
the determination, the authority shall certify the amount to be 684
refunded to the tax commissioner or the superintendent of 685
insurance. If the taxpayer, or any related member or members who 686
claimed the tax credit under division (N) of this section, is not 687
an insurance company, the commissioner shall make an assessment 688
for that amount against the taxpayer under Chapter 5726., 5733., 689
5736., 5747., or 5751. of the Revised Code. If the taxpayer, or 690
any related member or members that claimed the tax credit under 691
division (N) of this section, is an insurance company, the 692
superintendent of insurance shall make an assessment under section 693
5725.222 or 5729.102 of the Revised Code. The time limitations on 694
assessments under those chapters and sections do not apply to an 695
assessment under this division, but the commissioner or 696
superintendent shall make the assessment within one year after the 697
date the authority certifies to the commissioner or superintendent 698
the amount to be refunded. 699

(K) The director of development services, after consultation 700
with the tax commissioner and the superintendent of insurance and 701
in accordance with Chapter 119. of the Revised Code, shall adopt 702
rules necessary to implement this section. The rules may provide 703
for recipients of tax credits under this section to be charged 704
fees to cover administrative costs of the tax credit program. The 705
fees collected shall be credited to the business assistance fund 706
created in section 122.174 of the Revised Code. At the time the 707

director gives public notice under division (A) of section 119.03 708
of the Revised Code of the adoption of the rules, the director 709
shall submit copies of the proposed rules to the chairpersons of 710
the standing committees on economic development in the senate and 711
the house of representatives. 712

(L) On or before the first day of August of each year, the 713
director of development services shall submit a report to the 714
governor, the president of the senate, and the speaker of the 715
house of representatives on the tax credit program under this 716
section. The report shall include information on the number of 717
agreements that were entered into under this section during the 718
preceding calendar year, a description of the project that is the 719
subject of each such agreement, and an update on the status of 720
projects under agreements entered into before the preceding 721
calendar year. 722

(M)(1) The aggregate amount of tax credits issued under 723
division (B)(1) of this section during any calendar year for 724
capital investment projects reviewed and approved by the tax 725
credit authority may not exceed the following amounts: 726

(a) For 2010, thirteen million dollars; 727

(b) For 2011 through 2023, the amount of the limit for the 728
preceding calendar year plus thirteen million dollars; 729

(c) For 2024 and each year thereafter, one hundred 730
ninety-five million dollars. 731

(2) The aggregate amount of tax credits authorized under 732
divisions (B)(2) and (3) of this section and allowed to be claimed 733
by taxpayers in any calendar year for capital improvement projects 734
reviewed and approved by the tax credit authority in 2011, 2012, 735
and 2013 combined shall not exceed twenty-five million dollars. An 736
amount equal to the aggregate amount of credits first authorized 737
in calendar year 2011, 2012, and 2013 may be claimed over the 738

ensuing period up to fifteen years, subject to the terms of 739
individual tax credit agreements. 740

The limitations in division (M) of this section do not apply 741
to credits for capital investment projects approved by the tax 742
credit authority before July 1, 2009. 743

(N) This division applies only to an eligible business that 744
is part of an affiliated group that includes a diversified savings 745
and loan holding company or a grandfathered unitary savings and 746
loan holding company, as those terms are defined in section 747
5726.01 of the Revised Code. Notwithstanding any contrary 748
provision of the agreement between such an eligible business and 749
the tax credit authority, any credit granted under this section 750
against the tax imposed by section 5725.18, 5729.03, 5733.06, 751
5747.02, or 5751.02 of the Revised Code to the eligible business, 752
at the election of the eligible business and without any action by 753
the tax credit authority, may be shared with any member or members 754
of the affiliated group that includes the eligible business, which 755
member or members may claim the credit against the taxes imposed 756
by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 757
of the Revised Code. Credits shall be claimed by the eligible 758
business in sequential order, as applicable, first claiming the 759
credits to the fullest extent possible against the tax that the 760
certificate holder is subject to, then against the tax imposed by, 761
sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and 762
lastly 5726.02 of the Revised Code. The credits may be allocated 763
among the members of the affiliated group in such manner as the 764
eligible business elects, but subject to the sequential order 765
required under this division. This division applies to credits 766
granted before, on, or after March 27, 2013, the effective date of 767
H.B. 510 of the 129th general assembly. Credits granted before 768
that effective date that are shared and allocated under this 769
division may be claimed in those calendar years in which the 770

remaining taxable years specified in the agreement end. 771

As used in this division, "affiliated group" means a group of 772
two or more persons with fifty per cent or greater of the value of 773
each person's ownership interests owned or controlled directly, 774
indirectly, or constructively through related interests by common 775
owners during all or any portion of the taxable year, and the 776
common owners. "Affiliated group" includes, but is not limited to, 777
any person eligible to be included in a consolidated elected 778
taxpayer group under section 5751.011 of the Revised Code or a 779
combined taxpayer group under section 5751.012 of the Revised 780
Code. 781

Sec. 122.86. (A) As used in this section and section 5747.81 782
of the Revised Code: 783

(1) "Small business enterprise" means a corporation, 784
pass-through entity, or other person satisfying all of the 785
following: 786

(a) At the time of a qualifying investment, the enterprise 787
meets all of the following requirements: 788

(i) Has no outstanding tax or other liabilities owed to the 789
state; 790

(ii) Is in good standing with the secretary of state, if the 791
enterprise is required to be registered with the secretary; 792

(iii) Is current with any court-ordered payments; 793

(iv) Is not engaged in any illegal activity. 794

(b) At the time of a qualifying investment, the enterprise's 795
assets according to generally accepted accounting principles do 796
not exceed fifty million dollars, or its annual sales do not 797
exceed ten million dollars. When making this determination, the 798
assets and annual sales of all of the enterprise's related or 799
affiliated entities shall be included in the calculation. 800

(c) The enterprise employs at least fifty full-time 801
equivalent employees in this state for whom the enterprise is 802
required to withhold income tax under section 5747.06 of the 803
Revised Code, or more than one-half the enterprise's total number 804
of full-time equivalent employees employed anywhere in the United 805
States are employed in this state and are subject to that 806
withholding requirement. 807

(d) The enterprise, within six months after an eligible 808
investor's qualifying investment is made, invests in or incurs 809
cost for one or more of the following in an amount at least equal 810
to the amount of the qualifying investment: 811

(i) Tangible personal property, other than motor vehicles 812
operated on public roads and highways, used in business and 813
physically located in this state from the time of its acquisition 814
by the enterprise until the end of the investor's holding period; 815

(ii) Motor vehicles operated on public roads and highways if, 816
from the time of acquisition by the enterprise until the end of 817
the investor's holding period, the motor vehicles are purchased in 818
this state, registered in this state under Chapter 4503. of the 819
Revised Code, are used primarily for business purposes, and are 820
necessary for the operation of the enterprise's business; 821

(iii) Real property located in this state that is used in 822
business from the time of its acquisition by the enterprise until 823
the end of the holding period; 824

(iv) Intangible personal property, including patents, 825
copyrights, trademarks, service marks, or licenses used in 826
business primarily in this state from the time of its acquisition 827
by the enterprise until the end of the holding period; 828

(v) Compensation for new employees of the enterprise for whom 829
the enterprise is required to withhold income tax under section 830
5747.06 of the Revised Code, not including increased compensation 831

for owners, officers, or managers of the enterprise. For this 832
purpose compensation for new employees includes compensation for 833
newly hired or retained employees. 834

(2) "Qualifying investment" means an investment of money made 835
on or after July 1, 2011, to acquire capital stock or other equity 836
interest in a small business enterprise. "Qualifying investment" 837
does not include either of the following: 838

(a) Any investment of money an eligible investor derives, 839
directly or indirectly, from a grant or loan from the federal 840
government or the state or a political subdivision, including the 841
third frontier program under Chapter 184. of the Revised Code; 842

(b) Any investment of money which is the basis of a tax 843
credit granted under any other section of the Revised Code. 844

(3) "Eligible investor" means an individual, estate, or trust 845
subject to the tax imposed by section 5747.02 of the Revised Code, 846
or a pass-through entity in which such an individual, estate, or 847
trust holds a direct or indirect ownership or other equity 848
interest. To qualify as an eligible investor, the individual, 849
estate, trust, or pass-through entity shall not owe any 850
outstanding tax or other liability to the state at the time of a 851
qualifying investment. 852

(4) "Holding period" means: 853

~~(a) For qualifying investments made on or after July 1, 2011,~~ 854
~~but before July 1, 2013,~~ the two-year period beginning on the day 855
~~the investment was made;~~ 856

~~(b) For qualifying investments made on or after July 1, 2013,~~ 857
~~the five year period beginning on the day the investment was a~~ 858
~~qualifying investment is~~ made. 859

(5) "Pass-through entity" has the same meaning as in section 860
5733.04 of the Revised Code. 861

(B) Any eligible investor that makes a qualifying investment 862
in a small business enterprise on or after July 1, 2011, may apply 863
to the director of development services to obtain a small business 864
investment certificate from the director. Alternatively, a small 865
business enterprise may apply on behalf of eligible investors to 866
obtain the certificates for those investors. The director, in 867
consultation with the tax commissioner, shall prescribe the form 868
or manner in which an applicant shall apply for the certificate, 869
devise the form of the certificate, and prescribe any records or 870
other information an applicant shall furnish with the application 871
to evidence the qualifying investment. The applicant shall state 872
the amount of the intended investment. The applicant shall pay an 873
application fee equal to the greater of one-tenth of one per cent 874
of the amount of the intended investment or one hundred dollars. 875

A small business investment certificate entitles the 876
certificate holder to receive a tax credit under section 5747.81 877
of the Revised Code if the certificate holder qualifies for the 878
credit as otherwise provided in this section. If the certificate 879
holder is a pass-through entity, the certificate entitles the 880
entity's equity owners to receive their distributive or 881
proportionate shares of the credit. In any fiscal biennium, an 882
eligible investor may not apply for small business investment 883
certificates representing intended investment amounts in excess of 884
ten million dollars. Such certificates are not transferable. 885

The director of development services may reserve small 886
business investment certificates to qualifying applicants in the 887
order in which the director receives applications, but may issue 888
the certificates as the applications are completed. An application 889
is completed when the director has validated that an eligible 890
investor has made a qualified investment and the small business 891
enterprise has made the appropriate reinvestment of the qualified 892
investment pursuant to the requirements of division (A)(1)(d) of 893

this section. To qualify for a certificate, an eligible investor 894
must satisfy both of the following, subject to the limitation on 895
the amount of qualifying investments for which certificates may be 896
issued under division (C) of this section: 897

(1) The eligible investor makes a qualifying investment on or 898
after July 1, 2011. 899

(2) The eligible investor pledges not to sell or otherwise 900
dispose of the qualifying investment before the conclusion of the 901
applicable holding period. 902

(C)(1) The amount of any eligible investor's qualifying 903
investments for which small business investment certificates may 904
be issued for a fiscal biennium shall not exceed ten million 905
dollars. 906

(2) The director of development services shall not issue a 907
small business investment certificate to an eligible investor 908
representing an amount of qualifying investment in excess of the 909
amount of the intended investment indicated on the investor's 910
application for the certificate. 911

(3) The director of development services shall not issue 912
small business investment certificates in a total amount that 913
would cause the tax credits claimed in any fiscal biennium to 914
exceed one hundred million dollars. 915

(4) The director of development services may issue a small 916
business investment certificate only if both of the following 917
apply at the time of issuance: 918

(a) The small business enterprise meets all the requirements 919
listed in divisions (A)(1)(a)(i) to (iv) of this section; 920

(b) The eligible investor does not owe any outstanding tax or 921
other liability to the state. 922

(D) Before the end of the applicable holding period of a 923

qualifying investment, each enterprise in which a qualifying 924
investment was made for which a small business investment 925
certificate has been issued, upon the request of the director of 926
development services, shall provide to the director records or 927
other evidence satisfactory to the director that the enterprise is 928
a small business enterprise for the purposes of this section. Each 929
enterprise shall also provide annually to the director records or 930
evidence regarding the number of jobs created or retained in the 931
state. No credit may be claimed under this section and section 932
5747.81 of the Revised Code if the director finds that an 933
enterprise is not a small business enterprise for the purposes of 934
this section. The director shall compile and maintain a register 935
of small business enterprises qualifying under this section and 936
shall certify the register to the tax commissioner. The director 937
shall also compile and maintain a record of the number of jobs 938
created or retained as a result of qualifying investments made 939
pursuant to this section. 940

(E) After the conclusion of the applicable holding period for 941
a qualifying investment, a person to whom a small business 942
investment certificate has been issued under this section may 943
claim a credit as provided under section 5747.81 of the Revised 944
Code. 945

(F) The director of development services, in consultation 946
with the tax commissioner, may adopt rules for the administration 947
of this section, including rules governing the following: 948

(1) Documents, records, or other information eligible 949
investors shall provide to the director; 950

(2) Any information a small business enterprise shall provide 951
for the purposes of this section and section 5747.81 of the 952
Revised Code; 953

(3) Determination of the number of full-time equivalent 954

employees of a small business enterprise; 955

(4) Verification of a small business enterprise's investment 956
in tangible personal property and intangible personal property 957
under division (A)(1)(d) of this section, including when such 958
investments have been made and where the property is used in 959
business; 960

(5) Circumstances under which small business enterprises or 961
eligible investors may be subverting the purposes of this section 962
and section 5747.81 of the Revised Code. 963

There is hereby created in the state treasury the InvestOhio 964
support fund. The fund shall consist of the fees paid under 965
division (B) of this section and shall be used by the development 966
services agency to pay the costs of administering the small 967
business investment certificate program established under this 968
section. 969

Sec. 166.21. (A) The director of development services, with 970
the approval of the controlling board and subject to other 971
applicable provisions of this chapter, may lend moneys in the 972
research and development loan fund to persons for the purpose of 973
paying allowable costs of eligible research and development 974
projects, if the director determines that all of the following 975
conditions are met: 976

(1) The project is an eligible research and development 977
project and is economically sound; 978

(2) The amount to be lent from the research and development 979
loan fund will not exceed seventy-five per cent of the total costs 980
of the eligible research and development project; 981

(3) The repayment of the loan from the research and 982
development loan fund will be secured by a mortgage, assignment, 983
pledge, lien provided for under section 9.661 of the Revised Code, 984

or other interest in property or other assets of the borrower, at 985
such level of priority and value as the director considers 986
necessary, provided that, in making such a determination, the 987
director shall take into account the value of any rights granted 988
by the borrower to the director to control the use of any assets 989
of the borrower under the circumstances described in the loan 990
documents. 991

(B) The determinations of the director under division (A) of 992
this section shall be conclusive for purposes of the validity of a 993
loan commitment evidenced by a loan agreement signed by the 994
director. 995

(C) Fees, charges, rates of interest, times of payment of 996
interest and principal, and other terms and conditions of, and 997
security for, loans made from the research and development loan 998
fund shall be such as the director determines to be appropriate 999
and in furtherance of the purpose for which the loans are made. 1000
The moneys used in making loans shall be disbursed from the fund 1001
upon order of the director. Unless otherwise specified in any 1002
indenture or other instrument securing obligations under division 1003
(D) of section 166.08 of the Revised Code, any payments of 1004
principal and interest from loans made from the fund shall be paid 1005
to the fund and used for the purpose of making loans under this 1006
section. 1007

(D)(1) As used in this division, "qualified research and 1008
development loan payments" means payments of principal and 1009
interest on a loan made from the research and development loan 1010
fund. 1011

(2) Each year, the director may, upon request, issue a 1012
certificate to a borrower of moneys from the research and 1013
development loan fund indicating the amount of the qualified 1014
research and development loan payments made by or on behalf of the 1015
borrower during the calendar year immediately preceding the tax 1016

year, as defined in section 5733.04 of the Revised Code, or 1017
taxable year, as defined in section 5747.01 of the Revised Code, 1018
for which the certificate is issued. In addition to indicating the 1019
amount of qualified research and development loan payments, the 1020
certificate shall include a determination of the director that as 1021
of the thirty-first day of December of the calendar year for which 1022
the certificate is issued, the borrower is not in default under 1023
the loan agreement, lease, or other instrument governing repayment 1024
of the loan, including compliance with the job creation and 1025
retention commitments that are part of the qualified research and 1026
development project. If the director determines that a borrower is 1027
in default under the loan agreement, lease, or other instrument 1028
governing repayment of the loan, the director may reduce the 1029
amount, percentage, or term of the credit allowed under section 1030
5733.352, 5747.331, or 5751.52 of the Revised Code with respect to 1031
the certificate issued to the borrower. The director shall not 1032
issue a certificate in an amount that exceeds one hundred fifty 1033
thousand dollars. 1034

(E) The director may take actions necessary or appropriate to 1035
collect or otherwise deal with any loan made under this section. 1036

(F) The director may fix service charges for the making of a 1037
loan. The charges shall be payable at such times and place and in 1038
such amounts and manner as may be prescribed by the director. 1039

(G)(1) There shall be credited to the research and 1040
development loan fund moneys received by this state from the 1041
repayment of loans, including interest thereon, made from the 1042
fund, and moneys received from the sale, lease, or other 1043
disposition of property acquired or constructed with moneys in the 1044
fund derived from the proceeds of the sale of obligations under 1045
section 166.08 of the Revised Code. Moneys in the fund shall be 1046
applied as provided in this chapter pursuant to appropriations 1047
made by the general assembly. 1048

(2) In addition to the requirements in division (G)(1) of 1049
this section, moneys referred to in that division may be deposited 1050
to the credit of separate accounts established by the director of 1051
development services within the research and development loan fund 1052
or in the bond service fund and pledged to the security of 1053
obligations, applied to the payment of bond service charges 1054
without need for appropriation, released from any such pledge and 1055
transferred to the research and development loan fund, all as and 1056
to the extent provided in the bond proceedings pursuant to written 1057
directions of the director ~~of development~~. Accounts may be 1058
established by the director in the research and development loan 1059
fund for particular projects or otherwise. The director may 1060
withdraw from the fund or, subject to provisions of the applicable 1061
bond proceedings, from any special funds established pursuant to 1062
the bond proceedings, or from any accounts in such funds, any 1063
amounts of investment income required to be rebated and paid to 1064
the federal government in order to maintain the exemption from 1065
federal income taxation of interest on obligations issued under 1066
this chapter, which withdrawal and payment may be made without the 1067
necessity for appropriation. 1068

Sec. 718.15. A municipal corporation, by ordinance, may grant 1069
a refundable or nonrefundable credit against its tax on income to 1070
a taxpayer ~~that also receives a tax credit under section 122.17 of~~ 1071
~~the Revised Code to foster job creation in the municipal~~ 1072
corporation. If a credit is granted under this section, it shall 1073
be measured as a percentage of the new income tax revenue the 1074
municipal corporation derives from new employees of the taxpayer 1075
and shall be for a term not exceeding fifteen years. Before the 1076
municipal corporation passes an ordinance granting a credit, the 1077
municipal corporation and the taxpayer shall enter into an 1078
agreement specifying all the conditions of the credit. 1079

Sec. 718.151. A municipal corporation, by ordinance, may 1080
grant a refundable or nonrefundable credit against its tax on 1081
income to a taxpayer ~~that receives a nonrefundable tax credit~~ 1082
~~under section 122.171 of the Revised Code and may grant a~~ 1083
~~refundable credit against its tax on income to a taxpayer that~~ 1084
~~receives a refundable tax credit under that section~~ for the 1085
purpose of fostering job retention in the municipal corporation. 1086
If a credit is granted under this section, it shall be measured as 1087
a percentage of the income tax revenue the municipal corporation 1088
derives from the retained employees of the taxpayer, and shall be 1089
for a term not exceeding fifteen years. Before a municipal 1090
corporation passes an ordinance allowing such a credit, the 1091
municipal corporation and the taxpayer shall enter into an 1092
agreement specifying all the conditions of the credit. 1093

Sec. 3734.905. (A) The treasurer of state shall refund the 1094
fee imposed by section 3734.901 of the Revised Code paid illegally 1095
or erroneously, or paid on an illegal or erroneous assessment. 1096
Applications for refund shall be filed with the tax commissioner 1097
on a form prescribed by the commissioner, within four years of the 1098
illegal or erroneous payment of the fee. 1099

On the filing of the application, the commissioner shall 1100
determine the amount of refund to which the applicant is entitled. 1101
If the amount is not less than that claimed, the commissioner 1102
shall certify the amount to the director of budget and management 1103
and treasurer of state for payment from the tax refund fund 1104
created by section 5703.052 of the Revised Code. If the amount is 1105
less than that claimed, the commissioner shall proceed in 1106
accordance with section 5703.70 of the Revised Code. 1107

~~If the application for refund is for fees paid on an illegal~~ 1108
~~or erroneous assessment, the~~ The certified amount shall include 1109
interest calculated at the rate per annum prescribed by section 1110

5703.47 of the Revised Code from the date of overpayment to the 1111
date of the commissioner's certification. 1112

(B) When the fee imposed pursuant to section 3734.901 of the 1113
Revised Code has been paid on tires that are sold by a retail 1114
dealer or wholesale distributor to a motor vehicle manufacturer, 1115
or to a wholesale distributor or retail dealer for the purpose of 1116
resale outside this state, the seller in this state is entitled to 1117
a refund of the amount of the fee actually paid on the tires. To 1118
obtain a refund under this division, the seller shall apply to the 1119
tax commissioner, shall furnish documentary evidence satisfactory 1120
to the commissioner that the price paid by the purchaser did not 1121
include the fee, and shall provide the name and address of the 1122
purchaser to the commissioner. The seller shall apply on the form 1123
prescribed by the commissioner, within four years after the date 1124
of the sale. Upon receipt of an application, the commissioner 1125
shall determine the amount of any refund due and shall certify 1126
that amount to the director of budget and management and the 1127
treasurer of state for payment from the tax refund fund created in 1128
section 5703.052 of the Revised Code. The certified amount shall 1129
include interest calculated at the rate per annum prescribed by 1130
section 5703.47 of the Revised Code from the date of overpayment 1131
to the date of the commissioner's certification. 1132

(C) If any person entitled to a refund of fees under this 1133
section, or section 5703.70 of the Revised Code, is indebted to 1134
the state for any tax administered by the tax commissioner, or any 1135
charge, penalties, or interest arising from such tax, the amount 1136
allowable on the application for refund first shall be applied in 1137
satisfaction of the debt. 1138

Sec. 4921.13. (A) The public utilities commission shall adopt 1139
rules applicable to the filing of annual update forms and the 1140
payment of taxes by for-hire motor carriers. The rules shall not 1141

be incompatible with the requirements of the United States 1142
department of transportation. The rules shall at a minimum address 1143
all of the following: 1144

(1) The information and certifications that must be provided 1145
to the commission on an annual update form, including a 1146
certification that the carrier continues to be in compliance with 1147
the applicable laws of this state. 1148

(2) Documentation and information that must be provided 1149
regarding proof of financial responsibility; 1150

(3) The form and manner in which taxes may be paid under 1151
section 4921.19 of the Revised Code. 1152

(B) The rules may address any other information that the 1153
commission determines is necessary to carry out this section. 1154

(C) A for-hire motor carrier shall not be issued a any tax 1155
receipt under division (C) of section 4921.19 of the Revised Code 1156
until all of the following have been satisfied: 1157

(1) A complete and accurate annual update form has been filed 1158
with the commission; 1159

(2) Proof of financial responsibility remains in effect; 1160

(3) All applicable registration fees in accordance with rules 1161
adopted under section 4921.11 of the Revised Code, all applicable 1162
taxes under section 4921.19 of the Revised Code, and any 1163
forfeitures imposed under section 4923.99 of the Revised Code have 1164
been paid in full. 1165

Sec. 4921.19. (A) Every for-hire motor carrier operating in 1166
this state shall, at the time of the issuance of a certificate of 1167
public convenience and necessity under section 4921.03 of the 1168
Revised Code, pay to the public utilities commission, for and on 1169
behalf of the treasurer of state, the following taxes: 1170

(1) For each motor vehicle used for transporting persons,	1171
thirty dollars;	1172
(2) For each commercial tractor, as defined in section	1173
4501.01 of the Revised Code, used for transporting property,	1174
thirty dollars;	1175
(3) For each other motor vehicle transporting property,	1176
twenty dollars.	1177
(B) Every for-hire motor carrier operating in this state	1178
solely in intrastate commerce shall, annually between the first	1179
day of May and the thirtieth day of June, pay to the commission,	1180
for and on behalf of the treasurer of state, the following taxes:	1181
(1) For each motor vehicle used for transporting persons,	1182
thirty dollars;	1183
(2) For each commercial tractor, as defined in section	1184
4501.01 of the Revised Code, used for transporting property,	1185
thirty dollars;	1186
(3) For each other motor vehicle transporting property,	1187
twenty dollars.	1188
(C) After a for-hire motor carrier has paid the applicable	1189
taxes under division <u>(A) or</u> (B) of this section and <u>met</u> all	1190
<u>applicable</u> requirements under <u>section 4921.03 or</u> division (C) of	1191
section 4921.13 of the Revised Code have been met , the commission	1192
shall issue the carrier a tax receipt <u>for each motor vehicle for</u>	1193
<u>which a tax has been paid under this section</u> . The carrier shall	1194
carry a copy of <u>keep</u> the <u>appropriate</u> tax receipt in each motor	1195
vehicle operated by the carrier. The carrier shall maintain the	1196
original copy of the tax receipt at the carrier's primary place of	1197
business <u>tax receipt records that specify to which motor vehicle</u>	1198
<u>each tax receipt is assigned</u> .	1199
(D) A trailer used by a for-hire motor carrier shall not be	1200

taxed under this section. 1201

(E) The annual tax levied by division (B) of this section 1202
does not apply in those cases where the commission finds that the 1203
movement of agricultural commodities or foodstuffs produced 1204
therefrom requires a temporary and seasonal use of vehicular 1205
equipment for a period of not more than ninety days. In such 1206
event, the tax on the vehicular equipment shall be twenty-five per 1207
cent of the annual tax levied by division (B) of this section. If 1208
any vehicular equipment is used in excess of the ninety-day 1209
period, the annual tax levied by this section shall be paid. 1210

(F) All taxes levied by division (B) of this section shall be 1211
reckoned as from the beginning of the quarter in which the tax 1212
receipt is issued or as from when the use of equipment under any 1213
existing tax receipt began. 1214

(G) The fees for unified carrier registration pursuant to 1215
section 4921.11 of the Revised Code shall be identical to those 1216
established by the unified carrier registration act board as 1217
approved by the federal motor carrier safety administration for 1218
each year. 1219

(H)(1) The fees for uniform registration and a uniform permit 1220
as a carrier of hazardous materials pursuant to section 4921.15 of 1221
the Revised Code shall consist of the following: 1222

(a) A processing fee of fifty dollars; 1223

(b) An apportioned per-truck registration fee, which shall be 1224
calculated by multiplying the percentage of a registrant's 1225
activity in this state times the percentage of the registrant's 1226
business that is hazardous-materials-related, times the number of 1227
vehicles owned or operated by the registrant, times a per-truck 1228
fee determined by order of the commission following public notice 1229
and an opportunity for comment. 1230

(i) The percentage of a registrant's activity in this state 1231

shall be calculated by dividing the number of miles that the 1232
registrant travels in this state under the international 1233
registration plan, pursuant to section 4503.61 of the Revised 1234
Code, by the number of miles that the registrant travels 1235
nationwide under the international registration plan. Registrants 1236
that operate solely within this state shall use one hundred per 1237
cent as their percentage of activity. Registrants that do not 1238
register their vehicles through the international registration 1239
plan shall calculate activity in the state in the same manner as 1240
that required by the international registration plan. 1241

(ii) The percentage of a registrant's business that is 1242
hazardous-materials-related shall be calculated, for 1243
less-than-truckload shipments, by dividing the weight of all the 1244
registrant's hazardous materials shipments by the total weight of 1245
all shipments in the previous year. The percentage of a 1246
registrant's business that is hazardous-materials-related shall be 1247
calculated, for truckload shipments, by dividing the number of 1248
shipments for which placarding, marking of the vehicle, or 1249
manifesting, as appropriate, was required by regulations adopted 1250
under sections 4 to 6 of the "Hazardous Materials Transportation 1251
Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, 1252
by the total number of the registrant's shipments that transported 1253
any kind of goods in the previous year. A registrant that 1254
transports both less-than-truckload and truckload shipments of 1255
hazardous materials shall calculate the percentage of business 1256
that is hazardous-materials-related on a proportional basis. 1257

(iii) A registrant may utilize fiscal year, or calendar year, 1258
or other current company accounting data, or other publicly 1259
available information, in calculating the percentages required by 1260
divisions (H)(1)(b)(i) and (ii) of this section. 1261

(2) The commission, after notice and opportunity for a 1262
hearing, may assess each carrier a fee for any background 1263

investigation required for the issuance, for the purpose of 1264
section 3734.15 of the Revised Code, of a uniform permit as a 1265
carrier of hazardous wastes and fees related to investigations and 1266
proceedings for the denial, suspension, or revocation of a uniform 1267
permit as a carrier of hazardous materials. The fees shall not 1268
exceed the reasonable costs of the investigations and proceedings. 1269
The fee for a background investigation for a uniform permit as a 1270
carrier of hazardous wastes shall be six hundred dollars plus the 1271
costs of obtaining any necessary information not included in the 1272
permit application, to be calculated at the rate of thirty dollars 1273
per hour, not exceeding six hundred dollars, plus any fees payable 1274
to obtain necessary information. 1275

(I) The application fee for a certificate for the 1276
transportation of household goods issued pursuant to sections 1277
4921.30 to 4921.38 of the Revised Code shall be based on the 1278
certificate holder's gross revenue, in the prior year, for the 1279
intrastate transportation of household goods. The commission shall 1280
establish, by order, ranges of gross revenue and the fee for each 1281
range. The fees shall be set in amounts sufficient to carry out 1282
the purposes of sections 4921.30 to 4921.38 and 4923.99 of the 1283
Revised Code and, to the extent necessary, the commission shall 1284
make changes to the fee structure to ensure that neither over nor 1285
under collection of the fees occurs. The fees shall also take into 1286
consideration the revenue generated from the assessment of 1287
forfeitures under section 4923.99 of the Revised Code regarding 1288
the consumer protection provisions applicable to for-hire motor 1289
carriers engaged in the transportation of household goods. 1290

(J) The fees and taxes provided under this section shall be 1291
in addition to taxes, fees, and charges fixed and exacted by other 1292
sections of the Revised Code, except the assessments required by 1293
section 4905.10 of the Revised Code, but all fees, license fees, 1294
annual payments, license taxes, or taxes or other money exactions, 1295

except the general property tax, assessed, charged, fixed, or 1296
exacted by local authorities such as municipal corporations, 1297
townships, counties, or other local boards, or the officers of 1298
such subdivisions are illegal and, are superseded by sections 1299
4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On 1300
compliance with sections 4503.04 and 4905.03 and Chapter 4921. of 1301
the Revised Code, all local ordinances, resolutions, ~~by laws~~ 1302
bylaws, and rules in force shall cease to be operative as to the 1303
persons in compliance, except that such local subdivisions may 1304
make reasonable local police regulations within their respective 1305
boundaries not inconsistent with sections 4503.04 and 4905.03 and 1306
Chapter 4921. of the Revised Code. 1307

Sec. 5703.05. All powers, duties, and functions of the 1308
department of taxation are vested in and shall be performed by the 1309
tax commissioner, which powers, duties, and functions shall 1310
include, but shall not be limited to, the following: 1311

(A) Prescribing all blank forms which the department is 1312
authorized to prescribe, and to provide such forms and distribute 1313
the same as required by law and the rules of the department. 1314

(B) Exercising the authority provided by law, including 1315
orders from bankruptcy courts, relative to remitting or refunding 1316
taxes or assessments, including penalties and interest thereon, 1317
illegally or erroneously assessed or collected, or for any other 1318
reason overpaid, and in addition, the commissioner may on written 1319
application of any person, firm, or corporation claiming to have 1320
overpaid to the treasurer of state at any time within five years 1321
prior to the making of such application any tax payable under any 1322
law which the department of taxation is required to administer 1323
which does not contain any provision for refund, or on the 1324
commissioner's own motion investigate the facts and make in 1325
triplicate a written statement of the commissioner's findings, 1326

and, if the commissioner finds that there has been an overpayment, 1327
issue in triplicate a certificate of abatement payable to the 1328
taxpayer, the taxpayer's assigns, or legal representative which 1329
shows the amount of the overpayment and the kind of tax overpaid. 1330
One copy of such statement shall be entered on the journal of the 1331
commissioner, one shall be certified to the attorney general, and 1332
one certified copy shall be delivered to the taxpayer. All copies 1333
of the certificate of abatement shall be transmitted to the 1334
attorney general, and if the attorney general finds it to be 1335
correct the attorney general shall so certify on each copy, and 1336
deliver one copy to the taxpayer, one copy to the commissioner, 1337
and the third copy to the treasurer of state. Except as provided 1338
in section 5725.08 of the Revised Code, the taxpayer's copy of any 1339
certificates of abatement may be tendered by the payee or 1340
transferee thereof to the treasurer of state, or to the 1341
commissioner on behalf of the treasurer, as payment, to the extent 1342
of the amount thereof, of any tax payable to the treasurer of 1343
state. 1344

(C) Exercising the authority provided by law relative to 1345
consenting to the compromise and settlement of tax claims; 1346

(D) Exercising the authority provided by law relative to the 1347
use of alternative tax bases by taxpayers in the making of 1348
personal property tax returns; 1349

(E) Exercising the authority provided by law relative to 1350
authorizing the prepayment of taxes on retail sales of tangible 1351
personal property or on the storage, use, or consumption of 1352
personal property, and waiving the collection of such taxes from 1353
the consumers; 1354

(F) Exercising the authority provided by law to revoke 1355
licenses; 1356

(G) Maintaining a continuous study of the practical operation 1357

of all taxation and revenue laws of the state, the manner in which 1358
and extent to which such laws provide revenues for the support of 1359
the state and its political subdivisions, the probable effect upon 1360
such revenue of possible changes in existing laws, and the 1361
possible enactment of measures providing for other forms of 1362
taxation. For this purpose the commissioner may establish and 1363
maintain a division of research and statistics, and may appoint 1364
necessary employees who shall be in the unclassified civil 1365
service; the results of such study shall be available to the 1366
members of the general assembly and the public. 1367

(H) Making all tax assessments, valuations, findings, 1368
determinations, computations, and orders the department of 1369
taxation is by law authorized and required to make and, pursuant 1370
to time limitations provided by law, on the commissioner's own 1371
motion, reviewing, redetermining, or correcting any tax 1372
assessments, valuations, findings, determinations, computations, 1373
or orders the commissioner has made, but the commissioner shall 1374
not review, redetermine, or correct any tax assessment, valuation, 1375
finding, determination, computation, or order which the 1376
commissioner has made as to which an appeal or application for 1377
rehearing, review, redetermination, or correction has been filed 1378
with the board of tax appeals, unless such appeal or application 1379
is withdrawn by the appellant or applicant or dismissed; 1380

(I) Appointing not more than five deputy tax commissioners, 1381
who, under such regulations as the rules of the department of 1382
taxation prescribe, may act for the commissioner in the 1383
performance of such duties as the commissioner prescribes in the 1384
administration of the laws which the commissioner is authorized 1385
and required to administer, and who shall serve in the 1386
unclassified civil service at the pleasure of the commissioner, 1387
but if a person who holds a position in the classified service is 1388
appointed, it shall not affect the civil service status of such 1389

person. The commissioner may designate not more than two of the 1390
deputy commissioners to act as commissioner in case of the 1391
absence, disability, or recusal of the commissioner or vacancy in 1392
the office of commissioner. The commissioner may adopt rules 1393
relating to the order of precedence of such designated deputy 1394
commissioners and to their assumption and administration of the 1395
office of commissioner. 1396

(J) Appointing and prescribing the duties of all other 1397
employees of the department of taxation necessary in the 1398
performance of the work of the department which the tax 1399
commissioner is by law authorized and required to perform, and 1400
creating such divisions or sections of employees as, in the 1401
commissioner's judgment, is proper; 1402

(K) Organizing the work of the department, which the 1403
commissioner is by law authorized and required to perform, so 1404
that, in the commissioner's judgment, an efficient and economical 1405
administration of the laws will result; 1406

(L) Maintaining a journal, which is open to public 1407
inspection, in which the tax commissioner shall keep a record of 1408
all final determinations of the commissioner; 1409

(M) Adopting and promulgating, in the manner provided by 1410
section 5703.14 of the Revised Code, all rules of the department, 1411
including rules for the administration of sections 3517.16, 1412
3517.17, and 5747.081 of the Revised Code; 1413

(N) Destroying any or all returns or assessment certificates 1414
in the manner authorized by law; 1415

(O) Adopting rules, in accordance with division (B) of 1416
section 325.31 of the Revised Code, governing the expenditure of 1417
moneys from the real estate assessment fund under that division; 1418

(P) Informing taxpayers in a timely manner to resolve credit 1419
account balances as required by section 5703.77 of the Revised 1420

Code. 1421

Sec. 5703.056. (A) As used in any section of the Revised Code 1422
that requires the tax commissioner to use certified mail or 1423
personal service or that requires or permits a payment to be made 1424
or a document to be submitted to the tax commissioner or the board 1425
of tax appeals by mail or personal service, and as used in any 1426
section of Chapter 3734., 3769., 4303., or 4305. or Title LVII of 1427
the Revised Code that requires or permits a payment to be made or 1428
a document to be submitted to the treasurer of state by mail: 1429

(1) "Certified mail," "express mail," "United States mail," 1430
"United States postal service," and similar terms include any 1431
delivery service authorized pursuant to division (B) of this 1432
section. 1433

(2) "Postmark date," "date of postmark," and similar terms 1434
include the date recorded and marked in the manner described in 1435
division (B)(3) of this section. 1436

(B) The tax commissioner may authorize the use of a delivery 1437
service for the delivery of any payment or document described in 1438
division (A) of this section if the commissioner finds that the 1439
delivery service: 1440

(1) Is available to the general public; 1441

(2) Is at least as timely and reliable on a regular basis as 1442
the United States postal service; 1443

(3) Records electronically to a database kept in the regular 1444
course of its business, and marks on the cover in which the 1445
payment or document is enclosed, the date on which the payment or 1446
document was given to the delivery service for delivery; 1447

(4) Records electronically to a database kept in the regular 1448
course of its business the date on which the payment or document 1449
was given by the delivery service to the person who signed the 1450

receipt of delivery and the name of the person who signed the 1451
receipt; and 1452

(5) Meets any other criteria that the tax commissioner may by 1453
rule prescribe. 1454

(C) In any section of the Revised Code referring to the date 1455
any payment or document is received by the tax commissioner by 1456
mail, personal service, or electronically or by a person receiving 1457
a document or payment from the tax commissioner by mail, the 1458
payment or document shall be considered to be received on one of 1459
the following dates, as applicable, except as provided in section 1460
5703.053 or 5703.37 of the Revised Code: 1461

(1) For a document or payment sent by certified mail, express 1462
mail, United States mail, foreign mail, or a delivery service 1463
authorized for use under division (B) of this section, the date of 1464
the postmark placed by the postal or delivery service on the 1465
sender's receipt or, if the sender was not issued a postmarked 1466
sender's receipt, the date of the postmark placed by the postal or 1467
delivery service on the package containing the payment or 1468
document. 1469

(2) For personal service to the tax commissioner, the date 1470
the payment or document is received in any of the tax 1471
commissioner's offices during business hours. 1472

(3) For a document filed or sent electronically or a payment 1473
made electronically, the date on the timestamp assigned by the 1474
first electronic system receiving that payment or document. 1475

(D) As used in divisions (A) and (C) of this section 1476
"electronically" includes by facsimile, if applicable. 1477

Sec. 5703.059. (A) The tax commissioner may adopt rules 1478
requiring returns, including any accompanying schedule or 1479
statement, for any ~~of the following taxes~~ tax or fee administered 1480

<u>by the commissioner</u> to be filed electronically using the Ohio	1481
business gateway as defined in section 718.051 of the Revised	1482
Code, filed telephonically using the system known as the Ohio	1483
tefile system, or filed by any other electronic means prescribed	1484
by the commissioner:	1485
(1) Employer income tax withholding under Chapter 5747. of	1486
the Revised Code;	1487
(2) Motor fuel tax under Chapter 5735. of the Revised Code;	1488
(3) Cigarette and tobacco product tax under Chapter 5743. of	1489
the Revised Code;	1490
(4) Severance tax under Chapter 5749. of the Revised Code;	1491
(5) Use tax under Chapter 5741. of the Revised Code;	1492
(6) Commercial activity tax under Chapter 5751. of the	1493
Revised Code;	1494
(7) Financial institutions tax under Chapter 5726. of the	1495
Revised Code;	1496
(8) Motor fuel receipts tax under Chapter 5736. of the	1497
Revised Code;	1498
(9) Horse racing taxes under Chapter 3769. of the Revised	1499
Code.	1500
(B) The tax commissioner may adopt rules requiring any	1501
payment of tax shown on such a return to be due to be made	1502
electronically in a manner approved by the commissioner.	1503
(C) A rule adopted under this section does not apply to	1504
returns or reports filed or payments made before six months after	1505
the effective date of the rule. The commissioner shall publicize	1506
any new electronic filing requirement on the department's web	1507
site. The commissioner shall educate the public of the requirement	1508
through seminars, workshops, conferences, or other outreach	1509

activities. 1510

(D) Any person required to file returns and make payments 1511
electronically under rules adopted under this section may apply to 1512
the commissioner, on a form prescribed by the commissioner, to be 1513
excused from that requirement. For good cause shown, the 1514
commissioner may excuse the applicant from the requirement and 1515
permit the applicant to file the returns or reports or make the 1516
payments required under this section by nonelectronic means. 1517

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) 1518
of this section, no agent of the department of taxation, except in 1519
the agent's report to the department or when called on to testify 1520
in any court or proceeding, shall divulge any information acquired 1521
by the agent as to the transactions, property, or business of any 1522
person while acting or claiming to act under orders of the 1523
department. Whoever violates this provision shall thereafter be 1524
disqualified from acting as an officer or employee or in any other 1525
capacity under appointment or employment of the department. 1526

(B)(1) For purposes of an audit pursuant to section 117.15 of 1528
the Revised Code, or an audit of the department pursuant to 1529
Chapter 117. of the Revised Code, or an audit, pursuant to that 1530
chapter, the objective of which is to express an opinion on a 1531
financial report or statement prepared or issued pursuant to 1532
division (A)(7) or (9) of section 126.21 of the Revised Code, the 1533
officers and employees of the auditor of state charged with 1534
conducting the audit shall have access to and the right to examine 1535
any state tax returns and state tax return information in the 1536
possession of the department to the extent that the access and 1537
examination are necessary for purposes of the audit. Any 1538
information acquired as the result of that access and examination 1539
shall not be divulged for any purpose other than as required for 1540

the audit or unless the officers and employees are required to 1541
testify in a court or proceeding under compulsion of legal 1542
process. Whoever violates this provision shall thereafter be 1543
disqualified from acting as an officer or employee or in any other 1544
capacity under appointment or employment of the auditor of state. 1545

(2) For purposes of an internal audit pursuant to section 1546
126.45 of the Revised Code, the officers and employees of the 1547
office of internal audit in the office of budget and management 1548
charged with directing the internal audit shall have access to and 1549
the right to examine any state tax returns and state tax return 1550
information in the possession of the department to the extent that 1551
the access and examination are necessary for purposes of the 1552
internal audit. Any information acquired as the result of that 1553
access and examination shall not be divulged for any purpose other 1554
than as required for the internal audit or unless the officers and 1555
employees are required to testify in a court or proceeding under 1556
compulsion of legal process. Whoever violates this provision shall 1557
thereafter be disqualified from acting as an officer or employee 1558
or in any other capacity under appointment or employment of the 1559
office of internal audit. 1560

(3) As provided by section 6103(d)(2) of the Internal Revenue 1561
Code, any federal tax returns or federal tax information that the 1562
department has acquired from the internal revenue service, through 1563
federal and state statutory authority, may be disclosed to the 1564
auditor of state or the office of internal audit solely for 1565
purposes of an audit of the department. 1566

(4) For purposes of Chapter 3739. of the Revised Code, an 1567
agent of the department of taxation may share information with the 1568
division of state fire marshal that the agent finds during the 1569
course of an investigation. 1570

(C) Division (A) of this section does not prohibit any of the 1571
following: 1572

(1) Divulging information contained in applications,	1573
complaints, and related documents filed with the department under	1574
section 5715.27 of the Revised Code or in applications filed with	1575
the department under section 5715.39 of the Revised Code;	1576
(2) Providing information to the office of child support	1577
within the department of job and family services pursuant to	1578
section 3125.43 of the Revised Code;	1579
(3) Disclosing to the motor vehicle repair board any	1580
information in the possession of the department that is necessary	1581
for the board to verify the existence of an applicant's valid	1582
vendor's license and current state tax identification number under	1583
section 4775.07 of the Revised Code;	1584
(4) Providing information to the administrator of workers'	1585
compensation pursuant to sections 4123.271 and 4123.591 of the	1586
Revised Code;	1587
(5) Providing to the attorney general information the	1588
department obtains under division (J) of section 1346.01 of the	1589
Revised Code;	1590
(6) Permitting properly authorized officers, employees, or	1591
agents of a municipal corporation from inspecting reports or	1592
information pursuant to rules adopted under section 5745.16 of the	1593
Revised Code;	1594
(7) Providing information regarding the name, account number,	1595
or business address of a holder of a vendor's license issued	1596
pursuant to section 5739.17 of the Revised Code, a holder of a	1597
direct payment permit issued pursuant to section 5739.031 of the	1598
Revised Code, or a seller having a use tax account maintained	1599
pursuant to section 5741.17 of the Revised Code, or information	1600
regarding the active or inactive status of a vendor's license,	1601
direct payment permit, or seller's use tax account;	1602
(8) Releasing invoices or invoice information furnished under	1603

section 4301.433 of the Revised Code pursuant to that section; 1604

(9) Providing to a county auditor notices or documents 1605
concerning or affecting the taxable value of property in the 1606
county auditor's county. Unless authorized by law to disclose 1607
documents so provided, the county auditor shall not disclose such 1608
documents; 1609

(10) Providing to a county auditor sales or use tax return or 1610
audit information under section 333.06 of the Revised Code; 1611

(11) Subject to section 4301.441 of the Revised Code, 1612
disclosing to the appropriate state agency information in the 1613
possession of the department of taxation that is necessary to 1614
verify a permit holder's gallonage or noncompliance with taxes 1615
levied under Chapter 4301. or 4305. of the Revised Code; 1616

(12) Disclosing to the department of natural resources 1617
information in the possession of the department of taxation that 1618
is necessary for the department of taxation to verify the 1619
taxpayer's compliance with section 5749.02 of the Revised Code or 1620
to allow the department of natural resources to enforce Chapter 1621
1509. of the Revised Code; 1622

(13) Disclosing to the department of job and family services, 1623
industrial commission, and bureau of workers' compensation 1624
information in the possession of the department of taxation solely 1625
for the purpose of identifying employers that misclassify 1626
employees as independent contractors or that fail to properly 1627
report and pay employer tax liabilities. The department of 1628
taxation shall disclose only such information that is necessary to 1629
verify employer compliance with law administered by those 1630
agencies. 1631

(14) Disclosing to the Ohio casino control commission 1632
information in the possession of the department of taxation that 1633
is necessary to verify a casino operator's compliance with section 1634

5747.063 or 5753.02 of the Revised Code and sections related 1635
thereto; 1636

(15) Disclosing to the state lottery commission information 1637
in the possession of the department of taxation that is necessary 1638
to verify a lottery sales agent's compliance with section 5747.064 1639
of the Revised Code. 1640

(16) Disclosing to the development services agency 1641
information in the possession of the department of taxation that 1642
is necessary to ensure compliance with the laws of this state 1643
governing taxation and to verify information reported to the 1644
development services agency for the purpose of evaluating 1645
potential tax credits, grants, or loans. Such information shall 1646
not include information received from the internal revenue service 1647
the disclosure of which is prohibited by section 6103 of the 1648
Internal Revenue Code. No officer, employee, or agent of the 1649
development services agency shall disclose any information 1650
provided to the development services agency by the department of 1651
taxation under division (C)(16) of this section except when 1652
disclosure of the information is necessary for, and made solely 1653
for the purpose of facilitating, the evaluation of potential tax 1654
credits, grants, or loans. 1655

Sec. 5703.77. (A) As used in this section: 1656

(1) "Taxpayer" means a person subject to or previously 1657
subject to a tax or fee, a person that remits a tax or fee, or a 1658
person required to or previously required to withhold or collect 1659
and remit a tax or fee on behalf of another person. 1660

(2) "Tax or fee" means a tax or fee administered by the tax 1661
commissioner. 1662

(3) "Credit account balance" means the amount of a tax or fee 1663
that a taxpayer remits to the state in excess of the amount 1664

required to be remitted, after accounting for factors applicable 1665
to the taxpayer such as accelerated payments, estimated payments, 1666
tax credits, and tax credit balances that may be carried forward. 1667

(4) "Tax debt" means an unpaid tax or fee or any unpaid 1668
penalty, interest, or additional charge on such a tax or fee due 1669
the state. 1670

(B) As soon as practicable, but not later than sixty days 1671
before the expiration of the period of time during which a 1672
taxpayer may file a refund application for a tax or fee, the tax 1673
commissioner shall review the taxpayer's accounts for the tax or 1674
fee and notify the taxpayer of any credit account balance for 1675
which the commissioner is required to issue a refund if the 1676
taxpayer were to file a refund application for that balance, 1677
regardless of whether the taxpayer files a refund application or 1678
amended return with respect to that tax or fee. The notice shall 1679
be made using contact information for the taxpayer on file with 1680
the commissioner. 1681

(C) Notwithstanding sections 128.47, 3734.905, 4307.05, 1682
5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 5736.08, 1683
5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 1684
5751.08, 5753.06, and any other section of the Revised Code 1685
governing refunds of taxes or fees, the commissioner may apply the 1686
amount of any credit account balance for which the commissioner is 1687
required to issue a refund if the taxpayer were to file a refund 1688
application for that balance as a credit against the taxpayer's 1689
liability for the tax or fee in the taxpayer's next reporting 1690
period for that tax or fee or issue a refund of that credit 1691
account balance to the taxpayer, subject to division (D) of this 1692
section. 1693

(D) Before issuing a refund to a taxpayer under division (C) 1694
of this section, the tax commissioner shall withhold from that 1695
refund the amount of any of the taxpayer's tax debt certified to 1696

the attorney general under section 131.02 of the Revised Code and 1697
the amount of the taxpayer's liability, if any, for a tax or fee. 1698
The commissioner shall apply any amount withheld first in 1699
satisfaction of the amount of the taxpayer's certified tax debt 1700
and then in satisfaction of the taxpayer's liability. 1701

(E) The tax commissioner may adopt rules to administer this 1702
section. 1703

Sec. 5727.47. (A) Notice of each assessment certified 1704
pursuant to section 5727.23 or 5727.38 of the Revised Code shall 1705
be mailed to the public utility, and its mailing shall be 1706
prima-facie evidence of its receipt by the public utility to which 1707
it is addressed. With the notice, the tax commissioner shall 1708
provide instructions on how to petition for reassessment and 1709
request a hearing on the petition. If a public utility objects to 1710
any assessment certified to it pursuant to such sections, it may 1711
file with the commissioner, either personally or by certified 1712
mail, within sixty days after the mailing of the notice of 1713
assessment a written petition for reassessment signed by the 1714
utility's authorized agent having knowledge of the facts. ~~If The~~ 1715
~~date the commissioner receives the petition is filed by certified~~ 1716
~~mail, the date of the United States postmark placed on the~~ 1717
~~sender's receipt by the postal employee to whom the petition is~~ 1718
~~presented shall be treated as~~ shall be considered the date of 1719
filing. The petition shall indicate the utility's objections, but 1720
additional objections may be raised in writing if received by the 1721
commissioner prior to the date shown on the final determination. 1722

In the case of a petition seeking a reduction in taxable 1723
value filed with respect to an assessment issued under section 1724
5727.23 of the Revised Code, the petitioner shall state in the 1725
petition the total amount of reduction in taxable value sought by 1726
the petitioner. If the petitioner objects to the percentage of 1727

true value at which taxable property is assessed by the 1728
commissioner, the petitioner shall state in the petition the total 1729
amount of reduction in taxable value sought both with and without 1730
regard to the objection pertaining to the percentage of true value 1731
at which its taxable property is assessed. If a petitioner objects 1732
to the commissioner's apportionment of the taxable value of the 1733
petitioner's taxable property, the petitioner shall distinctly 1734
state in the petition that the petitioner objects to the 1735
commissioner's apportionment, and, within forty-five days after 1736
filing the petition for reassessment, shall submit the 1737
petitioner's proposed apportionment of the taxable value of its 1738
taxable property among taxing districts. If a petitioner that 1739
objects to the commissioner's apportionment fails to state its 1740
objections to that apportionment in its petition for reassessment 1741
or fails to submit its proposed apportionment within forty-five 1742
days after filing the petition for reassessment, the commissioner 1743
shall dismiss the petitioner's objection to the commissioner's 1744
apportionment, and the taxable value of the petitioner's taxable 1745
property, subject to any adjustment to taxable value pursuant to 1746
the petition or appeal, shall be apportioned in the manner used by 1747
the commissioner in the preliminary or amended preliminary 1748
assessment issued under section 5727.23 of the Revised Code. 1749

If an additional objection seeking a reduction in taxable 1750
value in excess of the reduction stated in the original petition 1751
is properly and timely raised with respect to an assessment issued 1752
under section 5727.23 of the Revised Code, the petitioner shall 1753
state the total amount of the reduction in taxable value sought in 1754
the additional objection both with and without regard to any 1755
reduction in taxable value pertaining to the percentage of true 1756
value at which taxable property is assessed. If a petitioner fails 1757
to state the reduction in taxable value sought in the original 1758
petition or in additional objections properly raised after the 1759
petition is filed, the commissioner shall notify the petitioner of 1760

the failure by certified mail. If the petitioner fails to notify 1761
the commissioner in writing of the reduction in taxable value 1762
sought in the petition or in an additional objection within thirty 1763
days after receiving the commissioner's notice, the commissioner 1764
shall dismiss the petition or the additional objection in which 1765
that reduction is sought. 1766

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 1767
public utility filing a petition for reassessment regarding an 1768
assessment issued under section 5727.23 or 5727.38 of the Revised 1769
Code shall pay the tax with respect to the assessment objected to 1770
as required by law. The acceptance of any tax payment by the 1771
treasurer of state or any county treasurer shall not prejudice any 1772
claim for taxes on final determination by the commissioner or 1773
final decision by the board of tax appeals or any court. 1774

(2) If a public utility properly and timely files a petition 1775
for reassessment regarding an assessment issued under section 1776
5727.23 of the Revised Code, the petitioner shall pay the tax as 1777
prescribed by divisions (B)(2)(a), (b), and (c) of this section: 1778

(a) If the petitioner does not object to the commissioner's 1779
apportionment of the taxable value of the petitioner's taxable 1780
property, the petitioner is not required to pay the part of the 1781
tax otherwise due on the taxable value that the petitioner seeks 1782
to have reduced, subject to division (B)(2)(c) of this section. 1783

(b) If the petitioner objects to the commissioner's 1784
apportionment of the taxable value of the petitioner's taxable 1785
property, the petitioner is not required to pay the tax otherwise 1786
due on the part of the taxable value apportioned to any taxing 1787
district that the petitioner objects to, subject to division 1788
(B)(2)(c) of this section. If, pursuant to division (A) of this 1789
section, the petitioner has, in a proper and timely manner, 1790
apportioned taxable value to a taxing district to which the 1791
commissioner did not apportion the petitioner's taxable value, the 1792

petitioner shall pay the tax due on the taxable value that the 1793
petitioner has apportioned to the taxing district, subject to 1794
division (B)(2)(c) of this section. 1795

(c) If a petitioner objects to the percentage of true value 1796
at which taxable property is assessed by the commissioner, the 1797
petitioner shall pay the tax due on the basis of the percentage of 1798
true value at which the public utility's taxable property is 1799
assessed by the commissioner. In any case, the petitioner's 1800
payment of tax shall not be less than the amount of tax due based 1801
on the taxable value reflected on the last appeal notice issued by 1802
the commissioner under division (C) of this section. Until the 1803
county auditor receives notification under division (E) of this 1804
section and proceeds under section 5727.471 of the Revised Code to 1805
issue any refund that is found to be due, the county auditor shall 1806
not issue a refund for any increase in the reduction in taxable 1807
value that is sought by a petitioner later than forty-five days 1808
after the petitioner files the original petition as required under 1809
division (A) of this section. 1810

(3) Any part of the tax that, under division (B)(2)(a) or (b) 1811
of this section, is not paid shall be collected upon receipt of 1812
the notification as provided in section 5727.471 of the Revised 1813
Code with interest thereon computed in the same manner as interest 1814
is computed under division (E) of section 5715.19 of the Revised 1815
Code, subject to any correction of the assessment by the 1816
commissioner under division (E) of this section or the final 1817
judgment of the board of tax appeals or a court to which the 1818
board's final judgment is appealed. The penalty imposed under 1819
section 323.121 of the Revised Code shall apply only to the unpaid 1820
portion of the tax if the petitioner's tax payment is less than 1821
the amount of tax due based on the taxable value reflected on the 1822
last appeal notice issued by the commissioner under division (C) 1823
of this section. 1824

(C) Upon receipt of a properly filed petition for 1825
reassessment, the tax commissioner shall notify the treasurer of 1826
state or the auditor of each county to which the assessment 1827
objected to has been certified. In the case of a petition with 1828
respect to an assessment issued under section 5727.23 of the 1829
Revised Code, the commissioner shall issue an appeal notice within 1830
thirty days after receiving the amount of the taxable value 1831
reduction and apportionment changes sought by the petitioner in 1832
the original petition or in any additional objections properly and 1833
timely raised by the petitioner. The appeal notice shall indicate 1834
the amount of the reduction in taxable value sought in the 1835
petition or in the additional objections and the extent to which 1836
the reduction in taxable value and any change in apportionment 1837
requested by the petitioner would affect the commissioner's 1838
apportionment of the taxable value among taxing districts in the 1839
county as shown in the assessment. If a petitioner is seeking a 1840
reduction in taxable value on the basis of a lower percentage of 1841
true value than the percentage at which the commissioner assessed 1842
the petitioner's taxable property, the appeal notice shall 1843
indicate the reduction in taxable value sought by the petitioner 1844
without regard to the reduction sought on the basis of the lower 1845
percentage and shall indicate that the petitioner is required to 1846
pay tax on the reduced taxable value determined without regard to 1847
the reduction sought on the basis of a lower percentage of true 1848
value, as provided under division (B)(2)(c) of this section. The 1849
appeal notice shall include a statement that the reduced taxable 1850
value and the apportionment indicated in the notice are not final 1851
and are subject to adjustment by the commissioner or by the board 1852
of tax appeals or a court on appeal. If the commissioner finds an 1853
error in the appeal notice, the commissioner may amend the notice, 1854
but the notice is only for informational and tax payment purposes; 1855
the notice is not subject to appeal by any person. The 1856
commissioner also shall mail a copy of the appeal notice to the 1857

petitioner. Upon the request of a taxing authority, the county auditor may disclose to the taxing authority the extent to which a reduction in taxable value sought by a petitioner would affect the apportionment of taxable value to the taxing district or districts under the taxing authority's jurisdiction, but such a disclosure does not constitute a notice required by law to be given for the purpose of section 5717.02 of the Revised Code.

(D) If the petitioner requests a hearing on the petition, the tax commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of such time and place, but the commissioner may continue the hearing from time to time as necessary.

(E) The tax commissioner may make corrections to the assessment as the commissioner finds proper. The commissioner shall serve a copy of the commissioner's final determination on the petitioner in the manner provided in section 5703.37 of the Revised Code. The commissioner's decision in the matter shall be final, subject to appeal under section 5717.02 of the Revised Code. The commissioner also shall transmit a copy of the final determination to the treasurer of state or applicable county auditor. In the absence of any further appeal, or when a decision of the board of tax appeals or of any court to which the decision has been appealed becomes final, the commissioner shall notify the public utility and, as appropriate, the treasurer of state who shall proceed under section 5727.42 of the Revised Code, or the applicable county auditor who shall proceed under section 5727.471 of the Revised Code.

The notification made under this division is not subject to further appeal.

(F) On appeal, no adjustment shall be made in the tax commissioner's assessment issued under section 5727.23 of the Revised Code that reduces the taxable value of a petitioner's

taxable property by an amount that exceeds the reduction sought by 1890
the petitioner in its petition for reassessment or in any 1891
additional objections properly and timely raised after the 1892
petition is filed with the commissioner. 1893

Sec. 5727.91. (A) The treasurer of state shall refund the 1894
amount of tax paid under section 5727.81 or 5727.811 of the 1895
Revised Code that was paid illegally or erroneously, or paid on an 1896
illegal or erroneous assessment. A natural gas distribution 1897
company, an electric distribution company, or a self-assessing 1898
purchaser shall file an application for a refund with the tax 1899
commissioner on a form prescribed by the commissioner, within four 1900
years of the illegal or erroneous payment of the tax. 1901

On the filing of the application, the commissioner shall 1902
determine the amount of refund to which the applicant is entitled. 1903
If the amount is not less than that claimed, the commissioner 1904
shall certify that amount to the director of budget and management 1905
and the treasurer of state for payment from the tax refund fund 1906
under section 5703.052 of the Revised Code. If the amount is less 1907
than that claimed, the commissioner shall proceed in accordance 1908
with section 5703.70 of the Revised Code. 1909

~~If the application for refund is for taxes paid on an illegal~~ 1910
~~or erroneous assessment, the~~ The commissioner shall include in the 1911
certified amount interest calculated at the rate per annum 1912
prescribed by section 5703.47 of the Revised Code from the date of 1913
overpayment to the date of the commissioner's certification. 1914

(B) If a natural gas distribution company or an electric 1915
distribution company entitled to a refund of taxes under this 1916
section, or section 5703.70 of the Revised Code, is indebted to 1917
the state for any tax or fee administered by the tax commissioner 1918
that is paid to the state, or any charge, penalty, or interest 1919
arising from such a tax or fee, the amount refundable may be 1920

applied in satisfaction of the debt. If the amount refundable is 1921
less than the amount of the debt, it may be applied in partial 1922
satisfaction of the debt. If the amount refundable is greater than 1923
the amount of the debt, the amount remaining after satisfaction of 1924
the debt shall be refunded. If the natural gas distribution 1925
company or electric distribution company has more than one such 1926
debt, any debt subject to section 5739.33 or division (G) of 1927
section 5747.07 of the Revised Code shall be satisfied first. This 1928
section applies only to debts that have become final. 1929

(C)(1) Any electric distribution company that can 1930
substantiate to the tax commissioner that the tax imposed by 1931
section 5727.81 of the Revised Code was paid on electricity 1932
distributed via wires and consumed at a location outside of this 1933
state may claim a refund in the manner and within the time period 1934
prescribed in division (A) of this section. 1935

(2) Any natural gas distribution company that can 1936
substantiate to the tax commissioner that the tax imposed by 1937
section 5727.811 of the Revised Code was paid on natural gas 1938
distributed via its facilities and consumed at a location outside 1939
of this state may claim a refund in the manner and within the time 1940
period prescribed in division (A) of this section. 1941

(3) If the commissioner certifies a refund based on an 1942
application filed under division (C)(1) or (2) of this section, 1943
the commissioner shall include in the certified amount interest 1944
calculated at the rate per annum prescribed by section 5703.47 of 1945
the Revised Code from the date of overpayment to the date of the 1946
commissioner's certification. 1947

(D) Before a refund is issued under this section or section 1948
5703.70 of the Revised Code, a natural gas company or an electric 1949
distribution company shall certify, as prescribed by the tax 1950
commissioner, that it either did not include the tax imposed by 1951
section 5727.81 of the Revised Code in the case of an electric 1952

distribution company, or the tax imposed by section 5727.811 of 1953
the Revised Code in the case of a natural gas distribution 1954
company, in its distribution charge to its customer upon which a 1955
refund of the tax is claimed, or it has refunded or credited to 1956
the customer the excess distribution charge related to the tax 1957
that was erroneously included in the customer's distribution 1958
charge. 1959

Sec. 5735.01. As used in this chapter: 1960

(A) "Motor vehicles" includes all vehicles, vessels, 1961
watercraft, engines, machines, or mechanical contrivances which 1962
are powered by internal combustion engines or motors. 1963

(B) "Motor fuel" means gasoline, diesel fuel, K-1 kerosene, 1964
or any other liquid motor fuel, including, but not limited to, 1965
liquid petroleum gas or liquid natural gas, but excluding 1966
substances prepackaged and sold in containers of five gallons or 1967
less. 1968

(C) "K-1 ~~Kerosene~~ kerosene" means fuel that conforms to the 1969
chemical and physical standards for kerosene no. 1-K as set forth 1970
in the ~~american~~ American society for testing and materials (ASTM) 1971
designated D-3699 "standard for specification for kerosene," as 1972
that standard may be modified from time to time. For purposes of 1973
inspection and testing, laboratory analysis shall be conducted 1974
using methods recognized by the ASTM designation D-3699. 1975

(D) "Diesel fuel" means any liquid fuel capable of use in 1976
discrete form or as a blend component in the operation of engines 1977
of the diesel type, including transmix when mixed with diesel 1978
fuel. 1979

(E) "Gasoline" means any of the following: 1980

(1) All products, commonly or commercially known or sold as 1981
gasoline; 1982

(2) Any blend stocks or additives, including alcohol, that
are sold for blending with gasoline, other than products typically
sold in containers of five gallons or less;

(3) Transmix when mixed with gasoline, unless certified, as
required by the tax commissioner, for withdrawal from terminals
for reprocessing at refineries;

(4) Alcohol that is offered for sale or sold for use as, or
commonly and commercially used as, a fuel for internal combustion
engines.

Gasoline does not include diesel fuel, commercial or
industrial naphthas or solvents manufactured, imported, received,
stored, distributed, sold, or used exclusively for purposes other
than as a motor fuel for a motor vehicle or vessel. The blending
of any of the products listed in the preceding sentence,
regardless of name or characteristics, is conclusively presumed to
have been done to produce gasoline, unless the product obtained by
the blending is entirely incapable for use as fuel to operate a
motor vehicle. An additive, blend stock, or alcohol is presumed to
be sold for blending unless a certification is obtained as
required by the tax commissioner.

(F) "Public highways" means lands and lots over which the
public, either as user or owner, generally has a right to pass,
even though the same are closed temporarily by the authorities for
the purpose of construction, reconstruction, maintenance, or
repair.

(G) "Waters within the boundaries of this state" means all
streams, lakes, ponds, marshes, water courses, and all other
bodies of surface water, natural or artificial, which are situated
wholly or partially within this state or within its jurisdiction,
except private impounded bodies of water.

(H) "Person" includes individuals, partnerships, firms,

associations, corporations, receivers, trustees in bankruptcy, 2014
estates, joint-stock companies, joint ventures, the state and its 2015
political subdivisions, and any combination of persons of any 2016
form. 2017

(I)(1) "Motor fuel dealer" means any person who satisfies any 2018
of the following: 2019

(a) The person imports from another state or foreign country 2020
or acquires motor fuel by any means into a terminal in this state; 2021

(b) The person imports motor fuel from another state or 2022
foreign country in bulk lot vehicles for subsequent sale and 2023
distribution in this state from bulk lot vehicles; 2024

(c) The person refines motor fuel in this state; 2025

(d) The person acquires motor fuel from a motor fuel dealer 2026
for subsequent sale and distribution by that person in this state 2027
from bulk lot vehicles; 2028

(e) The person possesses an unrevoked permissive motor fuel 2029
dealer's license. 2030

(2) Any person who obtains dyed diesel fuel for use other 2031
than the operation of motor vehicles upon the public highways or 2032
upon waters within the boundaries of this state, but later uses 2033
that motor fuel for the operation of motor vehicles upon the 2034
public highways or upon waters within the boundaries of this 2035
state, is deemed a motor fuel dealer as regards any unpaid motor 2036
fuel taxes levied on the motor fuel so used. 2037

(J) As used in sections 5735.05, 5735.25, 5735.29, and 2038
5735.30 of the Revised Code only: 2039

(1) With respect to gasoline, "received" or "receipt" shall 2040
be construed as follows: 2041

(a) Gasoline produced at a refinery in this state or 2042
delivered to a terminal in this state is deemed received when it 2043

is disbursed through a loading rack at that refinery or terminal; 2044

(b) Except as provided in division (J)(1)(a) of this section, 2045
gasoline imported into this state or purchased or otherwise 2046
acquired in this state by any person is deemed received within 2047
this state by that person when the gasoline is withdrawn from the 2048
container in which it was transported; 2049

(c) Gasoline delivered or disbursed by any means from a 2050
terminal directly to another terminal is not deemed received. 2051

(2) With respect to motor fuel other than gasoline, 2052
"received" or "receipt" means distributed or sold for use or used 2053
to generate power for the operation of motor vehicles upon the 2054
public highways or upon waters within the boundaries of this 2055
state. All diesel fuel that is not dyed diesel fuel, regardless of 2056
its use, shall be considered as used to generate power for the 2057
operation of motor vehicles upon the public highways or upon 2058
waters within the boundaries of this state when the fuel is sold 2059
or distributed to a person other than a licensed motor fuel dealer 2060
or to a person licensed under section 5735.026 of the Revised 2061
Code. 2062

(K) Motor fuel used for the operation of licensed motor 2063
vehicles employed in the maintenance, construction, or repair of 2064
public highways is deemed to be used for the operation of motor 2065
vehicles upon the public highways. 2066

(L) "Licensed motor fuel dealer" means any dealer possessing 2067
an unrevoked motor fuel dealer's license issued by the tax 2068
commissioner as provided in section 5735.02 of the Revised Code. 2069

(M) "Licensed retail dealer" means any retail dealer 2070
possessing an unrevoked retail dealer's license issued by the tax 2071
commissioner as provided in section 5735.022 of the Revised Code. 2072

(N) "Cents per gallon rate" means the amount computed by the 2073
tax commissioner under section 5735.011 of the Revised Code that 2074

is used to determine that portion of the tax levied by section 2075
5735.05 of the Revised Code that is computed in the manner 2076
prescribed by division (B)(2) of section 5735.06 of the Revised 2077
Code and that is applicable for the period that begins on the 2078
first day of July following the date on which the commissioner 2079
makes the computation. 2080

(O) "Retail dealer" means any person that sells or 2081
distributes motor fuel at a retail service station located in this 2082
state. 2083

(P) "Retail service station" means a location from which 2084
motor fuel is sold to the general public and is dispensed or 2085
pumped directly into motor vehicle fuel tanks for consumption. 2086

(Q) "Transit bus" means a motor vehicle that is operated for 2087
public transit or paratransit service on a regular and continuing 2088
basis within the state by or for a county, a municipal 2089
corporation, a county transit board pursuant to sections 306.01 to 2090
306.13 of the Revised Code, a regional transit authority pursuant 2091
to sections 306.30 to 306.54 of the Revised Code, or a regional 2092
transit commission pursuant to sections 306.80 to 306.90 of the 2093
Revised Code. Public transit or paratransit service may include 2094
fixed route, demand-responsive, or subscription bus service 2095
transportation, but does not include shared-ride taxi service, 2096
carpools, vanpools, jitney service, school bus transportation, or 2097
charter or sightseeing services. 2098

(R) "Export" means motor fuel delivered outside this state. 2099
Motor fuel delivered outside this state by or for the seller 2100
constitutes an export by the seller. Motor fuel delivered outside 2101
this state by or for the purchaser constitutes an export by the 2102
purchaser. 2103

(S) "Import" means motor fuel delivered into this state from 2104
outside this state. Motor fuel delivered into this state from 2105

outside this state by or for the seller constitutes an import by 2106
the seller. Motor fuel delivered into this state from outside this 2107
state by or for the purchaser constitutes an import by the 2108
purchaser. 2109

(T) "Terminal" means a motor fuel storage or distribution 2110
facility that is supplied by pipeline or marine vessel. 2111

(U) "Consumer" means a buyer of motor fuel for purposes other 2112
than resale in any form. 2113

(V) "Bulk lot vehicle" means railroad tank cars, transport 2114
tank trucks and tank wagons with a capacity of at least 1,400 2115
gallons. 2116

(W) "Licensed permissive motor fuel dealer" means any person 2117
possessing an unrevoked permissive motor fuel dealer's license 2118
issued by the tax commissioner under section 5735.021 of the 2119
Revised Code. 2120

(X) "Licensed terminal operator" means any person possessing 2121
an unrevoked terminal operator's license issued by the tax 2122
commissioner under section 5735.026 of the Revised Code. 2123

(Y) "Licensed exporter" means any person possessing an 2124
unrevoked exporter's license issued by the tax commissioner under 2125
section 5735.026 of the Revised Code. 2126

(Z) "Dyed diesel fuel" means any diesel fuel dyed pursuant to 2127
regulations issued by the internal revenue service or a rule 2128
promulgated by the tax commissioner. 2129

(AA) "Gross gallons" means U.S. gallons without temperature 2130
or barometric adjustments. 2131

(BB) "Net gallons" means U.S. gallons with a temperature 2132
adjustment to sixty degrees fahrenheit. 2133

(CC) "Transporter" means either of the following: 2134

(1) A railroad company, street, suburban, or interurban 2135

railroad company, a pipeline company, or water transportation 2136
company that transports motor fuel, either in interstate or 2137
intrastate commerce, to points in this state; 2138

(2) A person that transports motor fuel by any manner to a 2139
point in this state. 2140

(DD) "Exporter" means either of the following: 2141

(1) A person that is licensed to collect and remit motor fuel 2142
taxes in a specified state of destination; 2143

(2) A person that is statutorily prohibited from obtaining a 2144
license to collect and remit motor fuel taxes in a specified state 2145
of destination, and is licensed to sell or distribute tax-paid 2146
motor fuel in the specified state of destination. 2147

(EE) "Report" means a report or return required to be filed 2148
under this chapter and may be used interchangeably with, and for 2149
all purposes has the same meaning as, "return." 2150

Sec. 5735.026. (A) The tax commissioner, for the purposes of 2151
administering this chapter, shall issue ~~two classes of export~~ 2152
~~licenses: "exporter type A" licenses and "exporter type B"~~ 2153
~~licenses. To qualify for an exporter type A license, a person must~~ 2154
~~demonstrate to the tax commissioner's satisfaction that the person~~ 2155
~~is licensed to collect and remit motor fuel taxes in the specified~~ 2156
~~state of destination. To qualify for an exporter type B license,~~ 2157
to a person must demonstrate that receives motor fuel in this 2158
state and exports that fuel out of this state and that 2159
demonstrates to the tax commissioner's satisfaction that the 2160
person is ~~statutorily prohibited from obtaining a license to~~ 2161
~~collect and remit motor fuel taxes in the specified state of~~ 2162
~~destination, and that the person is licensed to sell or distribute~~ 2163
~~tax paid motor fuel in the specified state of destination an~~ 2164
exporter. 2165

(B) To obtain an ~~exporter's~~ exporter license ~~of either class~~, 2166
a person shall file, under oath, an application with the 2167
commissioner in such form as the commissioner prescribes. The 2168
application shall set forth the following information: 2169

(1) The name under which the exporter will transact business 2170
within the state; 2171

(2) The location, including street number address, of the 2172
exporter's principal office or place of business; 2173

(3) The name and address of the owner, or the names and 2174
addresses of the partners if such exporter is a partnership, or 2175
the names and addresses of the principal officers if the exporter 2176
is a corporation or an association; 2177

(4) A certified copy of the certificate or license issued by 2178
the Secretary of State showing that the corporation is authorized 2179
to transact business in this state if the exporter is a 2180
corporation organized under the laws of another state, territory, 2181
or country; 2182

(5) For an exporter ~~type A license~~ described in division 2183
(DD)(1) of section 5735.01 of the Revised Code, a copy of the 2184
applicant's license or certificate to collect and remit motor fuel 2185
taxes or sell or distribute motor fuel in the specified 2186
destination state or states for which the license or certificate 2187
is to be issued; 2188

(6) Any other information the commissioner may require. 2189

(C)(1) After a hearing as provided in division (C)(2) of this 2190
section, the ~~tax~~ commissioner may refuse to issue a license to 2191
transact business as an exporter of motor fuel in the following 2192
circumstances: 2193

(a) The applicant has previously had a license issued under 2194
this chapter canceled for cause by the ~~tax~~ commissioner; 2195

(b) The tax commissioner believes that an application is not filed in good faith;	2196 2197
(c) The applicant has previously violated any provision of this chapter;	2198 2199
(d) The application is filed as a subterfuge by the applicant for the real person in interest who has previously had a license issued under this chapter canceled for cause by the tax commissioner or who has violated any provision of this chapter.	2200 2201 2202 2203
(2) The tax commissioner shall conduct a hearing before refusing to issue a license to transact business as an exporter in any of the circumstances described in division (C)(1) of this section. The applicant shall be given five days' notice, in writing, of the hearing. The applicant may appear in person or be represented by counsel, and may present testimony at the hearing.	2204 2205 2206 2207 2208 2209
(D) When an application in proper form has been accepted for filing, the commissioner shall issue to such exporter a license to transact business as an exporter of motor fuel in this state, subject to cancellation of such license as provided by law.	2210 2211 2212 2213
(E) No person shall make a false or fraudulent statement on the application required by this section.	2214 2215
Sec. 5735.05. (A) To provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties of the state properly to plan, maintain, and repair their roads and to pay principal, interest, and charges on bonds and	2216 2217 2218 2219 2220 2221 2222 2223 2224 2225

other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets, and to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the Ohio turnpike and infrastructure commission to construct, reconstruct, maintain, and repair turnpike projects; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under sections 4907.47 and 4907.471 of the Revised Code and to supplement revenue already available for such purposes; to pay the costs incurred by the public utilities commission in administering sections 4907.47 to 4907.476 of the Revised Code; to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing them; to pay the interest, principal, and charges on highway capital improvements bonds and other obligations issued pursuant to Section 2m of Article VIII, Ohio Constitution, and section 151.06 of the Revised Code; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to pay the interest, principal, and charges on major new state infrastructure bonds and other obligations of the state issued pursuant to Section 13 of Article VIII, Ohio Constitution, and section 5531.10 of the Revised Code; to provide revenue for the purposes of sections 1547.71 to 1547.78 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the

motor fuel laws, a motor fuel excise tax is hereby imposed on all 2259
motor fuel dealers upon receipt of motor fuel within this state at 2260
the rate of two cents plus the cents per gallon rate on each 2261
gallon so received, to be computed in the manner set forth in 2262
section 5735.06 of the Revised Code; provided that no tax is 2263
hereby imposed upon the following transactions: 2264

(1) The sale of dyed diesel fuel by a licensed motor fuel 2265
dealer from a location other than a retail service station 2266
provided the licensed motor fuel dealer places on the face of the 2267
delivery document or invoice, or both if both are used, a 2268
conspicuous notice stating that the fuel is dyed and is not for 2269
taxable use, and that taxable use of that fuel is subject to a 2270
penalty. The tax commissioner, by rule, may provide that any 2271
notice conforming to rules or regulations issued by the United 2272
States department of the treasury or the Internal Revenue Service 2273
is sufficient notice for the purposes of division (A)(1) of this 2274
section. 2275

(2) The sale of K-1 kerosene to a retail service station, 2276
except when placed directly in the fuel supply tank of a motor 2277
vehicle. Such sale shall be rebuttably presumed to not be 2278
distributed or sold for use or used to generate power for the 2279
operation of motor vehicles upon the public highways or upon the 2280
waters within the boundaries of this state. 2281

(3) The sale of motor fuel by a licensed motor fuel dealer to 2282
another licensed motor fuel dealer; 2283

(4) The exportation of motor fuel by a licensed motor fuel 2284
dealer from this state to any other state or foreign country; 2285

(5) The sale of motor fuel to the United States government or 2286
any of its agencies, except such tax as is permitted by it, where 2287
such sale is evidenced by an exemption certificate, in a form 2288
approved by the tax commissioner, executed by the United States 2289

government or an agency thereof certifying that the motor fuel 2290
therein identified has been purchased for the exclusive use of the 2291
United States government or its agency; 2292

(6) The sale of motor fuel that is in the process of 2293
transportation in foreign or interstate commerce, except insofar 2294
as it may be taxable under the Constitution and statutes of the 2295
United States, and except as may be agreed upon in writing by the 2296
dealer and the commissioner; 2297

(7) The sale of motor fuel when sold exclusively for use in 2298
the operation of aircraft, where such sale is evidenced by an 2299
exemption certificate prescribed by the commissioner and executed 2300
by the purchaser certifying that the motor fuel purchased has been 2301
purchased for exclusive use in the operation of aircraft; 2302

(8) The sale for exportation of motor fuel by a licensed 2303
motor fuel dealer to a licensed exporter ~~type A~~ described in 2304
division (DD)(1) of section 5735.01 of the Revised Code; 2305

(9) The sale for exportation of motor fuel by a licensed 2306
motor fuel dealer to a licensed exporter ~~type B~~ described in 2307
division (DD)(2) of section 5735.01 of the Revised Code, provided 2308
that the destination state motor fuel tax has been paid or will be 2309
accrued and paid by the licensed motor fuel dealer. 2310

(10) The sale to a consumer of diesel fuel, by a motor fuel 2311
dealer for delivery from a bulk lot vehicle, for consumption in 2312
operating a vessel when the use of such fuel in a vessel would 2313
otherwise qualify for a refund under section 5735.14 of the 2314
Revised Code. 2315

Division (A)(1) of this section does not apply to the sale or 2316
distribution of dyed diesel fuel used to operate a motor vehicle 2317
on the public highways or upon water within the boundaries of this 2318
state by persons permitted under regulations of the United States 2319
department of the treasury or of the Internal Revenue Service to 2320

so use dyed diesel fuel. 2321

(B) The two cent motor fuel tax levied by this section is 2322
also for the purpose of paying the expenses of administering and 2323
enforcing the state law relating to the registration and operation 2324
of motor vehicles. 2325

(C) After the tax provided for by this section on the receipt 2326
of any motor fuel has been paid by the motor fuel dealer, the 2327
motor fuel may thereafter be used, sold, or resold by any person 2328
having lawful title to it, without incurring liability for such 2329
tax. 2330

If a licensed motor fuel dealer sells motor fuel received by 2331
the licensed motor fuel dealer to another licensed motor fuel 2332
dealer, the seller may deduct on the report required by section 2333
5735.06 of the Revised Code the number of gallons so sold for the 2334
month within which the motor fuel was sold or delivered. In this 2335
event the number of gallons is deemed to have been received by the 2336
purchaser, who shall report and pay the tax imposed thereon. 2337

Sec. 5735.062. (A) ~~If the total amount of tax required to be 2338
paid under section 5735.06 of the Revised Code for any calendar 2339
year indicated in the following schedule exceeds the amounts 2340
prescribed for that year in the schedule commissioner so requires, 2341
the dealer shall remit each monthly tax payment ~~in the second 2342
ensuing and each succeeding year by electronic funds transfer 2343
electronically as prescribed by division (B) of this section. 2344~~~~

~~Year 1992 ————— 1993 and thereafter Total tax payment 2345
\$1,200,000 \$600,000~~

~~If a dealer's total tax payment for each of two consecutive 2346
years beginning with 1993 is six hundred thousand dollars or less, 2347
the dealer is relieved of the requirement to remit taxes by 2348
electronic funds transfer for the year that next follows the 2349~~

~~second of the consecutive years in which the total tax payment is~~ 2350
~~six hundred thousand dollars or less, and is relieved of that~~ 2351
~~requirement for each succeeding year unless the total tax payment~~ 2352
~~in a subsequent year exceeds six hundred thousand dollars.~~ 2353

The ~~tax~~ commissioner shall notify each dealer required to 2354
remit taxes ~~by electronic funds transfer~~ electronically of the 2355
dealer's obligation to do so, ~~shall maintain an updated list of~~ 2356
~~those dealers, and shall timely certify the list and any additions~~ 2357
~~thereto or deletions therefrom to the treasurer of state.~~ Failure 2358
by the ~~tax~~ commissioner to notify a dealer subject to this section 2359
to remit taxes ~~by electronic funds transfer~~ electronically does 2360
not relieve the dealer of its obligation to remit taxes ~~by~~ 2361
~~electronic funds transfer~~ electronically. 2362

(B) Dealers required by division (A) of this section to remit 2363
payments ~~by electronic funds transfer~~ electronically shall remit 2364
such payments to the treasurer of state in the manner prescribed 2365
by rules adopted by the treasurer under section 113.061 of the 2366
Revised Code ~~and or through the department of taxation's web site.~~ 2367
Required payments shall be remitted on or before the dates 2368
specified under section 5735.06 of the Revised Code. The payment 2369
of taxes ~~by electronic funds transfer~~ electronically does not 2370
affect a dealer's obligation to file the monthly ~~report~~ return as 2371
required under section 5735.06 of the Revised Code. 2372

A dealer required by this section to remit taxes ~~by~~ 2373
~~electronic funds transfer~~ electronically may apply to the 2374
~~treasurer of state in the manner prescribed by the treasurer~~ 2375
~~commissioner~~ to be excused from that requirement. The ~~treasurer of~~ 2376
~~state commissioner~~ may excuse the dealer from the electronic 2377
remittance ~~by electronic funds transfer~~ requirement for good cause 2378
shown for the period of time requested by the dealer or for a 2379
portion of that period. ~~The treasurer shall notify the tax~~ 2380
~~commissioner and the dealer of the treasurer's decision as soon as~~ 2381

~~is practicable.~~ 2382

(C) If a dealer required by this section to remit taxes by 2383
~~electronic funds transfer remits those taxes by some means other~~ 2384
~~than by electronic funds transfer as prescribed by this section~~ 2385
~~and the rules adopted by the treasurer of state, and the treasurer~~ 2386
~~determines that such failure was not due to reasonable cause or~~ 2387
~~was due to willful neglect, the treasurer shall notify the tax~~ 2388
~~commissioner of the failure to remit by electronic funds transfer~~ 2389
~~and shall provide the commissioner with any information used in~~ 2390
~~making that determination. The tax electronically fails to do so,~~ 2391
~~the commissioner may collect an additional charge by assessment in~~ 2392
~~the manner prescribed by section 5735.12 of the Revised Code. The~~ 2393
~~additional charge shall equal five per cent of the amount of the~~ 2394
~~taxes required to be paid by electronic funds transfer, but shall~~ 2395
~~not exceed five thousand dollars. Any additional charge assessed~~ 2396
~~under this section is in addition to any other penalty or charge~~ 2397
~~imposed under this chapter, and shall be considered as revenue~~ 2398
~~arising from taxes imposed under this chapter. The tax~~ 2399
~~commissioner may remit all or a portion of such a charge and may~~ 2400
~~adopt rules governing such remission.~~ 2401

~~No additional charge shall be assessed under this division~~ 2402
~~against a dealer that has been notified of its obligation to remit~~ 2403
~~taxes under this section and that remits its first two tax~~ 2404
~~payments after such notification by some means other than~~ 2405
~~electronic funds transfer. The additional charge may be assessed~~ 2406
~~upon the remittance of any subsequent tax payment that the dealer~~ 2407
~~remits by some means other than electronic funds transfer impose a~~ 2408
~~penalty on the dealer not to exceed one of the following:~~ 2409

(1) For the first return period the dealer fails to remit 2410
taxes electronically, the greater of twenty-five dollars or five 2411
per cent of the amount of the payment required to be remitted; 2412

(2) For the second or any subsequent return period the dealer 2413

fails to remit taxes electronically, the greater of fifty dollars 2414
or ten per cent of the amount of the payment required to be 2415
remitted. 2416

The penalty imposed under division (C) of this section is in 2417
addition to any other penalty imposed under this chapter and shall 2418
be considered as revenue arising from the taxes imposed under this 2419
chapter. A penalty may be collected by assessment in the manner 2420
prescribed by section 5735.12 of the Revised Code. The 2421
commissioner may abate all or a portion of a penalty. 2422

(D) The commissioner may adopt rules necessary to administer 2423
this section. 2424

Sec. 5735.07. Each month the tax commissioner shall make a 2425
list of all motor fuel dealers that have filed a report pursuant 2426
to section 5735.06 of the Revised Code. The list shall contain the 2427
names and addresses of all dealers ~~and~~, the number of gallons of 2428
motor fuel upon which those dealers were required to pay the tax 2429
as reported on the return or as determined by investigation of the 2430
commissioner, and each dealer's federal identification number or 2431
other motor fuel tax account number. The list shall be open to 2432
public inspection in the office of the commissioner or posted on 2433
the department of taxation's web site. 2434

Sec. 5735.09. (A) Every ~~railroad company, every street,~~ 2435
~~suburban, or interurban railroad company, every pipe line company,~~ 2436
~~and every water transportation company, which transports motor~~ 2437
~~fuel, either in interstate or in intrastate commerce, to points~~ 2438
~~within this state, and every person who transports motor fuel by~~ 2439
~~any manner to a point in this state, transporter shall report all~~ 2440
~~deliveries of motor fuel made to points within this state to~~ 2441
register with the tax commissioner on ~~forms~~ a form prescribed by 2442
the ~~tax~~ commissioner. 2443

Each transporter shall report all deliveries of motor fuel 2444
made to points in this state to the commissioner on forms 2445
prescribed by the commissioner. Such reports shall cover monthly 2446
periods, shall be submitted within thirty days after the close of 2447
the month covered by the report, shall show the name and address 2448
of the person to whom the deliveries of motor fuel were actually 2449
made, the name and address of the person that assumes ownership of 2450
the motor fuel, the point of origin, the point of delivery, the 2451
date of delivery, and the number and initials of each car if 2452
shipped by rail, the quantity of each shipment and delivery in 2453
gallons, the date delivered, the name of the person to whom 2454
delivered, the point of shipment, the point of delivery, the name 2455
of the boat or barge if delivered by water, and if delivered by 2456
other means, the manner in which such delivery is made. 2457

(B) No person required by this section to file a report shall 2458
file a false or fraudulent report or supporting schedule. 2459

Sec. 5735.12. (A) Any ~~motor fuel dealer~~ person required by 2460
this chapter to file reports ~~and~~ or pay the tax levied by this 2461
chapter who fails to ~~file the report~~ do so within the time 2462
prescribed, may be liable for an additional charge not exceeding 2463
the greater of ten per cent of the ~~motor fuel dealer's~~ person's 2464
tax liability for that month or fifty dollars. The tax 2465
commissioner may remit all or a portion of the additional charge 2466
and may adopt rules relating to the remission of all or a portion 2467
of the charge. 2468

If any person required by this chapter to file reports ~~and~~ or 2469
pay the taxes, interest, or additional charge levied by this 2470
chapter fails to file the report, files an incomplete or incorrect 2471
report, or fails to remit the full amount of the tax, interest, or 2472
additional charge due for the period covered by the report, the 2473
commissioner may make an assessment against the person based upon 2474

any information in the commissioner's possession. 2475

No assessment shall be made against any motor fuel dealer for 2476
taxes imposed by this chapter more than four years after the date 2477
on which the report on which the assessment was based was due or 2478
was filed, whichever is later. This section does not bar an 2479
assessment against any motor fuel dealer who fails to file a 2480
report required by section 5735.06 of the Revised Code, or who 2481
files a fraudulent motor fuel tax report. 2482

A penalty of up to fifteen per cent may be added to the 2483
amount of every assessment made under this section. The 2484
commissioner may adopt rules providing for the imposition and 2485
remission of penalties added to assessments made under this 2486
section. 2487

The commissioner shall give the party assessed written notice 2488
of the assessment in the manner provided in section 5703.37 of the 2489
Revised Code. With the notice, the commissioner shall provide 2490
instructions on how to petition for reassessment and request a 2491
hearing on the petition. 2492

(B) Unless the party assessed files with the tax commissioner 2493
within sixty days after service of the notice of assessment, 2494
either personally or by certified mail, a written petition for 2495
reassessment in writing, signed by the party assessed or that 2496
party's authorized agent having knowledge of the facts, the 2497
assessment becomes final and the amount of the assessment is due 2498
and payable from the party assessed to the treasurer of state. The 2499
petition shall indicate the objections of the party assessed, but 2500
additional objections may be raised in writing if received by the 2501
commissioner prior to the date shown on the final determination. 2502
If the petition has been properly filed, the commissioner shall 2503
proceed under section 5703.60 of the Revised Code. 2504

(C) After an assessment becomes final, if any portion of the 2505

assessment remains unpaid, including accrued interest, a certified 2506
copy of the tax commissioner's entry making the assessment final 2507
may be filed in the office of the clerk of the court of common 2508
pleas in the county in which the party assessed resides or in 2509
which the business of the party assessed is conducted. If the 2510
party assessed maintains no place of business in this state and is 2511
not a resident of this state, the certified copy of the entry may 2512
be filed in the office of the clerk of the court of common pleas 2513
of Franklin county. 2514

Immediately upon the filing of the entry, the clerk shall 2515
enter a judgment for the state against the party assessed in the 2516
amount shown on the entry. The judgment may be filed by the clerk 2517
in a loose-leaf book entitled "special judgments for state motor 2518
fuel tax," and shall have the same effect as other judgments. 2519
Execution shall issue upon the judgment upon the request of the 2520
tax commissioner, and all laws applicable to sales on execution 2521
shall apply to sales made under the judgment. 2522

If the assessment is not paid in its entirety within sixty 2523
days after the day the assessment was issued, the portion of the 2524
assessment consisting of tax due shall bear interest at the rate 2525
per annum prescribed by section 5703.47 of the Revised Code from 2526
the day the commissioner issues the assessment until it is paid or 2527
until it is certified to the attorney general for collection under 2528
section 131.02 of the Revised Code, whichever comes first. If the 2529
unpaid portion of the assessment is certified to the attorney 2530
general for collection, the entire unpaid portion of the 2531
assessment shall bear interest at the rate per annum prescribed by 2532
section 5703.47 of the Revised Code from the date of certification 2533
until the date it is paid in its entirety. Interest shall be paid 2534
in the same manner as the tax and may be collected by the issuance 2535
of an assessment under this section. 2536

(D) All money collected by the tax commissioner under this 2537

section shall be paid to the treasurer of state, and when paid 2538
shall be considered as revenue arising from the tax imposed by 2539
this chapter. 2540

(E) If the tax commissioner determines that the commissioner 2541
has erroneously refunded motor fuel tax to any person, the 2542
commissioner may make an assessment against the person for 2543
recovery of the erroneously refunded tax. 2544

Sec. 5735.141. Any retail dealer of motor fuel shall receive 2545
a refund for Ohio motor fuel taxes paid on fuel lost by a retail 2546
dealer through shrinkage and evaporation. This refund shall be one 2547
per cent of the Ohio motor fuel taxes paid on fuel purchased 2548
during any semiannual period ending the thirtieth day of June or 2549
the thirty-first day of December. 2550

In order to receive a refund, the retail dealer shall file 2551
with the tax commissioner, within one hundred twenty days after 2552
the thirtieth day of June and the thirty-first day of December of 2553
each year, an application for a refund stating the quantity of 2554
motor fuel that was purchased for resale by the applicant during 2555
the preceding semiannual period ending the thirtieth day of June 2556
or the thirty-first day of December and upon which the motor fuel 2557
tax has been paid. No person shall file a claim for the tax on 2558
fewer than one hundred gallons of motor fuel. The form and 2559
contents of the application shall be prescribed by the 2560
commissioner, and the application shall be signed in accordance 2561
with section 5703.25 of the Revised Code. On the filing of the 2562
application, the commissioner shall determine the amount of refund 2563
to which the applicant is entitled. If the amount is not less than 2564
that claimed, the commissioner shall certify the amount to the 2565
director of budget and management and treasurer of state for 2566
payment from the tax refund fund created by section 5703.052 of 2567
the Revised Code. If the amount is less than that claimed, the 2568

commissioner shall proceed in accordance with section 5703.70 of 2569
the Revised Code. 2570

No refund shall be authorized or ordered under this section 2571
for any single claim for the tax on fewer than one hundred gallons 2572
of motor fuel. 2573

The refund authorized by this section or section 5703.70 of 2574
the Revised Code shall be reduced by the cents per gallon amount 2575
of any qualified fuel credit received under section 5735.145 of 2576
the Revised Code, as determined by the commissioner, for each 2577
gallon of qualified fuel included in the total gallonage of motor 2578
fuel upon which the refund is computed. 2579

The right to receive any refund under this section or section 2580
5703.70 of the Revised Code is not assignable. The payment of the 2581
refund shall not be made to any person other than the retail 2582
dealer originally entitled thereto, except that the refund may be 2583
paid to the executor, administrator, receiver, trustee in 2584
bankruptcy, or assignee in insolvency proceedings of such 2585
retailer. 2586

A motor fuel dealer shall be deemed to be a retail dealer 2587
when acting in a retail capacity. 2588

For the purpose of administering this section, the 2589
commissioner may provide a retail dealer with information related 2590
to a wholesale dealer, including the wholesale dealer's federal 2591
identification number or other motor fuel tax account number. 2592

Sec. 5735.23. (A) Out of receipts from the tax levied by 2593
section 5735.05 of the Revised Code, the treasurer of state shall 2594
place to the credit of the tax refund fund established by section 2595
5703.052 of the Revised Code amounts equal to the refunds 2596
certified by the tax commissioner pursuant to sections 5735.13, 2597
5735.14, 5735.141, and 5735.142, ~~and 5735.16~~ of the Revised Code. 2598

The treasurer of state shall then transfer the amount required by 2599
section 5735.051 of the Revised Code to the waterways safety fund, 2600
the amount required by section 4907.472 of the Revised Code to the 2601
grade crossing protection fund, and the amount required by section 2602
5735.053 of the Revised Code to the motor fuel tax administration 2603
fund. 2604

(B) Except as provided in division (D) of this section, each 2605
month the balance of the receipts from the tax levied by section 2606
5735.05 of the Revised Code shall be credited, after receipt by 2607
the treasurer of state of certification from the commissioners of 2608
the sinking fund, as required by section 5528.35 of the Revised 2609
Code, that there are sufficient moneys to the credit of the 2610
highway obligations bond retirement fund to meet in full all 2611
payments of interest, principal, and charges for the retirement of 2612
highway obligations issued pursuant to Section 2i of Article VIII, 2613
Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised 2614
Code due and payable during the current calendar year, as follows: 2615

(1) To the state and local government highway distribution 2616
fund, which is hereby created in the state treasury, an amount 2617
that is the same percentage of the balance to be credited as that 2618
portion of the tax per gallon determined under division (B)(2)(a) 2619
of section 5735.06 of the Revised Code is of the total tax per 2620
gallon determined under divisions (B)(2)(a) and (b) of that 2621
section. 2622

(2) After making the distribution to the state and local 2623
government highway distribution fund, the remainder shall be 2624
credited as follows: 2625

(a) Thirty per cent to the gasoline excise tax fund for 2626
distribution pursuant to division (A)(1) of section 5735.27 of the 2627
Revised Code; 2628

(b) Twenty-five per cent to the gasoline excise tax fund for 2629

distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code; 2630
2631

(c) Except as provided in division (D) of this section, 2632
forty-five per cent to the highway operating fund for distribution 2633
pursuant to division (B)(1) of section 5735.27 of the Revised 2634
Code. 2635

(C) From the balance in the state and local government 2636
highway distribution fund on the last day of each month there 2637
shall be paid the following amounts: 2638

(1) To the local transportation improvement program fund 2639
created by section 164.14 of the Revised Code, an amount equal to 2640
a fraction of the balance in the state and local government 2641
highway distribution fund, the numerator of which fraction is one 2642
and the denominator of which fraction is that portion of the tax 2643
per gallon determined under division (B)(2)(a) of section 5735.06 2644
of the Revised Code; 2645

(2) An amount equal to five cents multiplied by the number of 2646
gallons of motor fuel sold at stations operated by the Ohio 2647
turnpike and infrastructure commission, such gallonage to be 2648
certified by the commission to the treasurer of state not later 2649
than the last day of the month following. The funds paid to the 2650
commission pursuant to this section shall be expended for the 2651
construction, reconstruction, maintenance, and repair of turnpike 2652
projects, except that the funds may not be expended for the 2653
construction of new interchanges. The funds also may be expended 2654
for the construction, reconstruction, maintenance, and repair of 2655
those portions of connecting public roads that serve existing 2656
interchanges and are determined by the commission and the director 2657
of transportation to be necessary for the safe merging of traffic 2658
between the turnpike and those public roads. 2659

The remainder of the balance shall be distributed as follows 2660

on the fifteenth day of the following month: 2661

(a) Ten and seven-tenths per cent shall be paid to municipal 2662
corporations for distribution pursuant to division (A)(1) of 2663
section 5735.27 of the Revised Code and may be used for any 2664
purpose for which payments received under that division may be 2665
used. Through July 15, 2005, the sum of two hundred forty-eight 2666
thousand six hundred twenty-five dollars shall be monthly 2667
subtracted from the amount so computed and credited to the highway 2668
operating fund. Beginning August 15, 2005, the sum of seven 2669
hundred forty-five thousand eight hundred seventy-five dollars 2670
shall be monthly subtracted from the amount so computed and 2671
credited to the highway operating fund. 2672

(b) Five per cent shall be paid to townships for distribution 2673
pursuant to division (A)(5) of section 5735.27 of the Revised Code 2674
and may be used for any purpose for which payments received under 2675
that division may be used. Through July 15, 2005, the sum of 2676
eighty-seven thousand seven hundred fifty dollars shall be monthly 2677
subtracted from the amount so computed and credited to the highway 2678
operating fund. Beginning August 15, 2005, the sum of two hundred 2679
sixty-three thousand two hundred fifty dollars shall be monthly 2680
subtracted from the amount so computed and credited to the highway 2681
operating fund. 2682

(c) Nine and three-tenths per cent shall be paid to counties 2683
for distribution pursuant to division (A)(3) of section 5735.27 of 2684
the Revised Code and may be used for any purpose for which 2685
payments received under that division may be used. Through July 2686
15, 2005, the sum of two hundred forty-eight thousand six hundred 2687
twenty-five dollars shall be monthly subtracted from the amount so 2688
computed and credited to the highway operating fund. Beginning 2689
August 15, 2005, the sum of seven hundred forty-five thousand 2690
eight hundred seventy-five dollars shall be monthly subtracted 2691
from the amount so computed and credited to the highway operating 2692

fund. 2693

(d) Except as provided in division (D) of this section, the 2694
balance shall be transferred to the highway operating fund and 2695
used for the purposes set forth in division (B)(1) of section 2696
5735.27 of the Revised Code. 2697

(D) Monthly from September to February of each fiscal year, 2698
an amount equal to one-sixth of the amount certified in July of 2699
that year by the treasurer of state pursuant to division (Q) of 2700
section 151.01 of the Revised Code shall, from amounts required to 2701
be credited or transferred to the highway operating fund pursuant 2702
to division (B)(2)(c) or (C)(2)(d) of this section, be credited or 2703
transferred to the highway capital improvement bond service fund 2704
created in section 151.06 of the Revised Code. If, in any of those 2705
months, the amount available to be credited or transferred to the 2706
bond service fund is less than one-sixth of the amount so 2707
certified, the shortfall shall be added to the amount due the next 2708
succeeding month. Any amount still due at the end of the six-month 2709
period shall be credited or transferred as the money becomes 2710
available, until such time as the office of budget and management 2711
receives certification from the treasurer of state or the 2712
treasurer of state's designee that sufficient money has been 2713
credited or transferred to the bond service fund to meet in full 2714
all payments of debt service and financing costs due during the 2715
fiscal year from that fund. 2716

Sec. 5736.01. As used in this ~~division~~ chapter: 2717

(A) "Calendar quarter" and "person" have the same meanings as 2718
in section 5751.01 of the Revised Code. 2719

(B) "Distribution system" means a bulk transfer or terminal 2720
system for the distribution of motor fuel consisting of 2721
refineries, pipelines, marine vessels, and terminals. For the 2722
purposes of this section, motor fuel that is in a refinery, 2723

pipeline, terminal, or marine vessel ~~or that is transporting motor~~ 2724
~~fuel en route~~ to a refinery, ~~pipeline,~~ or terminal via any method 2725
of transportation is in a "distribution system." Motor fuel is 2726
"outside of a distribution system" if the fuel is in a fuel 2727
storage facility, including, but not limited to, a bulk plant that 2728
is not part of a refinery or terminal, is in the fuel supply tank 2729
of an engine or motor vehicle, or is being transported by a marine 2730
vessel ~~transporting motor fuel to a fuel storage facility that is~~ 2731
~~not in a distribution system, or a~~ tank car, rail car, trailer, 2732
truck, or other suitable equipment ~~suitable for ground~~ 2733
~~transportation to a fuel storage facility that is not in a~~ 2734
distribution system. 2735

(C) "Dyed diesel fuel," "import," "motor fuel," "public 2736
highways," "gasoline," "diesel fuel," "licensed motor fuel 2737
dealer," "licensed permissive motor fuel dealer," and "terminal" 2738
have the same meanings as in section 5735.01 of the Revised Code. 2739
"Gallons" means gross gallons as defined in section 5735.01 of the 2740
Revised Code. 2741

(D) "First sale of motor fuel within this state" means the 2742
initial sale of motor fuel to a point outside a distribution 2743
system, wherever the sale occurs, without regard to where title 2744
transfers or other conditions of sale, when sold for delivery to a 2745
location in this state as that location is shown on the bill of 2746
lading or other similar document issued by the terminal, refinery, 2747
or supplier. "First sale of motor fuel within this state" excludes 2748
the following: 2749

(1) Motor fuel exchanges; 2750

(2) The sale of motor fuel on which the petroleum activity 2751
tax imposed by this chapter was paid in a prior quarterly tax 2752
payment period and on which the supplier may claim a bad debt. As 2753
used in this division, "bad debt" has the same meaning as in 2754
section 5751.01 of the Revised Code. 2755

(E) "~~Gross~~ Calculated gross receipts" means the sum of the 2756
following: 2757

(1) With respect to sales of gasoline, the product obtained 2758
by multiplying (a) the total amount received by a person, without 2759
deduction for the cost of goods sold or other expenses incurred, 2760
from the first sale number of gallons of motor fuel gasoline first 2761
sold within this state. For the purposes of division (E) of this 2762
section, "amount received" includes amounts accrued under the 2763
accrual method of accounting. "Gross receipts" shall not include 2764
any of the following amounts: 2765

(1) Receipts derived from the sale of motor fuel when sold 2766
for export to another state; 2767

(2) An amount equal to the federal and state excise taxes 2768
paid by the supplier on the motor fuel; 2769

(3) Bad debts from receipts on the basis of which the tax 2770
imposed by this chapter was paid in a prior quarterly tax payment 2771
period. For the purpose of this division, "bad debts" has the same 2772
meaning as in section 5751.01 of the Revised Code. 2773

(4) Any amount realized from the sale of an account 2774
receivable to the extent the receipts from the underlying 2775
transaction giving rise to the account receivable were included in 2776
the gross receipts of the taxpayer by a supplier during the tax 2777
period by (b) the average wholesale price of a gallon of unleaded 2778
regular gasoline for the calendar quarter that begins six months 2779
before the upcoming calendar quarter, as published by the tax 2780
commissioner under division (C) of section 5736.02 of the Revised 2781
Code; 2782

(2) With respect to sales of motor fuel that is not gasoline, 2783
the product obtained by multiplying (a) the total number of 2784
gallons of motor fuel first sold within this state by a supplier 2785
during the tax period by (b) the average wholesale price of a 2786

gallon of diesel fuel for the calendar quarter that begins six 2787
months before the upcoming calendar quarter, as published by the 2788
tax commissioner under division (C) of section 5736.02 of the 2789
Revised Code. 2790

(F) "Motor fuel used to propel vehicles on public highways 2791
and waterways" includes motor fuel used for the operation of 2792
licensed motor vehicles employed in the maintenance, construction, 2793
or repair of public highways. "Motor fuel used to propel vehicles 2794
on public highways and waterways" does not include dyed diesel 2795
fuel. 2796

(G) "Rack" means a mechanism capable of delivering motor fuel 2797
from a refinery, terminal, or marine vessel into a railroad tank 2798
car, transport truck, tank wagon, fuel supply tank, marine vessel, 2799
or other means of transport outside of a distribution system. 2800

(H) "Refinery" means a facility used to produce motor fuel 2801
and from which motor fuel may be removed by pipeline, by vessel, 2802
or at a rack. 2803

(I) "Supplier" means ~~either~~ any of the following: 2804

(1) A person that sells, exchanges, transfers, or otherwise 2805
distributes motor fuel from a terminal or refinery rack to a point 2806
outside of a distribution system, if the person distributes such 2807
motor fuel at a location in this state; 2808

(2) A person that imports or causes the importation of motor 2809
fuel for sale, exchange, transfer, or other distribution by the 2810
person to a point outside of a distribution system in this state; 2811

(3) A person that knowingly purchases motor fuel from an 2812
unlicensed supplier. 2813

(J) "Tax period" means the calendar quarter on the basis of 2814
which a taxpayer is required to pay the tax imposed under this 2815
chapter. 2816

(K) "Taxpayer" means a person subject to the tax imposed by this chapter. 2817
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(L) "Waterways" means all streams, lakes, ponds, marshes, water courses, and all other bodies of surface water, natural or artificial, which are situated wholly or partially within this state or within its jurisdiction, except private impounded bodies of water. 2819
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(M) "Motor fuel exchange" means an exchange of motor fuel between two or more suppliers, licensed motor fuel dealers, or licensed permissive motor fuel dealers if delivery occurs at a refinery, terminal, pipeline, or marine vessel and if the parties agree that neither party requires monetary compensation from the other party for the exchanged fuel other than compensation for differences in product location, grade, or handling. 2824
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Sec. 5736.02. (A) Beginning with the tax period that commences July 1, 2014, and continuing for every tax period thereafter, there is hereby levied an excise tax on each supplier measured by the supplier's calculated gross receipts derived from the first sale of motor fuel within this state. The tax due shall be ~~levied at a rate of six and five tenths mills for each dollar of the~~ computed by multiplying sixty-five one hundredths of one per cent by the supplier's calculated gross receipts. 2831
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All revenue from the tax shall be distributed as follows: 2839

(1) All revenue from the tax as measured by calculated gross receipts derived from the sale of motor fuel used for propelling vehicles on public highways and waterways shall be used for the purposes of maintaining the state highway system, funding the enforcement of traffic laws, and covering the costs of hospitalization of indigent persons injured in motor vehicle accidents on the public highways. 2840
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(2) All revenue not distributed as required by division 2847
(A)(1) of this section shall be used for the purpose of funding 2848
the needs of this state and its local governments. 2849

(B) The tax imposed by this section is in addition to any 2850
other taxes or fees imposed under the Revised Code. 2851

(C) The tax commissioner shall determine and publish, on the 2852
web site of the department of taxation, the statewide average 2853
wholesale prices of a gallon of unleaded regular gasoline and of a 2854
gallon of diesel fuel for each calendar quarter. The 2855
commissioner's determination is presumed to be correct unless 2856
clearly erroneous. The figure shall be published at least fifteen 2857
days before the beginning of the calendar quarter. The 2858
commissioner shall base the average price on pricing information 2859
available from the United States energy information administration 2860
or, if such information is not available from that agency, from 2861
another publicly available source selected by the commissioner. 2862
The commissioner shall first make reasonable efforts to obtain 2863
data specific to this state before using national data to 2864
determine the average wholesale price. The price shall not include 2865
any federal or state excise taxes on the gasoline or diesel fuel, 2866
or the tax imposed by this chapter. The price shall be rounded up 2867
to the nearest one-tenth of one cent. 2868

(D) Nothing in this chapter prohibits a person from 2869
separately or proportionately billing or invoicing the tax imposed 2870
by this section to a purchaser of motor fuel. 2871

(E) The tax imposed by this section applies only to suppliers 2872
having a substantial nexus with this state, as that term is 2873
defined in section 5751.01 of the Revised Code. A supplier that 2874
does not have substantial nexus with the state may voluntarily 2875
obtain a license from the commissioner under section 5736.06 of 2876
the Revised Code. A supplier that voluntarily obtains a license 2877
from the commissioner is entitled to the same benefits and is 2878

subject to the same duties and requirements as are suppliers 2879
required to be licensed with the commissioner. 2880

Sec. 5736.03. (A) No person shall avoid the tax imposed by 2881
this chapter by receiving motor fuel outside of this state and 2882
transferring the motor fuel into this state within one year. Any 2883
such person shall be considered to have received the fuel in this 2884
state and shall include ~~as~~, in the calculation of calculated gross 2885
receipts, ~~the value~~ number of gallons of motor fuel the person 2886
transfers into this state within one year after the person 2887
receives the property outside of this state. 2888

(B) Any person that knowingly receives motor fuel from a 2889
supplier that is not licensed as required by section 5736.06 of 2890
the Revised Code shall include in the calculation of the person's 2891
calculated gross receipts the number of gallons of motor fuel the 2892
person received in this state or transported into this state from 2893
the unlicensed supplier. 2894

(C) The tax commissioner may adopt rules necessary to 2895
administer this section. 2896

Sec. 5736.04. (A) Not later than the tenth day of the second 2897
month after the end of each calendar quarter, every taxpayer shall 2898
file with the tax commissioner a tax return in such form as the 2899
commissioner prescribes. The return shall include, but is not 2900
limited to, the amount of the taxpayer's calculated gross receipts 2901
for the calendar quarter and shall indicate the amount of tax due 2902
under section 5736.02 of the Revised Code for the calendar 2903
quarter. The taxpayer shall indicate on each return the portion of 2904
the taxpayer's gross receipts attributable to motor fuel used for 2905
propelling vehicles on public highways and waterways and the 2906
portion of such receipts attributable to motor fuel used for other 2907
purposes. For this purpose, the sale of gasoline and of diesel 2908

fuel that is not dyed diesel fuel shall be rebuttably presumed to 2909
be distributed or sold for use or used to propel vehicles on 2910
public highways or waterways. All other sales of motor fuel shall 2911
be rebuttably presumed not to be distributed or sold for use or 2912
used to propel vehicles on public highways or waterways. 2913

(B)(1) The taxpayer shall remit the tax shown to be due on 2914
the return, and, if required by the tax commissioner, file the 2915
return, electronically. The commissioner may require taxpayers to 2916
use the Ohio business gateway as defined in section 718.051 of the 2917
Revised Code to file return returns and remit the tax, or may 2918
provide another means for taxpayers to file and remit the tax 2919
electronically. 2920

(2) A person required by this section to remit taxes or file 2921
returns electronically may apply to the commissioner, on the form 2922
prescribed by the commissioner, to be excused from that 2923
requirement. The commissioner may excuse a person from such 2924
requirement for good cause. 2925

(C) The tax rate with respect to calculated gross receipts 2926
for a calendar quarter is not fixed until the end of the 2927
measurement period for each calendar quarter. The total amount of 2928
calculated gross receipts reported for a given calendar quarter 2929
shall be subject to the tax rate in effect in that quarter. 2930

Sec. 5736.041. The tax commissioner shall prepare and 2931
maintain a list of suppliers holding a license issued under 2932
section 5736.06 of the Revised Code that has not been revoked or 2933
canceled under section 5736.07 of the Revised Code. The list shall 2934
contain the names and addresses of all such suppliers and each 2935
supplier's account number for the tax imposed under section 2936
5736.02 of the Revised Code. The list shall be open to public 2937
inspection in the office of the commissioner. The commissioner may 2938

post the list on the department of taxation's web site. 2939

Sec. 5736.06. (A) No person subject to the tax imposed by 2940
section 5736.02 of the Revised Code shall distribute, import, or 2941
cause the importation of motor fuel for consumption in this state 2942
without holding a supplier's license issued by the tax 2943
commissioner to engage in such activities. 2944

(B)(1) A person subject to the tax imposed by section 5736.02 2945
of the Revised Code shall, on or before March 1, 2014, or within 2946
thirty days of first becoming subject to the tax imposed by this 2947
chapter, whichever is earlier, apply to the tax commissioner for a 2948
supplier's license on the form prescribed by the commissioner. 2949

(2) Each person issued a supplier's license under division 2950
(B)(1) of this section shall apply to renew the license on or 2951
before the first day of March of each year. 2952

(3) With each license application submitted under division 2953
(B)(1) or (2) of this section, the applicant shall pay an 2954
application fee equal to one of the following amounts: 2955

(a) If the applicant solely imports or causes the importation 2956
of motor fuel for sale, exchange, or transfer by the person in 2957
this state, three hundred dollars; 2958

(b) If the applicant engages in activities in addition to 2959
those described in division (B)(3)(a) of this section, one 2960
thousand dollars. 2961

If an applicant timely submits an application under division 2962
(B)(1) of this section on or after the first day of September of 2963
any year, the fee that would apply to the applicant under division 2964
(B)(3)(a) or (b) of this section shall be reduced by one-half. 2965

(4) The failure to apply to the commissioner for a supplier's 2966
license does not relieve a person from the requirement to file 2967
returns and pay the tax imposed by this chapter. 2968

(C) The tax commissioner may refuse to issue a license to any applicant under this section in the following circumstances: 2969
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(1) The applicant has previously had any license canceled for cause by the commissioner. 2971
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(2) The commissioner believes that the application is not filed in good faith or is filed as a subterfuge in an attempt to procure a license for another person. 2973
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(3) The applicant has violated any provision of this chapter. 2976

(D) If the tax commissioner refuses to issue a license to an applicant under this section, the applicant is entitled to a refund of the application fee in accordance with section 5736.08 of the Revised Code. All application fees collected under this section shall be deposited into the ~~motor fuel receipts~~ petroleum activity tax administration fund created in section 5736.13 of the Revised Code. 2977
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(E) No person shall make a false or fraudulent statement on an application required by this section. 2984
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Sec. 5736.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition. 2986
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(B) Unless the person assessed, within sixty days after service of the notice of assessment, files with the commissioner, either personally or by certified mail, a written petition signed by the person or the person's authorized agent having knowledge of 2995
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the facts, the assessment becomes final, and the amount of the 2999
assessment is due and payable from the person assessed to the 3000
treasurer of state. The petition shall indicate the objections of 3001
the person assessed, but additional objections may be raised in 3002
writing if received by the commissioner prior to the date shown on 3003
the final determination. 3004

If a petition for reassessment has been properly filed, the 3005
commissioner shall proceed under section 5703.60 of the Revised 3006
Code. 3007

(C)(1) After an assessment becomes final, if any portion of 3008
the assessment, including accrued interest, remains unpaid, a 3009
certified copy of the commissioner's entry making the assessment 3010
final may be filed in the office of the clerk of the court of 3011
common pleas in the county in which the person resides or has its 3012
principal place of business in this state, or in the office of the 3013
clerk of court of common pleas of Franklin county. 3014

(2) Immediately upon the filing of the entry, the clerk shall 3015
enter judgment for the state against the person assessed in the 3016
amount shown on the entry. The judgment may be filed by the clerk 3017
in a loose-leaf book entitled, "special judgments for the ~~motor~~ 3018
~~fuel receipts~~ petroleum activity tax" and shall have the same 3019
effect as other judgments. Execution shall issue upon the judgment 3020
at the request of the commissioner, and all laws applicable to 3021
sales on execution shall apply to sales made under the judgment. 3022

(3) If the assessment is not paid in its entirety within 3023
sixty days after the day the assessment was issued, the portion of 3024
the assessment consisting of tax due shall bear interest at the 3025
rate per annum prescribed by section 5703.47 of the Revised Code 3026
from the day the commissioner issues the assessment until it is 3027
paid or until it is certified to the attorney general for 3028
collection under section 131.02 of the Revised Code, whichever 3029
comes first. If the unpaid portion of the assessment is certified 3030

to the attorney general for collection, the entire unpaid portion 3031
of the assessment shall bear interest at the rate per annum 3032
prescribed by section 5703.47 of the Revised Code from the date of 3033
certification until the date it is paid in its entirety. Interest 3034
shall be paid in the same manner as the tax and may be collected 3035
by the issuance of an assessment under this section. 3036

(D) If the commissioner believes that collection of the tax 3037
will be jeopardized unless proceedings to collect or secure 3038
collection of the tax are instituted without delay, the 3039
commissioner may issue a jeopardy assessment against the person 3040
liable for the tax. Immediately upon the issuance of the jeopardy 3041
assessment, the commissioner shall file an entry with the clerk of 3042
the court of common pleas in the manner prescribed by division (C) 3043
of this section. Notice of the jeopardy assessment shall be served 3044
on the person assessed or the person's authorized agent in the 3045
manner provided in section 5703.37 of the Revised Code within five 3046
days of the filing of the entry with the clerk. The total amount 3047
assessed is immediately due and payable, unless the person 3048
assessed files a petition for reassessment in accordance with 3049
division (B) of this section and provides security in a form 3050
satisfactory to the commissioner and in an amount sufficient to 3051
satisfy the unpaid balance of the assessment. Full or partial 3052
payment of the assessment does not prejudice the commissioner's 3053
consideration of the petition for reassessment. 3054

(E) The commissioner shall immediately forward to the 3055
treasurer of state all amounts the commissioner receives under 3056
this section, and such amounts shall be considered as revenue 3057
arising from the tax imposed under this chapter. 3058

(F) Except as otherwise provided in this division, no 3059
assessment shall be made or issued against a taxpayer for the tax 3060
imposed under this chapter more than four years after the due date 3061
for the filing of the return for the tax period for which the tax 3062

was reported, or more than four years after the return for the tax 3063
period was filed, whichever is later. The time limit may be 3064
extended if both the taxpayer and the commissioner consent in 3065
writing to the extension or enter into an agreement waiving or 3066
extending the time limit. Any such extension shall extend the 3067
four-year time limit in division (A) of section 5736.08 of the 3068
Revised Code for the same period of time. Nothing in this division 3069
bars an assessment against a taxpayer that fails to file a return 3070
required by this chapter or that files a fraudulent return. 3071

(G) If the commissioner possesses information that indicates 3072
that the amount of tax a taxpayer is required to pay under this 3073
chapter exceeds the amount the taxpayer paid, the commissioner may 3074
audit a sample of the taxpayer's calculated gross receipts over a 3075
representative period of time to ascertain the amount of tax due, 3076
and may issue an assessment based on the audit. The commissioner 3077
shall make a good faith effort to reach agreement with the 3078
taxpayer in selecting a representative sample. The commissioner 3079
may apply a sampling method only if the commissioner has 3080
prescribed the method by rule. 3081

(H) If the whereabouts of a person subject to this chapter is 3082
not known to the commissioner, the commissioner shall follow the 3083
procedures under section 5703.37 of the Revised Code. 3084

Sec. 5736.13. (A) For the purpose of receiving, accounting 3085
for, and distributing revenue received from the tax imposed by 3086
section 5736.02 of the Revised Code, the following funds are 3087
hereby created in the state treasury: 3088

(1) The ~~motor fuel receipts~~ petroleum activity tax fund; 3089

(2) The ~~motor fuel receipts~~ petroleum activity tax 3090
administration fund. All amounts credited to the ~~motor fuel~~ 3091
~~receipts~~ petroleum activity tax administration fund shall be used 3092
solely for the purpose of paying the expenses of the department of 3093

taxation incident to the administration of the tax imposed by 3094
section 5736.02 of the Revised Code. 3095

(3) The ~~motor fuel receipts~~ petroleum activity tax public 3096
highways fund. 3097

(B) All money collected from the tax imposed by section 3098
5736.02 of the Revised Code shall be deposited into the ~~motor fuel~~ 3099
~~receipts~~ petroleum activity tax fund. 3100

(C) From the ~~motor fuel receipts~~ petroleum activity tax fund, 3101
the director of budget and management shall place to the credit of 3102
the tax refund fund established by section 5703.052 of the Revised 3103
Code amounts equal to the refunds certified by the tax 3104
commissioner pursuant to section 5736.08 of the Revised Code. 3105

(D) Not later than the last day of March, June, September, 3106
and December of each year, the director of budget and management 3107
shall provide for the transfer of the balance of the ~~motor fuel~~ 3108
~~receipts~~ petroleum activity tax fund as of the last day of the 3109
preceding month, excluding any amounts required to be transferred 3110
as provided in division (C) of this section, as follows: 3111

(1) To the ~~motor fuel receipts~~ petroleum activity tax 3112
administration fund, one per cent; 3113

(2) To the ~~motor fuel receipts~~ petroleum activity tax public 3114
highways fund, an amount that bears the same ratio to the balance 3115
in the ~~motor fuel receipts~~ petroleum activity tax fund, after 3116
subtracting the amount transferred under division (D)(1) of this 3117
section, that (a) the calculated gross receipts attributed to 3118
motor fuel used for propelling vehicles on public highways and 3119
waterways as indicated by returns filed by the last day of the 3120
preceding month, bears to (b) all calculated gross receipts as 3121
indicated by those returns; 3122

(3) To the general revenue fund, the amount remaining after 3123
the transfers required by divisions (D)(1) and (2) of this 3124

section. 3125

Sec. 5736.50. (A) A taxpayer granted a credit by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may claim a refundable credit against the tax imposed under this chapter. For the purpose of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid on the first day of the tax period. 3126
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(B) A taxpayer granted a credit by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may claim a nonrefundable tax credit against the tax imposed under this chapter. 3133
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(C) Credits authorized in division (A) or (B) of this section shall not be claimed for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code. 3137
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(D) A taxpayer may claim any unused portion of the credit authorized under division (B) of section 5751.50 of the Revised Code against the tax imposed under this chapter. No credit shall be allowed under this division if the credit was available against the tax imposed under section 5751.02 of the Revised Code except to the extent the credit was not applied against that tax. 3142
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(E) The amount of a credit claimed under division (B) or (D) of this section shall not exceed the tax otherwise due for the tax period. If the credit allowed under division (B) or (D) of this section exceeds the tax otherwise due, the excess may be carried forward to the extent authorized by section 122.171 of the Revised Code. 3148
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If a taxpayer is authorized to claim credits under division 3154

(A) and either or both of divisions (B) and (D) of this section 3155
for the same tax period, the taxpayer shall claim the credit 3156
allowed under division (B) or (D) before the credit allowed under 3157
division (A) of this section. 3158

Sec. 5743.01. As used in this chapter: 3159

(A) "Person" includes individuals, firms, partnerships, 3160
associations, joint-stock companies, corporations, combinations of 3161
individuals of any form, and the state and any of its political 3162
subdivisions. 3163

(B) "Wholesale dealer" includes only those persons: 3164

(1) Who bring in or cause to be brought into this state 3165
unstamped cigarettes purchased directly from the manufacturer, 3166
producer, or importer of cigarettes for sale in this state but 3167
does not include persons who bring in or cause to be brought into 3168
this state cigarettes with respect to which no evidence of tax 3169
payment is required thereon as provided in section 5743.04 of the 3170
Revised Code; or 3171

(2) Who are engaged in the business of selling cigarettes or 3172
tobacco products to others for the purpose of resale. 3173

"Wholesale dealer" does not include any cigarette 3174
manufacturer, export warehouse proprietor, or importer with a 3175
valid permit under 26 U.S.C. 5713 if that person sells cigarettes 3176
in this state only to wholesale dealers holding valid and current 3177
licenses under section 5743.15 of the Revised Code or to an export 3178
warehouse proprietor or another manufacturer. 3179

(C) "Retail dealer" includes: 3180

(1) In reference to dealers in cigarettes, every person other 3181
than a wholesale dealer engaged in the business of selling 3182
cigarettes in this state, regardless of whether the person is 3183
located in this state or elsewhere, and regardless of quantity, 3184

amount, or number of sales; 3185

(2) In reference to dealers in tobacco products, any person 3186
in this state engaged in the business of selling tobacco products 3187
to ultimate consumers in this state, regardless of quantity, 3188
amount, or number of sales. 3189

(D) "Sale" includes exchange, barter, gift, offer for sale, 3190
and distribution, and includes transactions in interstate or 3191
foreign commerce. 3192

(E) "Cigarettes" includes any roll for smoking made wholly or 3193
in part of tobacco, irrespective of size or shape, and whether or 3194
not such tobacco is flavored, adulterated, or mixed with any other 3195
ingredient, the wrapper or cover of which is made of paper, 3196
reconstituted cigarette tobacco, homogenized cigarette tobacco, 3197
cigarette tobacco sheet, or any similar materials other than cigar 3198
tobacco. 3199

(F) "Package" means the individual package, box, or other 3200
container in or from which retail sales of cigarettes are normally 3201
made or intended to be made. 3202

~~(G) "Stamp" includes an impression made by a metering device 3203
as provided for in section 5743.04 of the Revised Code. 3204~~

~~(H)~~ "Storage" includes any keeping or retention of cigarettes 3205
or tobacco products for use or consumption in this state. 3206

~~(I)~~(H) "Use" includes the exercise of any right or power 3207
incidental to the ownership of cigarettes or tobacco products. 3208

~~(J)~~(I) "Tobacco product" or "other tobacco product" means any 3209
product made from tobacco, other than cigarettes, that is made for 3210
smoking or chewing, or both, and snuff. 3211

~~(K)~~(J) "Wholesale price" means the invoice price, including 3212
all federal excise taxes, at which the manufacturer of the tobacco 3213
product sells the tobacco product to unaffiliated distributors, 3214

excluding any discounts based on the method of payment of the 3215
invoice or on time of payment of the invoice. If the taxpayer buys 3216
from other than a manufacturer, "wholesale price" means the 3217
invoice price, including all federal excise taxes and excluding 3218
any discounts based on the method of payment of the invoice or on 3219
time of payment of the invoice. 3220

~~(L)~~(K) "Distributor" means: 3221

(1) Any manufacturer who sells, barter, exchanges, or 3222
distributes tobacco products to a retail dealer in the state, 3223
except when selling to a retail dealer that has filed with the 3224
manufacturer a signed statement agreeing to pay and be liable for 3225
the tax imposed by section 5743.51 of the Revised Code; 3226

(2) Any wholesale dealer located in the state who receives 3227
tobacco products from a manufacturer, or who receives tobacco 3228
products on which the tax imposed by this chapter has not been 3229
paid; 3230

(3) Any wholesale dealer located outside the state who sells, 3231
barter, exchanges, or distributes tobacco products to a wholesale 3232
or retail dealer in the state; or 3233

(4) Any retail dealer who receives tobacco products on which 3234
the tax has not or will not be paid by another distributor, 3235
including a retail dealer that has filed a signed statement with a 3236
manufacturer in which the retail dealer agrees to pay and be 3237
liable for the tax that would otherwise be imposed on the 3238
manufacturer by section 5743.51 of the Revised Code. 3239

~~(M)~~(L) "Taxpayer" means any person liable for the tax imposed 3240
by section 5743.51, 5743.62, or 5743.63 of the Revised Code. 3241

~~(N)~~(M) "Seller" means any person located outside this state 3242
engaged in the business of selling tobacco products to consumers 3243
for storage, use, or other consumption in this state. 3244

~~(O)~~(N) "Manufacturer" means any person who manufactures and 3245
sells cigarettes or tobacco products. 3246

~~(P)~~(O) "Importer" means any person that is authorized, under 3247
a valid permit issued under Section 5713 of the Internal Revenue 3248
Code, to import finished cigarettes into the United States, either 3249
directly or indirectly. 3250

~~(Q)~~(P) "Little cigar" means any roll for smoking, other than 3251
cigarettes, made wholly or in part of tobacco that uses an 3252
integrated cellulose acetate filter or other filter and is wrapped 3253
in any substance containing tobacco, other than natural leaf 3254
tobacco. 3255

Sec. 5743.021. (A) As used in this section, "qualifying 3256
regional arts and cultural district" means a regional arts and 3257
cultural district created under section 3381.04 of the Revised 3258
Code in a county having a population of one million two hundred 3259
thousand or more according to the 2000 federal decennial census. 3260

(B) For one or more of the purposes for which a tax may be 3261
levied under section 3381.16 of the Revised Code and for the 3262
purposes of paying the expenses of administering the tax and the 3263
expenses charged by a board of elections to hold an election on a 3264
question submitted under this section, the board of county 3265
commissioners of a county that has within its territorial 3266
boundaries a qualifying regional arts and cultural district may 3267
levy a tax on the sale of cigarettes sold for resale at retail in 3268
the county composing the district. The rate of the tax, when added 3269
to the rate of any other tax concurrently levied by the board 3270
under this section, shall not exceed fifteen mills per cigarette, 3271
and shall be computed on each cigarette sold. Only one sale of the 3272
same article shall be used in computing the amount of tax due. The 3273
tax may be levied for any number of years not exceeding ten years. 3274

The tax shall be levied pursuant to a resolution of the board 3275

of county commissioners approved by a majority of the electors in 3276
the county voting on the question of levying the tax. The 3277
resolution shall specify the rate of the tax, the number of years 3278
the tax will be levied, and the purposes for which the tax is 3279
levied. The election may be held on the date of a general, 3280
primary, or special election held not sooner than ninety days 3281
after the date the board certifies its resolution to the board of 3282
elections. If approved by the electors, the tax shall take effect 3283
on the first day of the month specified in the resolution but not 3284
sooner than the first day of the month that is at least sixty days 3285
after the certification of the election results by the board of 3286
elections. A copy of the resolution levying the tax shall be 3287
certified to the tax commissioner at least sixty days prior to the 3288
date on which the tax is to become effective. 3289

(C) The form of the ballot in an election held under this 3290
section shall be as follows, or in any other form acceptable to 3291
the secretary of state: 3292

"For the purpose of (insert the purpose or 3293
purposes of the tax), shall an excise tax be levied throughout 3294
..... County for the benefit of the (name of the 3295
qualifying regional arts and cultural district) on the sale of 3296
cigarettes at wholesale at the rate of mills per cigarette 3297
for years? 3298

	For the tax	
	Against the tax	"

(D) ~~The treasurer of state shall credit all moneys~~ All money 3302
arising from taxes levied on behalf of each district under this 3303
section and section 5743.321 of the Revised Code shall be credited 3304
as follows: 3305

(1) To the tax refund fund created by section 5703.052 of the 3306

Revised Code, amounts equal to the refunds from each tax levied 3307
under this section certified by the tax commissioner pursuant to 3308
section 5743.05 of the Revised Code; 3309

(2) Following the crediting of amounts pursuant to division 3310
(D)(1) of this section: 3311

(a) To the permissive tax distribution fund created under 3312
section 4301.423 of the Revised Code, an amount equal to 3313
ninety-eight per cent of the remainder collected; 3314

(b) To the local excise tax administrative fund, which is 3315
hereby created in the state treasury, an amount equal to two per 3316
cent of such remainder, for use by the tax commissioner in 3317
defraying costs incurred in administering the tax. 3318

~~On or before the second working day of each month, the 3319
treasurer of state shall certify to the tax commissioner the 3320
amount of taxes levied on behalf of each district under sections 3321
5743.021 and 5743.321 of the Revised Code and paid to the 3322
treasurer of state during the preceding month. 3323~~

On or before the tenth day of each month, the tax 3324
commissioner shall distribute the amount credited to the 3325
permissive tax distribution fund during the preceding month by 3326
providing for payment of the appropriate amount to the county 3327
treasurer of the county in which the tax is levied. 3328

Sec. 5743.024. (A) For the purposes of section 307.696 of the 3329
Revised Code, to pay the expenses of administering the tax, and to 3330
pay any or all of the charge the board of elections makes against 3331
the county to hold the election on the question of levying the 3332
tax, or for such purposes and to provide revenues to the county 3333
for permanent improvements, the board of county commissioners may 3334
levy a tax on sales of cigarettes sold for resale at retail in the 3335
county. The tax shall not exceed two and twenty-five hundredths of 3336

a mill per cigarette, and shall be computed on each cigarette 3337
sold. The tax may be levied for any number of years not exceeding 3338
twenty. Only one sale of the same article shall be used in 3339
computing the amount of tax due. 3340

The tax shall be levied pursuant to a resolution of the 3341
county commissioners approved by a majority of the electors in the 3342
county voting on the question of levying the tax. The resolution 3343
shall specify the rate of the tax, the number of years the tax 3344
will be levied, and the purposes for which the tax is levied. Such 3345
election may be held on the date of a general or special election 3346
held not sooner than ninety days after the date the board 3347
certifies its resolution to the board of elections. If approved by 3348
the electors, the tax shall take effect on the first day of the 3349
month specified in the resolution but not sooner than the first 3350
day of the month that is at least sixty days after the 3351
certification of the election results by the board of elections. A 3352
copy of the resolution levying the tax shall be certified to the 3353
tax commissioner at least sixty days prior to the date on which 3354
the tax is to become effective. 3355

A resolution under this section may be joined on the ballot 3356
as a single question with a resolution adopted under section 3357
307.697 or 4301.421 of the Revised Code to levy a tax for the same 3358
purposes and for the purpose of paying the expenses of 3359
administering the tax. The form of the ballot in an election held 3360
pursuant to this section shall be as prescribed in section 307.697 3361
of the Revised Code. 3362

(B) ~~The treasurer of state shall credit all moneys~~ All money 3363
arising from each county's taxes levied under this section and 3364
section 5743.323 of the Revised Code shall be credited as follows: 3365

(1) To the tax refund fund created by section 5703.052 of the 3366
Revised Code, amounts equal to the refunds from each tax levied 3367
under this section certified by the tax commissioner pursuant to 3368

section 5743.05 of the Revised Code; 3369

(2) Following the crediting of amounts pursuant to division 3370
(B)(1) of this section: 3371

(a) To the permissive tax distribution fund created by 3372
division (B)(1) of section 4301.423 of the Revised Code, an amount 3373
equal to ninety-eight per cent of the remainder collected; 3374

(b) To the local excise tax administrative fund, which is 3375
hereby created in the state treasury, an amount equal to two per 3376
cent of such remainder, for use by the tax commissioner in 3377
defraying costs incurred in administering the tax. 3378

~~On or before the second working day of each month, the 3379
treasurer of state shall certify to the tax commissioner the 3380
amount of each county's taxes levied under sections 5743.024 and 3381
5743.323 of the Revised Code and paid to the treasurer of state 3382
during the preceding month. 3383~~

On or before the tenth day of each month, the tax 3384
commissioner shall distribute the amount credited to the 3385
permissive tax distribution fund during the preceding month by 3386
providing for payment of the appropriate amount to the county 3387
treasurer of each county levying the tax. 3388

(C) The board of county commissioners of a county in which a 3389
tax is imposed under this section on the effective date of the 3390
amendment of this section by H.B. 59 of the 130th general 3391
assembly, September 29, 2013, may levy a tax for the purpose of 3392
section 307.673 of the Revised Code regardless of whether or not 3393
the cooperative agreement authorized under that section has been 3394
entered into prior to the day the resolution adopted under 3395
division (C)(1) or (2) of this section is adopted, for the purpose 3396
of reimbursing a county for costs incurred in the construction of 3397
a sports facility pursuant to an agreement entered into by the 3398
county under section 307.696 of the Revised Code, or for the 3399

purpose of paying the costs of capital repairs of and improvements 3400
to a sports facility. The tax shall be levied and approved in one 3401
of the manners prescribed by division (C)(1) or (2) of this 3402
section. 3403

(1) The tax may be levied pursuant to a resolution adopted by 3404
a majority of the members of the board of county commissioners not 3405
later than forty-five days after July 19, 1995. A board of county 3406
commissioners approving a tax under division (C)(1) of this 3407
section may approve a tax under division (D)(1) of section 307.697 3408
or division (B)(1) of section 4301.421 of the Revised Code at the 3409
same time. Subject to the resolution being submitted to a 3410
referendum under sections 305.31 to 305.41 of the Revised Code, 3411
the resolution shall take effect immediately, but the tax levied 3412
pursuant to the resolution shall not be levied prior to the day 3413
following the last day that any tax previously levied pursuant to 3414
this division may be levied. 3415

(2) The tax may be levied pursuant to a resolution adopted by 3416
a majority of the members of the board of county commissioners not 3417
later than September 1, 2015, and approved by a majority of the 3418
electors of the county voting on the question of levying the tax. 3419
The board of county commissioners shall certify a copy of the 3420
resolution to the board of elections immediately upon adopting a 3421
resolution under division (C)(2) of this section. The election may 3422
be held on the date of a general or special election held not 3423
sooner than ninety days after the date the board certifies its 3424
resolution to the board of elections. The form of the ballot shall 3425
be as prescribed by division (C) of section 307.697 of the Revised 3426
Code, except that the phrase "paying not more than one-half of the 3427
costs of providing a sports facility together with related 3428
redevelopment and economic development projects" shall be replaced 3429
by the phrase "paying the costs of constructing, renovating, 3430
improving, or repairing a sports facility and reimbursing a county 3431

for costs incurred by the county in the construction of a sports 3432
facility," and the phrase ", beginning (here insert the 3433
earliest date the tax would take effect)" shall be appended after 3434
"years." A board of county commissioners submitting the question 3435
of a tax under division (C)(2) of this section may submit the 3436
question of a tax under division (D)(2) of section 307.697 or 3437
division (B)(2) of section 4301.421 of the Revised Code as a 3438
single question, and the form of the ballot shall include each of 3439
the proposed taxes. 3440

If approved by a majority of electors voting on the question, 3441
the tax shall take effect on the day specified on the ballot, 3442
which shall not be earlier than the day following the last day 3443
that any tax previously levied pursuant to this division may be 3444
levied. 3445

The rate of a tax levied pursuant to division (C)(1) or (2) 3446
of this section shall not exceed the rate specified in division 3447
(A) of this section. A tax levied pursuant to division (C)(1) or 3448
(2) of this section may be levied for any number of years not 3449
exceeding twenty. 3450

A board of county commissioners adopting a resolution under 3451
this division shall certify a copy of the resolution to the tax 3452
commissioner immediately upon adoption of the resolution. 3453

(D) No tax shall be levied under division (A) of this section 3454
on or after September 23, 2008. This division does not apply to a 3455
tax levied under division (C) of this section, and does not 3456
prevent the collection of any tax levied under this section before 3457
September 23, 2008, so long as that tax remains effective. 3458

Sec. 5743.025. In addition to the return required by section 3459
5743.03 of the Revised Code, each retail dealer in a county in 3460
which a tax is levied under section 5743.021, 5743.024, or 3461
5743.026 of the Revised Code shall, within thirty days after the 3462

date on which the tax takes effect, make and file a return, on 3463
forms prescribed by the tax commissioner, showing the total number 3464
of cigarettes which such retail dealer had on hand as of the 3465
beginning of business on the date on which the tax takes effect, 3466
and such other information as the commissioner deems necessary for 3467
the administration of section 5743.021, 5743.024, or 5743.026 of 3468
the Revised Code. Each retail dealer shall deliver the return 3469
together with a remittance of the additional amount of tax due on 3470
the cigarettes shown on such return to the ~~treasurer of state. The~~ 3471
~~treasurer of state shall stamp or otherwise mark on the return the~~ 3472
~~date it was received and shall also show thereon by stamp or~~ 3473
~~otherwise the tax payment remitted with the return. Thereafter,~~ 3474
~~the treasurer of state shall immediately transmit all returns~~ 3475
~~filed under this section to the tax~~ commissioner. Any retail 3476
dealer who fails to file a return under this section shall, for 3477
each day the retail dealer so fails, forfeit and pay into the 3478
state treasury the sum of one dollar as revenue arising from the 3479
tax imposed by section 5743.021, 5743.024, or 5743.026 of the 3480
Revised Code, and such sum may be collected by assessment in the 3481
manner provided in section 5743.081 of the Revised Code. For 3482
thirty days after the effective date of a tax imposed by section 3483
5743.021, 5743.024, or 5743.026 of the Revised Code, a retail 3484
dealer may possess for sale or sell in the county in which the tax 3485
is levied cigarettes not bearing the stamp ~~or impression~~ required 3486
by section 5743.03 of the Revised Code to evidence payment of the 3487
county tax but on which the tax has or will be paid. 3488

Sec. 5743.03. (A) Except as provided in section 5743.04 of 3489
the Revised Code, the taxes imposed under sections 5743.02, 3490
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 3491
by the purchase of tax stamps. A tax stamp shall be affixed to 3492
each package of an aggregate denomination not less than the amount 3493
of the tax upon the contents thereof. The tax stamp, so affixed, 3494

shall be prima-facie evidence of payment of the tax. 3495

Except as is provided in the rules prescribed by the tax 3496
commissioner under authority of sections 5743.01 to 5743.20 of the 3497
Revised Code, and unless tax stamps have been previously affixed, 3498
they shall be so affixed by each wholesale dealer, and canceled by 3499
writing or stamping across the face thereof the number assigned to 3500
such wholesale dealer by the tax commissioner for that purpose, 3501
prior to the delivery of any cigarettes to any person in this 3502
state, or in the case of a tax levied pursuant to section 3503
5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the 3504
delivery of cigarettes to any person in the county in which the 3505
tax is levied. 3506

(B) Except as provided in the rules prescribed by the 3507
commissioner under authority of sections 5743.01 to 5743.20 of the 3508
Revised Code, each retail dealer, within twenty-four hours after 3509
the receipt of any cigarettes at the retail dealer's place of 3510
business, shall inspect the cigarettes to ensure that tax stamps 3511
are affixed. The inspection shall be completed before the 3512
cigarettes are delivered to any person in this state, or, in the 3513
case of a tax levied pursuant to section 5743.021, 5743.024, or 3514
5743.026 of the Revised Code, before the cigarettes are delivered 3515
to any person in the county in which the tax is levied. 3516

(C) Whenever any cigarettes are found in the place of 3517
business of any retail dealer without proper tax stamps affixed 3518
thereto and canceled, it is presumed that such cigarettes are kept 3519
therein in violation of sections 5743.01 to 5743.20 of the Revised 3520
Code. 3521

(D) Each wholesale dealer who purchases cigarettes without 3522
proper tax stamps affixed thereto shall, on or before the 3523
thirty-first day of the month following the close of each 3524
semiannual period, which period shall end on the thirtieth day of 3525
June and the thirty-first day of December of each year, make and 3526

file a return of the preceding semiannual period, on such form as 3527
is prescribed by the tax commissioner, showing the dealer's entire 3528
purchases and sales of cigarettes and stamps ~~or impressions~~ for 3529
such semiannual period and accurate inventories as of the 3530
beginning and end of each semiannual period of cigarettes, stamped 3531
or unstamped; cigarette tax stamps affixed or unaffixed ~~and unused~~ 3532
~~meter impressions~~; and such other information as the commissioner 3533
finds necessary to the proper administration of sections 5743.01 3534
to 5743.20 of the Revised Code. The commissioner may extend the 3535
time for making and filing returns and may remit all or any part 3536
of amounts of penalties that may become due under sections 5743.01 3537
to 5743.20 of the Revised Code. The wholesale dealer shall deliver 3538
the return together with a remittance of the tax deficiency 3539
reported thereon to the ~~treasurer of state. The treasurer of state~~ 3540
~~shall stamp or otherwise mark on the return the date it was~~ 3541
~~received and shall also show thereon by stamp or otherwise a~~ 3542
~~payment or nonpayment of the deficiency shown by the return.~~ 3543
~~Thereafter, the treasurer of state shall immediately transmit all~~ 3544
~~returns filed under this section to the commissioner.~~ 3545

(E) Any wholesale dealer who fails to file a return under 3546
this section and the rules of the commissioner, other than a 3547
report required pursuant to division (F) of this section, may be 3548
required, for each day the dealer so fails, to forfeit and pay 3549
into the state treasury the sum of one dollar as revenue arising 3550
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 3551
Code and such sum may be collected by assessment in the manner 3552
provided in section 5743.081 of the Revised Code. If the 3553
commissioner finds it necessary in order to insure the payment of 3554
the tax imposed by sections 5743.01 to 5743.20 of the Revised 3555
Code, the commissioner may require returns and payments to be made 3556
other than semiannually. The returns shall be signed by the 3557
wholesale dealer or an authorized agent thereof. 3558

(F) Each person required to file a tax return under section 3559
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 3560
the commissioner the quantity of all cigarettes and roll-your-own 3561
cigarette tobacco sold in Ohio for each brand not covered by the 3562
tobacco master settlement agreement for which the person is liable 3563
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 3564
the Revised Code. 3565

As used in this division, "tobacco master settlement 3566
agreement" has the same meaning as in section 183.01 of the 3567
Revised Code. 3568

(G) The report required by division (F) of this section shall 3569
be made on a form prescribed by the commissioner and shall be 3570
filed not later than the last day of each month for the previous 3571
month, except that if the commissioner determines that the 3572
quantity reported by a person does not warrant monthly reporting, 3573
the commissioner may authorize reporting at less frequent 3574
intervals. The commissioner may assess a penalty of not more than 3575
two hundred fifty dollars for each month or portion thereof that a 3576
person fails to timely file a required report, and such sum may be 3577
collected by assessment in the manner provided in section 5743.081 3578
of the Revised Code. All money collected under this division shall 3579
be considered as revenue arising from the taxes imposed by 3580
sections 5743.01 to 5743.20 of the Revised Code. 3581

(H) ~~The treasurer of state or an agent of the treasurer~~ 3582
commissioner may sell tax stamps only to a licensed wholesale 3583
dealer, except as otherwise authorized by the commissioner. The 3584
~~treasurer or an agent of the treasurer~~ commissioner may charge the 3585
costs associated with the shipment of tax stamps to the licensed 3586
wholesale dealer. Amounts collected from such charges shall be 3587
credited to the ~~treasurer of state's administrative~~ cigarette tax 3588
enforcement fund created under section ~~113.20~~ 5743.15 of the 3589
Revised Code. 3590

Sec. 5743.04. The tax commissioner shall design and procure 3591
the stamps provided for in section 5743.03 of the Revised Code and 3592
shall enforce and administer sections 5743.01 to 5743.44 of the 3593
Revised Code. With respect to packages containing any number of 3594
cigarettes other than twenty, if the commissioner finds that it is 3595
practicable to collect the taxes levied under sections 5743.02, 3596
5743.021, 5743.024, and 5743.026 of the Revised Code by any method 3597
other than that provided in this section and section 5743.03 of 3598
the Revised Code, the commissioner may by rule prescribe such 3599
other method for payment of the taxes upon such packages of 3600
cigarettes as will adequately protect the revenue; provided, that 3601
in any case where the commissioner prescribes that the taxes upon 3602
such packages of cigarettes shall be paid on the basis of returns 3603
filed by a wholesale or retail dealer, said returns, together with 3604
a remittance of all taxes due as shown thereon, shall be filed 3605
with the ~~treasurer of state~~ commissioner not later than the tenth 3606
day of the month following the month in which such cigarettes are 3607
sold in this state. The commissioner may promulgate rules in 3608
accordance with sections 119.01 to 119.13 of the Revised Code as 3609
the commissioner deems necessary to carry out sections 5743.01 to 3610
5743.44 of the Revised Code and may adopt different detailed rules 3611
applicable to diverse methods and conditions of sale of 3612
cigarettes, prescribing, in each class of cases, upon whom, as 3613
between the wholesale dealer and the retail dealer, the primary 3614
duty of affixing stamps shall rest, and the manner in which stamps 3615
shall be affixed. A copy of such rules shall be furnished to every 3616
licensed dealer as provided in sections 119.01 to 119.13 of the 3617
Revised Code. Any such rule so furnished which excuses a wholesale 3618
dealer from affixing stamps under the circumstances of the 3619
particular case shall be a defense in the prosecution of such 3620
dealer for violation of section 5743.03 of the Revised Code. 3621
~~The commissioner, after determining that it is practicable to~~ 3622

~~evidence payment of the taxes levied under sections 5743.02, 3623
5743.021, 5743.024, and 5743.026 of the Revised Code by impression 3624
made by a metering device, shall by resolution provide that such 3625
metering device may be used in lieu of the stamps otherwise 3626
provided for in section 5743.03 of the Revised Code. The 3627
commissioner may authorize any wholesale or retail dealer to use 3628
the metering device approved by the commissioner. Such device 3629
before being used shall be sealed by the treasurer of state, and 3630
shall be used only in accordance with the rules prescribed by the 3631
commissioner. 3632~~

~~Wholesale and retail dealers authorized to use said device 3633
shall prepay the tax represented by meter impressions and shall 3634
deliver the metering device to the treasurer of state or county 3635
treasurer in the county in which the place of business of any 3636
wholesaler or retailer is located if such treasurer is designated 3637
by the treasurer of state, who shall seal the meter in accordance 3638
with the prepayments so made. 3639~~

Sec. 5743.05. ~~All The tax commissioner shall sell all stamps 3640
provided for by section 5743.03 of the Revised Code, when procured 3641
by the tax commissioner, shall be immediately delivered to the 3642
treasurer of state, who shall execute a receipt therefor showing 3643
the number and aggregate face value of each denomination received 3644
by the treasurer of state and any other information that the 3645
commissioner requires to enforce the collection and distribution 3646
of all taxes imposed under section 5743.021, 5743.024, or 5743.026 3647
of the Revised Code, and deliver the receipt to the commissioner. 3648
The treasurer of state shall sell the stamps and, on the fifth day 3649
of each month, make a report showing all sales made during the 3650
preceding month, with the names of purchasers, the number of each 3651
denomination, the aggregate face value purchased by each, and any 3652
other information as the commissioner requires to enforce the 3653
collection and distribution of all taxes imposed under section 3654~~

~~5743.021, 5743.024, or 5743.026 of the Revised Code, and deliver~~ 3655
~~it to the commissioner. The treasurer of state shall be~~ 3656
~~accountable for all stamps received and unsold.~~ The stamps shall 3657
be sold ~~and accounted for~~ at their face value, except the 3658
commissioner shall, by rule ~~certified to the treasurer of state,~~ 3659
authorize the sale of stamps ~~and meter impressions~~ to wholesale ~~or~~ 3660
~~retail~~ dealers in this state, or to wholesale dealers outside this 3661
state, at a discount of not less than one and eight-tenths per 3662
cent or more than ten per cent of their face value, as a 3663
commission for affixing and canceling the stamps ~~or meter~~ 3664
~~impressions.~~ 3665

The commissioner, by rule ~~certified to the treasurer of~~ 3666
~~state,~~ shall authorize the delivery of stamps ~~and meter~~ 3667
~~impressions~~ to wholesale dealers in this state and to wholesale 3668
dealers outside this state on credit. If such a dealer has not 3669
been in good credit standing with this state for five consecutive 3670
years preceding the purchase, the ~~tax~~ commissioner shall require 3671
the dealer to file with the commissioner a bond to the state in 3672
the amount and in the form prescribed by the commissioner, with 3673
surety to the satisfaction of the commissioner, conditioned on 3674
payment to the treasurer of state or the commissioner within 3675
thirty days for stamps ~~or meter impressions~~ delivered within that 3676
time. If such a dealer has been in good credit standing with this 3677
state for five consecutive years preceding the purchase, the ~~tax~~ 3678
commissioner shall not require that the dealer file such a bond 3679
but shall require payment for the stamps ~~and meter impressions~~ 3680
within thirty days after purchase of the stamps ~~and meter~~ 3681
~~impressions.~~ Stamps ~~and meter impressions~~ sold to a dealer not 3682
required to file a bond shall be sold at face value. The maximum 3683
amount that may be sold on credit to a dealer not required to file 3684
a bond shall equal one hundred ten per cent of the dealer's 3685
average monthly purchases over the preceding calendar year. The 3686
maximum amount shall be adjusted to reflect any changes in the tax 3687

rate and may be adjusted, upon application to the ~~tax~~ commissioner 3688
by the dealer, to reflect changes in the business operations of 3689
the dealer. The maximum amount shall be applicable to the period 3690
of July through April. Payment by a dealer not required to file a 3691
bond shall be remitted by electronic funds transfer as prescribed 3692
by section 5743.051 of the Revised Code. If a dealer not required 3693
to file a bond fails to make the payment in full within the 3694
thirty-day period, the ~~treasurer of state~~ commissioner shall not 3695
thereafter sell stamps ~~or meter impressions~~ to that dealer until 3696
the dealer pays the outstanding amount, including penalty and 3697
interest on that amount as prescribed in this chapter, and the 3698
commissioner thereafter may require the dealer to file a bond 3699
until the dealer is restored to good standing. The commissioner 3700
shall limit delivery of stamps ~~and meter impressions~~ on credit to 3701
the period running from the first day of July of the fiscal year 3702
until the first day of the following May. Any discount allowed as 3703
a commission for affixing and canceling stamps ~~or meter~~ 3704
~~impressions~~ shall be allowed with respect to sales of stamps ~~and~~ 3705
~~meter impressions~~ on credit. 3706

The ~~treasurer of state~~ commissioner shall redeem and pay for 3707
any destroyed, unused, or spoiled tax stamps ~~and any unused meter~~ 3708
~~impressions~~ at their net value, and shall refund to wholesale 3709
dealers the net amount of state and county taxes paid erroneously 3710
or paid on cigarettes that have been sold in interstate or foreign 3711
commerce or that have become unsalable, and the net amount of 3712
county taxes that were paid on cigarettes that have been sold at 3713
retail or for retail sale outside a taxing county. 3714

An application for a refund of tax shall be filed with the 3715
~~tax~~ commissioner, on the form prescribed by the commissioner for 3716
that purpose, within three years from the date the tax stamps are 3717
destroyed or spoiled, from the date of the erroneous payment, or 3718
from the date that cigarettes on which taxes have been paid have 3719

been sold in interstate or foreign commerce or have become 3720
unsalable. 3721

On the filing of the application, the commissioner shall 3722
determine the amount of refund to which the applicant is entitled, 3723
payable from receipts of the state tax, and, if applicable, 3724
payable from receipts of a county tax. If the amount is less than 3725
that claimed, the commissioner shall certify the amount to the 3726
director of budget and management and treasurer of state for 3727
payment from the tax refund fund created by section 5703.052 of 3728
the Revised Code. If the amount is less than that claimed, the 3729
commissioner shall proceed in accordance with section 5703.70 of 3730
the Revised Code. 3731

If a refund is granted for payment of an illegal or erroneous 3732
assessment issued by the department, the refund shall include 3733
interest on the amount of the refund from the date of the 3734
overpayment. The interest shall be computed at the rate per annum 3735
prescribed by section 5703.47 of the Revised Code. 3736

Sec. 5743.051. This section applies to any wholesale or 3737
retail cigarette dealer required by section 5743.05 of the Revised 3738
Code to remit payment for tax stamps ~~and meter impressions~~ by 3739
electronic funds transfer. The tax commissioner shall notify each 3740
dealer of the dealer's obligation to do so and shall maintain an 3741
updated list of those dealers. Failure by the tax commissioner to 3742
notify a dealer subject to this section to remit taxes by 3743
electronic funds transfer does not relieve the dealer of its 3744
obligation to remit taxes by electronic funds transfer. 3745

A dealer required to remit payments by electronic funds 3746
transfer shall remit such payments to the treasurer of state in 3747
the manner prescribed by rules adopted by the treasurer of state 3748
under section 113.061 of the Revised Code and within the time 3749
prescribed for such a dealer by section 5743.05 of the Revised 3750

Code. 3751

A dealer required to remit taxes by electronic funds transfer 3752
may apply to the tax commissioner in the manner prescribed by the 3753
tax commissioner to be excused from that requirement. The tax 3754
commissioner may excuse the dealer from remittance by electronic 3755
funds transfer for good cause shown for the period of time 3756
requested by the dealer or for a portion of that period. 3757

If a dealer required to remit taxes by electronic funds 3758
transfer remits those taxes by some other means, the treasurer of 3759
state shall notify the tax commissioner of the failure to remit by 3760
electronic funds transfer. If the tax commissioner determines that 3761
such failure was not due to reasonable cause or was due to willful 3762
neglect, the tax commissioner may collect an additional charge by 3763
assessment in the manner prescribed by section 5743.081 of the 3764
Revised Code. The additional charge shall equal five per cent of 3765
the amount of the taxes required to be paid by electronic funds 3766
transfer but shall not exceed five thousand dollars. Any 3767
additional charge assessed under this section is in addition to 3768
any other penalty or charge imposed under this chapter and shall 3769
be considered as revenue arising from taxes imposed under this 3770
chapter. The tax commissioner may abate all or a portion of such a 3771
charge and may adopt rules governing such remissions. 3772

No additional charge shall be assessed under this section 3773
against a dealer that has been notified of its obligation to remit 3774
taxes under this section and that remits its first two tax 3775
payments after such notification by some means other than 3776
electronic funds transfer. The additional charge may be assessed 3777
upon the remittance of any subsequent tax payment that the dealer 3778
remits by some means other than electronic funds transfer. 3779

Sec. 5743.112. (A) No person shall prepare for shipment, 3780
ship, transport, deliver, prepare for distribution, or distribute 3781

cigarettes, or otherwise engage or participate in the wholesale or 3782
retail business of trafficking in cigarettes, with the intent to 3783
avoid payment of the tax imposed by this chapter, when the total 3784
number of cigarettes in the aggregate exceeds one thousand two 3785
hundred during any twelve-month period. 3786

(B) Any vending machine containing cigarettes which do not 3787
have affixed the stamps ~~or impressions~~ provided for by sections 3788
5743.03 and 5743.04 of the Revised Code shall be seized and 3789
forfeited to the state in accordance with Chapter 2981. of the 3790
Revised Code. Forfeiture shall not affect the rights of a holder 3791
of a valid lien. 3792

(C) A vehicle that is seized as contraband under Chapter 3793
2981. of the Revised Code because of its use in violation of this 3794
chapter is subject to the procedures set forth in that chapter. 3795

Sec. 5743.52. (A) Each distributor of tobacco products 3796
subject to the tax levied by section 5743.51 of the Revised Code, 3797
on or before the ~~last~~ twenty-third day of each month, shall file 3798
with the ~~treasurer of state~~ tax commissioner a return for the 3799
preceding month showing any information the tax commissioner finds 3800
necessary for the proper administration of sections 5743.51 to 3801
5743.66 of the Revised Code, together with remittance of the tax 3802
due. ~~The treasurer of state shall stamp or otherwise mark on the~~ 3803
~~return the date it was received and shall also show thereon by~~ 3804
~~stamp or otherwise the amount of payment received with the return.~~ 3805
~~Thereafter, the treasurer of state shall immediately transmit all~~ 3806
~~returns filed under this section to the tax commissioner.~~ The 3807
return and payment of the tax required by this section shall be 3808
filed in such a manner that it is received by the ~~treasurer of~~ 3809
~~state~~ commissioner on or before the ~~last~~ twenty-third day of the 3810
month following the reporting period. If the return is filed and 3811
the amount of tax shown on the return to be due is paid on or 3812

before the date the return is required to be filed, the 3813
distributor is entitled to a discount equal to two and five-tenths 3814
per cent of the amount shown on the return to be due. 3815

(B) Any person who fails to timely file the return and make 3816
payment of taxes as required under this section, section 5743.62, 3817
or section 5743.63 of the Revised Code may be required to pay an 3818
additional charge not exceeding the greater of fifty dollars or 3819
ten per cent of the tax due. Any additional charge imposed under 3820
this section may be collected by assessment as provided in section 3821
5743.56 of the Revised Code. 3822

(C) If any tax due is not paid timely in accordance with 3823
sections 5743.52, 5743.62, or 5743.63 of the Revised Code, the 3824
person liable for the tax shall pay interest, calculated at the 3825
rate per annum as prescribed by section 5703.47 of the Revised 3826
Code, from the date the tax payment was due to the date of payment 3827
or to the date an assessment is issued under section 5743.56 of 3828
the Revised Code, whichever occurs first. The commissioner may 3829
collect such interest by assessment pursuant to section 5743.56 of 3830
the Revised Code. 3831

(D) The commissioner may authorize the filing of returns and 3832
the payment of the tax required by this section, section 5743.62, 3833
or section 5743.63 of the Revised Code for periods longer than a 3834
calendar month. 3835

(E) The commissioner may order any taxpayer to file with the 3836
commissioner security to the satisfaction of the commissioner 3837
conditioned upon filing the return and paying the taxes required 3838
under this section, section 5743.62, or section 5743.63 of the 3839
Revised Code if the commissioner believes that the collection of 3840
the tax may be in jeopardy. 3841

Sec. 5743.65. No person required by division (B) of section 3842
5743.62 or division (B) of section 5743.63 of the Revised Code to 3843

file a return with the ~~treasurer of state~~ tax commissioner shall 3844
fail to make the return or fail to pay the applicable taxes levied 3845
under section 5743.62 or 5743.63 of the Revised Code or fail to 3846
pay any lawful assessment issued by the tax commissioner. 3847

Sec. 5747.08. An annual return with respect to the tax 3848
imposed by section 5747.02 of the Revised Code and each tax 3849
imposed under Chapter 5748. of the Revised Code shall be made by 3850
every taxpayer for any taxable year for which the taxpayer is 3851
liable for the tax imposed by that section or under that chapter, 3852
unless the total credits allowed under divisions (E), (F), and (G) 3853
of section 5747.05 of the Revised Code for the year are equal to 3854
or exceed the tax imposed by section 5747.02 of the Revised Code, 3855
in which case no return shall be required unless the taxpayer is 3856
liable for a tax imposed pursuant to Chapter 5748. of the Revised 3857
Code. 3858

(A) If an individual is deceased, any return or notice 3859
required of that individual under this chapter shall be made and 3860
filed by that decedent's executor, administrator, or other person 3861
charged with the property of that decedent. 3862

(B) If an individual is unable to make a return or notice 3863
required by this chapter, the return or notice required of that 3864
individual shall be made and filed by the individual's duly 3865
authorized agent, guardian, conservator, fiduciary, or other 3866
person charged with the care of the person or property of that 3867
individual. 3868

(C) Returns or notices required of an estate or a trust shall 3869
be made and filed by the fiduciary of the estate or trust. 3870

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 3871
of this section, any pass-through entity may file a single return 3872
on behalf of one or more of the entity's investors other than an 3873
investor that is a person subject to the tax imposed under section 3874

5733.06 of the Revised Code. The single return shall set forth the 3875
name, address, and social security number or other identifying 3876
number of each of those pass-through entity investors and shall 3877
indicate the distributive share of each of those pass-through 3878
entity investor's income taxable in this state in accordance with 3879
sections 5747.20 to 5747.231 of the Revised Code. Such 3880
pass-through entity investors for whom the pass-through entity 3881
elects to file a single return are not entitled to the exemption 3882
or credit provided for by sections 5747.02 and 5747.022 of the 3883
Revised Code; shall calculate the tax before business credits at 3884
the highest rate of tax set forth in section 5747.02 of the 3885
Revised Code for the taxable year for which the return is filed; 3886
and are entitled to only their distributive share of the business 3887
credits as defined in division (D)(2) of this section. A single 3888
check drawn by the pass-through entity shall accompany the return 3889
in full payment of the tax due, as shown on the single return, for 3890
such investors, other than investors who are persons subject to 3891
the tax imposed under section 5733.06 of the Revised Code. 3892

(b)(i) A pass-through entity shall not include in such a 3893
single return any investor that is a trust to the extent that any 3894
direct or indirect current, future, or contingent beneficiary of 3895
the trust is a person subject to the tax imposed under section 3896
5733.06 of the Revised Code. 3897

(ii) A pass-through entity shall not include in such a single 3898
return any investor that is itself a pass-through entity to the 3899
extent that any direct or indirect investor in the second 3900
pass-through entity is a person subject to the tax imposed under 3901
section 5733.06 of the Revised Code. 3902

(c) Nothing in division (D) of this section precludes the tax 3903
commissioner from requiring such investors to file the return and 3904
make the payment of taxes and related interest, penalty, and 3905
interest penalty required by this section or section 5747.02, 3906

5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 3907
of this section precludes such an investor from filing the annual 3908
return under this section, utilizing the refundable credit equal 3909
to the investor's proportionate share of the tax paid by the 3910
pass-through entity on behalf of the investor under division 3911
~~(J)~~(I) of this section, and making the payment of taxes imposed 3912
under section 5747.02 of the Revised Code. Nothing in division (D) 3913
of this section shall be construed to provide to such an investor 3914
or pass-through entity any additional deduction or credit, other 3915
than the credit provided by division ~~(J)~~(I) of this section, 3916
solely on account of the entity's filing a return in accordance 3917
with this section. Such a pass-through entity also shall make the 3918
filing and payment of estimated taxes on behalf of the 3919
pass-through entity investors other than an investor that is a 3920
person subject to the tax imposed under section 5733.06 of the 3921
Revised Code. 3922

(2) For the purposes of this section, "business credits" 3923
means the credits listed in section 5747.98 of the Revised Code 3924
excluding the following credits: 3925

(a) The retirement credit under division (B) of section 3926
5747.055 of the Revised Code; 3927

(b) The senior citizen credit under division (C) of section 3928
5747.05 of the Revised Code; 3929

(c) The lump sum distribution credit under division (D) of 3930
section 5747.05 of the Revised Code; 3931

(d) The dependent care credit under section 5747.054 of the 3932
Revised Code; 3933

(e) The lump sum retirement income credit under division (C) 3934
of section 5747.055 of the Revised Code; 3935

(f) The lump sum retirement income credit under division (D) 3936
of section 5747.055 of the Revised Code; 3937

(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	3938 3939
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	3940 3941
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	3942 3943
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	3944 3945
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	3946 3947
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	3948 3949
(m) The low-income credit under section 5747.056 of the Revised Code;	3950 3951
(n) The earned income tax credit under section 5747.71 of the Revised Code.	3952 3953
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	3954 3955 3956 3957 3958 3959 3960 3961
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the tax commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in	3962 3963 3964 3965 3966 3967

this division shall be construed to limit or alter the liability, 3968
if any, imposed on pass-through entity investors for unpaid or 3969
underpaid taxes, interest, interest penalty, or penalties as a 3970
result of the pass-through entity's making the election provided 3971
for under division (D) of this section. For the purposes of 3972
division (D) of this section, "correct tax due" means the tax that 3973
would have been paid by the pass-through entity had the single 3974
return been filed in a manner reflecting the commissioner's 3975
findings. Nothing in division (D) of this section shall be 3976
construed to make or hold a pass-through entity liable for tax 3977
attributable to a pass-through entity investor's income from a 3978
source other than the pass-through entity electing to file the 3979
single return. 3980

(E) If a husband and wife file a joint federal income tax 3981
return for a taxable year, they shall file a joint return under 3982
this section for that taxable year, and their liabilities are 3983
joint and several, but, if the federal income tax liability of 3984
either spouse is determined on a separate federal income tax 3985
return, they shall file separate returns under this section. 3986

If either spouse is not required to file a federal income tax 3987
return and either or both are required to file a return pursuant 3988
to this chapter, they may elect to file separate or joint returns, 3989
and, pursuant to that election, their liabilities are separate or 3990
joint and several. If a husband and wife file separate returns 3991
pursuant to this chapter, each must claim the taxpayer's own 3992
exemption, but not both, as authorized under section 5747.02 of 3993
the Revised Code on the taxpayer's own return. 3994

(F) Each return or notice required to be filed under this 3995
section shall contain the signature of the taxpayer or the 3996
taxpayer's duly authorized agent and of the person who prepared 3997
the return for the taxpayer, and shall include the taxpayer's 3998
social security number. Each return shall be verified by a 3999

declaration under the penalties of perjury. The tax commissioner 4000
shall prescribe the form that the signature and declaration shall 4001
take. 4002

(G) Each return or notice required to be filed under this 4003
section shall be made and filed as required by section 5747.04 of 4004
the Revised Code, on or before the fifteenth day of April of each 4005
year, on forms that the tax commissioner shall prescribe, together 4006
with remittance made payable to the treasurer of state in the 4007
combined amount of the state and all school district income taxes 4008
shown to be due on the form. 4009

Upon good cause shown, the commissioner may extend the period 4010
for filing any notice or return required to be filed under this 4011
section and may adopt rules relating to extensions. If the 4012
extension results in an extension of time for the payment of any 4013
state or school district income tax liability with respect to 4014
which the return is filed, the taxpayer shall pay at the time the 4015
tax liability is paid an amount of interest computed at the rate 4016
per annum prescribed by section 5703.47 of the Revised Code on 4017
that liability from the time that payment is due without extension 4018
to the time of actual payment. Except as provided in section 4019
5747.132 of the Revised Code, in addition to all other interest 4020
charges and penalties, all taxes imposed under this chapter or 4021
Chapter 5748. of the Revised Code and remaining unpaid after they 4022
become due, except combined amounts due of one dollar or less, 4023
bear interest at the rate per annum prescribed by section 5703.47 4024
of the Revised Code until paid or until the day an assessment is 4025
issued under section 5747.13 of the Revised Code, whichever occurs 4026
first. 4027

If the commissioner considers it necessary in order to ensure 4028
the payment of the tax imposed by section 5747.02 of the Revised 4029
Code or any tax imposed under Chapter 5748. of the Revised Code, 4030
the commissioner may require returns and payments to be made 4031

otherwise than as provided in this section. 4032

To the extent that any provision in this division conflicts 4033
with any provision in section 5747.026 of the Revised Code, the 4034
provision in that section prevails. 4035

~~(H) If any report, claim, statement, or other document 4036
required to be filed, or any payment required to be made, within a 4037
prescribed period or on or before a prescribed date under this 4038
chapter is delivered after that period or that date by United 4039
States mail to the agency, officer, or office with which the 4040
report, claim, statement, or other document is required to be 4041
filed, or to which the payment is required to be made, the date of 4042
the postmark stamped on the cover in which the report, claim, 4043
statement, or other document, or payment is mailed shall be deemed 4044
to be the date of delivery or the date of payment. 4045~~

~~If a payment is required to be made by electronic funds 4046
transfer pursuant to section 5747.072 of the Revised Code, the 4047
payment is considered to be made when the payment is received by 4048
the treasurer of state or credited to an account designated by the 4049
treasurer of state for the receipt of tax payments. 4050~~

~~"The date of the postmark" means, in the event there is more 4051
than one date on the cover, the earliest date imprinted on the 4052
cover by the United States postal service. 4053~~

~~(I) The amounts withheld by an employer pursuant to section 4054
5747.06 of the Revised Code, a casino operator pursuant to section 4055
5747.063 of the Revised Code, or a lottery sales agent pursuant to 4056
section 5747.064 of the Revised Code shall be allowed to the 4057
recipient of the compensation casino winnings, or lottery prize 4058
award as credits against payment of the appropriate taxes imposed 4059
on the recipient by section 5747.02 and under Chapter 5748. of the 4060
Revised Code. 4061~~

~~(J)(I) If a pass-through entity elects to file a single 4062~~

return under division (D) of this section and if any investor is 4063
required to file the annual return and make the payment of taxes 4064
required by this chapter on account of the investor's other income 4065
that is not included in a single return filed by a pass-through 4066
entity or any other investor elects to file the annual return, the 4067
investor is entitled to a refundable credit equal to the 4068
investor's proportionate share of the tax paid by the pass-through 4069
entity on behalf of the investor. The investor shall claim the 4070
credit for the investor's taxable year in which or with which ends 4071
the taxable year of the pass-through entity. Nothing in this 4072
chapter shall be construed to allow any credit provided in this 4073
chapter to be claimed more than once. For the purpose of computing 4074
any interest, penalty, or interest penalty, the investor shall be 4075
deemed to have paid the refundable credit provided by this 4076
division on the day that the pass-through entity paid the 4077
estimated tax or the tax giving rise to the credit. 4078

~~(K)~~(J) The tax commissioner shall ensure that each return 4079
required to be filed under this section includes a box that the 4080
taxpayer may check to authorize a paid tax preparer who prepared 4081
the return to communicate with the department of taxation about 4082
matters pertaining to the return. The return or instructions 4083
accompanying the return shall indicate that by checking the box 4084
the taxpayer authorizes the department of taxation to contact the 4085
preparer concerning questions that arise during the processing of 4086
the return and authorizes the preparer only to provide the 4087
department with information that is missing from the return, to 4088
contact the department for information about the processing of the 4089
return or the status of the taxpayer's refund or payments, and to 4090
respond to notices about mathematical errors, offsets, or return 4091
preparation that the taxpayer has received from the department and 4092
has shown to the preparer. 4093

~~(L)~~(K) The tax commissioner shall permit individual taxpayers 4094

to instruct the department of taxation to cause any refund of 4095
overpaid taxes to be deposited directly into a checking account, 4096
savings account, or an individual retirement account or individual 4097
retirement annuity, or preexisting college savings plan or program 4098
account offered by the Ohio tuition trust authority under Chapter 4099
3334. of the Revised Code, as designated by the taxpayer, when the 4100
taxpayer files the annual return required by this section 4101
electronically. 4102

~~(M)~~(L) The tax commissioner may adopt rules to administer 4103
this section. 4104

Sec. 5747.98. (A) To provide a uniform procedure for 4105
calculating the amount of tax due under section 5747.02 of the 4106
Revised Code, a taxpayer shall claim any credits to which the 4107
taxpayer is entitled in the following order: 4108

(1) The retirement income credit under division (B) of 4109
section 5747.055 of the Revised Code; 4110

(2) The senior citizen credit under division (C) of section 4111
5747.05 of the Revised Code; 4112

(3) The lump sum distribution credit under division (D) of 4113
section 5747.05 of the Revised Code; 4114

(4) The dependent care credit under section 5747.054 of the 4115
Revised Code; 4116

(5) The lump sum retirement income credit under division (C) 4117
of section 5747.055 of the Revised Code; 4118

(6) The lump sum retirement income credit under division (D) 4119
of section 5747.055 of the Revised Code; 4120

(7) The lump sum retirement income credit under division (E) 4121
of section 5747.055 of the Revised Code; 4122

(8) The low-income credit under section 5747.056 of the 4123

Revised Code;	4124
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	4125 4126
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	4127 4128
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	4129 4130
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	4131 4132
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	4133 4134
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	4135 4136
(15) The earned income credit under section 5747.71 of the Revised Code;	4137 4138
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	4139 4140
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	4141 4142
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	4143 4144
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	4145 4146
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	4147 4148
(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;	4149 4150 4151
(22) The job training credit under section 5747.39 of the	4152

Revised Code;	4153
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	4154 4155
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	4156 4157
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	4158 4159
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	4160 4161
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	4162 4163
(28) The small business investment credit under section 5747.81 of the Revised Code;	4164 4165
(29) The enterprise zone credits under section 5709.65 of the Revised Code;	4166 4167
(30) The research and development credit under section 5747.331 of the Revised Code;	4168 4169
(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	4170 4171
(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	4172 4173
(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	4174 4175
(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	4176 4177
(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) (I) of section 5747.08 of the Revised Code;	4178 4179 4180
(36) The refundable credit under section 5747.80 of the	4181

Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	4182 4183
(37) The refundable motion picture production credit under section 5747.66 of the Revised Code- i	4184 4185
(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	4186 4187 4188
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.	4189 4190 4191 4192 4193 4194 4195
Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	4196 4197 4198
Sec. 5751.01. As used in this chapter:	4199
(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.	4200 4201 4202 4203 4204 4205 4206 4207 4208
(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011	4209 4210 4211

of the Revised Code. 4212

(C) "Combined taxpayer" means a group of two or more persons 4213
treated as a single taxpayer for purposes of this chapter under 4214
section 5751.012 of the Revised Code. 4215

(D) "Taxpayer" means any person, or any group of persons in 4216
the case of a consolidated elected taxpayer or combined taxpayer 4217
treated as one taxpayer, required to register or pay tax under 4218
this chapter. "Taxpayer" does not include excluded persons. 4219

(E) "Excluded person" means any of the following: 4220

(1) Any person with not more than one hundred fifty thousand 4221
dollars of taxable gross receipts during the calendar year. 4222
Division (E)(1) of this section does not apply to a person that is 4223
a member of a consolidated elected taxpayer; 4224

(2) A public utility that paid the excise tax imposed by 4225
section 5727.24 or 5727.30 of the Revised Code based on one or 4226
more measurement periods that include the entire tax period under 4227
this chapter, except that a public utility that is a combined 4228
company is a taxpayer with regard to the following gross receipts: 4229

(a) Taxable gross receipts directly attributed to a public 4230
utility activity, but not directly attributed to an activity that 4231
is subject to the excise tax imposed by section 5727.24 or 5727.30 4232
of the Revised Code; 4233

(b) Taxable gross receipts that cannot be directly attributed 4234
to any activity, multiplied by a fraction whose numerator is the 4235
taxable gross receipts described in division (E)(2)(a) of this 4236
section and whose denominator is the total taxable gross receipts 4237
that can be directly attributed to any activity; 4238

(c) Except for any differences resulting from the use of an 4239
accrual basis method of accounting for purposes of determining 4240
gross receipts under this chapter and the use of the cash basis 4241

method of accounting for purposes of determining gross receipts 4242
under section 5727.24 of the Revised Code, the gross receipts 4243
directly attributed to the activity of a natural gas company shall 4244
be determined in a manner consistent with division (D) of section 4245
5727.03 of the Revised Code. 4246

As used in division (E)(2) of this section, "combined 4247
company" and "public utility" have the same meanings as in section 4248
5727.01 of the Revised Code. 4249

(3) A financial institution, as defined in section 5726.01 of 4250
the Revised Code, that paid the tax imposed by section 5726.02 of 4251
the Revised Code based on one or more taxable years that include 4252
the entire tax period under this chapter; 4253

(4) A person directly or indirectly owned by one or more 4254
financial institutions, as defined in section 5726.01 of the 4255
Revised Code, that paid the tax imposed by section 5726.02 of the 4256
Revised Code based on one or more taxable years that include the 4257
entire tax period under this chapter. 4258

For the purposes of division (E)(4) of this section, a person 4259
owns another person under the following circumstances: 4260

(a) In the case of corporations issuing capital stock, one 4261
corporation owns another corporation if it owns fifty per cent or 4262
more of the other corporation's capital stock with current voting 4263
rights; 4264

(b) In the case of a limited liability company, one person 4265
owns the company if that person's membership interest, as defined 4266
in section 1705.01 of the Revised Code, is fifty per cent or more 4267
of the combined membership interests of all persons owning such 4268
interests in the company; 4269

(c) In the case of a partnership, trust, or other 4270
unincorporated business organization other than a limited 4271
liability company, one person owns the organization if, under the 4272

articles of organization or other instrument governing the affairs 4273
of the organization, that person has a beneficial interest in the 4274
organization's profits, surpluses, losses, or distributions of 4275
fifty per cent or more of the combined beneficial interests of all 4276
persons having such an interest in the organization. 4277

(5) A domestic insurance company or foreign insurance 4278
company, as defined in section 5725.01 of the Revised Code, that 4279
paid the insurance company premiums tax imposed by section 5725.18 4280
or Chapter 5729. of the Revised Code, or an unauthorized insurance 4281
company whose gross premiums are subject to tax under section 4282
3905.36 of the Revised Code based on one or more measurement 4283
periods that include the entire tax period under this chapter; 4284

(6) A person that solely facilitates or services one or more 4285
securitizations of phase-in-recovery property pursuant to a final 4286
financing order as those terms are defined in section 4928.23 of 4287
the Revised Code. For purposes of this division, "securitization" 4288
means transferring one or more assets to one or more persons and 4289
then issuing securities backed by the right to receive payment 4290
from the asset or assets so transferred. 4291

(7) Except as otherwise provided in this division, a 4292
pre-income tax trust as defined in division (FF)(4) of section 4293
5747.01 of the Revised Code and any pass-through entity of which 4294
such pre-income tax trust owns or controls, directly, indirectly, 4295
or constructively through related interests, more than five per 4296
cent of the ownership or equity interests. If the pre-income tax 4297
trust has made a qualifying pre-income tax trust election under 4298
division (FF)(3) of section 5747.01 of the Revised Code, then the 4299
trust and the pass-through entities of which it owns or controls, 4300
directly, indirectly, or constructively through related interests, 4301
more than five per cent of the ownership or equity interests, 4302
shall not be excluded persons for purposes of the tax imposed 4303
under section 5751.02 of the Revised Code. 4304

(8) Nonprofit organizations or the state and its agencies, 4305
instrumentalities, or political subdivisions. 4306

(F) Except as otherwise provided in divisions (F)(2), (3), 4307
and (4) of this section, "gross receipts" means the total amount 4308
realized by a person, without deduction for the cost of goods sold 4309
or other expenses incurred, that contributes to the production of 4310
gross income of the person, including the fair market value of any 4311
property and any services received, and any debt transferred or 4312
forgiven as consideration. 4313

(1) The following are examples of gross receipts: 4314

(a) Amounts realized from the sale, exchange, or other 4315
disposition of the taxpayer's property to or with another; 4316

(b) Amounts realized from the taxpayer's performance of 4317
services for another; 4318

(c) Amounts realized from another's use or possession of the 4319
taxpayer's property or capital; 4320

(d) Any combination of the foregoing amounts. 4321

(2) "Gross receipts" excludes the following amounts: 4322

(a) Interest income except interest on credit sales; 4323

(b) Dividends and distributions from corporations, and 4324
distributive or proportionate shares of receipts and income from a 4325
pass-through entity as defined under section 5733.04 of the 4326
Revised Code; 4327

(c) Receipts from the sale, exchange, or other disposition of 4328
an asset described in section 1221 or 1231 of the Internal Revenue 4329
Code, without regard to the length of time the person held the 4330
asset. Notwithstanding section 1221 of the Internal Revenue Code, 4331
receipts from hedging transactions also are excluded to the extent 4332
the transactions are entered into primarily to protect a financial 4333
position, such as managing the risk of exposure to (i) foreign 4334

currency fluctuations that affect assets, liabilities, profits, 4335
losses, equity, or investments in foreign operations; (ii) 4336
interest rate fluctuations; or (iii) commodity price fluctuations. 4337
As used in division (F)(2)(c) of this section, "hedging 4338
transaction" has the same meaning as used in section 1221 of the 4339
Internal Revenue Code and also includes transactions accorded 4340
hedge accounting treatment under statement of financial accounting 4341
standards number 133 of the financial accounting standards board. 4342
For the purposes of division (F)(2)(c) of this section, the actual 4343
transfer of title of real or tangible personal property to another 4344
entity is not a hedging transaction. 4345

(d) Proceeds received attributable to the repayment, 4346
maturity, or redemption of the principal of a loan, bond, mutual 4347
fund, certificate of deposit, or marketable instrument; 4348

(e) The principal amount received under a repurchase 4349
agreement or on account of any transaction properly characterized 4350
as a loan to the person; 4351

(f) Contributions received by a trust, plan, or other 4352
arrangement, any of which is described in section 501(a) of the 4353
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 4354
1, Subchapter (D) of the Internal Revenue Code applies; 4355

(g) Compensation, whether current or deferred, and whether in 4356
cash or in kind, received or to be received by an employee, former 4357
employee, or the employee's legal successor for services rendered 4358
to or for an employer, including reimbursements received by or for 4359
an individual for medical or education expenses, health insurance 4360
premiums, or employee expenses, or on account of a dependent care 4361
spending account, legal services plan, any cafeteria plan 4362
described in section 125 of the Internal Revenue Code, or any 4363
similar employee reimbursement; 4364

(h) Proceeds received from the issuance of the taxpayer's own 4365

stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	4366 4367
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	4368 4369 4370
(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;	4371 4372 4373 4374 4375 4376 4377
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	4378 4379 4380
(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;	4381 4382 4383
(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;	4384 4385 4386 4387 4388 4389 4390 4391 4392 4393
(n) Pension reversions;	4394
(o) Contributions to capital;	4395

(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 In the case of 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, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;

(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; 4428

(u) Receipts from a financial institution described in 4429
division (E)(3) of this section for services provided to the 4430
financial institution in connection with the issuance, processing, 4431
servicing, and management of loans or credit accounts, if such 4432
financial institution and the recipient of such receipts have at 4433
least fifty per cent of their ownership interests owned or 4434
controlled, directly or constructively through related interests, 4435
by common owners; 4436

(v) Receipts realized from administering anti-neoplastic 4437
drugs and other cancer chemotherapy, biologicals, therapeutic 4438
agents, and supportive drugs in a physician's office to patients 4439
with cancer; 4440

(w) Funds received or used by a mortgage broker that is not a 4441
dealer in intangibles, other than fees or other consideration, 4442
pursuant to a table-funding mortgage loan or warehouse-lending 4443
mortgage loan. Terms used in division (F)(2)(w) of this section 4444
have the same meanings as in section 1322.01 of the Revised Code, 4445
except "mortgage broker" means a person assisting a buyer in 4446
obtaining a mortgage loan for a fee or other consideration paid by 4447
the buyer or a lender, or a person engaged in table-funding or 4448
warehouse-lending mortgage loans that are first lien mortgage 4449
loans. 4450

(x) Property, money, and other amounts received by a 4451
professional employer organization, as defined in section 4125.01 4452
of the Revised Code, from a client employer, as defined in that 4453
section, in excess of the administrative fee charged by the 4454
professional employer organization to the client employer; 4455

(y) In the case of amounts retained as commissions by a 4456
permit holder under Chapter 3769. of the Revised Code, an amount 4457
equal to the amounts specified under that chapter that must be 4458

paid to or collected by the tax commissioner as a tax and the 4459
amounts specified under that chapter to be used as purse money; 4460

(z) Qualifying distribution center receipts. 4461

(i) For purposes of division (F)(2)(z) of this section: 4462

(I) "Qualifying distribution center receipts" means receipts 4463
of a supplier from qualified property that is delivered to a 4464
qualified distribution center, multiplied by a quantity that 4465
equals one minus the Ohio delivery percentage. If the qualified 4466
distribution center is a refining facility, "supplier" includes 4467
all dealers, brokers, processors, sellers, vendors, cosigners, and 4468
distributors of qualified property. 4469

(II) "Qualified property" means tangible personal property 4470
delivered to a qualified distribution center that is shipped to 4471
that qualified distribution center solely for further shipping by 4472
the qualified distribution center to another location in this 4473
state or elsewhere or, in the case of gold, silver, platinum, or 4474
palladium delivered to a refining facility solely for refining to 4475
a grade and fineness acceptable for delivery to a registered 4476
commodities exchange. "Further shipping" includes storing and 4477
repackaging property into smaller or larger bundles, so long as 4478
the property is not subject to further manufacturing or 4479
processing. "Refining" is limited to extracting impurities from 4480
gold, silver, platinum, or palladium through smelting or some 4481
other process at a refining facility. 4482

(III) "Qualified distribution center" means a warehouse, a 4483
facility similar to a warehouse, or a refining facility in this 4484
state that, for the qualifying year, is operated by a person that 4485
is not part of a combined taxpayer group and that has a qualifying 4486
certificate. All warehouses or facilities similar to warehouses 4487
that are operated by persons in the same taxpayer group and that 4488
are located within one mile of each other shall be treated as one 4489

qualified distribution center. All refining facilities that are 4490
operated by persons in the same taxpayer group and that are 4491
located in the same or adjacent counties may be treated as one 4492
qualified distribution center. 4493

(IV) "Qualifying year" means the calendar year to which the 4494
qualifying certificate applies. 4495

(V) "Qualifying period" means the period of the first day of 4496
July of the second year preceding the qualifying year through the 4497
thirtieth day of June of the year preceding the qualifying year. 4498

(VI) "Qualifying certificate" means the certificate issued by 4499
the tax commissioner after the operator of a distribution center 4500
files an annual application with the commissioner. The application 4501
and annual fee shall be filed and paid for each qualified 4502
distribution center on or before the first day of September before 4503
the qualifying year or within forty-five days after the 4504
distribution center opens, whichever is later. 4505

The applicant must substantiate to the commissioner's 4506
satisfaction that, for the qualifying period, all persons 4507
operating the distribution center have more than fifty per cent of 4508
the cost of the qualified property shipped to a location such that 4509
it would be situated outside this state under the provisions of 4510
division (E) of section 5751.033 of the Revised Code. The 4511
applicant must also substantiate that the distribution center 4512
cumulatively had costs from its suppliers equal to or exceeding 4513
five hundred million dollars during the qualifying period. (For 4514
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 4515
excludes any person that is part of the consolidated elected 4516
taxpayer group, if applicable, of the operator of the qualified 4517
distribution center.) The commissioner may require the applicant 4518
to have an independent certified public accountant certify that 4519
the calculation of the minimum thresholds required for a qualified 4520
distribution center by the operator of a distribution center has 4521

been made in accordance with generally accepted accounting 4522
principles. The commissioner shall issue or deny the issuance of a 4523
certificate within sixty days after the receipt of the 4524
application. A denial is subject to appeal under section 5717.02 4525
of the Revised Code. If the operator files a timely appeal under 4526
section 5717.02 of the Revised Code, the operator shall be granted 4527
a qualifying certificate effective for the remainder of the 4528
qualifying year or until the appeal is finalized, whichever is 4529
earlier. If the operator does not prevail in the appeal, the 4530
operator shall pay the ineligible operator's supplier tax 4531
liability. 4532

(VII) "Ohio delivery percentage" means the proportion of the 4533
total property delivered to a destination inside Ohio from the 4534
qualified distribution center during the qualifying period 4535
compared with total deliveries from such distribution center 4536
everywhere during the qualifying period. 4537

(VIII) "Refining facility" means one or more buildings 4538
located in a county in the Appalachian region of this state as 4539
defined by section 107.21 of the Revised Code and utilized for 4540
refining or smelting gold, silver, platinum, or palladium to a 4541
grade and fineness acceptable for delivery to a registered 4542
commodities exchange. 4543

(IX) "Registered commodities exchange" means a board of 4544
trade, such as New York mercantile exchange, inc. or commodity 4545
exchange, inc., designated as a contract market by the commodity 4546
futures trading commission under the "Commodity Exchange Act," 7 4547
U.S.C. 1 et seq., as amended. 4548

(X) "Ineligible operator's supplier tax liability" means an 4549
amount equal to the tax liability of all suppliers of a 4550
distribution center had the distribution center not been issued a 4551
qualifying certificate for the qualifying year. Ineligible 4552
operator's supplier tax liability shall not include interest or 4553

penalties. The tax commissioner shall determine an ineligible 4554
operator's supplier tax liability based on information that the 4555
commissioner may request from the operator of the distribution 4556
center. An operator shall provide a list of all suppliers of the 4557
distribution center and the corresponding costs of qualified 4558
property for the qualifying year at issue within sixty days of a 4559
request by the commissioner under this division. 4560

(ii)(I) If the distribution center is new and was not open 4561
for the entire qualifying period, the operator of the distribution 4562
center may request that the commissioner grant a qualifying 4563
certificate. If the certificate is granted and it is later 4564
determined that more than fifty per cent of the qualified property 4565
during that year was not shipped to a location such that it would 4566
be situated outside of this state under the provisions of division 4567
(E) of section 5751.033 of the Revised Code or if it is later 4568
determined that the person that operates the distribution center 4569
had average monthly costs from its suppliers of less than forty 4570
million dollars during that year, then the operator of the 4571
distribution center shall pay the ineligible operator's supplier 4572
tax liability. (For purposes of division (F)(2)(z)(ii) of this 4573
section, "supplier" excludes any person that is part of the 4574
consolidated elected taxpayer group, if applicable, of the 4575
operator of the qualified distribution center.) 4576

(II) The commissioner may grant a qualifying certificate to a 4577
distribution center that does not qualify as a qualified 4578
distribution center for an entire qualifying period if the 4579
operator of the distribution center demonstrates that the business 4580
operations of the distribution center have changed or will change 4581
such that the distribution center will qualify as a qualified 4582
distribution center within thirty-six months after the date the 4583
operator first applies for a certificate. If, at the end of that 4584
thirty-six-month period, the business operations of the 4585

distribution center have not changed such that the distribution 4586
center qualifies as a qualified distribution center, the operator 4587
of the distribution center shall pay the ineligible operator's 4588
supplier tax liability for each year that the distribution center 4589
received a certificate but did not qualify as a qualified 4590
distribution center. For each year the distribution center 4591
receives a certificate under division (F)(2)(z)(ii)(II) of this 4592
section, the distribution center shall pay all applicable fees 4593
required under division (F)(2)(z) of this section and shall submit 4594
an updated business plan showing the progress the distribution 4595
center made toward qualifying as a qualified distribution center 4596
during the preceding year. 4597

(III) An operator may appeal a determination under division 4598
(F)(2)(z)(ii)(I) or (II) of this section that the ineligible 4599
operator is liable for the operator's supplier tax liability as a 4600
result of not qualifying as a qualified distribution center, as 4601
provided in section 5717.02 of the Revised Code. 4602

(iii) When filing an application for a qualifying certificate 4603
under division (F)(2)(z)(i)(VI) of this section, the operator of a 4604
qualified distribution center also shall provide documentation, as 4605
the commissioner requires, for the commissioner to ascertain the 4606
Ohio delivery percentage. The commissioner, upon issuing the 4607
qualifying certificate, also shall certify the Ohio delivery 4608
percentage. The operator of the qualified distribution center may 4609
appeal the commissioner's certification of the Ohio delivery 4610
percentage in the same manner as an appeal is taken from the 4611
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 4612
of this section. 4613

(iv)(I) In the case where the distribution center is new and 4614
not open for the entire qualifying period, the operator shall make 4615
a good faith estimate of an Ohio delivery percentage for use by 4616
suppliers in their reports of taxable gross receipts for the 4617

remainder of the qualifying period. The operator of the facility 4618
shall disclose to the suppliers that such Ohio delivery percentage 4619
is an estimate and is subject to recalculation. By the due date of 4620
the next application for a qualifying certificate, the operator 4621
shall determine the actual Ohio delivery percentage for the 4622
estimated qualifying period and proceed as provided in division 4623
(F)(2)(z)(iii) of this section with respect to the calculation and 4624
recalculation of the Ohio delivery percentage. The supplier is 4625
required to file, within sixty days after receiving notice from 4626
the operator of the qualified distribution center, amended reports 4627
for the impacted calendar quarter or quarters or calendar year, 4628
whichever the case may be. Any additional tax liability or tax 4629
overpayment shall be subject to interest but shall not be subject 4630
to the imposition of any penalty so long as the amended returns 4631
are timely filed. 4632

(II) The operator of a distribution center that receives a 4633
qualifying certificate under division (F)(2)(z)(ii)(II) of this 4634
section shall make a good faith estimate of the Ohio delivery 4635
percentage that the operator estimates will apply to the 4636
distribution center at the end of the thirty-six-month period 4637
after the operator first applied for a qualifying certificate 4638
under that division. The result of the estimate shall be 4639
multiplied by a factor of one and seventy-five one-hundredths. The 4640
product of that calculation shall be the Ohio delivery percentage 4641
used by suppliers in their reports of taxable gross receipts for 4642
each qualifying year that the distribution center receives a 4643
qualifying certificate under division (F)(2)(z)(ii)(II) of this 4644
section, except that, if the product is less than five per cent, 4645
the Ohio delivery percentage used shall be five per cent and that, 4646
if the product exceeds forty-nine per cent, the Ohio delivery 4647
percentage used shall be forty-nine per cent. 4648

(v) Qualifying certificates and Ohio delivery percentages 4649

issued by the commissioner shall be open to public inspection and 4650
shall be timely published by the commissioner. A supplier relying 4651
in good faith on a certificate issued under this division shall 4652
not be subject to tax on the qualifying distribution center 4653
receipts under division (F)(2)(z) of this section. An operator 4654
receiving a qualifying certificate is liable for the ineligible 4655
operator's supplier tax liability for each year the operator 4656
received a certificate but did not qualify as a qualified 4657
distribution center. 4658

(vi) The annual fee for a qualifying certificate shall be one 4659
hundred thousand dollars for each qualified distribution center. 4660
If a qualifying certificate is not issued, the annual fee is 4661
subject to refund after the exhaustion of all appeals provided for 4662
in division (F)(2)(z)(i)(VI) of this section. The first one 4663
hundred thousand dollars of the annual application fees collected 4664
each calendar year shall be credited to the revenue enhancement 4665
fund. The remainder of the annual application fees collected shall 4666
be distributed in the same manner required under section 5751.20 4667
of the Revised Code. 4668

(vii) The tax commissioner may require that adequate security 4669
be posted by the operator of the distribution center on appeal 4670
when the commissioner disagrees that the applicant has met the 4671
minimum thresholds for a qualified distribution center as set 4672
forth in division (F)(2)(z) of this section. 4673

(aa) Receipts of an employer from payroll deductions relating 4674
to the reimbursement of the employer for advancing moneys to an 4675
unrelated third party on an employee's behalf; 4676

(bb) Cash discounts allowed and taken; 4677

(cc) Returns and allowances; 4678

(dd) Bad debts from receipts on the basis of which the tax 4679
imposed by this chapter was paid in a prior quarterly tax payment 4680

period. For the purpose of this division, "bad debts" means any 4681
debts that have become worthless or uncollectible between the 4682
preceding and current quarterly tax payment periods, have been 4683
uncollected for at least six months, and that may be claimed as a 4684
deduction under section 166 of the Internal Revenue Code and the 4685
regulations adopted under that section, or that could be claimed 4686
as such if the taxpayer kept its accounts on the accrual basis. 4687
"Bad debts" does not include repossessed property, uncollectible 4688
amounts on property that remains in the possession of the taxpayer 4689
until the full purchase price is paid, or expenses in attempting 4690
to collect any account receivable or for any portion of the debt 4691
recovered; 4692

(ee) Any amount realized from the sale of an account 4693
receivable to the extent the receipts from the underlying 4694
transaction giving rise to the account receivable were included in 4695
the gross receipts of the taxpayer; 4696

(ff) Any receipts directly attributed to a transfer agreement 4697
or to the enterprise transferred under that agreement under 4698
section 4313.02 of the Revised Code. 4699

(gg)(i) As used in this division: 4700

(I) "Qualified uranium receipts" means receipts from the 4701
sale, exchange, lease, loan, production, processing, or other 4702
disposition of uranium within a uranium enrichment zone certified 4703
by the tax commissioner under division (F)(2)(gg)(ii) of this 4704
section. "Qualified uranium receipts" does not include any 4705
receipts with a situs in this state outside a uranium enrichment 4706
zone certified by the tax commissioner under division 4707
(F)(2)(gg)(ii) of this section. 4708

(II) "Uranium enrichment zone" means all real property that 4709
is part of a uranium enrichment facility licensed by the United 4710
States nuclear regulatory commission and that was or is owned or 4711

controlled by the United States department of energy or its 4712
successor. 4713

(ii) Any person that owns, leases, or operates real or 4714
tangible personal property constituting or located within a 4715
uranium enrichment zone may apply to the tax commissioner to have 4716
the uranium enrichment zone certified for the purpose of excluding 4717
qualified uranium receipts under division (F)(2)(gg) of this 4718
section. The application shall include such information that the 4719
tax commissioner prescribes. Within sixty days after receiving the 4720
application, the tax commissioner shall certify the zone for that 4721
purpose if the commissioner determines that the property qualifies 4722
as a uranium enrichment zone as defined in division (F)(2)(gg) of 4723
this section, or, if the tax commissioner determines that the 4724
property does not qualify, the commissioner shall deny the 4725
application or request additional information from the applicant. 4726
If the tax commissioner denies an application, the commissioner 4727
shall state the reasons for the denial. The applicant may appeal 4728
the denial of an application to the board of tax appeals pursuant 4729
to section 5717.02 of the Revised Code. If the applicant files a 4730
timely appeal, the tax commissioner shall conditionally certify 4731
the applicant's property. The conditional certification shall 4732
expire when all of the applicant's appeals are exhausted. Until 4733
final resolution of the appeal, the applicant shall retain the 4734
applicant's records in accordance with section 5751.12 of the 4735
Revised Code, notwithstanding any time limit on the preservation 4736
of records under that section. 4737

(hh) In the case of amounts collected by a licensed casino 4738
operator from casino gaming, amounts in excess of the casino 4739
operator's gross casino revenue. In this division, "casino 4740
operator" and "casino gaming" have the meanings defined in section 4741
3772.01 of the Revised Code, and "gross casino revenue" has the 4742
meaning defined in section 5753.01 of the Revised Code. 4743

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

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

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

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

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

(1) Owns or uses a part or all of its capital in this state;

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

(3) Has bright-line presence in this state;	4774
(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.	4775 4776 4777
(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:	4778 4779 4780
(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.	4781 4782 4783 4784 4785
(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:	4786 4787 4788
(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;	4789 4790
(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	4791 4792 4793
(c) Any amount the person pays for services performed in this state on its behalf by another.	4794 4795
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	4796 4797
(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.	4798 4799 4800
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	4801 4802
(J) "Tangible personal property" has the same meaning as in	4803

section 5739.01 of the Revised Code. 4804

(K) "Internal Revenue Code" means the Internal Revenue Code 4805
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 4806
this chapter that is not otherwise defined has the same meaning as 4807
when used in a comparable context in the laws of the United States 4808
relating to federal income taxes unless a different meaning is 4809
clearly required. Any reference in this chapter to the Internal 4810
Revenue Code includes other laws of the United States relating to 4811
federal income taxes. 4812

(L) "Calendar quarter" means a three-month period ending on 4813
the thirty-first day of March, the thirtieth day of June, the 4814
thirtieth day of September, or the thirty-first day of December. 4815

(M) "Tax period" means the calendar quarter or calendar year 4816
on the basis of which a taxpayer is required to pay the tax 4817
imposed under this chapter. 4818

(N) "Calendar year taxpayer" means a taxpayer for which the 4819
tax period is a calendar year. 4820

(O) "Calendar quarter taxpayer" means a taxpayer for which 4821
the tax period is a calendar quarter. 4822

(P) "Agent" means a person authorized by another person to 4823
act on its behalf to undertake a transaction for the other, 4824
including any of the following: 4825

(1) A person receiving a fee to sell financial instruments; 4826

(2) A person retaining only a commission from a transaction 4827
with the other proceeds from the transaction being remitted to 4828
another person; 4829

(3) A person issuing licenses and permits under section 4830
1533.13 of the Revised Code; 4831

(4) A lottery sales agent holding a valid license issued 4832
under section 3770.05 of the Revised Code; 4833

(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	4834 4835
(Q) "Received" includes amounts accrued under the accrual method of accounting.	4836 4837
(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.	4838 4839 4840 4841 4842 4843 4844
Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:	4845 4846
(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.	4847 4848 4849 4850
(2) "State education aid" for a school district means the following:	4851 4852
(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year:	4853 4854 4855
division (A) of section 3317.022 of the Revised Code, including the amounts calculated under former section 3317.029 and section 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under section 3317.05 and former sections 3317.052 and 3317.053 of the Revised Code; except that, for fiscal years	4856 4857 4858 4859 4860 4861 4862 4863

2008 and 2009, the amount computed for the district under Section 4864
269.20.80 of H.B. 119 of the 127th general assembly and as that 4865
section subsequently may be amended shall be substituted for the 4866
amount computed under division (D) of section 3317.022 of the 4867
Revised Code, and the amount computed under Section 269.30.80 of 4868
H.B. 119 of the 127th general assembly and as that section 4869
subsequently may be amended shall be included. 4870

(b) For fiscal years 2010 and 2011, the sum of the amounts 4871
computed under former sections 3306.052, 3306.12, 3306.13, 4872
3306.19, 3306.191, and 3306.192 of the Revised Code; 4873

(c) For fiscal years 2012 and 2013, the sum of the amounts 4874
paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 4875
153 of the 129th general assembly; 4876

(d) For fiscal year 2014 and each fiscal year thereafter, the 4877
sum of state amounts computed for the district under section 4878
3317.022 of the Revised Code; except that, for fiscal years 2014 4879
and 2015, the amount computed for the district under the section 4880
of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND 4881
EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included. 4882

(3) "State education aid" for a joint vocational school 4883
district means the following: 4884

(a) For fiscal years prior to fiscal year 2010, the sum of 4885
the state aid computed for the district under division (N) of 4886
section 3317.024 and former section 3317.16 of the Revised Code, 4887
except that, for fiscal years 2008 and 2009, the amount computed 4888
under Section 269.30.80 of H.B. 119 of the 127th general assembly 4889
and as that section subsequently may be amended shall be included. 4890

(b) For fiscal years 2010 and 2011, the amount paid in 4891
accordance with Section 265.30.50 of H.B. 1 of the 128th general 4892
assembly. 4893

(c) For fiscal years 2012 and 2013, the amount paid in 4894

accordance with Section 267.30.60 of H.B. 153 of the 129th general assembly. 4895
4896

(d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included. 4897
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(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code. 4903
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(5) "Machinery and equipment property tax value loss" means the amount determined under division (C)(1) of this section. 4906
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(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section. 4908
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(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section. 4910
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(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section. 4912
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(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section. 4914
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(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section. 4916
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(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss. 4918
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(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section. 4922
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(13) "Machinery and equipment" means personal property 4924

subject to the assessment rate specified in division (F) of 4925
section 5711.22 of the Revised Code. 4926

(14) "Inventory" means personal property subject to the 4927
assessment rate specified in division (E) of section 5711.22 of 4928
the Revised Code. 4929

(15) "Furniture and fixtures" means personal property subject 4930
to the assessment rate specified in division (G) of section 4931
5711.22 of the Revised Code. 4932

(16) "Qualifying levies" are levies in effect for tax year 4933
2004 or applicable to tax year 2005 or approved at an election 4934
conducted before September 1, 2005. For the purpose of determining 4935
the rate of a qualifying levy authorized by section 5705.212 or 4936
5705.213 of the Revised Code, the rate shall be the rate that 4937
would be in effect for tax year 2010. 4938

(17) "Telephone property" means tangible personal property of 4939
a telephone, telegraph, or interexchange telecommunications 4940
company subject to an assessment rate specified in section 4941
5727.111 of the Revised Code in tax year 2004. 4942

(18) "Telephone property tax value loss" means the amount 4943
determined under division (C)(4) of this section. 4944

(19) "Telephone property fixed-rate levy loss" means the 4945
amount determined under division (D)(4) of this section. 4946

(20) "Taxes charged and payable" means taxes charged and 4947
payable after the reduction required by section 319.301 of the 4948
Revised Code but before the reductions required by sections 4949
319.302 and 323.152 of the Revised Code. 4950

(21) "Median estate tax collections" means, in the case of a 4951
municipal corporation to which revenue from the taxes levied in 4952
Chapter 5731. of the Revised Code was distributed in each of 4953
calendar years 2006, 2007, 2008, and 2009, the median of those 4954

distributions. In the case of a municipal corporation to which no 4955
distributions were made in one or more of those years, "median 4956
estate tax collections" means zero. 4957

(22) "Total resources," in the case of a school district, 4958
means the sum of the amounts in divisions (A)(22)(a) to (h) of 4959
this section less any reduction required under division (A)(32) or 4960
(33) of this section. 4961

(a) The state education aid for fiscal year 2010; 4962

(b) The sum of the payments received by the school district 4963
in fiscal year 2010 for current expense levy losses pursuant to 4964
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 4965
section 5751.21 of the Revised Code, excluding the portion of such 4966
payments attributable to levies for joint vocational school 4967
district purposes; 4968

(c) The sum of fixed-sum levy loss payments received by the 4969
school district in fiscal year 2010 pursuant to division (E)(1) of 4970
section 5727.85 and division (E)(1) of section 5751.21 of the 4971
Revised Code for fixed-sum levies charged and payable for a 4972
purpose other than paying debt charges; 4973

(d) Fifty per cent of the school district's taxes charged and 4974
payable against all property on the tax list of real and public 4975
utility property for current expense purposes for tax year 2008, 4976
including taxes charged and payable from emergency levies charged 4977
and payable under section 5709.194 of the Revised Code and 4978
excluding taxes levied for joint vocational school district 4979
purposes; 4980

(e) Fifty per cent of the school district's taxes charged and 4981
payable against all property on the tax list of real and public 4982
utility property for current expenses for tax year 2009, including 4983
taxes charged and payable from emergency levies and excluding 4984
taxes levied for joint vocational school district purposes; 4985

(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;	4986 4987 4988 4989
(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;	4990 4991
(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.	4992 4993
(23) "Total resources," in the case of a joint vocational school district, means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.	4994 4995 4996 4997
(a) The state education aid for fiscal year 2010;	4998
(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;	4999 5000 5001 5002
(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;	5003 5004 5005 5006
(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;	5007 5008 5009 5010
(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;	5011 5012 5013 5014 5015

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such

purposes against all property on the tax list of real and public utility property for tax year 2009. 5047
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(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 5049
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(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 5053
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(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 5057
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(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section. 5061
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(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time; 5065
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(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009. 5069
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(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) or (33) of this section. 5073
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(a) The sum of the payments received by the county for all 5078
other purposes in calendar year 2010 under division (A)(1) of 5079
section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of 5080
the Revised Code as they existed at that time; 5081

(b) The county's percentage share of county undivided local 5082
government fund allocations as certified to the tax commissioner 5083
for calendar year 2010 by the county auditor under division (J) of 5084
section 5747.51 of the Revised Code or division (F) of section 5085
5747.53 of the Revised Code multiplied by the total amount 5086
actually distributed in calendar year 2010 from the county 5087
undivided local government fund; 5088

(c) With respect to taxes levied by the county for all other 5089
purposes, the taxes charged and payable for such purposes against 5090
all property on the tax list of real and public utility property 5091
for tax year 2009, excluding taxes charged and payable for the 5092
purpose of paying debt charges; 5093

(d) The sum of the amounts distributed to the county in 5094
calendar year 2010 for the taxes levied pursuant to sections 5095
5739.021 and 5741.021 of the Revised Code. 5096

(29) "Total resources," in the case of a municipal 5097
corporation, means the sum of the amounts in divisions (A)(29)(a) 5098
to (g) of this section less any reduction required under division 5099
(A)(32) or (33) of this section. 5100

(a) The sum of the payments received by the municipal 5101
corporation in calendar year 2010 for current expense levy losses 5102
under division (A)(1) of section 5727.86 and divisions (A)(1) and 5103
(2) of section 5751.22 of the Revised Code as they existed at that 5104
time; 5105

(b) The municipal corporation's percentage share of county 5106
undivided local government fund allocations as certified to the 5107
tax commissioner for calendar year 2010 by the county auditor 5108

under division (J) of section 5747.51 of the Revised Code or 5109
division (F) of section 5747.53 of the Revised Code multiplied by 5110
the total amount actually distributed in calendar year 2010 from 5111
the county undivided local government fund; 5112

(c) The sum of the amounts distributed to the municipal 5113
corporation in calendar year 2010 pursuant to section 5747.50 of 5114
the Revised Code; 5115

(d) With respect to taxes levied by the municipal 5116
corporation, the taxes charged and payable against all property on 5117
the tax list of real and public utility property for current 5118
expenses, defined in division (A)(35) of this section, for tax 5119
year 2009; 5120

(e) The amount of admissions tax collected by the municipal 5121
corporation in calendar year 2008, or if such information has not 5122
yet been reported to the tax commissioner, in the most recent year 5123
before 2008 for which the municipal corporation has reported data 5124
to the commissioner; 5125

(f) The amount of income taxes collected by the municipal 5126
corporation in calendar year 2008, or if such information has not 5127
yet been reported to the tax commissioner, in the most recent year 5128
before 2008 for which the municipal corporation has reported data 5129
to the commissioner; 5130

(g) The municipal corporation's median estate tax 5131
collections. 5132

(30) "Total resources," in the case of a township, means the 5133
sum of the amounts in divisions (A)(30)(a) to (c) of this section 5134
less any reduction required under division (A)(32) or (33) of this 5135
section. 5136

(a) The sum of the payments received by the township in 5137
calendar year 2010 pursuant to division (A)(1) of section 5727.86 5138
of the Revised Code and divisions (A)(1) and (2) of section 5139

5751.22 of the Revised Code as they existed at that time, 5140
excluding payments received for debt purposes; 5141

(b) The township's percentage share of county undivided local 5142
government fund allocations as certified to the tax commissioner 5143
for calendar year 2010 by the county auditor under division (J) of 5144
section 5747.51 of the Revised Code or division (F) of section 5145
5747.53 of the Revised Code multiplied by the total amount 5146
actually distributed in calendar year 2010 from the county 5147
undivided local government fund; 5148

(c) With respect to taxes levied by the township, the taxes 5149
charged and payable against all property on the tax list of real 5150
and public utility property for tax year 2009 excluding taxes 5151
charged and payable for the purpose of paying debt charges. 5152

(31) "Total resources," in the case of a local taxing unit 5153
that is not a county, municipal corporation, or township, means 5154
the sum of the amounts in divisions (A)(31)(a) to (e) of this 5155
section less any reduction required under division (A)(32) of this 5156
section. 5157

(a) The sum of the payments received by the local taxing unit 5158
in calendar year 2010 pursuant to division (A)(1) of section 5159
5727.86 of the Revised Code and divisions (A)(1) and (2) of 5160
section 5751.22 of the Revised Code as they existed at that time; 5161

(b) The local taxing unit's percentage share of county 5162
undivided local government fund allocations as certified to the 5163
tax commissioner for calendar year 2010 by the county auditor 5164
under division (J) of section 5747.51 of the Revised Code or 5165
division (F) of section 5747.53 of the Revised Code multiplied by 5166
the total amount actually distributed in calendar year 2010 from 5167
the county undivided local government fund; 5168

(c) With respect to taxes levied by the local taxing unit, 5169
the taxes charged and payable against all property on the tax list 5170

of real and public utility property for tax year 2009 excluding 5171
taxes charged and payable for the purpose of paying debt charges; 5172

(d) The amount received from the tax commissioner during 5173
calendar year 2010 for sales or use taxes authorized under 5174
sections 5739.023 and 5741.022 of the Revised Code; 5175

(e) For institutions of higher education receiving tax 5176
revenue from a local levy, as identified in section 3358.02 of the 5177
Revised Code, the final state share of instruction allocation for 5178
fiscal year 2010 as calculated by the board of regents and 5179
reported to the state controlling board. 5180

(32) If a fixed-rate levy that is a qualifying levy is not 5181
charged and payable in any year after tax year 2010, "total 5182
resources" used to compute payments to be made under division 5183
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5184
5751.22 of the Revised Code in the tax years following the last 5185
year the levy is charged and payable shall be reduced to the 5186
extent that the payments are attributable to the fixed-rate levy 5187
loss of that levy as would be computed under division (C)(2) of 5188
section 5727.85, division (A)(1) of section 5727.85, divisions 5189
(C)(8) and (9) of section 5751.21, or division (A)(1) of section 5190
5751.22 of the Revised Code. 5191

(33) In the case of a county, municipal corporation, school 5192
district, or township with fixed-rate levy losses attributable to 5193
a tax levied under section 5705.23 of the Revised Code, "total 5194
resources" used to compute payments to be made under division 5195
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 5196
division (C)(12) of section 5751.21, or division (A)(1)(c) of 5197
section 5751.22 of the Revised Code shall be reduced by the 5198
amounts described in divisions (A)(34)(a) to (c) of this section 5199
to the extent that those amounts were included in calculating the 5200
"total resources" of the school district or local taxing unit 5201
under division (A)(22), (28), (29), or (30) of this section. 5202

(34) "Total library resources," in the case of a county, 5203
municipal corporation, school district, or township public library 5204
that receives the proceeds of a tax levied under section 5705.23 5205
of the Revised Code, means the sum of the amounts in divisions 5206
(A)(34)(a) to (c) of this section less any reduction required 5207
under division (A)(32) of this section. 5208

(a) The sum of the payments received by the county, municipal 5209
corporation, school district, or township public library in 5210
calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the 5211
Revised Code, as they existed at that time, for fixed-rate levy 5212
losses attributable to a tax levied under section 5705.23 of the 5213
Revised Code for the benefit of the public library; 5214

(b) The public library's percentage share of county undivided 5215
local government fund allocations as certified to the tax 5216
commissioner for calendar year 2010 by the county auditor under 5217
division (J) of section 5747.51 of the Revised Code or division 5218
(F) of section 5747.53 of the Revised Code multiplied by the total 5219
amount actually distributed in calendar year 2010 from the county 5220
undivided local government fund; 5221

(c) With respect to a tax levied pursuant to section 5705.23 5222
of the Revised Code for the benefit of the public library, the 5223
amount of such tax that is charged and payable against all 5224
property on the tax list of real and public utility property for 5225
tax year 2009 excluding any tax that is charged and payable for 5226
the purpose of paying debt charges. 5227

(35) "Municipal current expense property tax levies" means 5228
all property tax levies of a municipality, except those with the 5229
following levy names: airport resurfacing; bond or any levy name 5230
including the word "bond"; capital improvement or any levy name 5231
including the word "capital"; debt or any levy name including the 5232
word "debt"; equipment or any levy name including the word 5233
"equipment," unless the levy is for combined operating and 5234

equipment; employee termination fund; fire pension or any levy 5235
containing the word "pension," including police pensions; 5236
fireman's fund or any practically similar name; sinking fund; road 5237
improvements or any levy containing the word "road"; fire truck or 5238
apparatus; flood or any levy containing the word "flood"; 5239
conservancy district; county health; note retirement; sewage, or 5240
any levy containing the words "sewage" or "sewer"; park 5241
improvement; parkland acquisition; storm drain; street or any levy 5242
name containing the word "street"; lighting, or any levy name 5243
containing the word "lighting"; and water. 5244

(36) "Current expense TPP allocation" means, in the case of a 5245
school district or joint vocational school district, the sum of 5246
the payments received by the school district in fiscal year 2011 5247
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 5248
Revised Code to the extent paid for current expense levies. In the 5249
case of a municipal corporation, "current expense TPP allocation" 5250
means the sum of the payments received by the municipal 5251
corporation in calendar year 2010 pursuant to divisions (A)(1) and 5252
(2) of section 5751.22 of the Revised Code to the extent paid for 5253
municipal current expense property tax levies as defined in 5254
division (A)(35) of this section, excluding any such payments 5255
received for current expense levy losses attributable to a tax 5256
levied under section 5705.23 of the Revised Code. If a fixed-rate 5257
levy that is a qualifying levy is not charged and payable in any 5258
year after tax year 2010, "current expense TPP allocation" used to 5259
compute payments to be made under division (C)(12) of section 5260
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 5261
Revised Code in the tax years following the last year the levy is 5262
charged and payable shall be reduced to the extent that the 5263
payments are attributable to the fixed-rate levy loss of that levy 5264
as would be computed under divisions (C)(10) and (11) of section 5265
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 5266

(37) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(38) "Total TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not charged and payable in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that the payments are attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(39) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current

expense TPP allocation and the portion of total TPP allocation 5299
constituting reimbursement for debt levies, pursuant to division 5300
(D) of section 5751.21 of the Revised Code in the case of a school 5301
district or joint vocational school district and pursuant to 5302
division (A)(3) of section 5751.22 of the Revised Code in the case 5303
of a municipal corporation. 5304

(40) "TPP allocation for library purposes" means the sum of 5305
payments received by a county, municipal corporation, school 5306
district, or township public library in calendar year 2010 5307
pursuant to section 5751.22 of the Revised Code for fixed-rate 5308
levy losses attributable to a tax levied under section 5705.23 of 5309
the Revised Code. If a fixed-rate levy authorized under section 5310
5705.23 of the Revised Code that is a qualifying levy is not 5311
charged and payable in any year after tax year 2010, "TPP 5312
allocation for library purposes" used to compute payments to be 5313
made under division (A)(1)(d) of section 5751.22 of the Revised 5314
Code in the tax years following the last year the levy is charged 5315
and payable shall be reduced to the extent that the payments are 5316
attributable to the fixed-rate levy loss of that levy as would be 5317
computed under division (A)(1) of section 5751.22 of the Revised 5318
Code. 5319

(41) "Threshold per cent" means, in the case of a school 5320
district or joint vocational school district, two per cent for 5321
fiscal year 2012 and four per cent for fiscal years 2013 and 5322
thereafter. In the case of a local taxing unit or public library 5323
that receives the proceeds of a tax levied under section 5705.23 5324
of the Revised Code, "threshold per cent" means two per cent for 5325
tax year 2011, four per cent for tax year 2012, and six per cent 5326
for tax years 2013 and thereafter. 5327

(B)(1) The commercial activities tax receipts fund is hereby 5328
created in the state treasury and shall consist of money arising 5329
from the tax imposed under this chapter. Eighty-five 5330

one-hundredths of one per cent of the money credited to that fund 5331
shall be credited to the revenue enhancement fund and shall be 5332
used to defray the costs incurred by the department of taxation in 5333
administering the tax imposed by this chapter and in implementing 5334
tax reform measures. The remainder of the money in the commercial 5335
activities tax receipts fund shall first be credited to the 5336
commercial activity tax motor fuel receipts fund, pursuant to 5337
division (B)(2) of this section, and the remainder shall be 5338
credited in the following percentages each fiscal year to the 5339
general revenue fund, to the school district tangible property tax 5340
replacement fund, which is hereby created in the state treasury 5341
for the purpose of making the payments described in section 5342
5751.21 of the Revised Code, and to the local government tangible 5343
property tax replacement fund, which is hereby created in the 5344
state treasury for the purpose of making the payments described in 5345
section 5751.22 of the Revised Code, in the following percentages: 5346

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund	
2006	67.7%	22.6%	9.7%	5348
2007	0%	70.0%	30.0%	5349
2008	0%	70.0%	30.0%	5350
2009	0%	70.0%	30.0%	5351
2010	0%	70.0%	30.0%	5352
2011	0%	70.0%	30.0%	5353
2012	25.0%	52.5%	22.5%	5354
2013 and thereafter	50.0%	35.0%	15.0%	5355

(2) Not later than the twentieth day of February, May, 5356
August, and November of each year, the commissioner shall provide 5357
for payment from the commercial activities tax receipts fund to 5358
the commercial activity tax motor fuel receipts fund an amount 5359

that bears the same ratio to the balance in the commercial 5360
activities tax receipts fund that (a) the taxable gross receipts 5361
attributed to motor fuel used for propelling vehicles on public 5362
highways as indicated by returns filed by the tenth day of that 5363
month for a liability that is due and payable on or after July 1, 5364
2013, for a tax period ending before July 1, 2014, bears to (b) 5365
all taxable gross receipts as indicated by those returns for such 5366
liabilities. 5367

(C) Not later than September 15, 2005, the tax commissioner 5368
shall determine for each school district, joint vocational school 5369
district, and local taxing unit its machinery and equipment, 5370
inventory property, furniture and fixtures property, and telephone 5371
property tax value losses, which are the applicable amounts 5372
described in divisions (C)(1), (2), (3), and (4) of this section, 5373
except as provided in division (C)(5) of this section: 5374

(1) Machinery and equipment property tax value loss is the 5375
taxable value of machinery and equipment property as reported by 5376
taxpayers for tax year 2004 multiplied by: 5377

(a) For tax year 2006, thirty-three and eight-tenths per 5378
cent; 5379

(b) For tax year 2007, sixty-one and three-tenths per cent; 5380

(c) For tax year 2008, eighty-three per cent; 5381

(d) For tax year 2009 and thereafter, one hundred per cent. 5382

(2) Inventory property tax value loss is the taxable value of 5383
inventory property as reported by taxpayers for tax year 2004 5384
multiplied by: 5385

(a) For tax year 2006, a fraction, the numerator of which is 5386
five and three-fourths and the denominator of which is 5387
twenty-three; 5388

(b) For tax year 2007, a fraction, the numerator of which is 5389

nine and one-half and the denominator of which is twenty-three;	5390
(c) For tax year 2008, a fraction, the numerator of which is	5391
thirteen and one-fourth and the denominator of which is	5392
twenty-three;	5393
(d) For tax year 2009 and thereafter a fraction, the	5394
numerator of which is seventeen and the denominator of which is	5395
twenty-three.	5396
(3) Furniture and fixtures property tax value loss is the	5397
taxable value of furniture and fixture property as reported by	5398
taxpayers for tax year 2004 multiplied by:	5399
(a) For tax year 2006, twenty-five per cent;	5400
(b) For tax year 2007, fifty per cent;	5401
(c) For tax year 2008, seventy-five per cent;	5402
(d) For tax year 2009 and thereafter, one hundred per cent.	5403
The taxable value of property reported by taxpayers used in	5404
divisions (C)(1), (2), and (3) of this section shall be such	5405
values as determined to be final by the tax commissioner as of	5406
August 31, 2005. Such determinations shall be final except for any	5407
correction of a clerical error that was made prior to August 31,	5408
2005, by the tax commissioner.	5409
(4) Telephone property tax value loss is the taxable value of	5410
telephone property as taxpayers would have reported that property	5411
for tax year 2004 if the assessment rate for all telephone	5412
property for that year were twenty-five per cent, multiplied by:	5413
(a) For tax year 2006, zero per cent;	5414
(b) For tax year 2007, zero per cent;	5415
(c) For tax year 2008, zero per cent;	5416
(d) For tax year 2009, sixty per cent;	5417
(e) For tax year 2010, eighty per cent;	5418

(f) For tax year 2011 and thereafter, one hundred per cent. 5419

(5) Division (C)(5) of this section applies to any school 5420
district, joint vocational school district, or local taxing unit 5421
in a county in which is located a facility currently or formerly 5422
devoted to the enrichment or commercialization of uranium or 5423
uranium products, and for which the total taxable value of 5424
property listed on the general tax list of personal property for 5425
any tax year from tax year 2001 to tax year 2004 was fifty per 5426
cent or less of the taxable value of such property listed on the 5427
general tax list of personal property for the next preceding tax 5428
year. 5429

In computing the fixed-rate levy losses under divisions 5430
(D)(1), (2), and (3) of this section for any school district, 5431
joint vocational school district, or local taxing unit to which 5432
division (C)(5) of this section applies, the taxable value of such 5433
property as listed on the general tax list of personal property 5434
for tax year 2000 shall be substituted for the taxable value of 5435
such property as reported by taxpayers for tax year 2004, in the 5436
taxing district containing the uranium facility, if the taxable 5437
value listed for tax year 2000 is greater than the taxable value 5438
reported by taxpayers for tax year 2004. For the purpose of making 5439
the computations under divisions (D)(1), (2), and (3) of this 5440
section, the tax year 2000 valuation is to be allocated to 5441
machinery and equipment, inventory, and furniture and fixtures 5442
property in the same proportions as the tax year 2004 values. For 5443
the purpose of the calculations in division (A) of section 5751.21 5444
of the Revised Code, the tax year 2004 taxable values shall be 5445
used. 5446

To facilitate the calculations required under division (C) of 5447
this section, the county auditor, upon request from the tax 5448
commissioner, shall provide by August 1, 2005, the values of 5449
machinery and equipment, inventory, and furniture and fixtures for 5450

all single-county personal property taxpayers for tax year 2004. 5451

(D) Not later than September 15, 2005, the tax commissioner 5452
shall determine for each tax year from 2006 through 2009 for each 5453
school district, joint vocational school district, and local 5454
taxing unit its machinery and equipment, inventory, and furniture 5455
and fixtures fixed-rate levy losses, and for each tax year from 5456
2006 through 2011 its telephone property fixed-rate levy loss. 5457
Except as provided in division (F) of this section, such losses 5458
are the applicable amounts described in divisions (D)(1), (2), 5459
(3), and (4) of this section: 5460

(1) The machinery and equipment fixed-rate levy loss is the 5461
machinery and equipment property tax value loss multiplied by the 5462
sum of the tax rates of fixed-rate qualifying levies. 5463

(2) The inventory fixed-rate loss is the inventory property 5464
tax value loss multiplied by the sum of the tax rates of 5465
fixed-rate qualifying levies. 5466

(3) The furniture and fixtures fixed-rate levy loss is the 5467
furniture and fixture property tax value loss multiplied by the 5468
sum of the tax rates of fixed-rate qualifying levies. 5469

(4) The telephone property fixed-rate levy loss is the 5470
telephone property tax value loss multiplied by the sum of the tax 5471
rates of fixed-rate qualifying levies. 5472

(E) Not later than September 15, 2005, the tax commissioner 5473
shall determine for each school district, joint vocational school 5474
district, and local taxing unit its fixed-sum levy loss. The 5475
fixed-sum levy loss is the amount obtained by subtracting the 5476
amount described in division (E)(2) of this section from the 5477
amount described in division (E)(1) of this section: 5478

(1) The sum of the machinery and equipment property tax value 5479
loss, the inventory property tax value loss, and the furniture and 5480
fixtures property tax value loss, and, for 2008 through 2010, the 5481

telephone property tax value loss of the district or unit 5482
multiplied by the sum of the fixed-sum tax rates of qualifying 5483
levies. For 2006 through 2010, this computation shall include all 5484
qualifying levies remaining in effect for the current tax year and 5485
any school district levies charged and payable under section 5486
5705.194 or 5705.213 of the Revised Code that are qualifying 5487
levies not remaining in effect for the current year. For 2011 5488
through 2017 in the case of school district levies charged and 5489
payable under section 5705.194 or 5705.213 of the Revised Code and 5490
for all years after 2010 in the case of other fixed-sum levies, 5491
this computation shall include only qualifying levies remaining in 5492
effect for the current year. For purposes of this computation, a 5493
qualifying school district levy charged and payable under section 5494
5705.194 or 5705.213 of the Revised Code remains in effect in a 5495
year after 2010 only if, for that year, the board of education 5496
levies a school district levy charged and payable under section 5497
5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for 5498
an annual sum at least equal to the annual sum levied by the board 5499
in tax year 2004 less the amount of the payment certified under 5500
this division for 2006. 5501

(2) The total taxable value in tax year 2004 less the sum of 5502
the machinery and equipment, inventory, furniture and fixtures, 5503
and telephone property tax value losses in each school district, 5504
joint vocational school district, and local taxing unit multiplied 5505
by one-half of one mill per dollar. 5506

(3) For the calculations in divisions (E)(1) and (2) of this 5507
section, the tax value losses are those that would be calculated 5508
for tax year 2009 under divisions (C)(1), (2), and (3) of this 5509
section and for tax year 2011 under division (C)(4) of this 5510
section. 5511

(4) To facilitate the calculation under divisions (D) and (E) 5512
of this section, not later than September 1, 2005, any school 5513

district, joint vocational school district, or local taxing unit 5514
that has a qualifying levy that was approved at an election 5515
conducted during 2005 before September 1, 2005, shall certify to 5516
the tax commissioner a copy of the county auditor's certificate of 5517
estimated property tax millage for such levy as required under 5518
division (B) of section 5705.03 of the Revised Code, which is the 5519
rate that shall be used in the calculations under such divisions. 5520

If the amount determined under division (E) of this section 5521
for any school district, joint vocational school district, or 5522
local taxing unit is greater than zero, that amount shall equal 5523
the reimbursement to be paid pursuant to division (E) of section 5524
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 5525
and the one-half of one mill that is subtracted under division 5526
(E)(2) of this section shall be apportioned among all contributing 5527
fixed-sum levies in the proportion that each levy bears to the sum 5528
of all fixed-sum levies within each school district, joint 5529
vocational school district, or local taxing unit. 5530

(F) If a school district levies a tax under section 5705.219 5531
of the Revised Code, the fixed-rate levy loss for qualifying 5532
levies, to the extent repealed under that section, shall equal the 5533
sum of the following amounts in lieu of the amounts computed for 5534
such levies under division (D) of this section: 5535

(1) The sum of the rates of qualifying levies to the extent 5536
so repealed multiplied by the sum of the machinery and equipment, 5537
inventory, and furniture and fixtures tax value losses for 2009 as 5538
determined under that division; 5539

(2) The sum of the rates of qualifying levies to the extent 5540
so repealed multiplied by the telephone property tax value loss 5541
for 2011 as determined under that division. 5542

The fixed-rate levy losses for qualifying levies to the 5543
extent not repealed under section 5705.219 of the Revised Code 5544

shall be as determined under division (D) of this section. The 5545
revised fixed-rate levy losses determined under this division and 5546
division (D) of this section first apply in the year following the 5547
first year the district levies the tax under section 5705.219 of 5548
the Revised Code. 5549

(G) Not later than October 1, 2005, the tax commissioner 5550
shall certify to the department of education for every school 5551
district and joint vocational school district the machinery and 5552
equipment, inventory, furniture and fixtures, and telephone 5553
property tax value losses determined under division (C) of this 5554
section, the machinery and equipment, inventory, furniture and 5555
fixtures, and telephone fixed-rate levy losses determined under 5556
division (D) of this section, and the fixed-sum levy losses 5557
calculated under division (E) of this section. The calculations 5558
under divisions (D) and (E) of this section shall separately 5559
display the levy loss for each levy eligible for reimbursement. 5560

(H) Not later than October 1, 2005, the tax commissioner 5561
shall certify the amount of the fixed-sum levy losses to the 5562
county auditor of each county in which a school district, joint 5563
vocational school district, or local taxing unit with a fixed-sum 5564
levy loss reimbursement has territory. 5565

(I) Not later than the twenty-eighth day of February each 5566
year beginning in 2011 and ending in 2014, the tax commissioner 5567
shall certify to the department of education for each school 5568
district first levying a tax under section 5705.219 of the Revised 5569
Code in the preceding year the revised fixed-rate levy losses 5570
determined under divisions (D) and (F) of this section. 5571

(J)(1) There is hereby created in the state treasury the 5572
commercial activity tax motor fuel receipts fund. 5573

(2)(a) On or before June 15, 2014, the director of the Ohio 5574
public works commission shall certify to the director of budget 5575

and management the amount of debt service paid from the general 5576
revenue fund in fiscal years 2013 and 2014 on bonds issued to 5577
finance or assist in the financing of the cost of local 5578
subdivision public infrastructure capital improvement projects, as 5579
provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio 5580
Constitution, that are attributable to costs for construction, 5581
reconstruction, maintenance, or repair of public highways and 5582
bridges and other statutory highway purposes. That certification 5583
shall allocate the total amount of debt service paid from the 5584
general revenue fund and attributable to those costs in each of 5585
fiscal years 2013 and 2014 according to the applicable section of 5586
the Ohio Constitution under which the bonds were originally 5587
issued. 5588

(b) On or before June 30, 2014, the director of budget and 5589
management shall determine an amount up to but not exceeding the 5590
amount certified under division (J)(2)(a) of this section and 5591
shall reserve that amount from the cash balance in the commercial 5592
activity tax motor fuel receipts fund for transfer to the general 5593
revenue fund at times and in amounts to be determined by the 5594
director. The director shall transfer the cash balance in the 5595
commercial activity tax motor fuel receipts fund in excess of the 5596
amount so reserved to the highway operating fund on or before June 5597
30, 2014. 5598

(3)(a) On or before the fifteenth day of June of each fiscal 5599
year beginning with fiscal year 2015, the director of the Ohio 5600
public works commission shall certify to the director of budget 5601
and management the amount of debt service paid from the general 5602
revenue fund in the current fiscal year on bonds issued to finance 5603
or assist in the financing of the cost of local subdivision public 5604
infrastructure capital improvement projects, as provided for in 5605
Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that 5606
are attributable to costs for construction, reconstruction, 5607

maintenance, or repair of public highways and bridges and other 5608
statutory highway purposes. That certification shall allocate the 5609
total amount of debt service paid from the general revenue fund 5610
and attributable to those costs in the current fiscal year 5611
according to the applicable section of the Ohio Constitution under 5612
which the bonds were originally issued. 5613

(b) On or before the thirtieth day of June of each fiscal 5614
year beginning with fiscal year 2015, the director of budget and 5615
management shall determine an amount up to but not exceeding the 5616
amount certified under division (J)(3)(a) of this section and 5617
shall reserve that amount from the cash balance in the ~~motor fuel~~ 5618
~~receipts~~ petroleum activity tax public highways fund or the 5619
commercial activity tax motor fuel receipts fund for transfer to 5620
the general revenue fund at times and in amounts to be determined 5621
by the director. The director shall transfer the cash balance in 5622
the ~~motor fuel receipts~~ petroleum activity tax public highways 5623
fund or the commercial activity tax motor fuel receipts fund in 5624
excess of the amount so reserved to the highway operating fund on 5625
or before the thirtieth day of June of the current fiscal year. 5626

Section 2. That existing sections 122.17, 122.171, 122.86, 5627
166.21, 718.15, 718.151, 3734.905, 4921.13, 4921.19, 5703.05, 5628
5703.056, 5703.059, 5703.21, 5727.47, 5727.91, 5735.01, 5735.026, 5629
5735.05, 5735.062, 5735.07, 5735.09, 5735.12, 5735.141, 5735.23, 5630
5736.01, 5736.02, 5736.03, 5736.04, 5736.06, 5736.09, 5736.13, 5631
5743.01, 5743.021, 5743.024, 5743.025, 5743.03, 5743.04, 5743.05, 5632
5743.051, 5743.112, 5743.52, 5743.65, 5747.08, 5747.98, 5751.01, 5633
and 5751.20, and sections 183.35, 5726.08, 5733.30, 5735.16, 5634
5743.06, and 5745.10 of the Revised Code are hereby repealed. 5635

Section 3. All appropriation items in this act are 5636
appropriated out of any moneys in the state treasury to the credit 5637
of the designated fund that are not otherwise appropriated. For 5638

all appropriations made in this act, the amounts in the first 5639
column are for fiscal year 2014 and the amounts in the second 5640
column are for fiscal year 2015. The appropriations made in this 5641
act are in addition to any other appropriations made for the FY 5642
2014-FY 2015 biennium. 5643

TAX DEPARTMENT OF TAXATION 5644

GRF 110321 Operating Expenses	\$	0	\$	682,000	5645
TOTAL GRF General Revenue Fund	\$	0	\$	682,000	5646
TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	682,000	5647

Section 4. The amendment by this act of section 122.86 of the 5649
Revised Code applies to any qualifying investment made on or after 5650
July 1, 2011, including any qualifying investment made on or after 5651
July 1, 2013. 5652

Section 5. The amendment or enactment by this act of sections 5653
122.17, 122.171, and 5736.50 of the Revised Code, except for the 5654
amendment to division (A) of section 122.17 of the Revised Code, 5655
applies to tax periods beginning on or after July 1, 2014. 5656

The amendment by this act of division (A) of section 5736.02, 5657
division (A) of section 5736.03, division (G) of section 5736.09, 5658
divisions (D)(2)(a) and (b) of section 5736.13, section 5751.01, 5659
all divisions of section 5736.01 except division (I) of that 5660
section, and the addition of the word "calculated" in divisions 5661
(A) and (C) of section 5736.04 of the Revised Code apply to tax 5662
periods beginning on or after July 1, 2015. 5663

Section 6. (A) As used in this section: 5664

(1) "Qualified property" means real property all or a portion 5665
of the assessed value of which is or has been eligible for 5666
exemption from taxation under a qualifying enterprise zone 5667
agreement. 5668

(2) "Qualifying enterprise zone agreement" means an 5669
enterprise zone agreement entered into under section 5709.63 of 5670
the Revised Code by the record owner of qualified property and the 5671
board of county commissioners of a county having a population 5672
greater than five hundred thousand but less than six hundred 5673
thousand with the consent of a municipal corporation having a 5674
population greater than fifteen thousand but less than twenty 5675
thousand. For the purposes of this section, population is 5676
determined by reference to the 2010 decennial census. 5677

(3) "Record owner" means the person or persons in whose name 5678
a parcel of qualified real property is listed on the tax list 5679
compiled by the county auditor under section 319.28 of the Revised 5680
Code. 5681

(B) Notwithstanding section 5713.081 of the Revised Code, 5682
when qualified property has not received tax exemption to which 5683
the property would otherwise be entitled if not for the record 5684
owner's failure to comply with section 5715.27 of the Revised 5685
Code, the record owner, at any time on or before three months 5686
after the effective date of this section, may file with the Tax 5687
Commissioner an application requesting the following: 5688

(1) That the qualified property be added to the list of 5689
exempted parcels compiled by the county auditor under section 5690
5713.08 of the Revised Code; 5691

(2) That unpaid taxes, to the extent the assessed value of 5692
the qualified property would have been exempted under the 5693
qualifying enterprise zone agreement, and any penalties and 5694
interest arising from such taxes be abated; 5695

(3) That any amounts paid by the record owner in satisfaction 5696
of taxes from which the qualified property would have been 5697
exempted under the qualifying enterprise zone agreement and in 5698
satisfaction of penalties and interest arising from such taxes be 5699

refunded. 5700

(C) The application shall be made on the current form 5701
prescribed by the Commissioner under section 5715.27 of the 5702
Revised Code and shall also list the name of the county in which 5703
the qualified property is located; the property's legal 5704
description; its assessed value; the amount in dollars of the 5705
unpaid taxes, penalties, and interest for which the record owner 5706
is seeking abatement; the amount paid in satisfaction of taxes, 5707
penalties, and interest for which the record owner is seeking a 5708
refund; the date of acquisition of title to the property; a copy 5709
of the qualifying enterprise zone agreement; and any other 5710
information required by the Commissioner. The county auditor shall 5711
supply any such information in the auditor's possession upon 5712
request of the applicant. 5713

(D) Upon receipt of the application and after consideration 5714
of it, the Commissioner shall determine if the qualified property 5715
meets the qualifications set forth in this section, and if so 5716
shall issue an order directing that the property be placed on the 5717
tax-exempt list of the county for the period and years described 5718
in the qualifying enterprise zone agreement and that the 5719
tax-exempt lists and tax duplicates for those years be corrected 5720
accordingly; that all unpaid taxes from which the qualified 5721
property would have been exempt under the qualifying enterprise 5722
zone agreement, and all penalties and interest arising from such 5723
taxes, be abated; and that all amounts paid by the record owner in 5724
satisfaction of taxes from which the qualified property would have 5725
been exempt under the qualifying enterprise zone agreement, and 5726
penalties and interest arising from such taxes, be refunded. If 5727
the Commissioner finds that the qualified property does not meet 5728
the qualifications set forth in this section, the Commissioner 5729
shall issue an order denying the application. 5730

(E) If the Commissioner finds that the property is not 5731

entitled to tax exemption, to the abatement of unpaid taxes, 5732
penalties, and interest, or to the refund of amounts paid in 5733
satisfaction of taxes, penalties, and interest for any of the 5734
years for which the record owner claims an exemption, abatement, 5735
or refund, the Commissioner shall order the county treasurer of 5736
the county in which the property is located to collect all unpaid 5737
taxes, penalties, and interest due on the property for those years 5738
in accordance with law. 5739

(F) The Commissioner may apply this section to any qualified 5740
property that is the subject of an application for exemption 5741
pending before the Commissioner, or on appeal before the Board of 5742
Tax Appeals, a court of appeals, or the Ohio Supreme Court on the 5743
effective date of this section. 5744

Section 7. Division (J) of section 5751.20 of the Revised 5745
Code is amended by this act and also by H.B. 59 of the 130th 5746
General Assembly (effective July 1, 2014). The amendments of H.B. 5747
59 are included in this act to confirm the intention to retain 5748
them, but are not intended to be effective until July 1, 2014. 5749