

As Introduced

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H. B. No. 517

Representatives Smith, Rosenberger

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A B I L L

To amend sections 5703.059, 5736.01, 5736.02, 1
5736.03, 5736.04, 5736.06, 5736.09, 5736.13, 2
5751.01, and 5751.20 of the Revised Code to change 3
the motor fuel receipts tax to be imposed on gross 4
receipts to a petroleum activity tax to be imposed 5
on a hybrid of gallonage and the average wholesale 6
price of gasoline and diesel fuel. 7

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

Section 1. That sections 5703.059, 5736.01, 5736.02, 5736.03, 8
5736.04, 5736.06, 5736.09, 5736.13, 5751.01, and 5751.20 of the 9
Revised Code be amended to read as follows: 10

Sec. 5703.059. (A) The tax commissioner may adopt rules 11
requiring returns, including any accompanying schedule or 12
statement, for any of the following taxes to be filed 13
electronically using the Ohio business gateway as defined in 14
section 718.051 of the Revised Code, filed telephonically using 15
the system known as the Ohio telefile system, or filed by any 16
other electronic means prescribed by the commissioner: 17

(1) Employer income tax withholding under Chapter 5747. of 18
the Revised Code; 19

(2) Motor fuel tax under Chapter 5735. of the Revised Code; 20

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;	21 22
(4) Severance tax under Chapter 5749. of the Revised Code;	23
(5) Use tax under Chapter 5741. of the Revised Code;	24
(6) Commercial activity tax under Chapter 5751. of the Revised Code;	25 26
(7) Financial institutions tax under Chapter 5726. of the Revised Code;	27 28
(8) Motor fuel receipts <u>Petroleum activity</u> tax under Chapter 5736. of the Revised Code;	29 30
(9) Horse-racing taxes under Chapter 3769. of the Revised Code.	31 32
(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner.	33 34 35
(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities.	36 37 38 39 40 41 42
(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means.	43 44 45 46 47 48 49

Sec. 5736.01. As used in this ~~division~~ chapter: 50

(A) "Calendar quarter" and "person" have the same meanings as 51
in section 5751.01 of the Revised Code. 52

(B) "Distribution system" means a bulk transfer or terminal 53
system for the distribution of motor fuel consisting of 54
refineries, pipelines, marine vessels, and terminals. For the 55
purposes of this section, motor fuel that is in a refinery, 56
pipeline, terminal, or marine vessel or that is ~~transporting motor~~ 57
~~fuel en route~~ to a refinery, pipeline, or terminal via any method 58
of transportation is in a "distribution system." Motor fuel is 59
"outside of a distribution system" if the fuel is in a fuel 60
storage facility, including, but not limited to, a bulk plant that 61
is not part of a refinery or terminal, is in the fuel supply tank 62
of an engine or motor vehicle, or is being transported by a marine 63
vessel ~~transporting motor fuel to a fuel storage facility that is~~ 64
~~not in a distribution system, or a~~ tank car, rail car, trailer, 65
truck, or other suitable equipment ~~suitable for ground~~ 66
~~transportation to a fuel storage facility that is not in a~~ 67
distribution system. 68

(C) "Dyed diesel fuel," "import," "motor fuel," "public 69
highways," gasoline, diesel fuel, licensed motor fuel 70
dealer, licensed permissive motor fuel dealer, and "terminal" 71
have the same meanings as in section 5735.01 of the Revised Code. 72
Gallons means gross gallons as defined in section 5735.01 of the 73
Revised Code. 74

(D) "First sale of motor fuel within this state" means the 75
initial sale of motor fuel to a point outside a distribution 76
system, wherever the sale occurs, when sold for delivery to a 77
location in this state as that location is shown on the bill of 78
lading issued by the terminal. First sale of motor fuel within 79
this state excludes the following: 80

<u>(1) The sale of motor fuel for export to another state;</u>	81
<u>(2) Motor fuel exchanges;</u>	82
<u>(3) The sale of motor fuel on which the petroleum activity</u>	83
<u>tax imposed by this chapter was paid in a prior quarterly tax</u>	84
<u>payment period and on which the supplier may claim a bad debt. As</u>	85
<u>used in this division, "bad debt" has the same meaning as in</u>	86
<u>section 5751.01 of the Revised Code.</u>	87
(E) " Gross <u>Modified gross</u> receipts" means <u>the sum of the</u>	88
<u>following:</u>	89
<u>(1) The product obtained by multiplying (a) the total amount</u>	90
<u>received by a person, without deduction for the cost of goods sold</u>	91
<u>or other expenses incurred, from the first sale <u>number of gallons</u></u>	92
<u>of motor fuel <u>gasoline first sold</u> within this state. For the</u>	93
<u>purposes of division (E) of this section, "amount received"</u>	94
<u>includes amounts accrued under the accrual method of accounting.</u>	95
<u>"Gross receipts" shall not include any of the following amounts:</u>	96
<u>(1) Receipts derived from the sale of motor fuel when sold</u>	97
<u>for export to another state;</u>	98
<u>(2) An amount equal to the federal and state excise taxes</u>	99
<u>paid by the supplier on the motor fuel;</u>	100
<u>(3) Bad debts from receipts on the basis of which the tax</u>	101
<u>imposed by this chapter was paid in a prior quarterly tax payment</u>	102
<u>period. For the purpose of this division, "bad debts" has the same</u>	103
<u>meaning as in section 5751.01 of the Revised Code.</u>	104
<u>(4) Any amount realized from the sale of an account</u>	105
<u>receivable to the extent the receipts from the underlying</u>	106
<u>transaction giving rise to the account receivable were included in</u>	107
<u>the <u>gross receipts of the taxpayer by a supplier during the tax</u></u>	108
<u>period by (b) <u>the average wholesale price of a gallon of unleaded</u></u>	109
<u>regular gasoline for the tax period that ended six months before</u>	110

the beginning of the current tax period, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code;

(2) The product obtained by multiplying (a) the total number of gallons of motor fuel that is not gasoline first sold within this state by a supplier during the tax period by (b) the average wholesale price of a gallon of diesel fuel for the tax period that ended six months before the beginning of the current tax period, as published by the tax commissioner under division (C) of section 5736.02 of the Revised Code.

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

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

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

(I) "Supplier" means either of the following:

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

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

(J) "Tax period" means the calendar quarter on the basis of 142
which a taxpayer is required to pay the tax imposed under this 143
chapter. 144

(K) "Taxpayer" means a person subject to the tax imposed by 145
this chapter. 146

(L) "Waterways" means all streams, lakes, ponds, marshes, 147
water courses, and all other bodies of surface water, natural or 148
artificial, which are situated wholly or partially within this 149
state or within its jurisdiction, except private impounded bodies 150
of water. 151

(M) "Motor fuel exchange" means an exchange of motor fuel 152
between two or more suppliers, licensed motor fuel dealers, or 153
licensed permissive motor fuel dealers if delivery occurs at a 154
refinery, terminal, pipeline, or marine vessel and if the parties 155
agree that neither party requires monetary compensation from the 156
other party for the exchanged fuel other than compensation for 157
differences in product location, grade, or handling. 158

Sec. 5736.02. (A) Beginning with the tax period that 159
commences July 1, 2014, and continuing for every tax period 160
thereafter, there is hereby levied an excise tax on each supplier 161
measured by the supplier's modified gross receipts derived from 162
the first sale of motor fuel within this state. The tax due shall 163
~~be levied at a rate of six and five tenths mills for each dollar~~ 164
~~of the~~ computed by multiplying sixty-five one hundredths of one 165
per cent by the supplier's modified gross receipts. 166

All revenue from the tax shall be distributed as follows: 167

(1) All revenue from the tax as measured by modified gross 168
receipts derived from the sale of motor fuel used for propelling 169
vehicles on public highways and waterways shall be used for the 170
purposes of maintaining the state highway system, funding the 171

enforcement of traffic laws, and covering the costs of 172
hospitalization of indigent persons injured in motor vehicle 173
accidents on the public highways. 174

(2) All revenue not distributed as required by division 175
(A)(1) of this section shall be used for the purpose of funding 176
the needs of this state and its local governments. 177

(B) The tax imposed by this section is in addition to any 178
other taxes or fees imposed under the Revised Code. 179

(C) The tax commissioner shall determine and publish, on the 180
web site of the department of taxation, the statewide average 181
wholesale prices of a gallon of unleaded regular gasoline and of a 182
gallon of diesel fuel for each calendar quarter. The figure shall 183
be published at least fifteen days before the beginning of the 184
second succeeding calendar quarter. The commissioner shall base 185
the average price on pricing information available from a data 186
service that regularly reports average prices of motor fuel. The 187
price shall not include any federal or state excise taxes on the 188
gasoline or diesel fuel, or the tax imposed by this chapter. The 189
price shall be rounded up to the nearest one-tenth of one cent. 190
The commissioner shall not include dyed diesel fuel in determining 191
the average wholesale price of a gallon of diesel fuel under this 192
division. 193

(D) A taxpayer may bill or invoice the tax imposed by this 194
section to a purchaser of motor fuel and may separately and 195
proportionally state the amount of the tax on such bill or 196
invoice. 197

Sec. 5736.03. (A) No person shall avoid the tax imposed by 198
this chapter by receiving motor fuel outside of this state and 199
transferring the motor fuel into this state within one year. Any 200
such person shall be considered to have received the fuel in this 201
state and shall include ~~as~~, in the calculation of modified gross 202

receipts, the ~~value~~ number of gallons of motor fuel the person 203
transfers into this state within one year after the person 204
receives the property outside of this state. 205

(B) The tax commissioner may adopt rules necessary to 206
administer this section. 207

Sec. 5736.04. (A) Not later than the tenth day of the second 208
month after the end of each calendar quarter, every taxpayer shall 209
file with the tax commissioner a tax return in such form as the 210
commissioner prescribes. The return shall include, but is not 211
limited to, the amount of the taxpayer's modified gross receipts 212
for the calendar quarter and shall indicate the amount of tax due 213
under section 5736.02 of the Revised Code for the calendar 214
quarter. ~~The taxpayer shall indicate on each return the portion of~~ 215
~~the taxpayer's gross receipts attributable to motor fuel used for~~ 216
~~propelling vehicles on public highways and waterways and the~~ 217
~~portion of such receipts attributable to motor fuel used for other~~ 218
~~purposes.~~ 219

(B)(1) The taxpayer shall remit the tax shown to be due on 220
the return, and, if required by the tax commissioner, file the 221
return, electronically. The commissioner may require taxpayers to 222
use the Ohio business gateway as defined in section 718.051 of the 223
Revised Code to file return returns and remit the tax, or may 224
provide another means for taxpayers to file and remit the tax 225
electronically. 226

(2) A person required by this section to remit taxes or file 227
returns electronically may apply to the commissioner, on the form 228
prescribed by the commissioner, to be excused from that 229
requirement. The commissioner may excuse a person from such 230
requirement for good cause. 231

(C) The tax rate with respect to modified gross receipts for 232

a calendar quarter is not fixed until the end of the measurement 233
period for each calendar quarter. The total amount of modified 234
gross receipts reported for a given calendar quarter shall be 235
subject to the tax rate in effect in that quarter. 236

Sec. 5736.06. (A) No person subject to the tax imposed by 237
section 5736.02 of the Revised Code shall distribute, import, or 238
cause the importation of motor fuel for consumption in this state 239
without holding a supplier's license issued by the tax 240
commissioner to engage in such activities. 241

(B)(1) A person subject to the tax imposed by section 5736.02 242
of the Revised Code shall, on or before March 1, 2014, or within 243
thirty days of first becoming subject to the tax imposed by this 244
chapter, whichever is earlier, apply to the tax commissioner for a 245
supplier's license on the form prescribed by the commissioner. 246

(2) Each person issued a supplier's license under division 247
(B)(1) of this section shall apply to renew the license on or 248
before the first day of March of each year. 249

(3) With each license application submitted under division 250
(B)(1) or (2) of this section, the applicant shall pay an 251
application fee equal to one of the following amounts: 252

(a) If the applicant solely imports or causes the importation 253
of motor fuel for sale, exchange, or transfer by the person in 254
this state, three hundred dollars; 255

(b) If the applicant engages in activities in addition to 256
those described in division (B)(3)(a) of this section, one 257
thousand dollars. 258

If an applicant timely submits an application under division 259
(B)(1) of this section on or after the first day of September of 260
any year, the fee that would apply to the applicant under division 261
(B)(3)(a) or (b) of this section shall be reduced by one-half. 262

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

(C) The tax commissioner may refuse to issue a license to any applicant under this section in the following circumstances:

(1) The applicant has previously had any license canceled for cause by the commissioner.

(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.

(3) The applicant has violated any provision of this chapter.

(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.

(E) No person shall make a false or fraudulent statement on an application required by this section.

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.

(B) Unless the person assessed, within sixty days after

service of the notice of assessment, files with the commissioner, 293
either personally or by certified mail, a written petition signed 294
by the person or the person's authorized agent having knowledge of 295
the facts, the assessment becomes final, and the amount of the 296
assessment is due and payable from the person assessed to the 297
treasurer of state. The petition shall indicate the objections of 298
the person assessed, but additional objections may be raised in 299
writing if received by the commissioner prior to the date shown on 300
the final determination. 301

If a petition for reassessment has been properly filed, the 302
commissioner shall proceed under section 5703.60 of the Revised 303
Code. 304

(C)(1) After an assessment becomes final, if any portion of 305
the assessment, including accrued interest, remains unpaid, a 306
certified copy of the commissioner's entry making the assessment 307
final may be filed in the office of the clerk of the court of 308
common pleas in the county in which the person resides or has its 309
principal place of business in this state, or in the office of the 310
clerk of court of common pleas of Franklin county. 311

(2) Immediately upon the filing of the entry, the clerk shall 312
enter judgment for the state against the person assessed in the 313
amount shown on the entry. The judgment may be filed by the clerk 314
in a loose-leaf book entitled, "special judgments for the ~~motor~~ 315
~~fuel receipts~~ petroleum activity tax" and shall have the same 316
effect as other judgments. Execution shall issue upon the judgment 317
at the request of the commissioner, and all laws applicable to 318
sales on execution shall apply to sales made under the judgment. 319

(3) If the assessment is not paid in its entirety within 320
sixty days after the day the assessment was issued, the portion of 321
the assessment consisting of tax due shall bear interest at the 322
rate per annum prescribed by section 5703.47 of the Revised Code 323
from the day the commissioner issues the assessment until it is 324

paid or until it is certified to the attorney general for 325
collection under section 131.02 of the Revised Code, whichever 326
comes first. If the unpaid portion of the assessment is certified 327
to the attorney general for collection, the entire unpaid portion 328
of the assessment shall bear interest at the rate per annum 329
prescribed by section 5703.47 of the Revised Code from the date of 330
certification until the date it is paid in its entirety. Interest 331
shall be paid in the same manner as the tax and may be collected 332
by the issuance of an assessment under this section. 333

(D) If the commissioner believes that collection of the tax 334
will be jeopardized unless proceedings to collect or secure 335
collection of the tax are instituted without delay, the 336
commissioner may issue a jeopardy assessment against the person 337
liable for the tax. Immediately upon the issuance of the jeopardy 338
assessment, the commissioner shall file an entry with the clerk of 339
the court of common pleas in the manner prescribed by division (C) 340
of this section. Notice of the jeopardy assessment shall be served 341
on the person assessed or the person's authorized agent in the 342
manner provided in section 5703.37 of the Revised Code within five 343
days of the filing of the entry with the clerk. The total amount 344
assessed is immediately due and payable, unless the person 345
assessed files a petition for reassessment in accordance with 346
division (B) of this section and provides security in a form 347
satisfactory to the commissioner and in an amount sufficient to 348
satisfy the unpaid balance of the assessment. Full or partial 349
payment of the assessment does not prejudice the commissioner's 350
consideration of the petition for reassessment. 351

(E) The commissioner shall immediately forward to the 352
treasurer of state all amounts the commissioner receives under 353
this section, and such amounts shall be considered as revenue 354
arising from the tax imposed under this chapter. 355

(F) Except as otherwise provided in this division, no 356

assessment shall be made or issued against a taxpayer for the tax 357
imposed under this chapter more than four years after the due date 358
for the filing of the return for the tax period for which the tax 359
was reported, or more than four years after the return for the tax 360
period was filed, whichever is later. The time limit may be 361
extended if both the taxpayer and the commissioner consent in 362
writing to the extension or enter into an agreement waiving or 363
extending the time limit. Any such extension shall extend the 364
four-year time limit in division (A) of section 5736.08 of the 365
Revised Code for the same period of time. Nothing in this division 366
bars an assessment against a taxpayer that fails to file a return 367
required by this chapter or that files a fraudulent return. 368

(G) If the commissioner possesses information that indicates 369
that the amount of tax a taxpayer is required to pay under this 370
chapter exceeds the amount the taxpayer paid, the commissioner may 371
audit a sample of the taxpayer's modified gross receipts over a 372
representative period of time to ascertain the amount of tax due, 373
and may issue an assessment based on the audit. The commissioner 374
shall make a good faith effort to reach agreement with the 375
taxpayer in selecting a representative sample. The commissioner 376
may apply a sampling method only if the commissioner has 377
prescribed the method by rule. 378

(H) If the whereabouts of a person subject to this chapter is 379
not known to the commissioner, the commissioner shall follow the 380
procedures under section 5703.37 of the Revised Code. 381

Sec. 5736.13. (A) For the purpose of receiving, accounting 382
for, and distributing revenue received from the tax imposed by 383
section 5736.02 of the Revised Code, the following funds are 384
hereby created in the state treasury: 385

(1) The ~~motor fuel receipts~~ petroleum activity tax fund; 386

(2) The ~~motor fuel receipts~~ petroleum activity tax 387

administration fund. All amounts credited to the ~~motor fuel~~ 388
~~receipts~~ petroleum activity tax administration fund shall be used 389
solely for the purpose of paying the expenses of the department of 390
taxation incident to the administration of the tax imposed by 391
section 5736.02 of the Revised Code. 392

(3) The ~~motor fuel receipts~~ petroleum activity tax public 393
highways fund. 394

(B) All money collected from the tax imposed by section 395
5736.02 of the Revised Code shall be deposited into the ~~motor fuel~~ 396
~~receipts~~ petroleum activity tax fund. 397

(C) From the ~~motor fuel receipts~~ petroleum activity tax fund, 398
the director of budget and management shall place to the credit of 399
the tax refund fund established by section 5703.052 of the Revised 400
Code amounts equal to the refunds certified by the tax 401
commissioner pursuant to section 5736.08 of the Revised Code. 402

(D) Not later than the last day of March, June, September, 403
and December of each year, the director of budget and management 404
shall provide for the transfer of the balance of the ~~motor fuel~~ 405
~~receipts~~ petroleum activity tax fund as of the last day of the 406
preceding month, excluding any amounts required to be transferred 407
as provided in division (C) of this section, as follows: 408

(1) To the ~~motor fuel receipts~~ petroleum activity tax 409
administration fund, one per cent; 410

(2) To the ~~motor fuel receipts~~ petroleum activity tax public 411
highways fund, an amount that bears the same ratio to the balance 412
in the ~~motor fuel receipts~~ petroleum activity tax fund, after 413
subtracting the amount transferred under division (D)(1) of this 414
section, that (a) the modified gross receipts attributed to motor 415
fuel used for propelling vehicles on public highways and waterways 416
as ~~indicated by~~ ascertained from returns filed by the last day of 417
the preceding month, bears to (b) all modified gross receipts as 418

indicated by <u>ascertained from</u> those returns;	419
(3) To the general revenue fund, the amount remaining after	420
the transfers required by divisions (D)(1) and (2) of this	421
section.	422
Sec. 5751.01. As used in this chapter:	423
(A) "Person" means, but is not limited to, individuals,	424
combinations of individuals of any form, receivers, assignees,	425
trustees in bankruptcy, firms, companies, joint-stock companies,	426
business trusts, estates, partnerships, limited liability	427
partnerships, limited liability companies, associations, joint	428
ventures, clubs, societies, for-profit corporations, S	429
corporations, qualified subchapter S subsidiaries, qualified	430
subchapter S trusts, trusts, entities that are disregarded for	431
federal income tax purposes, and any other entities.	432
(B) "Consolidated elected taxpayer" means a group of two or	433
more persons treated as a single taxpayer for purposes of this	434
chapter as the result of an election made under section 5751.011	435
of the Revised Code.	436
(C) "Combined taxpayer" means a group of two or more persons	437
treated as a single taxpayer for purposes of this chapter under	438
section 5751.012 of the Revised Code.	439
(D) "Taxpayer" means any person, or any group of persons in	440
the case of a consolidated elected taxpayer or combined taxpayer	441
treated as one taxpayer, required to register or pay tax under	442
this chapter. "Taxpayer" does not include excluded persons.	443
(E) "Excluded person" means any of the following:	444
(1) Any person with not more than one hundred fifty thousand	445
dollars of taxable gross receipts during the calendar year.	446
Division (E)(1) of this section does not apply to a person that is	447
a member of a consolidated elected taxpayer;	448

(2) A public utility that paid the excise tax imposed by 449
section 5727.24 or 5727.30 of the Revised Code based on one or 450
more measurement periods that include the entire tax period under 451
this chapter, except that a public utility that is a combined 452
company is a taxpayer with regard to the following gross receipts: 453

(a) Taxable gross receipts directly attributed to a public 454
utility activity, but not directly attributed to an activity that 455
is subject to the excise tax imposed by section 5727.24 or 5727.30 456
of the Revised Code; 457

(b) Taxable gross receipts that cannot be directly attributed 458
to any activity, multiplied by a fraction whose numerator is the 459
taxable gross receipts described in division (E)(2)(a) of this 460
section and whose denominator is the total taxable gross receipts 461
that can be directly attributed to any activity; 462

(c) Except for any differences resulting from the use of an 463
accrual basis method of accounting for purposes of determining 464
gross receipts under this chapter and the use of the cash basis 465
method of accounting for purposes of determining gross receipts 466
under section 5727.24 of the Revised Code, the gross receipts 467
directly attributed to the activity of a natural gas company shall 468
be determined in a manner consistent with division (D) of section 469
5727.03 of the Revised Code. 470

As used in division (E)(2) of this section, "combined 471
company" and "public utility" have the same meanings as in section 472
5727.01 of the Revised Code. 473

(3) A financial institution, as defined in section 5726.01 of 474
the Revised Code, that paid the tax imposed by section 5726.02 of 475
the Revised Code based on one or more taxable years that include 476
the entire tax period under this chapter; 477

(4) A person directly or indirectly owned by one or more 478
financial institutions, as defined in section 5726.01 of the 479

Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

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

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

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

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

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

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final

financing order as those terms are defined in section 4928.23 of 511
the Revised Code. For purposes of this division, "securitization" 512
means transferring one or more assets to one or more persons and 513
then issuing securities backed by the right to receive payment 514
from the asset or assets so transferred. 515

(7) Except as otherwise provided in this division, a 516
pre-income tax trust as defined in division (FF)(4) of section 517
5747.01 of the Revised Code and any pass-through entity of which 518
such pre-income tax trust owns or controls, directly, indirectly, 519
or constructively through related interests, more than five per 520
cent of the ownership or equity interests. If the pre-income tax 521
trust has made a qualifying pre-income tax trust election under 522
division (FF)(3) of section 5747.01 of the Revised Code, then the 523
trust and the pass-through entities of which it owns or controls, 524
directly, indirectly, or constructively through related interests, 525
more than five per cent of the ownership or equity interests, 526
shall not be excluded persons for purposes of the tax imposed 527
under section 5751.02 of the Revised Code. 528

(8) Nonprofit organizations or the state and its agencies, 529
instrumentalities, or political subdivisions. 530

(F) Except as otherwise provided in divisions (F)(2), (3), 531
and (4) of this section, "gross receipts" means the total amount 532
realized by a person, without deduction for the cost of goods sold 533
or other expenses incurred, that contributes to the production of 534
gross income of the person, including the fair market value of any 535
property and any services received, and any debt transferred or 536
forgiven as consideration. 537

(1) The following are examples of gross receipts: 538

(a) Amounts realized from the sale, exchange, or other 539
disposition of the taxpayer's property to or with another; 540

(b) Amounts realized from the taxpayer's performance of 541

services for another;	542
(c) Amounts realized from another's use or possession of the taxpayer's property or capital;	543
	544
(d) Any combination of the foregoing amounts.	545
(2) "Gross receipts" excludes the following amounts:	546
(a) Interest income except interest on credit sales;	547
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	548
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(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.	552
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(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;	570
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(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;	573 574 575
(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;	576 577 578 579
(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	580 581 582 583 584 585 586 587 588
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	589 590 591
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	592 593 594
(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;	595 596 597 598 599 600 601
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross	602 603

receipts;	604
(1) 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;	605 606 607
(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;	608 609 610 611 612 613 614 615 616 617
(n) Pension reversions;	618
(o) Contributions to capital;	619
(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;	620 621 622 623 624
(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;	625 626 627 628 629 630 631
(r) Receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, <u>including receipts from billing or</u>	632 633 634

invoicing the tax imposed under section 5736.02 of the Revised 635
Code to another person; 636

(s) In the case of receipts from the sale of beer or 637
intoxicating liquor, as defined in section 4301.01 of the Revised 638
Code, by a person holding a permit issued under Chapter 4301. or 639
4303. of the Revised Code, an amount equal to federal and state 640
excise taxes paid by any person on or for such beer or 641
intoxicating liquor under subtitle E of the Internal Revenue Code 642
or Chapter 4301. or 4305. of the Revised Code; 643

(t) Receipts realized by a new motor vehicle dealer or used 644
motor vehicle dealer, as defined in section 4517.01 of the Revised 645
Code, from the sale or other transfer of a motor vehicle, as 646
defined in that section, to another motor vehicle dealer for the 647
purpose of resale by the transferee motor vehicle dealer, but only 648
if the sale or other transfer was based upon the transferee's need 649
to meet a specific customer's preference for a motor vehicle; 650

(u) Receipts from a financial institution described in 651
division (E)(3) of this section for services provided to the 652
financial institution in connection with the issuance, processing, 653
servicing, and management of loans or credit accounts, if such 654
financial institution and the recipient of such receipts have at 655
least fifty per cent of their ownership interests owned or 656
controlled, directly or constructively through related interests, 657
by common owners; 658

(v) Receipts realized from administering anti-neoplastic 659
drugs and other cancer chemotherapy, biologicals, therapeutic 660
agents, and supportive drugs in a physician's office to patients 661
with cancer; 662

(w) Funds received or used by a mortgage broker that is not a 663
dealer in intangibles, other than fees or other consideration, 664
pursuant to a table-funding mortgage loan or warehouse-lending 665

mortgage loan. Terms used in division (F)(2)(w) of this section 666
have the same meanings as in section 1322.01 of the Revised Code, 667
except "mortgage broker" means a person assisting a buyer in 668
obtaining a mortgage loan for a fee or other consideration paid by 669
the buyer or a lender, or a person engaged in table-funding or 670
warehouse-lending mortgage loans that are first lien mortgage 671
loans. 672

(x) Property, money, and other amounts received by a 673
professional employer organization, as defined in section 4125.01 674
of the Revised Code, from a client employer, as defined in that 675
section, in excess of the administrative fee charged by the 676
professional employer organization to the client employer; 677

(y) In the case of amounts retained as commissions by a 678
permit holder under Chapter 3769. of the Revised Code, an amount 679
equal to the amounts specified under that chapter that must be 680
paid to or collected by the tax commissioner as a tax and the 681
amounts specified under that chapter to be used as purse money; 682

(z) Qualifying distribution center receipts. 683

(i) For purposes of division (F)(2)(z) of this section: 684

(I) "Qualifying distribution center receipts" means receipts 685
of a supplier from qualified property that is delivered to a 686
qualified distribution center, multiplied by a quantity that 687
equals one minus the Ohio delivery percentage. If the qualified 688
distribution center is a refining facility, "supplier" includes 689
all dealers, brokers, processors, sellers, vendors, cosigners, and 690
distributors of qualified property. 691

(II) "Qualified property" means tangible personal property 692
delivered to a qualified distribution center that is shipped to 693
that qualified distribution center solely for further shipping by 694
the qualified distribution center to another location in this 695
state or elsewhere or, in the case of gold, silver, platinum, or 696

palladium delivered to a refining facility solely for refining to 697
a grade and fineness acceptable for delivery to a registered 698
commodities exchange. "Further shipping" includes storing and 699
repackaging property into smaller or larger bundles, so long as 700
the property is not subject to further manufacturing or 701
processing. "Refining" is limited to extracting impurities from 702
gold, silver, platinum, or palladium through smelting or some 703
other process at a refining facility. 704

(III) "Qualified distribution center" means a warehouse, a 705
facility similar to a warehouse, or a refining facility in this 706
state that, for the qualifying year, is operated by a person that 707
is not part of a combined taxpayer group and that has a qualifying 708
certificate. All warehouses or facilities similar to warehouses 709
that are operated by persons in the same taxpayer group and that 710
are located within one mile of each other shall be treated as one 711
qualified distribution center. All refining facilities that are 712
operated by persons in the same taxpayer group and that are 713
located in the same or adjacent counties may be treated as one 714
qualified distribution center. 715

(IV) "Qualifying year" means the calendar year to which the 716
qualifying certificate applies. 717

(V) "Qualifying period" means the period of the first day of 718
July of the second year preceding the qualifying year through the 719
thirtieth day of June of the year preceding the qualifying year. 720

(VI) "Qualifying certificate" means the certificate issued by 721
the tax commissioner after the operator of a distribution center 722
files an annual application with the commissioner. The application 723
and annual fee shall be filed and paid for each qualified 724
distribution center on or before the first day of September before 725
the qualifying year or within forty-five days after the 726
distribution center opens, whichever is later. 727

The applicant must substantiate to the commissioner's 728
satisfaction that, for the qualifying period, all persons 729
operating the distribution center have more than fifty per cent of 730
the cost of the qualified property shipped to a location such that 731
it would be situated outside this state under the provisions of 732
division (E) of section 5751.033 of the Revised Code. The 733
applicant must also substantiate that the distribution center 734
cumulatively had costs from its suppliers equal to or exceeding 735
five hundred million dollars during the qualifying period. (For 736
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 737
excludes any person that is part of the consolidated elected 738
taxpayer group, if applicable, of the operator of the qualified 739
distribution center.) The commissioner may require the applicant 740
to have an independent certified public accountant certify that 741
the calculation of the minimum thresholds required for a qualified 742
distribution center by the operator of a distribution center has 743
been made in accordance with generally accepted accounting 744
principles. The commissioner shall issue or deny the issuance of a 745
certificate within sixty days after the receipt of the 746
application. A denial is subject to appeal under section 5717.02 747
of the Revised Code. If the operator files a timely appeal under 748
section 5717.02 of the Revised Code, the operator shall be granted 749
a qualifying certificate effective for the remainder of the 750
qualifying year or until the appeal is finalized, whichever is 751
earlier. If the operator does not prevail in the appeal, the 752
operator shall pay the ineligible operator's supplier tax 753
liability. 754

(VII) "Ohio delivery percentage" means the proportion of the 755
total property delivered to a destination inside Ohio from the 756
qualified distribution center during the qualifying period 757
compared with total deliveries from such distribution center 758
everywhere during the qualifying period. 759

(VIII) "Refining facility" means one or more buildings 760
located in a county in the Appalachian region of this state as 761
defined by section 107.21 of the Revised Code and utilized for 762
refining or smelting gold, silver, platinum, or palladium to a 763
grade and fineness acceptable for delivery to a registered 764
commodities exchange. 765

(IX) "Registered commodities exchange" means a board of 766
trade, such as New York mercantile exchange, inc. or commodity 767
exchange, inc., designated as a contract market by the commodity 768
futures trading commission under the "Commodity Exchange Act," 7 769
U.S.C. 1 et seq., as amended. 770

(X) "Ineligible operator's supplier tax liability" means an 771
amount equal to the tax liability of all suppliers of a 772
distribution center had the distribution center not been issued a 773
qualifying certificate for the qualifying year. Ineligible 774
operator's supplier tax liability shall not include interest or 775
penalties. The tax commissioner shall determine an ineligible 776
operator's supplier tax liability based on information that the 777
commissioner may request from the operator of the distribution 778
center. An operator shall provide a list of all suppliers of the 779
distribution center and the corresponding costs of qualified 780
property for the qualifying year at issue within sixty days of a 781
request by the commissioner under this division. 782

(ii)(I) If the distribution center is new and was not open 783
for the entire qualifying period, the operator of the distribution 784
center may request that the commissioner grant a qualifying 785
certificate. If the certificate is granted and it is later 786
determined that more than fifty per cent of the qualified property 787
during that year was not shipped to a location such that it would 788
be situated outside of this state under the provisions of division 789
(E) of section 5751.033 of the Revised Code or if it is later 790
determined that the person that operates the distribution center 791

had average monthly costs from its suppliers of less than forty 792
million dollars during that year, then the operator of the 793
distribution center shall pay the ineligible operator's supplier 794
tax liability. (For purposes of division (F)(2)(z)(ii) of this 795
section, "supplier" excludes any person that is part of the 796
consolidated elected taxpayer group, if applicable, of the 797
operator of the qualified distribution center.) 798

(II) The commissioner may grant a qualifying certificate to a 799
distribution center that does not qualify as a qualified 800
distribution center for an entire qualifying period if the 801
operator of the distribution center demonstrates that the business 802
operations of the distribution center have changed or will change 803
such that the distribution center will qualify as a qualified 804
distribution center within thirty-six months after the date the 805
operator first applies for a certificate. If, at the end of that 806
thirty-six-month period, the business operations of the 807
distribution center have not changed such that the distribution 808
center qualifies as a qualified distribution center, the operator 809
of the distribution center shall pay the ineligible operator's 810
supplier tax liability for each year that the distribution center 811
received a certificate but did not qualify as a qualified 812
distribution center. For each year the distribution center 813
receives a certificate under division (F)(2)(z)(ii)(II) of this 814
section, the distribution center shall pay all applicable fees 815
required under division (F)(2)(z) of this section and shall submit 816
an updated business plan showing the progress the distribution 817
center made toward qualifying as a qualified distribution center 818
during the preceding year. 819

(III) An operator may appeal a determination under division 820
(F)(2)(z)(ii)(I) or (II) of this section that the ineligible 821
operator is liable for the operator's supplier tax liability as a 822
result of not qualifying as a qualified distribution center, as 823

provided in section 5717.02 of the Revised Code. 824

(iii) When filing an application for a qualifying certificate 825
under division (F)(2)(z)(i)(VI) of this section, the operator of a 826
qualified distribution center also shall provide documentation, as 827
the commissioner requires, for the commissioner to ascertain the 828
Ohio delivery percentage. The commissioner, upon issuing the 829
qualifying certificate, also shall certify the Ohio delivery 830
percentage. The operator of the qualified distribution center may 831
appeal the commissioner's certification of the Ohio delivery 832
percentage in the same manner as an appeal is taken from the 833
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 834
of this section. 835

(iv)(I) In the case where the distribution center is new and 836
not open for the entire qualifying period, the operator shall make 837
a good faith estimate of an Ohio delivery percentage for use by 838
suppliers in their reports of taxable gross receipts for the 839
remainder of the qualifying period. The operator of the facility 840
shall disclose to the suppliers that such Ohio delivery percentage 841
is an estimate and is subject to recalculation. By the due date of 842
the next application for a qualifying certificate, the operator 843
shall determine the actual Ohio delivery percentage for the 844
estimated qualifying period and proceed as provided in division 845
(F)(2)(z)(iii) of this section with respect to the calculation and 846
recalculation of the Ohio delivery percentage. The supplier is 847
required to file, within sixty days after receiving notice from 848
the operator of the qualified distribution center, amended reports 849
for the impacted calendar quarter or quarters or calendar year, 850
whichever the case may be. Any additional tax liability or tax 851
overpayment shall be subject to interest but shall not be subject 852
to the imposition of any penalty so long as the amended returns 853
are timely filed. 854

(II) The operator of a distribution center that receives a 855

qualifying certificate under division (F)(2)(z)(ii)(II) of this 856
section shall make a good faith estimate of the Ohio delivery 857
percentage that the operator estimates will apply to the 858
distribution center at the end of the thirty-six-month period 859
after the operator first applied for a qualifying certificate 860
under that division. The result of the estimate shall be 861
multiplied by a factor of one and seventy-five one-hundredths. The 862
product of that calculation shall be the Ohio delivery percentage 863
used by suppliers in their reports of taxable gross receipts for 864
each qualifying year that the distribution center receives a 865
qualifying certificate under division (F)(2)(z)(ii)(II) of this 866
section, except that, if the product is less than five per cent, 867
the Ohio delivery percentage used shall be five per cent and that, 868
if the product exceeds forty-nine per cent, the Ohio delivery 869
percentage used shall be forty-nine per cent. 870

(v) Qualifying certificates and Ohio delivery percentages 871
issued by the commissioner shall be open to public inspection and 872
shall be timely published by the commissioner. A supplier relying 873
in good faith on a certificate issued under this division shall 874
not be subject to tax on the qualifying distribution center 875
receipts under division (F)(2)(z) of this section. An operator 876
receiving a qualifying certificate is liable for the ineligible 877
operator's supplier tax liability for each year the operator 878
received a certificate but did not qualify as a qualified 879
distribution center. 880

(vi) The annual fee for a qualifying certificate shall be one 881
hundred thousand dollars for each qualified distribution center. 882
If a qualifying certificate is not issued, the annual fee is 883
subject to refund after the exhaustion of all appeals provided for 884
in division (F)(2)(z)(i)(VI) of this section. The first one 885
hundred thousand dollars of the annual application fees collected 886
each calendar year shall be credited to the revenue enhancement 887

fund. The remainder of the annual application fees collected shall 888
be distributed in the same manner required under section 5751.20 889
of the Revised Code. 890

(vii) The tax commissioner may require that adequate security 891
be posted by the operator of the distribution center on appeal 892
when the commissioner disagrees that the applicant has met the 893
minimum thresholds for a qualified distribution center as set 894
forth in division (F)(2)(z) of this section. 895

(aa) Receipts of an employer from payroll deductions relating 896
to the reimbursement of the employer for advancing moneys to an 897
unrelated third party on an employee's behalf; 898

(bb) Cash discounts allowed and taken; 899

(cc) Returns and allowances; 900

(dd) Bad debts from receipts on the basis of which the tax 901
imposed by this chapter was paid in a prior quarterly tax payment 902
period. For the purpose of this division, "bad debts" means any 903
debts that have become worthless or uncollectible between the 904
preceding and current quarterly tax payment periods, have been 905
uncollected for at least six months, and that may be claimed as a 906
deduction under section 166 of the Internal Revenue Code and the 907
regulations adopted under that section, or that could be claimed 908
as such if the taxpayer kept its accounts on the accrual basis. 909
"Bad debts" does not include repossessed property, uncollectible 910
amounts on property that remains in the possession of the taxpayer 911
until the full purchase price is paid, or expenses in attempting 912
to collect any account receivable or for any portion of the debt 913
recovered; 914

(ee) Any amount realized from the sale of an account 915
receivable to the extent the receipts from the underlying 916
transaction giving rise to the account receivable were included in 917
the gross receipts of the taxpayer; 918

(ff) Any receipts directly attributed to a transfer agreement 919
or to the enterprise transferred under that agreement under 920
section 4313.02 of the Revised Code. 921

(gg)(i) As used in this division: 922

(I) "Qualified uranium receipts" means receipts from the 923
sale, exchange, lease, loan, production, processing, or other 924
disposition of uranium within a uranium enrichment zone certified 925
by the tax commissioner under division (F)(2)(gg)(ii) of this 926
section. "Qualified uranium receipts" does not include any 927
receipts with a situs in this state outside a uranium enrichment 928
zone certified by the tax commissioner under division 929
(F)(2)(gg)(ii) of this section. 930

(II) "Uranium enrichment zone" means all real property that 931
is part of a uranium enrichment facility licensed by the United 932
States nuclear regulatory commission and that was or is owned or 933
controlled by the United States department of energy or its 934
successor. 935

(ii) Any person that owns, leases, or operates real or 936
tangible personal property constituting or located within a 937
uranium enrichment zone may apply to the tax commissioner to have 938
the uranium enrichment zone certified for the purpose of excluding 939
qualified uranium receipts under division (F)(2)(gg) of this 940
section. The application shall include such information that the 941
tax commissioner prescribes. Within sixty days after receiving the 942
application, the tax commissioner shall certify the zone for that 943
purpose if the commissioner determines that the property qualifies 944
as a uranium enrichment zone as defined in division (F)(2)(gg) of 945
this section, or, if the tax commissioner determines that the 946
property does not qualify, the commissioner shall deny the 947
application or request additional information from the applicant. 948
If the tax commissioner denies an application, the commissioner 949
shall state the reasons for the denial. The applicant may appeal 950

the denial of an application to the board of tax appeals pursuant 951
to section 5717.02 of the Revised Code. If the applicant files a 952
timely appeal, the tax commissioner shall conditionally certify 953
the applicant's property. The conditional certification shall 954
expire when all of the applicant's appeals are exhausted. Until 955
final resolution of the appeal, the applicant shall retain the 956
applicant's records in accordance with section 5751.12 of the 957
Revised Code, notwithstanding any time limit on the preservation 958
of records under that section. 959

(hh) In the case of amounts collected by a licensed casino 960
operator from casino gaming, amounts in excess of the casino 961
operator's gross casino revenue. In this division, "casino 962
operator" and "casino gaming" have the meanings defined in section 963
3772.01 of the Revised Code, and "gross casino revenue" has the 964
meaning defined in section 5753.01 of the Revised Code. 965

(ii) Receipts realized from the sale of agricultural 966
commodities by an agricultural commodity handler, both as defined 967
in section 926.01 of the Revised Code, that is licensed by the 968
director of agriculture to handle agricultural commodities in this 969
state. 970

(jj) Any receipts for which the tax imposed by this chapter 971
is prohibited by the constitution or laws of the United States or 972
the constitution of this state. 973

(3) In the case of a taxpayer when acting as a real estate 974
broker, "gross receipts" includes only the portion of any fee for 975
the service of a real estate broker, or service of a real estate 976
salesperson associated with that broker, that is retained by the 977
broker and not paid to an associated real estate salesperson or 978
another real estate broker. For the purposes of this division, 979
"real estate broker" and "real estate salesperson" have the same 980
meanings as in section 4735.01 of the Revised Code. 981

(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;

(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.

(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:

(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.

(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:

(a) Any amount subject to withholding by the person under

section 5747.06 of the Revised Code;	1012
(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	1013 1014 1015
(c) Any amount the person pays for services performed in this state on its behalf by another.	1016 1017
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	1018 1019
(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.	1020 1021 1022
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	1023 1024
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	1025 1026
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	1027 1028 1029 1030 1031 1032 1033 1034
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	1035 1036 1037
(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.	1038 1039 1040
(N) "Calendar year taxpayer" means a taxpayer for which the	1041

tax period is a calendar year. 1042

(O) "Calendar quarter taxpayer" means a taxpayer for which 1043
the tax period is a calendar quarter. 1044

(P) "Agent" means a person authorized by another person to 1045
act on its behalf to undertake a transaction for the other, 1046
including any of the following: 1047

(1) A person receiving a fee to sell financial instruments; 1048

(2) A person retaining only a commission from a transaction 1049
with the other proceeds from the transaction being remitted to 1050
another person; 1051

(3) A person issuing licenses and permits under section 1052
1533.13 of the Revised Code; 1053

(4) A lottery sales agent holding a valid license issued 1054
under section 3770.05 of the Revised Code; 1055

(5) A person acting as an agent of the division of liquor 1056
control under section 4301.17 of the Revised Code. 1057

(Q) "Received" includes amounts accrued under the accrual 1058
method of accounting. 1059

(R) "Reporting person" means a person in a consolidated 1060
elected taxpayer or combined taxpayer group that is designated by 1061
that group to legally bind the group for all filings and tax 1062
liabilities and to receive all legal notices with respect to 1063
matters under this chapter, or, for the purposes of section 1064
5751.04 of the Revised Code, a separate taxpayer that is not a 1065
member of such a group. 1066

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of 1067
the Revised Code: 1068

(1) "School district," "joint vocational school district," 1069
"local taxing unit," "recognized valuation," "fixed-rate levy," 1070

and "fixed-sum levy" have the same meanings as used in section 1071
5727.84 of the Revised Code. 1072

(2) "State education aid" for a school district means the 1073
following: 1074

(a) For fiscal years prior to fiscal year 2010, the sum of 1075
state aid amounts computed for the district under the following 1076
provisions, as they existed for the applicable fiscal year: 1077
division (A) of section 3317.022 of the Revised Code, including 1078
the amounts calculated under former section 3317.029 and section 1079
3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), 1080
and (F) of section 3317.022; divisions (B), (C), and (D) of 1081
section 3317.023; divisions (L) and (N) of section 3317.024; 1082
section 3317.0216; and any unit payments for gifted student 1083
services paid under section 3317.05 and former sections 3317.052 1084
and 3317.053 of the Revised Code; except that, for fiscal years 1085
2008 and 2009, the amount computed for the district under Section 1086
269.20.80 of H.B. 119 of the 127th general assembly and as that 1087
section subsequently may be amended shall be substituted for the 1088
amount computed under division (D) of section 3317.022 of the 1089
Revised Code, and the amount computed under Section 269.30.80 of 1090
H.B. 119 of the 127th general assembly and as that section 1091
subsequently may be amended shall be included. 1092

(b) For fiscal years 2010 and 2011, the sum of the amounts 1093
computed under former sections 3306.052, 3306.12, 3306.13, 1094
3306.19, 3306.191, and 3306.192 of the Revised Code; 1095

(c) For fiscal years 2012 and 2013, the sum of the amounts 1096
paid under Sections 267.30.50, 267.30.53, and 267.30.56 of H.B. 1097
153 of the 129th general assembly; 1098

(d) For fiscal year 2014 and each fiscal year thereafter, the 1099
sum of state amounts computed for the district under section 1100
3317.022 of the Revised Code; except that, for fiscal years 2014 1101

and 2015, the amount computed for the district under the section 1102
of this act entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND 1103
EXEMPTED VILLAGE SCHOOL DISTRICTS" shall be included. 1104

(3) "State education aid" for a joint vocational school 1105
district means the following: 1106

(a) For fiscal years prior to fiscal year 2010, the sum of 1107
the state aid computed for the district under division (N) of 1108
section 3317.024 and former section 3317.16 of the Revised Code, 1109
except that, for fiscal years 2008 and 2009, the amount computed 1110
under Section 269.30.80 of H.B. 119 of the 127th general assembly 1111
and as that section subsequently may be amended shall be included. 1112

(b) For fiscal years 2010 and 2011, the amount paid in 1113
accordance with Section 265.30.50 of H.B. 1 of the 128th general 1114
assembly. 1115

(c) For fiscal years 2012 and 2013, the amount paid in 1116
accordance with Section 267.30.60 of H.B. 153 of the 129th general 1117
assembly. 1118

(d) For fiscal year 2014 and each fiscal year thereafter, the 1119
amount computed for the district under section 3317.16 of the 1120
Revised Code; except that, for fiscal years 2014 and 2015, the 1121
amount computed for the district under the section of this act 1122
entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" 1123
shall be included. 1124

(4) "State education aid offset" means the amount determined 1125
for each school district or joint vocational school district under 1126
division (A)(1) of section 5751.21 of the Revised Code. 1127

(5) "Machinery and equipment property tax value loss" means 1128
the amount determined under division (C)(1) of this section. 1129

(6) "Inventory property tax value loss" means the amount 1130
determined under division (C)(2) of this section. 1131

- (7) "Furniture and fixtures property tax value loss" means 1132
the amount determined under division (C)(3) of this section. 1133
- (8) "Machinery and equipment fixed-rate levy loss" means the 1134
amount determined under division (D)(1) of this section. 1135
- (9) "Inventory fixed-rate levy loss" means the amount 1136
determined under division (D)(2) of this section. 1137
- (10) "Furniture and fixtures fixed-rate levy loss" means the 1138
amount determined under division (D)(3) of this section. 1139
- (11) "Total fixed-rate levy loss" means the sum of the 1140
machinery and equipment fixed-rate levy loss, the inventory 1141
fixed-rate levy loss, the furniture and fixtures fixed-rate levy 1142
loss, and the telephone company fixed-rate levy loss. 1143
- (12) "Fixed-sum levy loss" means the amount determined under 1144
division (E) of this section. 1145
- (13) "Machinery and equipment" means personal property 1146
subject to the assessment rate specified in division (F) of 1147
section 5711.22 of the Revised Code. 1148
- (14) "Inventory" means personal property subject to the 1149
assessment rate specified in division (E) of section 5711.22 of 1150
the Revised Code. 1151
- (15) "Furniture and fixtures" means personal property subject 1152
to the assessment rate specified in division (G) of section 1153
5711.22 of the Revised Code. 1154
- (16) "Qualifying levies" are levies in effect for tax year 1155
2004 or applicable to tax year 2005 or approved at an election 1156
conducted before September 1, 2005. For the purpose of determining 1157
the rate of a qualifying levy authorized by section 5705.212 or 1158
5705.213 of the Revised Code, the rate shall be the rate that 1159
would be in effect for tax year 2010. 1160
- (17) "Telephone property" means tangible personal property of 1161

a telephone, telegraph, or interexchange telecommunications 1162
company subject to an assessment rate specified in section 1163
5727.111 of the Revised Code in tax year 2004. 1164

(18) "Telephone property tax value loss" means the amount 1165
determined under division (C)(4) of this section. 1166

(19) "Telephone property fixed-rate levy loss" means the 1167
amount determined under division (D)(4) of this section. 1168

(20) "Taxes charged and payable" means taxes charged and 1169
payable after the reduction required by section 319.301 of the 1170
Revised Code but before the reductions required by sections 1171
319.302 and 323.152 of the Revised Code. 1172

(21) "Median estate tax collections" means, in the case of a 1173
municipal corporation to which revenue from the taxes levied in 1174
Chapter 5731. of the Revised Code was distributed in each of 1175
calendar years 2006, 2007, 2008, and 2009, the median of those 1176
distributions. In the case of a municipal corporation to which no 1177
distributions were made in one or more of those years, "median 1178
estate tax collections" means zero. 1179

(22) "Total resources," in the case of a school district, 1180
means the sum of the amounts in divisions (A)(22)(a) to (h) of 1181
this section less any reduction required under division (A)(32) or 1182
(33) of this section. 1183

(a) The state education aid for fiscal year 2010; 1184

(b) The sum of the payments received by the school district 1185
in fiscal year 2010 for current expense levy losses pursuant to 1186
division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of 1187
section 5751.21 of the Revised Code, excluding the portion of such 1188
payments attributable to levies for joint vocational school 1189
district purposes; 1190

(c) The sum of fixed-sum levy loss payments received by the 1191

school district in fiscal year 2010 pursuant to division (E)(1) of 1192
section 5727.85 and division (E)(1) of section 5751.21 of the 1193
Revised Code for fixed-sum levies charged and payable for a 1194
purpose other than paying debt charges; 1195

(d) Fifty per cent of the school district's taxes charged and 1196
payable against all property on the tax list of real and public 1197
utility property for current expense purposes for tax year 2008, 1198
including taxes charged and payable from emergency levies charged 1199
and payable under section 5709.194 of the Revised Code and 1200
excluding taxes levied for joint vocational school district 1201
purposes; 1202

(e) Fifty per cent of the school district's taxes charged and 1203
payable against all property on the tax list of real and public 1204
utility property for current expenses for tax year 2009, including 1205
taxes charged and payable from emergency levies and excluding 1206
taxes levied for joint vocational school district purposes; 1207

(f) The school district's taxes charged and payable against 1208
all property on the general tax list of personal property for 1209
current expenses for tax year 2009, including taxes charged and 1210
payable from emergency levies; 1211

(g) The amount certified for fiscal year 2010 under division 1212
(A)(2) of section 3317.08 of the Revised Code; 1213

(h) Distributions received during calendar year 2009 from 1214
taxes levied under section 718.09 of the Revised Code. 1215

(23) "Total resources," in the case of a joint vocational 1216
school district, means the sum of amounts in divisions (A)(23)(a) 1217
to (g) of this section less any reduction required under division 1218
(A)(32) of this section. 1219

(a) The state education aid for fiscal year 2010; 1220

(b) The sum of the payments received by the joint vocational 1221

school district in fiscal year 2010 for current expense levy	1222
losses pursuant to division (C)(2) of section 5727.85 and	1223
divisions (C)(8) and (9) of section 5751.21 of the Revised Code;	1224
(c) Fifty per cent of the joint vocational school district's	1225
taxes charged and payable against all property on the tax list of	1226
real and public utility property for current expense purposes for	1227
tax year 2008;	1228
(d) Fifty per cent of the joint vocational school district's	1229
taxes charged and payable against all property on the tax list of	1230
real and public utility property for current expenses for tax year	1231
2009;	1232
(e) Fifty per cent of a city, local, or exempted village	1233
school district's taxes charged and payable against all property	1234
on the tax list of real and public utility property for current	1235
expenses of the joint vocational school district for tax year	1236
2008;	1237
(f) Fifty per cent of a city, local, or exempted village	1238
school district's taxes charged and payable against all property	1239
on the tax list of real and public utility property for current	1240
expenses of the joint vocational school district for tax year	1241
2009;	1242
(g) The joint vocational school district's taxes charged and	1243
payable against all property on the general tax list of personal	1244
property for current expenses for tax year 2009.	1245
(24) "Total resources," in the case of county mental health	1246
and disability related functions, means the sum of the amounts in	1247
divisions (A)(24)(a) and (b) of this section less any reduction	1248
required under division (A)(32) of this section.	1249
(a) The sum of the payments received by the county for mental	1250
health and developmental disability related functions in calendar	1251
year 2010 under division (A)(1) of section 5727.86 and divisions	1252

(A)(1) and (2) of section 5751.22 of the Revised Code as they 1253
existed at that time; 1254

(b) With respect to taxes levied by the county for mental 1255
health and developmental disability related purposes, the taxes 1256
charged and payable for such purposes against all property on the 1257
tax list of real and public utility property for tax year 2009. 1258

(25) "Total resources," in the case of county senior services 1259
related functions, means the sum of the amounts in divisions 1260
(A)(25)(a) and (b) of this section less any reduction required 1261
under division (A)(32) of this section. 1262

(a) The sum of the payments received by the county for senior 1263
services related functions in calendar year 2010 under division 1264
(A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 1265
5751.22 of the Revised Code as they existed at that time; 1266

(b) With respect to taxes levied by the county for senior 1267
services related purposes, the taxes charged and payable for such 1268
purposes against all property on the tax list of real and public 1269
utility property for tax year 2009. 1270

(26) "Total resources," in the case of county children's 1271
services related functions, means the sum of the amounts in 1272
divisions (A)(26)(a) and (b) of this section less any reduction 1273
required under division (A)(32) of this section. 1274

(a) The sum of the payments received by the county for 1275
children's services related functions in calendar year 2010 under 1276
division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of 1277
section 5751.22 of the Revised Code as they existed at that time; 1278

(b) With respect to taxes levied by the county for children's 1279
services related purposes, the taxes charged and payable for such 1280
purposes against all property on the tax list of real and public 1281
utility property for tax year 2009. 1282

(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.

(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;

(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.

(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.

(a) The sum of the payments received by the county for all other purposes 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) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the county for all other 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, excluding taxes charged and payable for the 1314
purpose of paying debt charges; 1315

(d) The sum of the amounts distributed to the county in 1316
calendar year 2010 for the taxes levied pursuant to sections 1317
5739.021 and 5741.021 of the Revised Code. 1318

(29) "Total resources," in the case of a municipal 1319
corporation, means the sum of the amounts in divisions (A)(29)(a) 1320
to (g) of this section less any reduction required under division 1321
(A)(32) or (33) of this section. 1322

(a) The sum of the payments received by the municipal 1323
corporation in calendar year 2010 for current expense levy losses 1324
under division (A)(1) of section 5727.86 and divisions (A)(1) and 1325
(2) of section 5751.22 of the Revised Code as they existed at that 1326
time; 1327

(b) The municipal corporation's percentage share of county 1328
undivided local government fund allocations as certified to the 1329
tax commissioner for calendar year 2010 by the county auditor 1330
under division (J) of section 5747.51 of the Revised Code or 1331
division (F) of section 5747.53 of the Revised Code multiplied by 1332
the total amount actually distributed in calendar year 2010 from 1333
the county undivided local government fund; 1334

(c) The sum of the amounts distributed to the municipal 1335
corporation in calendar year 2010 pursuant to section 5747.50 of 1336
the Revised Code; 1337

(d) With respect to taxes levied by the municipal 1338
corporation, the taxes charged and payable against all property on 1339
the tax list of real and public utility property for current 1340
expenses, defined in division (A)(35) of this section, for tax 1341
year 2009; 1342

(e) The amount of admissions tax collected by the municipal 1343
corporation in calendar year 2008, or if such information has not 1344

yet been reported to the tax commissioner, in the most recent year 1345
before 2008 for which the municipal corporation has reported data 1346
to the commissioner; 1347

(f) The amount of income taxes collected by the municipal 1348
corporation in calendar year 2008, or if such information has not 1349
yet been reported to the tax commissioner, in the most recent year 1350
before 2008 for which the municipal corporation has reported data 1351
to the commissioner; 1352

(g) The municipal corporation's median estate tax 1353
collections. 1354

(30) "Total resources," in the case of a township, means the 1355
sum of the amounts in divisions (A)(30)(a) to (c) of this section 1356
less any reduction required under division (A)(32) or (33) of this 1357
section. 1358

(a) The sum of the payments received by the township in 1359
calendar year 2010 pursuant to division (A)(1) of section 5727.86 1360
of the Revised Code and divisions (A)(1) and (2) of section 1361
5751.22 of the Revised Code as they existed at that time, 1362
excluding payments received for debt purposes; 1363

(b) The township's percentage share of county undivided local 1364
government fund allocations as certified to the tax commissioner 1365
for calendar year 2010 by the county auditor under division (J) of 1366
section 5747.51 of the Revised Code or division (F) of section 1367
5747.53 of the Revised Code multiplied by the total amount 1368
actually distributed in calendar year 2010 from the county 1369
undivided local government fund; 1370

(c) With respect to taxes levied by the township, the taxes 1371
charged and payable against all property on the tax list of real 1372
and public utility property for tax year 2009 excluding taxes 1373
charged and payable for the purpose of paying debt charges. 1374

(31) "Total resources," in the case of a local taxing unit 1375

that is not a county, municipal corporation, or township, means 1376
the sum of the amounts in divisions (A)(31)(a) to (e) of this 1377
section less any reduction required under division (A)(32) of this 1378
section. 1379

(a) The sum of the payments received by the local taxing unit 1380
in calendar year 2010 pursuant to division (A)(1) of section 1381
5727.86 of the Revised Code and divisions (A)(1) and (2) of 1382
section 5751.22 of the Revised Code as they existed at that time; 1383

(b) The local taxing unit's percentage share of county 1384
undivided local government fund allocations as certified to the 1385
tax commissioner for calendar year 2010 by the county auditor 1386
under division (J) of section 5747.51 of the Revised Code or 1387
division (F) of section 5747.53 of the Revised Code multiplied by 1388
the total amount actually distributed in calendar year 2010 from 1389
the county undivided local government fund; 1390

(c) With respect to taxes levied by the local taxing unit, 1391
the taxes charged and payable against all property on the tax list 1392
of real and public utility property for tax year 2009 excluding 1393
taxes charged and payable for the purpose of paying debt charges; 1394

(d) The amount received from the tax commissioner during 1395
calendar year 2010 for sales or use taxes authorized under 1396
sections 5739.023 and 5741.022 of the Revised Code; 1397

(e) For institutions of higher education receiving tax 1398
revenue from a local levy, as identified in section 3358.02 of the 1399
Revised Code, the final state share of instruction allocation for 1400
fiscal year 2010 as calculated by the board of regents and 1401
reported to the state controlling board. 1402

(32) If a fixed-rate levy that is a qualifying levy is not 1403
charged and payable in any year after tax year 2010, "total 1404
resources" used to compute payments to be made under division 1405
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 1406

5751.22 of the Revised Code in the tax years following the last 1407
year the levy is charged and payable shall be reduced to the 1408
extent that the payments are attributable to the fixed-rate levy 1409
loss of that levy as would be computed under division (C)(2) of 1410
section 5727.85, division (A)(1) of section 5727.85, divisions 1411
(C)(8) and (9) of section 5751.21, or division (A)(1) of section 1412
5751.22 of the Revised Code. 1413

(33) In the case of a county, municipal corporation, school 1414
district, or township with fixed-rate levy losses attributable to 1415
a tax levied under section 5705.23 of the Revised Code, "total 1416
resources" used to compute payments to be made under division 1417
(C)(3) of section 5727.85, division (A)(1)(d) of section 5727.86, 1418
division (C)(12) of section 5751.21, or division (A)(1)(c) of 1419
section 5751.22 of the Revised Code shall be reduced by the 1420
amounts described in divisions (A)(34)(a) to (c) of this section 1421
to the extent that those amounts were included in calculating the 1422
"total resources" of the school district or local taxing unit 1423
under division (A)(22), (28), (29), or (30) of this section. 1424

(34) "Total library resources," in the case of a county, 1425
municipal corporation, school district, or township public library 1426
that receives the proceeds of a tax levied under section 5705.23 1427
of the Revised Code, means the sum of the amounts in divisions 1428
(A)(34)(a) to (c) of this section less any reduction required 1429
under division (A)(32) of this section. 1430

(a) The sum of the payments received by the county, municipal 1431
corporation, school district, or township public library in 1432
calendar year 2010 pursuant to sections 5727.86 and 5751.22 of the 1433
Revised Code, as they existed at that time, for fixed-rate levy 1434
losses attributable to a tax levied under section 5705.23 of the 1435
Revised Code for the benefit of the public library; 1436

(b) The public library's percentage share of county undivided 1437
local government fund allocations as certified to the tax 1438

commissioner for calendar year 2010 by the county auditor under 1439
division (J) of section 5747.51 of the Revised Code or division 1440
(F) of section 5747.53 of the Revised Code multiplied by the total 1441
amount actually distributed in calendar year 2010 from the county 1442
undivided local government fund; 1443

(c) With respect to a tax levied pursuant to section 5705.23 1444
of the Revised Code for the benefit of the public library, the 1445
amount of such tax that is charged and payable against all 1446
property on the tax list of real and public utility property for 1447
tax year 2009 excluding any tax that is charged and payable for 1448
the purpose of paying debt charges. 1449

(35) "Municipal current expense property tax levies" means 1450
all property tax levies of a municipality, except those with the 1451
following levy names: airport resurfacing; bond or any levy name 1452
including the word "bond"; capital improvement or any levy name 1453
including the word "capital"; debt or any levy name including the 1454
word "debt"; equipment or any levy name including the word 1455
"equipment," unless the levy is for combined operating and 1456
equipment; employee termination fund; fire pension or any levy 1457
containing the word "pension," including police pensions; 1458
fireman's fund or any practically similar name; sinking fund; road 1459
improvements or any levy containing the word "road"; fire truck or 1460
apparatus; flood or any levy containing the word "flood"; 1461
conservancy district; county health; note retirement; sewage, or 1462
any levy containing the words "sewage" or "sewer"; park 1463
improvement; parkland acquisition; storm drain; street or any levy 1464
name containing the word "street"; lighting, or any levy name 1465
containing the word "lighting"; and water. 1466

(36) "Current expense TPP allocation" means, in the case of a 1467
school district or joint vocational school district, the sum of 1468
the payments received by the school district in fiscal year 2011 1469
pursuant to divisions (C)(10) and (11) of section 5751.21 of the 1470

Revised Code to the extent paid for current expense levies. In the 1471
case of a municipal corporation, "current expense TPP allocation" 1472
means the sum of the payments received by the municipal 1473
corporation in calendar year 2010 pursuant to divisions (A)(1) and 1474
(2) of section 5751.22 of the Revised Code to the extent paid for 1475
municipal current expense property tax levies as defined in 1476
division (A)(35) of this section, excluding any such payments 1477
received for current expense levy losses attributable to a tax 1478
levied under section 5705.23 of the Revised Code. If a fixed-rate 1479
levy that is a qualifying levy is not charged and payable in any 1480
year after tax year 2010, "current expense TPP allocation" used to 1481
compute payments to be made under division (C)(12) of section 1482
5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the 1483
Revised Code in the tax years following the last year the levy is 1484
charged and payable shall be reduced to the extent that the 1485
payments are attributable to the fixed-rate levy loss of that levy 1486
as would be computed under divisions (C)(10) and (11) of section 1487
5751.21 or division (A)(1) of section 5751.22 of the Revised Code. 1488

(37) "TPP allocation" means the sum of payments received by a 1489
local taxing unit in calendar year 2010 pursuant to divisions 1490
(A)(1) and (2) of section 5751.22 of the Revised Code, excluding 1491
any such payments received for fixed-rate levy losses attributable 1492
to a tax levied under section 5705.23 of the Revised Code. If a 1493
fixed-rate levy that is a qualifying levy is not charged and 1494
payable in any year after tax year 2010, "TPP allocation" used to 1495
compute payments to be made under division (A)(1)(b) or (c) of 1496
section 5751.22 of the Revised Code in the tax years following the 1497
last year the levy is charged and payable shall be reduced to the 1498
extent that the payments are attributable to the fixed-rate levy 1499
loss of that levy as would be computed under division (A)(1) of 1500
that section. 1501

(38) "Total TPP allocation" means, in the case of a school 1502

district or joint vocational school district, the sum of the 1503
amounts received in fiscal year 2011 pursuant to divisions (C)(10) 1504
and (11) and (D) of section 5751.21 of the Revised Code. In the 1505
case of a local taxing unit, "total TPP allocation" means the sum 1506
of payments received by the unit in calendar year 2010 pursuant to 1507
divisions (A)(1), (2), and (3) of section 5751.22 of the Revised 1508
Code. If a fixed-rate levy that is a qualifying levy is not 1509
charged and payable in any year after tax year 2010, "total TPP 1510
allocation" used to compute payments to be made under division 1511
(C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 1512
5751.22 of the Revised Code in the tax years following the last 1513
year the levy is charged and payable shall be reduced to the 1514
extent that the payments are attributable to the fixed-rate levy 1515
loss of that levy as would be computed under divisions (C)(10) and 1516
(11) of section 5751.21 or division (A)(1) of section 5751.22 of 1517
the Revised Code. 1518

(39) "Non-current expense TPP allocation" means the 1519
difference of total TPP allocation minus the sum of current 1520
expense TPP allocation and the portion of total TPP allocation 1521
constituting reimbursement for debt levies, pursuant to division 1522
(D) of section 5751.21 of the Revised Code in the case of a school 1523
district or joint vocational school district and pursuant to 1524
division (A)(3) of section 5751.22 of the Revised Code in the case 1525
of a municipal corporation. 1526

(40) "TPP allocation for library purposes" means the sum of 1527
payments received by a county, municipal corporation, school 1528
district, or township public library in calendar year 2010 1529
pursuant to section 5751.22 of the Revised Code for fixed-rate 1530
levy losses attributable to a tax levied under section 5705.23 of 1531
the Revised Code. If a fixed-rate levy authorized under section 1532
5705.23 of the Revised Code that is a qualifying levy is not 1533
charged and payable in any year after tax year 2010, "TPP 1534

allocation for library purposes" used to compute payments to be 1535
made under division (A)(1)(d) of section 5751.22 of the Revised 1536
Code in the tax years following the last year the levy is charged 1537
and payable shall be reduced to the extent that the payments are 1538
attributable to the fixed-rate levy loss of that levy as would be 1539
computed under division (A)(1) of section 5751.22 of the Revised 1540
Code. 1541

(41) "Threshold per cent" means, in the case of a school 1542
district or joint vocational school district, two per cent for 1543
fiscal year 2012 and four per cent for fiscal years 2013 and 1544
thereafter. In the case of a local taxing unit or public library 1545
that receives the proceeds of a tax levied under section 5705.23 1546
of the Revised Code, "threshold per cent" means two per cent for 1547
tax year 2011, four per cent for tax year 2012, and six per cent 1548
for tax years 2013 and thereafter. 1549

(B)(1) The commercial activities tax receipts fund is hereby 1550
created in the state treasury and shall consist of money arising 1551
from the tax imposed under this chapter. Eighty-five 1552
one-hundredths of one per cent of the money credited to that fund 1553
shall be credited to the revenue enhancement fund and shall be 1554
used to defray the costs incurred by the department of taxation in 1555
administering the tax imposed by this chapter and in implementing 1556
tax reform measures. The remainder of the money in the commercial 1557
activities tax receipts fund shall first be credited to the 1558
commercial activity tax motor fuel receipts fund, pursuant to 1559
division (B)(2) of this section, and the remainder shall be 1560
credited in the following percentages each fiscal year to the 1561
general revenue fund, to the school district tangible property tax 1562
replacement fund, which is hereby created in the state treasury 1563
for the purpose of making the payments described in section 1564
5751.21 of the Revised Code, and to the local government tangible 1565
property tax replacement fund, which is hereby created in the 1566

state treasury for the purpose of making the payments described in 1567
section 5751.22 of the Revised Code, in the following percentages: 1568

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%	1570
2007	0%	70.0%	30.0%	1571
2008	0%	70.0%	30.0%	1572
2009	0%	70.0%	30.0%	1573
2010	0%	70.0%	30.0%	1574
2011	0%	70.0%	30.0%	1575
2012	25.0%	52.5%	22.5%	1576
2013 and thereafter	50.0%	35.0%	15.0%	1577

(2) Not later than the twentieth day of February, May, 1578
August, and November of each year, the commissioner shall provide 1579
for payment from the commercial activities tax receipts fund to 1580
the commercial activity tax motor fuel receipts fund an amount 1581
that bears the same ratio to the balance in the commercial 1582
activities tax receipts fund that (a) the taxable gross receipts 1583
attributed to motor fuel used for propelling vehicles on public 1584
highways as indicated by returns filed by the tenth day of that 1585
month for a liability that is due and payable on or after July 1, 1586
2013, for a tax period ending before July 1, 2014, bears to (b) 1587
all taxable gross receipts as indicated by those returns for such 1588
liabilities. 1589

(C) Not later than September 15, 2005, the tax commissioner 1590
shall determine for each school district, joint vocational school 1591
district, and local taxing unit its machinery and equipment, 1592
inventory property, furniture and fixtures property, and telephone 1593
property tax value losses, which are the applicable amounts 1594

described in divisions (C)(1), (2), (3), and (4) of this section, 1595
except as provided in division (C)(5) of this section: 1596

(1) Machinery and equipment property tax value loss is the 1597
taxable value of machinery and equipment property as reported by 1598
taxpayers for tax year 2004 multiplied by: 1599

(a) For tax year 2006, thirty-three and eight-tenths per 1600
cent; 1601

(b) For tax year 2007, sixty-one and three-tenths per cent; 1602

(c) For tax year 2008, eighty-three per cent; 1603

(d) For tax year 2009 and thereafter, one hundred per cent. 1604

(2) Inventory property tax value loss is the taxable value of 1605
inventory property as reported by taxpayers for tax year 2004 1606
multiplied by: 1607

(a) For tax year 2006, a fraction, the numerator of which is 1608
five and three-fourths and the denominator of which is 1609
twenty-three; 1610

(b) For tax year 2007, a fraction, the numerator of which is 1611
nine and one-half and the denominator of which is twenty-three; 1612

(c) For tax year 2008, a fraction, the numerator of which is 1613
thirteen and one-fourth and the denominator of which is 1614
twenty-three; 1615

(d) For tax year 2009 and thereafter a fraction, the 1616
numerator of which is seventeen and the denominator of which is 1617
twenty-three. 1618

(3) Furniture and fixtures property tax value loss is the 1619
taxable value of furniture and fixture property as reported by 1620
taxpayers for tax year 2004 multiplied by: 1621

(a) For tax year 2006, twenty-five per cent; 1622

(b) For tax year 2007, fifty per cent; 1623

(c) For tax year 2008, seventy-five per cent; 1624

(d) For tax year 2009 and thereafter, one hundred per cent. 1625

The taxable value of property reported by taxpayers used in 1626
divisions (C)(1), (2), and (3) of this section shall be such 1627
values as determined to be final by the tax commissioner as of 1628
August 31, 2005. Such determinations shall be final except for any 1629
correction of a clerical error that was made prior to August 31, 1630
2005, by the tax commissioner. 1631

(4) Telephone property tax value loss is the taxable value of 1632
telephone property as taxpayers would have reported that property 1633
for tax year 2004 if the assessment rate for all telephone 1634
property for that year were twenty-five per cent, multiplied by: 1635

(a) For tax year 2006, zero per cent; 1636

(b) For tax year 2007, zero per cent; 1637

(c) For tax year 2008, zero per cent; 1638

(d) For tax year 2009, sixty per cent; 1639

(e) For tax year 2010, eighty per cent; 1640

(f) For tax year 2011 and thereafter, one hundred per cent. 1641

(5) Division (C)(5) of this section applies to any school 1642
district, joint vocational school district, or local taxing unit 1643
in a county in which is located a facility currently or formerly 1644
devoted to the enrichment or commercialization of uranium or 1645
uranium products, and for which the total taxable value of 1646
property listed on the general tax list of personal property for 1647
any tax year from tax year 2001 to tax year 2004 was fifty per 1648
cent or less of the taxable value of such property listed on the 1649
general tax list of personal property for the next preceding tax 1650
year. 1651

In computing the fixed-rate levy losses under divisions 1652
(D)(1), (2), and (3) of this section for any school district, 1653

joint vocational school district, or local taxing unit to which 1654
division (C)(5) of this section applies, the taxable value of such 1655
property as listed on the general tax list of personal property 1656
for tax year 2000 shall be substituted for the taxable value of 1657
such property as reported by taxpayers for tax year 2004, in the 1658
taxing district containing the uranium facility, if the taxable 1659
value listed for tax year 2000 is greater than the taxable value 1660
reported by taxpayers for tax year 2004. For the purpose of making 1661
the computations under divisions (D)(1), (2), and (3) of this 1662
section, the tax year 2000 valuation is to be allocated to 1663
machinery and equipment, inventory, and furniture and fixtures 1664
property in the same proportions as the tax year 2004 values. For 1665
the purpose of the calculations in division (A) of section 5751.21 1666
of the Revised Code, the tax year 2004 taxable values shall be 1667
used. 1668

To facilitate the calculations required under division (C) of 1669
this section, the county auditor, upon request from the tax 1670
commissioner, shall provide by August 1, 2005, the values of 1671
machinery and equipment, inventory, and furniture and fixtures for 1672
all single-county personal property taxpayers for tax year 2004. 1673

(D) Not later than September 15, 2005, the tax commissioner 1674
shall determine for each tax year from 2006 through 2009 for each 1675
school district, joint vocational school district, and local 1676
taxing unit its machinery and equipment, inventory, and furniture 1677
and fixtures fixed-rate levy losses, and for each tax year from 1678
2006 through 2011 its telephone property fixed-rate levy loss. 1679
Except as provided in division (F) of this section, such losses 1680
are the applicable amounts described in divisions (D)(1), (2), 1681
(3), and (4) of this section: 1682

(1) The machinery and equipment fixed-rate levy loss is the 1683
machinery and equipment property tax value loss multiplied by the 1684
sum of the tax rates of fixed-rate qualifying levies. 1685

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies charged and payable under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy charged and payable under section 5705.194 or 5705.213 of the Revised Code remains in effect in a

year after 2010 only if, for that year, the board of education 1718
levies a school district levy charged and payable under section 1719
5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for 1720
an annual sum at least equal to the annual sum levied by the board 1721
in tax year 2004 less the amount of the payment certified under 1722
this division for 2006. 1723

(2) The total taxable value in tax year 2004 less the sum of 1724
the machinery and equipment, inventory, furniture and fixtures, 1725
and telephone property tax value losses in each school district, 1726
joint vocational school district, and local taxing unit multiplied 1727
by one-half of one mill per dollar. 1728

(3) For the calculations in divisions (E)(1) and (2) of this 1729
section, the tax value losses are those that would be calculated 1730
for tax year 2009 under divisions (C)(1), (2), and (3) of this 1731
section and for tax year 2011 under division (C)(4) of this 1732
section. 1733

(4) To facilitate the calculation under divisions (D) and (E) 1734
of this section, not later than September 1, 2005, any school 1735
district, joint vocational school district, or local taxing unit 1736
that has a qualifying levy that was approved at an election 1737
conducted during 2005 before September 1, 2005, shall certify to 1738
the tax commissioner a copy of the county auditor's certificate of 1739
estimated property tax millage for such levy as required under 1740
division (B) of section 5705.03 of the Revised Code, which is the 1741
rate that shall be used in the calculations under such divisions. 1742

If the amount determined under division (E) of this section 1743
for any school district, joint vocational school district, or 1744
local taxing unit is greater than zero, that amount shall equal 1745
the reimbursement to be paid pursuant to division (E) of section 1746
5751.21 or division (A)(3) of section 5751.22 of the Revised Code, 1747
and the one-half of one mill that is subtracted under division 1748
(E)(2) of this section shall be apportioned among all contributing 1749

fixed-sum levies in the proportion that each levy bears to the sum 1750
of all fixed-sum levies within each school district, joint 1751
vocational school district, or local taxing unit. 1752

(F) If a school district levies a tax under section 5705.219 1753
of the Revised Code, the fixed-rate levy loss for qualifying 1754
levies, to the extent repealed under that section, shall equal the 1755
sum of the following amounts in lieu of the amounts computed for 1756
such levies under division (D) of this section: 1757

(1) The sum of the rates of qualifying levies to the extent 1758
so repealed multiplied by the sum of the machinery and equipment, 1759
inventory, and furniture and fixtures tax value losses for 2009 as 1760
determined under that division; 1761

(2) The sum of the rates of qualifying levies to the extent 1762
so repealed multiplied by the telephone property tax value loss 1763
for 2011 as determined under that division. 1764

The fixed-rate levy losses for qualifying levies to the 1765
extent not repealed under section 5705.219 of the Revised Code 1766
shall be as determined under division (D) of this section. The 1767
revised fixed-rate levy losses determined under this division and 1768
division (D) of this section first apply in the year following the 1769
first year the district levies the tax under section 5705.219 of 1770
the Revised Code. 1771

(G) Not later than October 1, 2005, the tax commissioner 1772
shall certify to the department of education for every school 1773
district and joint vocational school district the machinery and 1774
equipment, inventory, furniture and fixtures, and telephone 1775
property tax value losses determined under division (C) of this 1776
section, the machinery and equipment, inventory, furniture and 1777
fixtures, and telephone fixed-rate levy losses determined under 1778
division (D) of this section, and the fixed-sum levy losses 1779
calculated under division (E) of this section. The calculations 1780

under divisions (D) and (E) of this section shall separately 1781
display the levy loss for each levy eligible for reimbursement. 1782

(H) Not later than October 1, 2005, the tax commissioner 1783
shall certify the amount of the fixed-sum levy losses to the 1784
county auditor of each county in which a school district, joint 1785
vocational school district, or local taxing unit with a fixed-sum 1786
levy loss reimbursement has territory. 1787

(I) Not later than the twenty-eighth day of February each 1788
year beginning in 2011 and ending in 2014, the tax commissioner 1789
shall certify to the department of education for each school 1790
district first levying a tax under section 5705.219 of the Revised 1791
Code in the preceding year the revised fixed-rate levy losses 1792
determined under divisions (D) and (F) of this section. 1793

(J)(1) There is hereby created in the state treasury the 1794
commercial activity tax motor fuel receipts fund. 1795

(2)(a) On or before June 15, 2014, the director of the Ohio 1796
public works commission shall certify to the director of budget 1797
and management the amount of debt service paid from the general 1798
revenue fund in fiscal years 2013 and 2014 on bonds issued to 1799
finance or assist in the financing of the cost of local 1800
subdivision public infrastructure capital improvement projects, as 1801
provided for in Sections 2k, 2m, and 2p of Article VIII, Ohio 1802
Constitution, that are attributable to costs for construction, 1803
reconstruction, maintenance, or repair of public highways and 1804
bridges and other statutory highway purposes. That certification 1805
shall allocate the total amount of debt service paid from the 1806
general revenue fund and attributable to those costs in each of 1807
fiscal years 2013 and 2014 according to the applicable section of 1808
the Ohio Constitution under which the bonds were originally 1809
issued. 1810

(b) On or before June 30, 2014, the director of budget and 1811

management shall determine an amount up to but not exceeding the 1812
amount certified under division (J)(2)(a) of this section and 1813
shall reserve that amount from the cash balance in the commercial 1814
activity tax motor fuel receipts fund for transfer to the general 1815
revenue fund at times and in amounts to be determined by the 1816
director. The director shall transfer the cash balance in the 1817
commercial activity tax motor fuel receipts fund in excess of the 1818
amount so reserved to the highway operating fund on or before June 1819
30, 2014. 1820

(3)(a) On or before the fifteenth day of June of each fiscal 1821
year beginning with fiscal year 2015, the director of the Ohio 1822
public works commission shall certify to the director of budget 1823
and management the amount of debt service paid from the general 1824
revenue fund in the current fiscal year on bonds issued to finance 1825
or assist in the financing of the cost of local subdivision public 1826
infrastructure capital improvement projects, as provided for in 1827
Sections 2k, 2m, and 2p of Article VIII, Ohio Constitution, that 1828
are attributable to costs for construction, reconstruction, 1829
maintenance, or repair of public highways and bridges and other 1830
statutory highway purposes. That certification shall allocate the 1831
total amount of debt service paid from the general revenue fund 1832
and attributable to those costs in the current fiscal year 1833
according to the applicable section of the Ohio Constitution under 1834
which the bonds were originally issued. 1835

(b) On or before the thirtieth day of June of each fiscal 1836
year beginning with fiscal year 2015, the director of budget and 1837
management shall determine an amount up to but not exceeding the 1838
amount certified under division (J)(3)(a) of this section and 1839
shall reserve that amount from the cash balance in the ~~motor fuel~~ 1840
~~receipts~~ petroleum activity tax public highways fund or the 1841
commercial activity tax motor fuel receipts fund for transfer to 1842
the general revenue fund at times and in amounts to be determined 1843

by the director. The director shall transfer the cash balance in 1844
the ~~motor fuel receipts~~ petroleum activity tax public highways 1845
fund or the commercial activity tax motor fuel receipts fund in 1846
excess of the amount so reserved to the highway operating fund on 1847
or before the thirtieth day of June of the current fiscal year. 1848

Section 2. That existing sections 5703.059, 5736.01, 5736.02, 1849
5736.03, 5736.04, 5736.06, 5736.09, 5736.13, 5751.01, and 5751.20 1850
of the Revised Code are hereby repealed. 1851

Section 3. Division (J) of section 5751.20 of the Revised 1852
Code is amended by this act and also by H.B. 59 of the 130th 1853
General Assembly (effective July 1, 2014). The amendments of H.B. 1854
59 are included in this act to confirm the intention to retain 1855
them, but are not intended to be effective until July 1, 2014. 1856

Section 4. This act takes effect July 1, 2014. 1857