

As Introduced

**131st General Assembly
Regular Session
2015-2016**

H. B. No. 162

Representative Cera

A BILL

To amend sections 1509.02, 1509.071, 1509.11, 1
1509.34, 1509.50, 1513.08, 1513.182, 1514.11, 2
5747.98, 5749.01, 5749.02, 5749.06, 5749.11, and 3
5751.01 and to enact sections 164.29, 190.01, 4
190.02, 190.03, 190.04, 190.05, 321.50, 321.51, 5
505.96, 1509.075, 3737.15, 3745.50, 5501.37, 6
5747.56, 5747.63, and 5749.18 of the Revised 7
Code to change the basis, rates, and revenue 8
distribution of the severance tax on oil and 9
gas, to create a grant program to encourage 10
compressed natural gas as a motor vehicle fuel, 11
to authorize an income tax credit for landowners 12
holding an oil or gas royalty interest, and to 13
exclude some oil and gas sale receipts from the 14
commercial activity tax base. 15

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

Section 1. That sections 1509.02, 1509.071, 1509.11, 16
1509.34, 1509.50, 1513.08, 1513.182, 1514.11, 5747.98, 5749.01, 17
5749.02, 5749.06, 5749.11, and 5751.01 be amended and sections 18
164.29, 190.01, 190.02, 190.03, 190.04, 190.05, 321.50, 321.51, 19
505.96, 1509.075, 3737.15, 3745.50, 5501.37, 5747.56, 5747.63, 20

and 5749.18 of the Revised Code be enacted to read as follows: 21

Sec. 164.29. (A) As used in this section: 22

(1) "Eligible subdivision," "infrastructure project," 23
"subdivision," and "cost of infrastructure project" have the 24
same meanings as in section 190.01 of the Revised Code. 25

(2) "Qualifying subdivision" means a subdivision that is 26
not an eligible subdivision. 27

(B) There is hereby created in the state treasury the 28
infrastructure development fund, which shall consist of money 29
transferred to the fund from the oil and gas severance tax fund 30
under division (C) (7) of section 5749.02 of the Revised Code. 31
Money in the fund shall be used only to award grants under this 32
section to fund the costs of infrastructure projects of 33
qualifying subdivisions and to pay the administrative costs of 34
the Ohio public works commission in administering such grants. 35

One or more qualifying subdivisions may apply to the 36
district public works integrating committee that includes the 37
subdivision or subdivisions, on forms prescribed by the Ohio 38
public works commission, to receive grants from the 39
infrastructure development fund to pay the costs of an 40
infrastructure project. The committee shall select the 41
applications that will be formally submitted by the district to 42
the director of the Ohio public works commission. In selecting 43
the requests for assistance for infrastructure projects that 44
will be submitted to the director, and in determining the amount 45
of the assistance that will be requested, a committee shall 46
specifically consider all of the following factors: 47

(1) The infrastructure needs of the subdivision; 48

(2) The importance of the project to the health and safety 49

<u>of the residents of the subdivision;</u>	50
<u>(3) The availability of federal or local or other state funds for the project;</u>	51 52
<u>(4) The adequacy of the planning for the project and the readiness of the subdivision to proceed should the project be approved;</u>	53 54 55
<u>(5) The extent to which the project would support overall economic activity in the district;</u>	56 57
<u>(6) Any other factors relevant to a particular project.</u>	58
<u>(C) The director of the Ohio public works commission shall approve grant applications submitted to the director by district public works integrating committees under division (B) of this section and enter into agreements with one or more qualifying subdivisions to provide such grants if the director determines that:</u>	59 60 61 62 63 64
<u>(1) The project is an infrastructure project pursuant to this chapter;</u>	65 66
<u>(2) The application for the project has been properly approved and requested by the committee of the district which includes the applying subdivision or subdivisions;</u>	67 68 69
<u>(3) The amount of the grant does not exceed the amount of money available in the infrastructure development fund;</u>	70 71
<u>(4) The committee has provided such documentation and other evidence as the director may require that the committee has satisfied the requirements of division (B) of this section.</u>	72 73 74
<u>(D) The director of the Ohio public works commission shall notify the director of budget and management of the amount of</u>	75 76

any grant awarded by the Ohio public works commission under this 77
section. Notwithstanding section 126.14 of the Revised Code, the 78
director of budget and management shall release appropriations 79
from the infrastructure development fund for the purpose of 80
awarding a grant to qualifying subdivisions on the presentation 81
of a request to do so by the director of the Ohio public works 82
commission. 83

(E) The director of the Ohio public works commission may 84
adopt rules in accordance with Chapter 119. of the Revised Code 85
as necessary to administer the grant program created in this 86
section, including the procedures and manner in which 87
applications may be submitted under division (B) of this 88
section. 89

Sec. 190.01. As used in this chapter: 90

(A) "Subdivision" means a county, municipal corporation, 91
township, sanitary district, or regional water and sewer 92
district. 93

(B) "Eligible subdivision" means an eligible county or a 94
subdivision that is wholly or partly located in an eligible 95
county. 96

(C) "Eligible county" means a county appearing on the most 97
recent determination certified by the chief of the division of 98
oil and gas resources management under division (C) of section 99
1509.11 of the Revised Code. 100

(D) "Infrastructure project" means the acquisition, 101
construction, reconstruction, improvement, planning, and 102
equipping of roads and bridges, appurtenances to roads and 103
bridges, waste water treatment systems, water supply systems, 104
solid waste disposal facilities, storm water and sanitary 105

collection, storage, and treatment facilities, and rail, water, 106
and air transportation improvement projects, including real 107
property, interests in real property, facilities, and equipment 108
related or incidental to those facilities. 109

(E) "Cost of infrastructure project" means the costs of 110
acquiring, constructing, reconstructing, expanding, improving, 111
and engineering infrastructure projects. 112

Sec. 190.02. (A) There is hereby created the Ohio shale 113
gas regional committee, which shall be composed of the following 114
ten members, appointed by the governor: 115

(1) One county commissioner from each of three eligible 116
counties, selected from a list of such commissioners submitted 117
by the county commissioners association of Ohio; 118

(2) One township trustee from each of three townships that 119
are eligible subdivisions, selected from a list of such trustees 120
submitted by the Ohio township association; 121

(3) One member of the legislative authority from each of 122
three municipal corporations that are eligible subdivisions, 123
selected from a list of such members submitted by the Ohio 124
municipal league; 125

(4) One member who is the county engineer of an eligible 126
county, selected from a list of such county engineers submitted 127
by the county engineers association of Ohio. 128

(B) Members of the committee may be removed by the 129
governor. Members may be reappointed to the committee. For the 130
first term occurring after the effective date of the enactment 131
of this section: 132

(1) One of the members described in each of divisions (A) 133

(1), (2), and (3) of this section shall serve a two-year term. 134

(2) One of the members described in each of divisions (A) 135
(1), (2), and (3) and the member described in division (A) (5) of 136
this section shall serve a three-year term. 137

(3) One of the members described in each of divisions (A) 138
(1), (2), and (3) and the member described in division (A) (4) of 139
this section shall serve a four-year term. 140

For every term thereafter, members shall serve four-year 141
terms. Any member appointed to the committee under this section 142
shall hold office until the later of the end of the term for 143
which the member is appointed or the date the member's successor 144
takes office. A vacancy occurring among the members shall be 145
filled in the same manner as the original appointment. Members 146
of the committee shall not be compensated or reimbursed for 147
members' expenses. 148

(C) At the first meeting, which shall occur not later than 149
one year after the effective date of the enactment of this 150
section, members of the committee shall elect a chair. The 151
committee shall meet annually or more frequently at the call of 152
the chair. A majority of the committee constitutes a quorum. The 153
committee is a public body for purposes of section 121.22 of the 154
Revised Code. Records of the committee are public records for 155
the purposes of section 149.43 of the Revised Code. 156

(D) Serving as a member of the Ohio shale gas regional 157
committee does not constitute holding a public office or 158
position of employment under the laws of this state and does not 159
confer a right to compensation from any agency of this state. A 160
member of the committee does not have an unlawful interest in a 161
public contract under section 2921.42 of the Revised Code solely 162

because the eligible subdivision of which the member is also a 163
public official receives a grant from the Ohio shale gas 164
infrastructure development fund or the severance tax legacy 165
fund. 166

Sections 101.82 to 101.87 of the Revised Code do not apply 167
to the Ohio shale gas regional committee. 168

Sec. 190.03. There is hereby created in the state treasury 169
the Ohio shale gas infrastructure development fund. The fund 170
shall consist of moneys transferred to it from the local 171
government reimbursement fund under section 5747.56 of the 172
Revised Code. Money in the fund shall be used to award grants 173
under section 190.05 of the Revised Code to fund costs of 174
infrastructure projects of eligible subdivisions and to pay the 175
administrative costs of the Ohio public works commission in 176
administering such grants. Interest earned on the money in the 177
fund shall be credited to the fund. 178

Sec. 190.04. There is hereby created in the state treasury 179
the severance tax legacy fund. The fund shall consist of moneys 180
transferred to it from the local government reimbursement fund 181
under section 5747.56 of the Revised Code. The general assembly 182
shall not appropriate money from the fund until fiscal year 183
2026. The general assembly shall not appropriate money from the 184
severance tax legacy fund for any fiscal year in excess of the 185
amount of interest earned by the fund in the preceding fiscal 186
year. Beginning fiscal year 2026, money in the fund shall be 187
used to award grants under section 190.05 of the Revised Code 188
for projects in subdivisions that are or were eligible 189
subdivisions for any fiscal year to foster long-term prosperity 190
and a positive legacy in the subdivision. Interest earned on the 191
money in the fund shall be credited to the fund. 192

Sec. 190.05. (A) (1) (a) An eligible subdivision may submit 193
a request to the Ohio shale gas regional committee to receive a 194
grant from the Ohio shale gas infrastructure development fund to 195
fund infrastructure projects. The committee shall review each 196
submitted request and recommend to the Ohio public works 197
commission whether the commission should approve a grant from 198
the fund to the requesting eligible subdivision to pay all or a 199
portion of the cost of an infrastructure project. 200

(b) In selecting requests for assistance for 201
infrastructure projects to recommend for approval to the Ohio 202
public works commissioner, and in determining the amount of 203
assistance that will be requested, the Ohio shale gas regional 204
committee shall consider all of the following factors: 205

(i) The infrastructure needs of the eligible subdivision; 206

(ii) The importance of the project to the health and 207
safety of the residents of the eligible subdivision; 208

(iii) The availability of federal or local or other state 209
funds for the project; 210

(iv) The adequacy of the planning for the project and the 211
readiness of the eligible subdivision to proceed should the 212
project be approved; 213

(v) The extent to which the project would support overall 214
oil and gas production activity in the region including all 215
eligible counties; 216

(vi) The extent to which oil and gas production activities 217
affect the need for the project; 218

(vii) Any other factors relevant to a particular project. 219

(2) On or after July 1, 2025, a subdivision that is or has 220

been an eligible subdivision may submit a request to the Ohio 221
shale gas regional committee to receive a grant from the 222
severance tax legacy fund. The committee shall review each 223
submitted request and recommend to the Ohio public works 224
commission whether the Ohio public works commission should 225
approve a grant from the severance tax legacy fund to the 226
requesting subdivision. 227

(B) The Ohio public works commission shall not approve a 228
grant to a subdivision whose request does not meet the 229
requirements of this chapter. The director of the Ohio public 230
works commission shall notify the director of budget and 231
management of the amount of any grant awarded by the Ohio public 232
works commission under division (A) of this section. 233
Notwithstanding section 126.14 of the Revised Code, the director 234
of budget and management shall release appropriations from the 235
Ohio shale gas infrastructure development fund or the severance 236
tax legacy fund for the purpose of awarding a grant to a 237
subdivision on the presentation of a request to do so by the 238
director of the Ohio public works commission. 239

Sec. 321.50. The county treasurer of each eligible county, 240
as that term is defined in section 190.01 of the Revised Code, 241
shall create in the county treasury a severance tax 242
infrastructure fund. The treasurer shall deposit any money 243
received by the treasurer under division (B)(2) of section 244
5747.56 of the Revised Code into the fund. 245

Not later than twenty days following the deposit of money 246
into the fund, the treasurer shall distribute the money to 247
subdivisions in proportion to the amount the subdivision would 248
receive from the county's undivided local government fund 249
according to the formula used by the county to distribute money 250

from that fund under section 5747.51 or 5747.53 of the Revised Code. 251
252

Sec. 321.51. The county treasurer of each eligible county, 253
as that term is defined in section 190.01 of the Revised Code, 254
shall create in the county treasury a township road maintenance 255
fund. The treasurer shall deposit any money received by the 256
treasurer under division (B) (5) of section 5747.56 of the 257
Revised Code into the fund. The treasurer shall notify the chair 258
of the county's township road maintenance committee whenever the 259
treasurer deposits money into the fund. The treasurer shall 260
distribute money from the fund into the township road funds of 261
townships in the county as prescribed in an order of the 262
township road maintenance committee under section 505.96 of the 263
Revised Code. 264

Sec. 505.96. (A) There is hereby created in each county 265
that is or has been an eligible county, as that term is defined 266
in section 190.01 of the Revised Code, the township road 267
maintenance committee, which shall consist of one trustee of 268
each township located in the county appointed by the board of 269
trustees of each township. A member of the committee may be 270
removed by the member's appointing board. Members shall be 271
appointed on or before the first day of June of each year and 272
shall serve one-year terms. Members may be reappointed to the 273
committee. 274

Any member appointed to the committee under this section 275
shall continue as a member until the later of the end of the 276
term for which the member is appointed or the date the member's 277
successor joins the committee. A vacancy occurring among the 278
members shall be filled in the same manner as the original 279
appointment. Members of the committee shall not be compensated 280

or reimbursed for members' expenses. 281

(B) At the first meeting of the committee, which shall 282
occur not later than the fifteenth day of June of each year, 283
members of the committee shall elect a chair and notify the 284
county treasurer of the result of the committee's election. The 285
committee shall meet at the call of the chair. A majority of the 286
committee constitutes a quorum. The committee is a public body 287
for the purposes of section 121.22 of the Revised Code. Records 288
of the committee are public records for the purposes of section 289
149.43 of the Revised Code. 290

(C) On or before the thirty-first day of September of each 291
year, the committee shall issue an order and certify that order 292
to the county treasurer distributing money in the county's 293
township road maintenance fund to the township road funds of 294
townships in the county in the proportions prescribed by the 295
committee. In prescribing the proportion to be distributed to 296
each township, the committee shall consider the following 297
factors: 298

(1) The number of centerline miles within the boundaries 299
of the township; 300

(2) The amount of money received by the township from the 301
county's severance tax infrastructure fund in that year; 302

(3) The number and locations of producing oil and gas 303
wells located in the township. 304

(D) A township shall use money received from the township 305
maintenance fund exclusively for the purposes of maintaining and 306
constructing roads and purchasing road maintenance equipment. 307

Sec. 1509.02. (A) There is hereby created in the 308
department of natural resources the division of oil and gas 309

resources management, which shall be administered by the chief 310
of the division of oil and gas resources management. The 311
division has sole and exclusive authority to regulate the 312
permitting, location, and spacing of oil and gas wells and 313
production operations within the state, excepting only those 314
activities regulated under federal laws for which oversight has 315
been delegated to the environmental protection agency and 316
activities regulated under sections 6111.02 to 6111.028 of the 317
Revised Code. The regulation of oil and gas activities is a 318
matter of general statewide interest that requires uniform 319
statewide regulation, and this chapter and rules adopted under 320
it constitute a comprehensive plan with respect to all aspects 321
of the locating, drilling, well stimulation, completing, and 322
operating of oil and gas wells within this state, including site 323
construction and restoration, permitting related to those 324
activities, and the disposal of wastes from those wells. In 325
order to assist the division in the furtherance of its sole and 326
exclusive authority as established in this section, the chief 327
may enter into cooperative agreements with other state agencies 328
for advice and consultation, including visitations at the 329
surface location of a well on behalf of the division. Such 330
cooperative agreements do not confer on other state agencies any 331
authority to administer or enforce this chapter and rules 332
adopted under it. In addition, such cooperative agreements shall 333
not be construed to dilute or diminish the division's sole and 334
exclusive authority as established in this section. Nothing in 335
this section affects the authority granted to the director of 336
transportation and local authorities in section 723.01 or 337
4513.34 of the Revised Code, provided that the authority granted 338
under those sections shall not be exercised in a manner that 339
discriminates against, unfairly impedes, or obstructs oil and 340
gas activities and operations regulated under this chapter. 341

The chief shall not hold any other public office, nor 342
shall the chief be engaged in any occupation or business that 343
might interfere with or be inconsistent with the duties as 344
chief. 345

~~All moneys~~The following shall be credited to the oil and 346
gas well fund, which is hereby created in the state treasury: 347
all money collected by the chief pursuant to sections 1509.06, 348
1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.222, 349
1509.28, 1509.34, and 1509.50 of the Revised Code, ~~ninety per-~~ 350
~~cent of moneys received by the treasurer of state from the tax-~~ 351
~~levied in divisions (A) (5) and (6) of~~ money transferred from the 352
oil and gas severance tax fund created in section 5749.02 of the 353
Revised Code, all civil penalties paid under section 1509.33 of 354
the Revised Code, and, notwithstanding any section of the 355
Revised Code relating to the distribution or crediting of fines 356
for violations of the Revised Code, all fines imposed under 357
divisions (A) and (B) of section 1509.99 of the Revised Code and 358
fines imposed under divisions (C) and (D) of section 1509.99 of 359
the Revised Code for all violations prosecuted by the attorney 360
general and for violations prosecuted by prosecuting attorneys 361
that do not involve the transportation of brine by vehicle ~~shall~~ 362
~~be deposited into the state treasury to the credit of the oil-~~ 363
~~and gas well fund, which is hereby created.~~ Fines imposed under 364
divisions (C) and (D) of section 1509.99 of the Revised Code for 365
violations prosecuted by prosecuting attorneys that involve the 366
transportation of brine by vehicle and penalties associated with 367
a compliance agreement entered into pursuant to this chapter 368
shall be paid to the county treasury of the county where the 369
violation occurred. 370

The fund shall be used solely and exclusively for the 371
purposes enumerated in division (B) of section 1509.071 of the 372

Revised Code, for the expenses of the division associated with 373
the administration of this chapter and Chapter 1571. of the 374
Revised Code and rules adopted under them, and for expenses that 375
are critical and necessary for the protection of human health 376
and safety and the environment related to oil and gas production 377
in this state. The expenses of the division in excess of the 378
moneys available in the fund shall be paid from general revenue 379
fund appropriations to the department. 380

(B) Not less than fourteen per cent of the revenue 381
credited to the oil and gas well fund from sources other than 382
the oil and gas severance tax fund shall be transferred to the 383
well plugging fund created in section 1509.075 of the Revised 384
Code. 385

Sec. 1509.071. (A) When the chief of the division of oil 386
and gas resources management finds that an owner has failed to 387
comply with a final nonappealable order issued or compliance 388
agreement entered into under section 1509.04, the restoration 389
requirements of section 1509.072, plugging requirements of 390
section 1509.12, or permit provisions of section 1509.13 of the 391
Revised Code, or rules and orders relating thereto, the chief 392
shall make a finding of that fact and declare any surety bond 393
filed to ensure compliance with those sections and rules 394
forfeited in the amount set by rule of the chief. The chief 395
thereupon shall certify the total forfeiture to the attorney 396
general, who shall proceed to collect the amount of the 397
forfeiture. In addition, the chief may require an owner, 398
operator, producer, or other person who forfeited a surety bond 399
to post a new surety bond in the amount of fifteen thousand 400
dollars for a single well, thirty thousand dollars for two 401
wells, or fifty thousand dollars for three or more wells. 402

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

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

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

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

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

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

(C) (1) Upon determining that the owner of a well has
failed to properly plug and abandon it or to properly restore
the land surface at the well site in compliance with the
applicable requirements of this chapter and applicable rules
adopted and orders issued under it or that a well is an

abandoned well for which no funds are available to plug the well 432
in accordance with this chapter, the chief shall do all of the 433
following: 434

(a) Determine from the records in the office of the county 435
recorder of the county in which the well is located the identity 436
of the owner of the land on which the well is located, the 437
identity of the owner of the oil or gas lease under which the 438
well was drilled or the identity of each person owning an 439
interest in the lease, and the identities of the persons having 440
legal title to, or a lien upon, any of the equipment appurtenant 441
to the well; 442

(b) Mail notice to the owner of the land on which the well 443
is located informing the landowner that the well is to be 444
plugged. If the owner of the oil or gas lease under which the 445
well was drilled is different from the owner of the well or if 446
any persons other than the owner of the well own interests in 447
the lease, the chief also shall mail notice that the well is to 448
be plugged to the owner of the lease or to each person owning an 449
interest in the lease, as appropriate. 450

(c) Mail notice to each person having legal title to, or a 451
lien upon, any equipment appurtenant to the well, informing the 452
person that the well is to be plugged and offering the person 453
the opportunity to plug the well and restore the land surface at 454
the well site at the person's own expense in order to avoid 455
forfeiture of the equipment to this state. 456

(2) If none of the persons described in division (C) (1) (c) 457
of this section plugs the well within sixty days after the 458
mailing of the notice required by that division, all equipment 459
appurtenant to the well is hereby declared to be forfeited to 460
this state without compensation and without the necessity for 461

any action by the state for use to defray the cost of plugging 462
and abandoning the well and restoring the land surface at the 463
well site. 464

(D) Expenditures from the fund for the purpose of division 465
(B) (1) of this section shall be made in accordance with either 466
of the following: 467

(1) The expenditures may be made pursuant to contracts 468
entered into by the chief with persons who agree to furnish all 469
of the materials, equipment, work, and labor as specified and 470
provided in such a contract for activities associated with the 471
restoration or plugging of a well as determined by the chief. 472
The activities may include excavation to uncover a well, 473
geophysical methods to locate a buried well when clear evidence 474
of leakage from the well exists, cleanout of wellbores to remove 475
material from a failed plugging of a well, plugging operations, 476
installation of vault and vent systems, including associated 477
engineering certifications and permits, restoration of property, 478
and repair of damage to property that is caused by such 479
activities. Expenditures shall not be used for salaries, 480
maintenance, equipment, or other administrative purposes, except 481
for costs directly attributed to the plugging of an idle and 482
orphaned well. Agents or employees of persons contracting with 483
the chief for a restoration or plugging project may enter upon 484
any land, public or private, on which the well is located for 485
the purpose of performing the work. Prior to such entry, the 486
chief shall give to the following persons written notice of the 487
existence of a contract for a project to restore or plug a well, 488
the names of the persons with whom the contract is made, and the 489
date that the project will commence: the owner of the well, the 490
owner of the land upon which the well is located, the owner or 491
agents of adjoining land, and, if the well is located in the 492

same township as or in a township adjacent to the excavations 493
and workings of a mine and the owner or lessee of that mine has 494
provided written notice identifying those townships to the chief 495
at any time during the immediately preceding three years, the 496
owner or lessee of the mine. 497

(2) (a) The owner of the land on which a well is located 498
who has received notice under division (C) (1) (b) of this section 499
may plug the well and be reimbursed by the division of oil and 500
gas resources management for the reasonable cost of plugging the 501
well. In order to plug the well, the landowner shall submit an 502
application to the chief on a form prescribed by the chief and 503
approved by the technical advisory council on oil and gas 504
created in section 1509.38 of the Revised Code. The application, 505
at a minimum, shall require the landowner to provide the same 506
information as is required to be included in the application for 507
a permit to plug and abandon under section 1509.13 of the 508
Revised Code. The application shall be accompanied by a copy of 509
a proposed contract to plug the well prepared by a contractor 510
regularly engaged in the business of plugging oil and gas wells. 511
The proposed contract shall require the contractor to furnish 512
all of the materials, equipment, work, and labor necessary to 513
plug the well properly and shall specify the price for doing the 514
work, including a credit for the equipment appurtenant to the 515
well that was forfeited to the state through the operation of 516
division (C) (2) of this section. Expenditures under division (D) 517
(2) (a) of this section shall be consistent with the expenditures 518
for activities described in division (D) (1) of this section. The 519
application also shall be accompanied by the permit fee required 520
by section 1509.13 of the Revised Code unless the chief, in the 521
chief's discretion, waives payment of the permit fee. The 522
application constitutes an application for a permit to plug and 523

abandon the well for the purposes of section 1509.13 of the Revised Code.

(b) Within thirty days after receiving an application and accompanying proposed contract under division (D)(2)(a) of this section, the chief shall determine whether the plugging would comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it and whether the cost of the plugging under the proposed contract is reasonable. If the chief determines that the proposed plugging would comply with those requirements and that the proposed cost of the plugging is reasonable, the chief shall notify the landowner of that determination and issue to the landowner a permit to plug and abandon the well under section 1509.13 of the Revised Code. Upon approval of the application and proposed contract, the chief shall transfer ownership of the equipment appurtenant to the well to the landowner. The chief may disapprove an application submitted under division (D)(2)(a) of this section if the chief determines that the proposed plugging would not comply with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, that the cost of the plugging under the proposed contract is unreasonable, or that the proposed contract is not a bona fide, arm's length contract.

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

(d) Upon determining that the plugging has been completed in compliance with the applicable requirements of this chapter and applicable rules adopted and orders issued under it, the

chief shall reimburse the landowner for the cost of the plugging 554
as set forth in the proposed contract approved by the chief. The 555
reimbursement shall be paid from the oil and gas well fund. If 556
the chief determines that the plugging was not completed in 557
accordance with the applicable requirements, the chief shall not 558
reimburse the landowner for the cost of the plugging, and the 559
landowner or the contractor, as applicable, promptly shall 560
transfer back to this state title to and possession of the 561
equipment appurtenant to the well that previously was 562
transferred to the landowner under division (D) (2) (b) of this 563
section. If any such equipment was removed from the well during 564
the plugging and sold, the landowner shall pay to the chief the 565
proceeds from the sale of the equipment, and the chief promptly 566
shall pay the moneys so received to the treasurer of state for 567
deposit into the oil and gas well fund. 568

The chief may establish an annual limit on the number of 569
wells that may be plugged under division (D) (2) of this section 570
or an annual limit on the expenditures to be made under that 571
division. 572

As used in division (D) (2) of this section, "plug" and 573
"plugging" include the plugging of the well and the restoration 574
of the land surface disturbed by the plugging. 575

(E) Expenditures from the oil and gas well fund for the 576
purpose of division (B) (2) of this section may be made pursuant 577
to contracts entered into by the chief with persons who agree to 578
furnish all of the materials, equipment, work, and labor as 579
specified and provided in such a contract. The competitive 580
bidding requirements of Chapter 153. of the Revised Code do not 581
apply if the chief reasonably determines that an emergency 582
situation exists requiring immediate action for the correction 583

of the applicable health or safety risk. A contract or purchase 584
of materials for purposes of addressing the emergency situation 585
is not subject to division (B) of section 127.16 of the Revised 586
Code. The chief, designated representatives of the chief, and 587
agents or employees of persons contracting with the chief under 588
this division may enter upon any land, public or private, for 589
the purpose of performing the work. 590

(F) Contracts entered into by the chief under this section 591
are not subject to any of the following: 592

(1) Chapter 4115. of the Revised Code; 593

(2) Section 153.54 of the Revised Code, except that the 594
contractor shall obtain and provide to the chief as a bid 595
guaranty a surety bond or letter of credit in an amount equal to 596
ten per cent of the amount of the contract; 597

(3) Section 4733.17 of the Revised Code. 598

(G) The owner of land on which a well is located who has 599
received notice under division (C) (1) (b) of this section, in 600
lieu of plugging the well in accordance with division (D) (2) of 601
this section, may cause ownership of the well to be transferred 602
to an owner who is lawfully doing business in this state and who 603
has met the financial responsibility requirements established 604
under section 1509.07 of the Revised Code, subject to the 605
approval of the chief. The transfer of ownership also shall be 606
subject to the landowner's filing the appropriate forms required 607
under section 1509.31 of the Revised Code and providing to the 608
chief sufficient information to demonstrate the landowner's or 609
owner's right to produce a formation or formations. That 610
information may include a deed, a lease, or other documentation 611
of ownership or property rights. 612

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

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

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

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

(J) On or before the last day of June of each year, the

chief shall deliver to the speaker of the house of 642
representatives and the president of the senate a report listing 643
the projected amount of money to be spent from the oil or gas 644
well fund or the well plugging fund to plug each idle or 645
orphaned well that the chief estimates will begin to be plugged 646
in the following fiscal year and the locations of such wells, 647
and the number and location of all idle or orphaned wells 648
plugged in the preceding fiscal year using money from the oil or 649
gas well fund or the well plugging fund and the amount spent 650
from each fund to plug such wells. 651

Sec. 1509.075. (A) There is hereby created in the division 652
of oil and gas resources management the idle and orphaned well 653
program. The chief shall provide staff for the program 654
sufficient to identify, locate, and plug idle and orphaned wells 655
located in this state and perform the duties required under this 656
section. 657

(B) Subject to the supervision of the chief, the idle and 658
orphaned well program shall do both of the following: 659

(1) Develop and maintain an inventory of all known and 660
suspected idle and orphaned wells located in this state; 661

(2) Prioritize the plugging of idle and orphaned wells 662
identified in that inventory based on the relative risk of those 663
wells to public health and safety. 664

(C) There is hereby created in the state treasury the well 665
plugging fund, which shall consist of money transferred to the 666
fund from the oil and gas severance tax fund under division (C) 667
(7) of section 5749.02 of the Revised Code and the oil and gas 668
well fund under division (B) of section 1509.02 or section 669
1509.071 of the Revised Code. The chief shall use the money in 670

the well plugging fund exclusively for the purposes described in 671
division (B) of section 1509.071 of the Revised Code and subject 672
to the requirements and limitations imposed by that section 673
related to the expenditure of funds for those purposes. 674

Expenditures from the fund shall be made only for lawful 675
purposes and shall not be made to purchase real property or to 676
remove a dwelling in order to access a well. 677

Sec. 1509.11. (A) (1) The owner of any well, except a 678
horizontal well, that is producing or capable of producing oil 679
or gas shall file with the chief of the division of oil and gas 680
resources management, on or before the thirty-first day of 681
March, a statement of production of oil, gas, and brine for the 682
last preceding calendar year in such form as the chief may 683
prescribe. An owner that has more than one hundred such wells in 684
this state shall submit electronically the statement of 685
production in a format that is approved by the chief. The chief 686
shall include on the form, at the minimum, a request for the 687
submittal of the information that a person who is regulated 688
under this chapter is required to submit under the "Emergency 689
Planning and Community Right-To-Know Act of 1986," 100 Stat. 690
1728, 42 U.S.C.A. 11001, and regulations adopted under it, and 691
that the division of oil and gas resources management does not 692
obtain through other reporting mechanisms. 693

(2) The owner of any horizontal well that is producing or 694
capable of producing oil or gas shall file with the chief, on 695
the forty-fifth day following the close of each calendar 696
quarter, a statement of production of oil, gas, and brine for 697
the preceding calendar quarter in a form that the chief 698
prescribes. An owner that has more than one hundred horizontal 699
wells in this state shall submit electronically the statement of 700

production in a format that is approved by the chief. The chief 701
shall include on the form, at a minimum, a request for the 702
submittal of the information that a person who is regulated 703
under this chapter is required to submit under the "Emergency 704
Planning and Community Right-To-Know Act of 1986," 100 Stat. 705
1728, 42 U.S.C. 11001, and regulations adopted under it, and 706
that the division does not obtain through other reporting 707
mechanisms. 708

(B) The chief shall not disclose information received from 709
the department of taxation under division (C) (12) of section 710
5703.21 of the Revised Code until the related statement of 711
production required by division (A) of this section is filed 712
with the chief. 713

(C) Not later than the fifteenth day of June of each year, 714
the chief shall calculate and certify to the director of budget 715
and management, the chair of the Ohio shale gas regional 716
committee, the director of transportation, the fire marshal, and 717
the director of the Ohio public works commission, for each 718
county in which one or more wells producing oil or gas in the 719
Utica or Marcellus formation were located in the preceding 720
calendar year, the number of wells producing oil or gas in the 721
Utica or Marcellus formation located in that county in the 722
preceding calendar year divided by the total number of wells 723
producing oil or gas in the Utica or Marcellus formation located 724
in the state in that calendar year. 725

(D) The chief, through the idle and orphaned well program, 726
shall investigate a well to determine if it is an idle or 727
orphaned well if either of the following occurs, unless the well 728
is under temporary inactive well status pursuant to section 729
1509.062 of the Revised Code: 730

(1) If the well is not a horizontal well, the owner of the well does not submit a statement of production required under division (A) (1) of this section for two consecutive years. 731
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(2) If the well is a horizontal well, the owner of the well does not submit a statement of production required under division (A) (2) of this section for eight consecutive calendar quarters. 734
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Sec. 1509.34. (A) (1) If an owner fails to pay the fees 738
imposed by this chapter, or if the chief of the division of oil 739
and gas resources management incurs costs under division (E) of 740
section 1509.071 of the Revised Code to correct conditions 741
associated with the owner's well that the chief reasonably has 742
determined are causing imminent health or safety risks, the 743
division of oil and gas resources management shall have a 744
priority lien against that owner's interest in the applicable 745
well in front of all other creditors for the amount of any such 746
unpaid fees and costs incurred. The chief shall file a statement 747
in the office of the county recorder of the county in which the 748
applicable well is located of the amount of the unpaid fees and 749
costs incurred as described in this division. The statement 750
shall constitute a lien on the owner's interest in the well as 751
of the date of the filing. The lien shall remain in force so 752
long as any portion of the lien remains unpaid or until the 753
chief issues a certificate of release of the lien. If the chief 754
issues a certificate of release of the lien, the chief shall 755
file the certificate of release in the office of the applicable 756
county recorder. 757

(2) A lien imposed under division (A) (1) of this section 758
shall be in addition to any lien imposed by the attorney general 759
for failure to pay the assessment imposed by section 1509.50 of 760

the Revised Code or the tax levied under division ~~(A) (B) (5) or~~,
(6), (10), (11), (12), (13), or (14) of section 5749.02 of the
Revised Code, as applicable.

(3) If the attorney general cannot collect from a severer
or an owner for an outstanding balance of amounts due under
section 1509.50 of the Revised Code or of unpaid taxes levied
under division ~~(A) (B) (5) or~~, (6), (10), (11), (12), (13), or
(14) of section 5749.02 of the Revised Code, as applicable, the
tax commissioner may request the chief to impose a priority lien
against the owner's interest in the applicable well. Such a lien
has priority in front of all other creditors.

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

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

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

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

(D) An owner regarding which the division has recorded a
lien against the owner's interest in a well in accordance with
this section shall not transfer a well, lease, or mineral rights
to another owner or person until the chief issues a certificate

of release for each lien against the owner's interest in the well. 790
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(E) All money from the collection of liens under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code. 792
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Sec. 1509.50. (A) An oil and gas regulatory cost recovery assessment is hereby imposed by this section on an owner. An owner shall pay the assessment in the same manner as a severer who is required to file a return under section 5749.06 of the Revised Code. However, an owner may designate a severer who shall pay the owner's assessment on behalf of the owner on the return that the severer is required to file under that section. If a severer so pays an owner's assessment, the severer may recoup from the owner the amount of the assessment. Except for an exempt domestic well, the assessment imposed shall be in addition to the taxes levied on the severance of oil and gas under section 5749.02 of the Revised Code. The regulatory cost recovery assessment shall not be imposed on oil or gas severed on or after October 1, 2015. 796
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(B) (1) Except for an exempt domestic well, the oil and gas regulatory cost recovery assessment shall be calculated on a quarterly basis and shall be one of the following: 810
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(a) If the sum of ten cents per barrel of oil for all of the wells of the owner, one-half of one cent per one thousand cubic feet of natural gas for all of the wells of the owner, and the amount of the severance tax levied on each severer for all of the wells of the owner under divisions (A) (5) and (6) of section 5749.02 of the Revised Code, as applicable, is greater than the sum of fifteen dollars for each well owned by the 813
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owner, the amount of the assessment is the sum of ten cents per 820
barrel of oil for all of the wells of the owner and one-half of 821
one cent per one thousand cubic feet of natural gas for all of 822
the wells of the owner. 823

(b) If the sum of ten cents per barrel of oil for all of 824
the wells of the owner, one-half of one cent per one thousand 825
cubic feet of natural gas for all of the wells of the owner, and 826
the amount of the severance tax levied on each severer for all 827
of the wells of the owner under divisions (A) (5) and (6) of 828
section 5749.02 of the Revised Code, as applicable, is less than 829
the sum of fifteen dollars for each well owned by the owner, the 830
amount of the assessment is the sum of fifteen dollars for each 831
well owned by the owner less the amount of the tax levied on 832
each severer for all of the wells of the owner under divisions 833
(A) (5) and (6) of section 5749.02 of the Revised Code, as 834
applicable. 835

(2) The oil and gas regulatory cost recovery assessment 836
for a well that becomes an exempt domestic well on and after 837
June 30, 2010, shall be sixty dollars to be paid to the division 838
of oil and gas resources management on the first day of July of 839
each year. 840

(C) All money collected pursuant to this section shall be 841
credited to the severance tax receipts fund. After the director 842
of budget and management transfers money from the severance tax 843
receipts fund as required in division (H) of section 5749.06 of 844
the Revised Code, money in the severance tax receipts fund from 845
amounts collected pursuant to this section shall be credited to 846
the oil and gas well fund created in section 1509.02 of the 847
Revised Code. 848

(D) Except for purposes of revenue distribution as 849

specified in division ~~(B)~~ (C) of section 5749.02 of the Revised Code, the oil and gas regulatory cost recovery assessment imposed by this section shall be treated the same and equivalent for all purposes as the taxes levied on the severance of oil and gas under that section. However, the assessment imposed by this section is not a tax under Chapter 5749. of the Revised Code.

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

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

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

(1) If the applicant elects to provide performance security without reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code, the amount of the estimated cost of reclamation as determined by the chief under division (B) of this section for the increments of land on which the operator will conduct a coal mining and reclamation operation under the initial term of the permit as indicated in the application;

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

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

dollars. 911

The performance security shall cover areas of land 912
affected by mining within or immediately adjacent to the 913
permitted area, so long as the total number of acres does not 914
exceed the number of acres for which the performance security is 915
provided. However, the authority for the performance security to 916
cover areas of land immediately adjacent to the permitted area 917
does not authorize a permittee to mine areas outside an approved 918
permit area. As succeeding increments of coal mining and 919
reclamation operations are to be initiated and conducted within 920
the permit area, the permittee shall file with the chief 921
additional performance security to cover the increments in 922
accordance with this section. If a permittee intends to mine 923
areas outside the approved permit area, the permittee shall 924
provide additional performance security in accordance with this 925
section to cover the areas to be mined. 926

If an applicant or permittee has not held a permit issued 927
under this chapter for any coal mining and reclamation operation 928
for a period of five years or more, the applicant or permittee 929
shall provide performance security in accordance with division 930
(C) (1) of this section in the full amount of the estimated cost 931
of reclamation as determined by the chief for a permitted coal 932
preparation plant or coal refuse disposal area that is not 933
located within a permitted area of a mine. If an applicant for a 934
permit for a coal preparation plant or coal refuse disposal area 935
or a permittee of a permitted coal preparation plant or coal 936
refuse disposal area that is not located within a permitted area 937
of a mine has held a permit issued under this chapter for any 938
coal mining and reclamation operation for a period of five years 939
or more, the applicant or permittee may provide performance 940
security for the coal preparation plant or coal refuse disposal 941

area either in accordance with division (C) (1) of this section 942
in the full amount of the estimated cost of reclamation as 943
determined by the chief or in accordance with division (C) (2) of 944
this section in an amount of twenty-five hundred dollars per 945
acre of land with reliance on the reclamation forfeiture fund. 946
If a permittee has previously provided performance security 947
under division (C) (1) of this section for a coal preparation 948
plant or coal refuse disposal area that is not located within a 949
permitted area of a mine and elects to provide performance 950
security in accordance with division (C) (2) of this section, the 951
permittee shall submit written notice to the chief indicating 952
that the permittee elects to provide performance security in 953
accordance with division (C) (2) of this section. Upon receipt of 954
such a written notice, the chief shall release to the permittee 955
the amount of the performance security previously provided under 956
division (C) (1) of this section that exceeds the amount of 957
performance security that is required to be provided under 958
division (C) (2) of this section. 959

(D) A permittee's liability under the performance security 960
shall be limited to the obligations established under the 961
permit, which include completion of the reclamation plan in 962
order to make the land capable of supporting the postmining land 963
use that was approved in the permit. The period of liability 964
under the performance security shall be for the duration of the 965
coal mining and reclamation operation and for a period 966
coincident with the operator's responsibility for revegetation 967
requirements under section 1513.16 of the Revised Code. 968

(E) The amount of the estimated cost of reclamation 969
determined under division (B) of this section and the amount of 970
a permittee's performance security provided in accordance with 971
division (C) (1) of this section shall be adjusted by the chief 972

as the land that is affected by mining increases or decreases or 973
if the cost of reclamation increases or decreases. If the 974
performance security was provided in accordance with division 975
(C) (2) of this section and the chief has issued a cessation 976
order under division (D) (2) of section 1513.02 of the Revised 977
Code for failure to abate a violation of the contemporaneous 978
reclamation requirement under division (A) (15) of section 979
1513.16 of the Revised Code, the chief may require the permittee 980
to increase the amount of performance security from twenty-five 981
hundred dollars per acre of land to five thousand dollars per 982
acre of land. 983

The chief shall notify the permittee, each surety, and any 984
person who has a property interest in the performance security 985
and who has requested to be notified of any proposed adjustment 986
to the performance security. The permittee may request an 987
informal conference with the chief concerning the proposed 988
adjustment, and the chief shall provide such an informal 989
conference. 990

If the chief increases the amount of performance security 991
under this division, the permittee shall provide additional 992
performance security in an amount determined by the chief. If 993
the chief decreases the amount of performance security under 994
this division, the chief shall determine the amount of the 995
reduction of the performance security and send written notice of 996
the amount of reduction to the permittee. The permittee may 997
reduce the amount of the performance security in the amount 998
determined by the chief. 999

(F) A permittee may request a reduction in the amount of 1000
the performance security by submitting to the chief 1001
documentation proving that the amount of the performance 1002

security provided by the permittee exceeds the estimated cost of 1003
reclamation if the reclamation would have to be performed by the 1004
division in the event of forfeiture of the performance security. 1005
The chief shall examine the documentation and determine whether 1006
the permittee's performance security exceeds the estimated cost 1007
of reclamation. If the chief determines that the performance 1008
security exceeds that estimated cost, the chief shall determine 1009
the amount of the reduction of the performance security and send 1010
written notice of the amount to the permittee. The permittee may 1011
reduce the amount of the performance security in the amount 1012
determined by the chief. Adjustments in the amount of 1013
performance security under this division shall not be considered 1014
release of performance security and are not subject to section 1015
1513.16 of the Revised Code. 1016

(G) If the performance security is a bond, it shall be 1017
executed by the operator and a corporate surety licensed to do 1018
business in this state. If the performance security is a cash 1019
deposit or negotiable certificates of deposit of a bank or 1020
savings and loan association, the bank or savings and loan 1021
association shall be licensed and operating in this state. The 1022
cash deposit or market value of the securities shall be equal to 1023
or greater than the amount of the performance security required 1024
under this section. The chief shall review any documents 1025
pertaining to the performance security and approve or disapprove 1026
the documents. The chief shall notify the applicant of the 1027
chief's determination. 1028

(H) If the performance security is a bond, the chief may 1029
accept the bond of the applicant itself without separate surety 1030
when the applicant demonstrates to the satisfaction of the chief 1031
the existence of a suitable agent to receive service of process 1032
and a history of financial solvency and continuous operation 1033

sufficient for authorization to self-insure or bond the amount. 1034

(I) Performance security provided under this section may 1035
be held in trust, provided that the state is the primary 1036
beneficiary of the trust and the custodian of the performance 1037
security held in trust is a bank, trust company, or other 1038
financial institution that is licensed and operating in this 1039
state. The chief shall review the trust document and approve or 1040
disapprove the document. The chief shall notify the applicant of 1041
the chief's determination. 1042

(J) If a surety, bank, savings and loan association, trust 1043
company, or other financial institution that holds the 1044
performance security required under this section becomes 1045
insolvent, the permittee shall notify the chief of the 1046
insolvency, and the chief shall order the permittee to submit a 1047
plan for replacement performance security within thirty days 1048
after receipt of notice from the chief. If the permittee 1049
provided performance security in accordance with division (C) (1) 1050
of this section, the permittee shall provide the replacement 1051
performance security within ninety days after receipt of notice 1052
from the chief. If the permittee provided performance security 1053
in accordance with division (C) (2) of this section, the 1054
permittee shall provide the replacement performance security 1055
within one year after receipt of notice from the chief, and, for 1056
a period of one year after the permittee's receipt of notice 1057
from the chief or until the permittee provides the replacement 1058
performance security, whichever occurs first, money in the 1059
reclamation forfeiture fund shall be the permittee's replacement 1060
performance security in an amount not to exceed the estimated 1061
cost of reclamation as determined by the chief. 1062

(K) If a permittee provided performance security in 1063

accordance with division (C) (1) of this section, the permittee's 1064
responsibility for repairing material damage and replacement of 1065
water supply resulting from subsidence shall be satisfied by 1066
either of the following: 1067

(1) The purchase prior to mining of a noncancelable 1068
premium-prepaid liability insurance policy in lieu of the 1069
permittee's performance security for subsidence damage. The 1070
insurance policy shall contain terms and conditions that 1071
specifically provide coverage for repairing material damage and 1072
replacement of water supply resulting from subsidence. 1073

(2) The provision of additional performance security in 1074
the amount of the estimated cost to the division of mineral 1075
resources management to repair material damage and replace water 1076
supplies resulting from subsidence until the repair or 1077
replacement is completed. However, if such repair or replacement 1078
is completed, or compensation for structures that have been 1079
damaged by subsidence is provided, by the permittee within 1080
ninety days of the occurrence of the subsidence, additional 1081
performance security is not required. In addition, the chief may 1082
extend the ninety-day period for a period not to exceed one year 1083
if the chief determines that the permittee has demonstrated in 1084
writing that subsidence is not complete and that probable 1085
subsidence-related damage likely will occur and, as a result, 1086
the completion of repairs of subsidence-related material damage 1087
to lands or protected structures or the replacement of water 1088
supply within ninety days of the occurrence of the subsidence 1089
would be unreasonable. 1090

(L) If the performance security provided in accordance 1091
with this section exceeds the estimated cost of reclamation, the 1092
chief may authorize the amount of the performance security that 1093

exceeds the estimated cost of reclamation together with any 1094
interest or other earnings on the performance security to be 1095
paid to the permittee. 1096

(M) A permittee that held a valid coal mining and 1097
reclamation permit immediately prior to April 6, 2007, shall 1098
provide, not later than a date established by the chief, 1099
performance security in accordance with division (C)(1) or (2) 1100
of this section, rather than in accordance with the law as it 1101
existed prior to that date, by filing it with the chief on a 1102
form that the chief prescribes and furnishes. Accordingly, for 1103
purposes of this section, "applicant" is deemed to include such 1104
a permittee. 1105

(N) As used in this section: 1106

(1) "Affiliate of the applicant" means an entity that has 1107
a parent entity in common with the applicant. 1108

(2) "Owner and controller of the applicant" means a person 1109
that has any relationship with the applicant that gives the 1110
person authority to determine directly or indirectly the manner 1111
in which the applicant conducts coal mining operations. 1112

Sec. 1513.182. (A) There is hereby created the reclamation 1113
forfeiture fund advisory board consisting of the director of 1114
natural resources, the director of insurance, and seven members 1115
appointed by the governor with the advice and consent of the 1116
senate. Of the governor's appointments, one shall be a certified 1117
public accountant, one shall be a registered professional 1118
engineer with experience in reclamation of mined land, two shall 1119
represent agriculture, agronomy, or forestry, one shall be a 1120
representative of operators of coal mining operations that have 1121
valid permits issued under this chapter and that have provided 1122

performance security under division (C) (1) of section 1513.08 of 1123
the Revised Code, one shall be a representative of operators of 1124
coal mining operations that have valid permits issued under this 1125
chapter and that have provided performance security under 1126
division (C) (2) of section 1513.08 of the Revised Code, and one 1127
shall be a representative of the public. 1128

Of the original members appointed by the governor, two 1129
shall serve an initial term of two years, three an initial term 1130
of three years, and two an initial term of four years. 1131
Thereafter, terms of appointed members shall be for four years, 1132
with each term ending on the same date as the original date of 1133
appointment. An appointed member shall hold office from the date 1134
of appointment until the end of the term for which the member 1135
was appointed. Vacancies shall be filled in the same manner as 1136
original appointments. A member appointed to fill a vacancy 1137
occurring prior to the expiration of the term for which the 1138
member's predecessor was appointed shall hold office for the 1139
remainder of that term. A member shall continue in office 1140
subsequent to the expiration date of the member's term until the 1141
member's successor takes office or until a period of sixty days 1142
has elapsed, whichever occurs first. The governor may remove an 1143
appointed member of the board for misfeasance, nonfeasance, or 1144
malfeasance. 1145

The directors of natural resources and insurance shall not 1146
receive compensation for serving on the board, but shall be 1147
reimbursed for the actual and necessary expenses incurred in the 1148
performance of their duties as members of the board. The members 1149
appointed by the governor shall receive per diem compensation 1150
fixed pursuant to division (J) of section 124.15 of the Revised 1151
Code and reimbursement for the actual and necessary expenses 1152
incurred in the performance of their duties. 1153

(B) The board annually shall elect from among its members 1154
a chairperson, a vice-chairperson, and a secretary to record the 1155
board's meetings. 1156

(C) The board shall hold meetings as often as necessary as 1157
the chairperson or a majority of the members determines. 1158

(D) The board shall establish procedures for conducting 1159
meetings and for the election of its chairperson, vice- 1160
chairperson, and secretary. 1161

(E) The board shall do all of the following: 1162

(1) Review the deposits into and expenditures from the 1163
reclamation forfeiture fund created in section 1513.18 of the 1164
Revised Code; 1165

(2) Retain periodically a qualified actuary to perform an 1166
actuarial study of the reclamation forfeiture fund; 1167

(3) Based on an actuarial study and as determined 1168
necessary by the board, adopt rules in accordance with Chapter 1169
119. of the Revised Code to adjust the rate of the tax levied 1170
under division ~~(A)~~(B) (8) of section 5749.02 of the Revised Code 1171
and the balance of the reclamation forfeiture fund that pertains 1172
to that rate; 1173

(4) Evaluate any rules, procedures, and methods for 1174
estimating the cost of reclamation for purposes of determining 1175
the amount of performance security that is required under 1176
section 1513.08 of the Revised Code; the collection of forfeited 1177
performance security; payments to the reclamation forfeiture 1178
fund; reclamation of sites for which operators have forfeited 1179
the performance security; and the compliance of operators with 1180
their reclamation plans; 1181

(5) Provide a forum for discussion of issues related to 1182
the reclamation forfeiture fund and the performance security 1183
that is required under section 1513.08 of the Revised Code; 1184

(6) Submit a report biennially to the governor that 1185
describes the financial status of the reclamation forfeiture 1186
fund and the adequacy of the amount of money in the fund to 1187
accomplish the purposes of the fund and that may discuss any 1188
matter related to the performance security that is required 1189
under section 1513.08 of the Revised Code; 1190

(7) Make recommendations to the governor, if necessary, of 1191
alternative methods of providing money for or using money in the 1192
reclamation forfeiture fund and issues related to the 1193
reclamation of land or water resources that have been adversely 1194
affected by past coal mining for which the performance security 1195
was forfeited; 1196

(8) Adopt rules in accordance with Chapter 119. of the 1197
Revised Code that are necessary to administer this section. 1198

Sec. 1514.11. In addition to the purposes authorized in 1199
section 1514.06 of the Revised Code, the chief of the division 1200
of mineral resources management may use moneys in the surface 1201
mining fund created under that section for the administration 1202
and enforcement of this chapter, for the reclamation of land 1203
affected by surface or in-stream mining under a permit issued 1204
under this chapter that the operator failed to reclaim and for 1205
which the performance bond filed by the operator is insufficient 1206
to complete the reclamation, and for the reclamation of land 1207
affected by surface or in-stream mining that was abandoned and 1208
left unreclaimed and for which no permit was issued or bond 1209
filed under this chapter. Also, the chief may use the portion of 1210
the surface mining fund that consists of moneys collected from 1211

the severance taxes levied under section 5749.02 of the Revised Code for mine safety and first aid training. For purposes of this section, the chief shall expend moneys in the fund in accordance with the procedures and requirements established in section 1514.06 of the Revised Code and may enter into contracts and perform work in accordance with that section.

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

Sec. 3737.15. (A) As used in this section:

(1) "Fire department" means a fire department of a municipal corporation or township, a township fire district, a joint township fire district, a private fire company or volunteer fire company that has entered into an agreement for the use and operation of firefighting equipment with a municipal corporation, township, township fire district, or joint township fire district or, in a municipal corporation or township where no such fire department or district exists and no such agreement is in effect, the fire prevention officer of the municipal corporation or township.

(2) "Eligible fire department" means a fire department serving territory that coexists wholly or partly with an

eligible subdivision. 1242

(3) "Eligible subdivision" has the same meaning as in 1243
section 190.01 of the Revised Code. 1244

(4) "Firefighter" means any regular, paid or volunteer, 1245
member of a lawfully constituted fire department. 1246

(5) "Emergency medical technician" means an EMT-basic, 1247
EMT-I, or paramedic as defined in section 4765.01 of the Revised 1248
Code. 1249

(6) "Firefighting equipment" means equipment and vehicles 1250
used by firefighters or emergency medical technicians in the 1251
performance of their duties. 1252

(B) There is hereby created in the state treasury the 1253
shale region firefighting equipment fund, which shall consist of 1254
money transferred to the fund from the oil and gas severance tax 1255
fund under division (C) (7) of section 5749.02 of the Revised 1256
Code. The fire marshal shall use money in the fund only to award 1257
grants under this section to eligible fire departments to 1258
purchase or acquire firefighting equipment in accordance with 1259
this section. 1260

(C) One or more eligible fire departments may apply to the 1261
fire marshal, on forms prescribed by the fire marshal, for a 1262
grant from the shale region firefighting equipment fund. In 1263
approving applications and in determining the amount of the 1264
grant to be awarded, the fire marshal shall specifically 1265
consider all of the following factors: 1266

(1) The regional distribution and availability of similar 1267
firefighting equipment; 1268

(2) The importance of the firefighting equipment to the 1269

<u>health and safety of the firefighters and the residents of the</u>	1270
<u>subdivision;</u>	1271
<u>(3) The availability of federal, local, or other state</u>	1272
<u>funds for the purchase;</u>	1273
<u>(4) The extent to which the firefighting equipment is</u>	1274
<u>necessary to prepare for or respond to emergencies caused by the</u>	1275
<u>presence of oil and gas wells;</u>	1276
<u>(5) Any other relevant factors prescribed by the fire</u>	1277
<u>marshal.</u>	1278
<u>The fire marshal shall not approve a grant application if</u>	1279
<u>the amount of the grant requested by the eligible fire</u>	1280
<u>department exceeds the amount of money available in the shale</u>	1281
<u>region firefighting equipment fund. A county emergency</u>	1282
<u>management agency may file a joint application for a grant under</u>	1283
<u>this division on behalf of two or more fire departments with</u>	1284
<u>territory in that county.</u>	1285
<u>(D) The fire marshal shall notify the director of budget</u>	1286
<u>and management of the amount of any grant awarded by the fire</u>	1287
<u>marshal under this section. The director of budget and</u>	1288
<u>management shall release appropriations from the shale region</u>	1289
<u>firefighting equipment fund for the purpose of awarding a grant</u>	1290
<u>to one or more eligible fire departments on the presentation of</u>	1291
<u>a request to do so by the fire marshal.</u>	1292
<u>(E) The fire marshal may adopt rules in accordance with</u>	1293
<u>Chapter 119. of the Revised Code as are necessary to administer</u>	1294
<u>the grant program created in this section, including the</u>	1295
<u>procedures and manner in which applications may be submitted</u>	1296
<u>under division (C) of this section.</u>	1297
<u>Sec. 3745.50. (A) As used in this section:</u>	1298

(1) "Compressed natural gas" means a clear, odorless, and noncorrosive natural gas that is compressed to a pressure of at least three thousand eight hundred pounds per square inch but less than four thousand five hundred pounds per square inch. 1299
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(2) "Gaseous fuel" means compressed natural gas, liquefied natural gas, or liquid petroleum gas. 1303
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(3) "Incremental cost" means the excess cost associated with the purchase of a vehicle originally equipped by the manufacturer to operate on gaseous fuel as compared to the purchase of an equivalent vehicle that operates on gasoline or diesel fuel. 1305
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(4) "Liquefied natural gas" means natural gas that is cooled to negative two hundred sixty degrees fahrenheit and is in a liquefied state. 1310
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(5) "Liquid petroleum gas" means a material with a vapor pressure not exceeding that of commercial propane which is composed predominately of the following hydrocarbons or mixtures: propane, propylene, butane (normal butane or isobutane), and butylene. 1313
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(6) "Nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code. 1318
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(7) "Public transportation system" means a county transit system operated in accordance with sections 306.01 to 306.13 of the Revised Code, a regional transit authority operated in accordance with sections 306.30 to 306.71 of the Revised Code, or a regional transit commission operated in accordance with sections 306.80 to 306.90 of the Revised Code. 1320
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(8) "School district" means a "city school district" as defined in section 3311.02 of the Revised Code, a "local school 1326
1327

district" as defined in section 3311.03 of the Revised Code, an 1328
"exempted village school district" as defined in section 3311.04 1329
of the Revised Code, or a "joint vocational school district" as 1330
defined in section 3311.18 of the Revised Code. 1331

(B) For the purpose of promoting the conversion of public 1332
fleets to operate on cleaner fuels, the director of 1333
environmental protection shall administer a gaseous fuel vehicle 1334
conversion program under which the director may make grants to a 1335
state agency, a political subdivision of the state, a school 1336
district, a public transportation system, or a nonprofit 1337
corporation for the conversion of a vehicle to operate on 1338
gaseous fuel or for the incremental cost associated with the 1339
purchase of a vehicle originally equipped by the manufacturer to 1340
operate on gaseous fuel. 1341

(C) The director shall adopt rules in accordance with 1342
Chapter 119. of the Revised Code that are necessary for the 1343
administration of the gaseous fuel vehicle conversion program. 1344
The rules shall establish all of the following: 1345

(1) An application form and procedures governing the 1346
process for applying to receive a grant under the program; 1347

(2) Grant eligibility requirements; 1348

(3) A maximum grant amount of five hundred thousand 1349
dollars per eligible entity; 1350

(4) Any other procedures, criteria, or grant terms that 1351
the director determines necessary to administer the program. 1352

(D) There is hereby created in the state treasury the 1353
gaseous fuel vehicle conversion fund, which shall consist of 1354
money credited to the fund under section 5749.02 of the Revised 1355
Code. The money in the fund shall be used solely to make grants 1356

under the gaseous fuel vehicle conversion program. Any interest 1357
earned from money in the fund shall be used by the director to 1358
administer the gaseous fuel vehicle conversion program. 1359

Sec. 5501.37. There is hereby created in the state 1360
treasury the shale region transportation fund, which shall 1361
consist of money transferred to the fund from the oil and gas 1362
severance tax fund under division (C)(7) of section 5749.02 of 1363
the Revised Code. Money in the fund shall be used only to 1364
construct, reconstruct, widen, repair, resurface, and maintain 1365
roads that are part of the state highway system and are or would 1366
be located in a county on any list certified to the director of 1367
transportation under division (C) of section 1509.11 of the 1368
Revised Code. The director shall determine how money from the 1369
fund shall be allocated for those purposes. Projects funded from 1370
the shale region transportation fund shall not be subject to 1371
review under Chapter 5512. of the Revised Code, provided the 1372
project receives no funding otherwise subject to that chapter. 1373

Before constructing additional highways as part of the 1374
state highway system, the director shall comply with section 1375
5511.01 of the Revised Code. 1376

Sec. 5747.56. (A) Not later than the fifteenth day of June 1377
of each year, the tax commissioner shall calculate and certify 1378
to the director of budget and management both of the following: 1379

(1) Revenue forgone to the local government fund during 1380
the preceding calendar year because of the credit authorized 1381
under section 5747.63 and the exclusion authorized under 1382
division (F)(2)(jj) of section 5751.01 of the Revised Code. 1383

(2) Revenue forgone to the public library fund during the 1384
preceding calendar year because of the credit authorized under 1385

section 5747.63 and the exclusion authorized under division (F) 1386
(2) (jj) of section 5751.01 of the Revised Code. 1387

(B) There is hereby created in the state treasury the 1388
local government reimbursement fund. On or before the thirtieth 1389
day of June of each year, the director of budget and management 1390
shall transfer or distribute from the fund the following 1391
amounts: 1392

(1) An amount equal to the lesser of the money in the 1393
local government reimbursement fund or the sum of the amounts 1394
certified by the tax commissioner under divisions (A) (1) and (2) 1395
of this section to the undivided local government fund and the 1396
public library fund of each county and to each municipal 1397
corporation receiving money that calendar year under division 1398
(C) of section 5747.50 of the Revised Code in the same 1399
proportions as money from the local government fund is 1400
distributed to undivided local government funds and those 1401
municipal corporations under divisions (B) and (C) of section 1402
5747.50 of the Revised Code and from the public library fund to 1403
county public library funds under section 5747.47 of the Revised 1404
Code for that calendar year. 1405

(2) Twenty per cent of any money remaining in the local 1406
government reimbursement fund after making the distribution 1407
described in division (B) (1) of this section to the severance 1408
tax infrastructure fund of each eligible county in the county's 1409
proportion most recently certified to the director by the chief 1410
of the division of oil and gas resources management under 1411
division (C) of section 1509.11 of the Revised Code. 1412

(3) Sixty-three and three-fourths per cent of any money 1413
remaining in the local government reimbursement fund after 1414
making the distribution under division (B) (1) of this section to 1415

the Ohio shale gas infrastructure development fund created in 1416
section 190.03 of the Revised Code. 1417

(4) Eleven and one-fourth per cent of any money remaining 1418
in the local government reimbursement fund after making the 1419
distribution described in division (B)(1) of this section to the 1420
severance tax legacy fund created in section 190.04 of the 1421
Revised Code. 1422

(5) Five per cent of any money remaining in the local 1423
government reimbursement fund after making the distribution 1424
described in division (B)(1) of this section to the township 1425
road maintenance fund of each eligible county in the proportion 1426
certified to the director by the chief of the division of oil 1427
and gas resources under division (C) of section 1509.11 of the 1428
Revised Code. 1429

(C) The county treasurer shall apportion money distributed 1430
to the undivided local government fund or public library fund of 1431
the county under division (B)(1) of this section to subdivisions 1432
or libraries according to the formula used by the county to 1433
distribute money from the undivided local government fund under 1434
section 5747.51 or 5747.53 or from the county public library 1435
fund under section 5705.32 or 5705.321 of the Revised Code. 1436

Payments received by a municipal corporation directly from 1437
the director of budget and management under division (B)(1) of 1438
this section shall be paid into its general fund and may be used 1439
for any lawful purpose. Money received by a subdivision under 1440
division (B)(1) of this section shall be paid into its general 1441
fund and used for the current operating expenses of the 1442
subdivision. 1443

Sec. 5747.63. (A) As used in this section: 1444

(1) "Royalty interest" and "well" have the same meanings 1445
as in section 1509.01 of the Revised Code. 1446

(2) "Oil and gas severance tax" means the tax imposed 1447
under division (B) (5), (6), (10), (11), (12), (13), or (14) of 1448
section 5749.02 of the Revised Code. 1449

(3) "Severer" has the same meaning as in section 5749.01 1450
of the Revised Code. 1451

(B) For taxable years beginning on or after January 1, 1452
2015, a taxpayer directly holding a royalty interest in a well 1453
producing oil or gas may claim a nonrefundable credit against 1454
the tax imposed by section 5747.02 of the Revised Code. The 1455
amount of the credit equals the amount of oil and gas severance 1456
tax paid by the severer in the calendar year that ends in or 1457
coincides with the taxpayer's taxable year multiplied by the 1458
lesser of twelve and one-half per cent or the proportion on the 1459
last day of the taxable year of that tax by which the taxpayer's 1460
royalty payments are reduced or for which the taxpayer is 1461
contractually required to pay the severer. 1462

The taxpayer shall claim the credit in the order required 1463
under section 5747.98 of the Revised Code. If the credit exceeds 1464
the amount of tax otherwise due for the taxable year, the excess 1465
may not be carried forward. 1466

On or before the last day of January of each year, a 1467
severer shall deliver to each taxpayer that directly holds a 1468
royalty interest in the severer's well a written report that 1469
lists the amount of oil and gas severance tax the severer paid 1470
on oil and gas severed and sold from that well in the preceding 1471
calendar year unless that information has already been provided 1472
by the severer to each taxpayer or pass-through entity in one or 1473

more written periodic reports. If requested by the tax 1474
commissioner, a taxpayer shall furnish to the commissioner such 1475
reports or other documentation substantiating the taxpayer's 1476
royalty interest or the proportion of oil and gas severance tax 1477
by which the taxpayer's royalty payments are reduced or for 1478
which the taxpayer is required to pay the severer. 1479

Sec. 5747.98. (A) To provide a uniform procedure for 1480
calculating the amount of tax due under section 5747.02 of the 1481
Revised Code, a taxpayer shall claim any credits to which the 1482
taxpayer is entitled in the following order: 1483

(1) The retirement income credit under division (B) of 1484
section 5747.055 of the Revised Code; 1485

(2) The senior citizen credit under division (C) of 1486
section 5747.05 of the Revised Code; 1487

(3) The lump sum distribution credit under division (D) of 1488
section 5747.05 of the Revised Code; 1489

(4) The dependent care credit under section 5747.054 of 1490
the Revised Code; 1491

(5) The lump sum retirement income credit under division 1492
(C) of section 5747.055 of the Revised Code; 1493

(6) The lump sum retirement income credit under division 1494
(D) of section 5747.055 of the Revised Code; 1495

(7) The lump sum retirement income credit under division 1496
(E) of section 5747.055 of the Revised Code; 1497

(8) The low-income credit under section 5747.056 of the 1498
Revised Code; 1499

(9) The credit for displaced workers who pay for job 1500

training under section 5747.27 of the Revised Code;	1501
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	1502 1503
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	1504 1505
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	1506 1507
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	1508 1509
(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	1510 1511
(15) The earned income credit under section 5747.71 of the Revised Code;	1512 1513
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 <u>The landowner oil and gas royalty interest credit for severance tax paid under section 5747.63</u> of the Revised Code;	1514 1515 1516 1517
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	1518 1519
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	1520 1521
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	1522 1523
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	1524 1525
(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under	1526 1527

section 5747.31 of the Revised Code;	1528
(22) The job training credit under section 5747.39 of the Revised Code;	1529 1530
(23) The enterprise zone credit under section 5709.66 of the Revised Code;	1531 1532
(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	1533 1534
(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	1535 1536
(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;	1537 1538
(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	1539 1540
(28) The small business investment credit under section 5747.81 of the Revised Code;	1541 1542
(29) The enterprise zone credits under section 5709.65 of the Revised Code;	1543 1544
(30) The research and development credit under section 5747.331 of the Revised Code;	1545 1546
(31) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1547 1548
(32) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	1549 1550
(33) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	1551 1552 1553

(34) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	1554 1555
(35) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	1556 1557 1558
(36) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	1559 1560 1561 1562
(37) The refundable motion picture production credit under section 5747.66 of the Revised Code;	1563 1564
(38) The refundable credit for financial institution taxes paid by a pass-through entity granted under section 5747.65 of the Revised Code.	1565 1566 1567
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	1568 1569 1570 1571 1572 1573 1574 1575 1576 1577
Sec. 5749.01. As used in this chapter:	1578
(A) "Ton" shall mean two thousand pounds as measured at the point and time of severance, after the removal of any impurities, under such rules and regulations as the tax commissioner may prescribe.	1579 1580 1581 1582

(B) "Taxpayer" means any person required to pay the tax levied by Chapter 5749. of the Revised Code.	1583 1584
(C) "Natural resource" means all forms of coal, salt, limestone, dolomite, sand, gravel, natural gas, and oil, <u>condensate, and natural gas liquids.</u>	1585 1586 1587
(D) "Owner," has <u>"horizontal well," "oil," and "condensate" have the same meaning-meanings</u> as in section 1509.01 of the Revised Code.	1588 1589 1590
(E) "Person" means any individual, firm, partnership, association, joint stock company, corporation, or estate, or combination thereof.	1591 1592 1593
(F) "Return" means any report or statement required to be filed pursuant to Chapter 5749. of the Revised Code used to determine the tax due.	1594 1595 1596
(G) "Severance" means the extraction or other removal of a natural resource from the soil or water of this state.	1597 1598
(H) "Severed" means the point at which the natural resource has been separated from the soil or water in this state.	1599 1600 1601
(I) "Severer" means any person who actually removes the natural resources from the soil or water in this state.	1602 1603
(J) <u>"First day of production" means the date on which oil or gas is first severed through the use of a well. "First day of production" does not include days on which gas is flared from a well exclusively for testing and oil is not produced when the gas is flared.</u>	1604 1605 1606 1607 1608
(K) <u>"Natural gas liquids" means hydrocarbons separated from gas, including ethane, propane, butanes, pentanes, hexanes,</u>	1609 1610

and natural gasolines. 1611

(L) "Gas" means all hydrocarbons that are in a gaseous state at standard temperature and pressure. 1612
1613

(M) "Average quarterly spot price" means the following: 1614

(1) For oil, the average of each day's closing spot price reported for one barrel of crude oil for the calendar quarter that begins six months before the current calendar quarter, as reported by a publicly available source determined by the commissioner; 1615
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(2) For gas, the average of each day's closing spot price reported for one thousand cubic feet of natural gas for the calendar quarter that begins six months before the current calendar quarter, as reported by a publicly available source determined by the commissioner; 1620
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(3) For condensate, the average of each day's closing spot price reported for one barrel of Marcellus-Utica condensate for the calendar quarter that begins six months before the current calendar quarter, as reported by a source determined by the commissioner; 1625
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(4) For natural gas liquids, the average of each day's closing spot price reported for one million British thermal units of natural gas plant liquids composite for the calendar quarter that begins six months before the current calendar quarter, as reported by a publicly available source determined by the commissioner. 1630
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Sec. 5749.02. (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program and oil and gas regulatory program, to meet the environmental and resource management needs of this state, to 1636
1637
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1639

provide revenue for local governments, transportation projects, 1640
soil and water districts, and fire departments, and to reclaim 1641
land affected by mining, ~~an excise a~~ tax is hereby levied on the 1642
privilege of engaging in the severance of natural resources from 1643
the soil or water of this state. ~~The tax~~ shall be imposed upon 1644
the severer at the rates prescribed by ~~divisions (A) (1) to (9)~~ 1645
~~of~~ this section: 1646

(1) Ten cents per ton of coal; 1647

(2) Four cents per ton of salt; 1648

(3) Two cents per ton of limestone or dolomite; 1649

(4) Two cents per ton of sand and gravel; 1650

(5) ~~Ten~~ Twenty cents per barrel of oil severed from a well 1651
that is not a horizontal well on or after October 1, 2015; 1652

(6) ~~Two and one half~~ Three cents per thousand cubic feet 1653
of ~~natural gas~~ severed from a well that is not a horizontal well 1654
on or after October 1, 2015; 1655

(7) One cent per ton of clay, sandstone or conglomerate, 1656
shale, gypsum, or quartzite; 1657

(8) Except as otherwise provided in this division or in 1658
rules adopted by the reclamation forfeiture fund advisory board 1659
under section 1513.182 of the Revised Code, an additional 1660
fourteen cents per ton of coal produced from an area under a 1661
coal mining and reclamation permit issued under Chapter 1513. of 1662
the Revised Code for which the performance security is provided 1663
under division (C) (2) of section 1513.08 of the Revised Code. 1664
Beginning July 1, 2007, if at the end of a fiscal biennium the 1665
balance of the reclamation forfeiture fund created in section 1666
1513.18 of the Revised Code is equal to or greater than ten 1667

million dollars, the rate levied shall be twelve cents per ton. 1668
Beginning July 1, 2007, if at the end of a fiscal biennium the 1669
balance of the fund is at least five million dollars, but less 1670
than ten million dollars, the rate levied shall be fourteen 1671
cents per ton. Beginning July 1, 2007, if at the end of a fiscal 1672
biennium the balance of the fund is less than five million 1673
dollars, the rate levied shall be sixteen cents per ton. 1674
Beginning July 1, 2009, not later than thirty days after the 1675
close of a fiscal biennium, the chief of the division of mineral 1676
resources management shall certify to the tax commissioner the 1677
amount of the balance of the reclamation forfeiture fund as of 1678
the close of the fiscal biennium. Any necessary adjustment of 1679
the rate levied shall take effect on the first day of the 1680
following January and shall remain in effect during the calendar 1681
biennium that begins on that date. 1682

(9) An additional one and two-tenths cents per ton of coal 1683
mined by surface mining methods. 1684

~~(B)~~ (10) For oil severed from a horizontal well on or 1685
after October 1, 2015, one of the following rates: 1686

(a) For oil severed before the first day of the ninth 1687
calendar quarter that begins after the calendar quarter that 1688
includes the horizontal well's first day of production, two per 1689
cent of the product of the total volume of oil severed during 1690
the calendar quarter multiplied by the average quarterly spot 1691
price for oil applicable to that quarter; 1692

(b) For oil severed on or after the first day of the ninth 1693
calendar quarter that begins after the calendar quarter that 1694
includes the first day of production and before the seventeenth 1695
calendar quarter that begins after the calendar quarter that 1696
includes the first day of production, three per cent of the 1697

product of the total volume of oil severed during the calendar 1698
quarter multiplied by the average quarterly spot price for oil 1699
applicable to that quarter; 1700

(c) For oil severed on or after the first day of the 1701
seventeenth calendar quarter that begins after the calendar 1702
quarter that includes the first day of production, four per cent 1703
of the product of the total volume of oil severed during the 1704
calendar quarter multiplied by the average quarterly spot price 1705
for oil applicable to that quarter. 1706

(11) For gas severed from a horizontal well on or after 1707
October 1, 2015, that enters the natural gas distribution system 1708
without further processing, one of the following rates: 1709

(a) For such gas severed before the first day of the ninth 1710
calendar quarter that begins after the calendar quarter that 1711
includes the horizontal well's first day of production, two per 1712
cent of the product of the total volume of such gas severed 1713
during the calendar quarter multiplied by the average quarterly 1714
spot price for gas applicable to that quarter; 1715

(b) For such gas severed on or after the first day of the 1716
ninth calendar quarter that begins after the calendar quarter 1717
that includes the first day of production and before the 1718
seventeenth calendar quarter that begins after the calendar 1719
quarter that includes the first day of production, three per 1720
cent of the product of the total volume of such gas severed 1721
during the calendar quarter multiplied by the average quarterly 1722
spot price for gas applicable to that quarter; 1723

(c) For such gas severed on or after the first day of the 1724
seventeenth calendar quarter that begins after the calendar 1725
quarter that includes the first day of production, four per cent 1726

of the product of the total volume of such gas severed during 1727
the calendar quarter multiplied by the average quarterly spot 1728
price for gas applicable to that quarter. 1729

(12) For gas, other than the gas subject to tax under 1730
division (B) (11) of this section, severed from a horizontal well 1731
on or after October 1, 2015, one of the following rates: 1732

(a) For such gas severed before the first day of the ninth 1733
calendar quarter that begins after the calendar quarter that 1734
includes the horizontal well's first day of production, two per 1735
cent of the product of the total volume of such gas after the 1736
gas is processed during the calendar quarter, regardless of 1737
where the processing facility is located, multiplied by the 1738
average quarterly spot price for gas applicable to that quarter; 1739

(b) For such gas severed on or after the first day of the 1740
ninth calendar quarter that begins after the calendar quarter 1741
that includes the first day of production and before the 1742
seventeenth calendar quarter that begins after the calendar 1743
quarter that includes the first day of production, three per 1744
cent of the product of the total volume of such gas after the 1745
gas is processed during the calendar quarter, regardless of 1746
where the processing facility is located, multiplied by the 1747
average quarterly spot price for gas applicable to that quarter; 1748

(c) For such gas severed on or after the first day of the 1749
seventeenth calendar quarter that begins after the calendar 1750
quarter that includes the first day of production, four per cent 1751
of the product of the total volume of such gas after the gas is 1752
processed during the calendar quarter, regardless of where the 1753
processing facility is located, multiplied by the average 1754
quarterly spot price for gas applicable to that quarter. 1755

(13) For condensate collected during a calendar quarter at a point other than the wellhead and separated from oil or gas severed from a horizontal well on or after October 1, 2015, regardless of where title is transferred, one of the following rates: 1756
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1758
1759
1760

(a) For condensate collected and separated from oil or gas severed before the first day of the ninth calendar quarter that begins after the calendar quarter that includes the horizontal well's first day of production, two per cent of the product of the total volume of condensate collected during the calendar quarter multiplied by the average quarterly spot price for gas applicable to that quarter; 1761
1762
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1766
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(b) For condensate collected and separated from oil or gas severed on or after the first day of the ninth calendar quarter that begins after the calendar quarter that includes the first day of production and before the seventeenth calendar quarter that begins after the calendar quarter that includes the first day of production, three per cent of the product of the total volume of condensate collected during the calendar quarter multiplied by the average quarterly spot price for condensate applicable to that quarter; 1768
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(c) For condensate collected and separated from oil or gas severed on or after the first day of the seventeenth calendar quarter that begins after the calendar quarter that includes the first day of production, four per cent of the product of the total volume of condensate collected during the calendar quarter multiplied by the average quarterly spot price for condensate applicable to that quarter. 1777
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(14) For natural gas liquids collected during a calendar quarter at a point other than the wellhead and separated from 1784
1785

gas severed from a horizontal well on or after October 1, 2015, 1786
regardless of where title is transferred, one of the following 1787
rates: 1788

(a) For natural gas liquids collected and separated from 1789
gas severed before the first day of the ninth calendar quarter 1790
that begins after the calendar quarter that includes the 1791
horizontal well's first day of production, two per cent of the 1792
product of the total volume of natural gas liquids collected 1793
during the calendar quarter multiplied by the average quarterly 1794
spot price for natural gas liquids applicable to that quarter; 1795

(b) For natural gas liquids collected and separated from 1796
gas severed on or after the first day of the ninth calendar 1797
quarter that begins after the calendar quarter that includes the 1798
first day of production and before the seventeenth calendar 1799
quarter that begins after the calendar quarter that includes the 1800
first day of production, three per cent of the product of the 1801
total volume of natural gas liquids collected during the 1802
calendar quarter multiplied by the average quarterly spot price 1803
for natural gas liquids applicable to that quarter; 1804

(c) For natural gas liquids collected and separated from 1805
gas severed on or after the first day of the seventeenth 1806
calendar quarter that begins after the calendar quarter that 1807
includes the first day of production, four per cent of the 1808
product of the total volume of natural gas liquids collected 1809
during the calendar quarter multiplied by the average quarterly 1810
spot price for natural gas liquids applicable to that quarter. 1811

(C) After the director of budget and management transfers 1812
money from the severance tax receipts fund as required in 1813
division (H) of section 5749.06 of the Revised Code, money 1814
remaining in the severance tax receipts fund, except for money 1815

in the fund from the amounts due under section 1509.50 of the Revised Code, shall be credited as follows:

(1) Of the moneys in the fund from the tax levied in division ~~(A)~~(B)(1) of this section, four and seventy-six-hundredths per cent shall be credited to the geological mapping fund created in section 1505.09 of the Revised Code, eighty and ninety-five-hundredths per cent shall be credited to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code, and fourteen and twenty-nine-hundredths per cent shall be credited to the unreclaimed lands fund created in section 1513.30 of the Revised Code.

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

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

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

(5) All of the moneys in the fund from the tax levied in

division ~~(A)~~(B)(8) of this section shall be credited to the 1845
reclamation forfeiture fund. 1846

(6) All of the moneys in the fund from the tax levied in 1847
division ~~(A)~~(B)(9) of this section shall be credited to the 1848
unreclaimed lands fund. 1849

(7) All of the money in the fund from the tax levied under 1850
divisions (B) (5), (6), (10), (11), (12), (13), and (14) of this 1851
section shall be credited to the oil and gas severance tax fund, 1852
which is hereby created in the state treasury. 1853

On or before the twenty-fifth day of June of each year, 1854
the director of budget and management shall transfer the 1855
following amounts from the oil and gas severance tax fund: 1856

(a) The total of the amounts most recently certified under 1857
divisions (A) (1) and (2) of section 5747.56 of the Revised Code 1858
to the local government reimbursement fund for distribution 1859
under division (B) (1) of that section; 1860

(b) After the transfer under division (C) (7) (a) of this 1861
section, fifteen million dollars to the oil and gas well fund, 1862
three million dollars to the well plugging fund, and three 1863
million dollars to the geological mapping fund. If the remaining 1864
balance in the oil and gas severance tax fund is less than 1865
twenty-one million dollars, the director shall proportionately 1866
reduce the amount transferred to the oil and gas well fund, well 1867
plugging fund, and geological mapping fund. 1868

(c) After transferring the amounts described in divisions 1869
(C) (7) (a) and (b) of this section, to the local government 1870
reimbursement fund created by section 5747.56 of the Revised 1871
Code, the lesser of the amount remaining in the oil and gas 1872
severance tax fund or fifty per cent of the remaining balance in 1873

the oil and gas severance tax fund before accounting for the 1874
transfers under divisions (C) (7) (a) and (b) of this section. 1875

(d) After transferring the amounts described in divisions 1876
(C) (7) (a), (b), and (c) of this section, transfer the balance 1877
remaining in the oil and gas severance tax fund as follows: 1878

(i) To the infrastructure development fund created in 1879
section 164.29 of the Revised Code, sixty-three per cent of such 1880
balance; 1881

(ii) To the shale region transportation fund created in 1882
section 5501.37 of the Revised Code, twenty per cent of such 1883
balance; 1884

(iii) To the gaseous fuel vehicle conversion fund created 1885
in section 3745.50 of the Revised Code, ten per cent of such 1886
balance; 1887

(iv) To the shale region firefighting equipment fund 1888
created in section 3737.15 of the Revised Code, six per cent of 1889
such balance; 1890

(v) One per cent of such balance to soil and water 1891
districts whose service area is coextensive with a county on the 1892
list most recently certified to the director under division (C) 1893
of section 1509.11 of the Revised Code. The director shall 1894
transfer an amount of money to each district equal to one per 1895
cent of such balance multiplied by the proportion listed for 1896
each county on that list. Soil and water districts receiving 1897
funds under division (C) (7) (d) (v) of this section may use the 1898
funds for any purpose for which a district may use funds 1899
distributed to it under section 1515.14 of the Revised Code. 1900

~~(C)~~ (D) When, at the close of any fiscal year, the chief 1901
finds that the balance of the reclamation forfeiture fund, plus 1902

estimated transfers to it from the coal mining administration 1903
and reclamation reserve fund under section 1513.181 of the 1904
Revised Code, plus the estimated revenues from the tax levied by 1905
division ~~(A)~~(B) (8) of this section for the remainder of the 1906
calendar year that includes the close of the fiscal year, are 1907
sufficient to complete the reclamation of all lands for which 1908
the performance security has been provided under division (C) (2) 1909
of section 1513.08 of the Revised Code, the purposes for which 1910
the tax under division ~~(A)~~(B) (8) of this section is levied shall 1911
be deemed accomplished at the end of that calendar year. The 1912
chief, within thirty days after the close of the fiscal year, 1913
shall certify those findings to the tax commissioner, and the 1914
tax levied under division ~~(A)~~(B) (8) of this section shall cease 1915
to be imposed for the subsequent calendar year after the last 1916
day of that calendar year on coal produced under a coal mining 1917
and reclamation permit issued under Chapter 1513. of the Revised 1918
Code if the permittee has made tax payments under division ~~(A)~~- 1919
(B) (8) of this section during each of the preceding five full 1920
calendar years. Not later than thirty days after the close of a 1921
fiscal year, the chief shall certify to the tax commissioner the 1922
identity of any permittees who accordingly no longer are 1923
required to pay the tax levied under division ~~(A)~~(B) (8) of this 1924
section for the subsequent calendar year. 1925

(E) On or before the last day of the first month of each 1926
calendar quarter, the tax commissioner shall certify and post to 1927
the department of taxation's web site the average quarterly spot 1928
price applicable to oil, gas, condensate, and natural gas 1929
liquids for that quarter. 1930

Sec. 5749.06. (A) (1) Each severer liable for the tax 1931
imposed by section 5749.02 of the Revised Code and each severer 1932
or owner liable for the amounts due under section 1509.50 of the 1933

Revised Code shall make and file returns with the tax commissioner in the prescribed form and as of the prescribed times, computing and reflecting therein the tax as required by this chapter and amounts due under section 1509.50 of the Revised Code.

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

(B) (1) A separate return shall be filed for each calendar quarterly period, or other period, or any part thereof, during which the severer holds a license as provided by section 5749.04 of the Revised Code, or is required to hold the license, or during which an owner is required to file a return. The return shall be filed within ~~forty five~~ sixty days after the last day of each such calendar month, or other period, or any part thereof, for which the return is required. The tax due is payable along with the return. All such returns shall contain such information as the commissioner may require to fairly administer the tax.

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

(C) If the commissioner believes that quarterly payments of tax would result in a delay that might jeopardize the collection of such tax payments, the commissioner may order that such payments be made weekly, or more frequently if necessary, such payments to be made not later than seven days following the

close of the period for which the jeopardy payment is required. 1964
Such an order shall be delivered to the taxpayer personally or 1965
by certified mail and shall remain in effect until the 1966
commissioner notifies the taxpayer to the contrary. 1967

(D) Upon good cause the commissioner may extend for thirty 1968
days the period for filing any notice or return required to be 1969
filed under this section, and may remit all or a part of 1970
penalties that may become due under this chapter. 1971

(E) Any tax and any amount due under section 1509.50 of 1972
the Revised Code not paid by the day the tax or amount is due 1973
shall bear interest computed at the rate per annum prescribed by 1974
section 5703.47 of the Revised Code on that amount due from the 1975
day that the amount was originally required to be paid to the 1976
day of actual payment or to the day an assessment was issued 1977
under section 5749.07 or 5749.10 of the Revised Code, whichever 1978
occurs first. 1979

(F) A severer or owner, as applicable, that fails to file 1980
a complete return or pay the full amount due under this chapter 1981
within the time prescribed, including any extensions of time 1982
granted by the commissioner, shall be subject to a penalty not 1983
to exceed the greater of fifty dollars or ten per cent of the 1984
amount due for the period. 1985

(G) (1) A severer or owner, as applicable, shall remit 1986
payments electronically and, if required by the commissioner, 1987
file each return electronically. The commissioner may require 1988
that the severer or owner use the Ohio business gateway, as 1989
defined in section 718.01 of the Revised Code, or another 1990
electronic means to file returns and remit payments 1991
electronically. 1992

(2) A severer or owner that is required to remit payments electronically under this section may apply to the commissioner, in the manner prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a severer or owner from the requirements of division (G) of this section for good cause. 1993
1994
1995
1996
1997
1998

(3) If a severer or owner that is required to remit payments or file returns electronically under this section fails to do so, the commissioner may impose a penalty on the severer or owner not to exceed the following: 1999
2000
2001
2002

(a) For the first or second payment or return the severer or owner fails to remit or file electronically, the greater of five per cent of the amount of the payment that was required to be remitted or twenty-five dollars; 2003
2004
2005
2006

(b) For every payment or return after the second that the severer or owner fails to remit or file electronically, the greater of ten per cent of the amount of the payment that was required to be remitted or fifty dollars. 2007
2008
2009
2010

(H) (1) All amounts that the commissioner receives under this section shall be deemed to be revenue from taxes imposed under this chapter or from the amount due under section 1509.50 of the Revised Code, as applicable, and shall be deposited in the severance tax receipts fund, which is hereby created in the state treasury. 2011
2012
2013
2014
2015
2016

(2) The director of budget and management shall transfer from the severance tax receipts fund to the tax refund fund amounts equal to the refunds certified by the commissioner under section 5749.08 of the Revised Code. Any amount transferred under division (H) (2) of this section shall be derived from 2017
2018
2019
2020
2021

receipts of the same tax or other amount from which the refund
arose. 2022
2023

(3) After the director of budget and management makes any 2024
transfer required by division (H) (2) of this section, but not 2025
later than the ~~fifteenth~~first day of the second month following 2026
the end of each calendar quarter, the commissioner shall certify 2027
to the director the total amount remaining in the severance tax 2028
receipts fund organized according to the amount attributable to 2029
each natural resource and according to the amount attributable 2030
to a tax imposed by this chapter and the amounts due under 2031
section 1509.50 of the Revised Code. 2032

(I) Penalties imposed under this section are in addition 2033
to any other penalty imposed under this chapter and shall be 2034
considered as revenue arising from the tax levied under this 2035
chapter or the amount due under section 1509.50 of the Revised 2036
Code, as applicable. The commissioner may collect any penalty or 2037
interest imposed under this section in the same manner as 2038
provided for the making of an assessment in section 5749.07 of 2039
the Revised Code. The commissioner may abate all or a portion of 2040
such interest or penalties and may adopt rules governing such 2041
abatements. 2042

Sec. 5749.11. (A) There is hereby allowed a nonrefundable 2043
credit against the taxes imposed under division ~~(A)~~(B) (8) of 2044
section 5749.02 of the Revised Code for any severer to which a 2045
reclamation tax credit certificate is issued under section 2046
1513.171 of the Revised Code. The credit shall be claimed in the 2047
amount shown on the certificate. The credit shall be claimed by 2048
deducting the amount of the credit from the amount of the first 2049
tax payment due under section 5749.06 of the Revised Code after 2050
the certificate is issued. 2051

If the amount of the credit shown on a certificate exceeds 2052
the amount of the tax otherwise due with that first payment, the 2053
excess shall be claimed against the amount of tax otherwise due 2054
on succeeding payment dates until the entire credit amount has 2055
been deducted. The total amount of credit claimed against 2056
payments shall not exceed the total amount of credit shown on 2057
the certificate. 2058

(B) A severer claiming a credit under this section shall 2059
retain a reclamation tax credit certificate for not less than 2060
four years following the date of the last tax payment against 2061
which the credit allowed under that certificate was applied. 2062
Severers shall make tax credit certificates available for 2063
inspection by the tax commissioner upon the tax commissioner's 2064
request. 2065

Sec. 5749.18. (A) Any term used in this section has the 2066
same meaning as in Chapter 5751. of the Revised Code. 2067

(B) There is allowed a nonrefundable credit against the 2068
tax imposed under division (B) (10) to (14) of section 5749.02 of 2069
the Revised Code to a severer that paid the tax imposed by 2070
section 5751.02 of the Revised Code in a calendar quarter 2071
beginning on or after October 1, 2015. The amount of the credit 2072
shall equal the amount of tax paid by the severer with respect 2073
to taxable gross receipts realized from the sale of natural 2074
resources severed from a horizontal well. The severer shall 2075
claim the credit for the calendar quarter in which the tax was 2076
paid. If the credit exceeds the tax otherwise due under section 2077
5749.02 of the Revised Code for the calendar quarter, the excess 2078
shall not be carried forward to subsequent calendar quarters. 2079

If a taxpayer is allowed a credit under this section and 2080
under section 5749.11 of the Revised Code for the same calendar 2081

quarter, the credit allowed under this section shall be 2082
subtracted from the amount of tax otherwise due before 2083
subtracting the credit allowed under section 5749.11 of the 2084
Revised Code. 2085

Sec. 5751.01. As used in this chapter: 2086

(A) "Person" means, but is not limited to, individuals, 2087
combinations of individuals of any form, receivers, assignees, 2088
trustees in bankruptcy, firms, companies, joint-stock companies, 2089
business trusts, estates, partnerships, limited liability 2090
partnerships, limited liability companies, associations, joint 2091
ventures, clubs, societies, for-profit corporations, S 2092
corporations, qualified subchapter S subsidiaries, qualified 2093
subchapter S trusts, trusts, entities that are disregarded for 2094
federal income tax purposes, and any other entities. 2095

(B) "Consolidated elected taxpayer" means a group of two 2096
or more persons treated as a single taxpayer for purposes of 2097
this chapter as the result of an election made under section 2098
5751.011 of the Revised Code. 2099

(C) "Combined taxpayer" means a group of two or more 2100
persons treated as a single taxpayer for purposes of this 2101
chapter under section 5751.012 of the Revised Code. 2102

(D) "Taxpayer" means any person, or any group of persons 2103
in the case of a consolidated elected taxpayer or combined 2104
taxpayer treated as one taxpayer, required to register or pay 2105
tax under this chapter. "Taxpayer" does not include excluded 2106
persons. 2107

(E) "Excluded person" means any of the following: 2108

(1) Any person with not more than one hundred fifty 2109
thousand dollars of taxable gross receipts during the calendar 2110

year. Division (E) (1) of this section does not apply to a person 2111
that is a member of a consolidated elected taxpayer; 2112

(2) A public utility that paid the excise tax imposed by 2113
section 5727.24 or 5727.30 of the Revised Code based on one or 2114
more measurement periods that include the entire tax period 2115
under this chapter, except that a public utility that is a 2116
combined company is a taxpayer with regard to the following 2117
gross receipts: 2118

(a) Taxable gross receipts directly attributed to a public 2119
utility activity, but not directly attributed to an activity 2120
that is subject to the excise tax imposed by section 5727.24 or 2121
5727.30 of the Revised Code; 2122

(b) Taxable gross receipts that cannot be directly 2123
attributed to any activity, multiplied by a fraction whose 2124
numerator is the taxable gross receipts described in division 2125
(E) (2) (a) of this section and whose denominator is the total 2126
taxable gross receipts that can be directly attributed to any 2127
activity; 2128

(c) Except for any differences resulting from the use of 2129
an accrual basis method of accounting for purposes of 2130
determining gross receipts under this chapter and the use of the 2131
cash basis method of accounting for purposes of determining 2132
gross receipts under section 5727.24 of the Revised Code, the 2133
gross receipts directly attributed to the activity of a natural 2134
gas company shall be determined in a manner consistent with 2135
division (D) of section 5727.03 of the Revised Code. 2136

As used in division (E) (2) of this section, "combined 2137
company" and "public utility" have the same meanings as in 2138
section 5727.01 of the Revised Code. 2139

(3) A financial institution, as defined in section 5726.01 2140
of the Revised Code, that paid the tax imposed by section 2141
5726.02 of the Revised Code based on one or more taxable years 2142
that include the entire tax period under this chapter; 2143

(4) A person directly or indirectly owned by one or more 2144
financial institutions, as defined in section 5726.01 of the 2145
Revised Code, that paid the tax imposed by section 5726.02 of 2146
the Revised Code based on one or more taxable years that include 2147
the entire tax period under this chapter. 2148

For the purposes of division (E) (4) of this section, a 2149
person owns another person under the following circumstances: 2150

(a) In the case of corporations issuing capital stock, one 2151
corporation owns another corporation if it owns fifty per cent 2152
or more of the other corporation's capital stock with current 2153
voting rights; 2154

(b) In the case of a limited liability company, one person 2155
owns the company if that person's membership interest, as 2156
defined in section 1705.01 of the Revised Code, is fifty per 2157
cent or more of the combined membership interests of all persons 2158
owning such interests in the company; 2159

(c) In the case of a partnership, trust, or other 2160
unincorporated business organization other than a limited 2161
liability company, one person owns the organization if, under 2162
the articles of organization or other instrument governing the 2163
affairs of the organization, that person has a beneficial 2164
interest in the organization's profits, surpluses, losses, or 2165
distributions of fifty per cent or more of the combined 2166
beneficial interests of all persons having such an interest in 2167
the organization. 2168

(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 the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

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

(8) Nonprofit organizations or the state and its agencies,

instrumentalities, or political subdivisions.	2199
(F) Except as otherwise provided in divisions (F) (2), (3),	2200
and (4) of this section, "gross receipts" means the total amount	2201
realized by a person, without deduction for the cost of goods	2202
sold or other expenses incurred, that contributes to the	2203
production of gross income of the person, including the fair	2204
market value of any property and any services received, and any	2205
debt transferred or forgiven as consideration.	2206
(1) The following are examples of gross receipts:	2207
(a) Amounts realized from the sale, exchange, or other	2208
disposition of the taxpayer's property to or with another;	2209
(b) Amounts realized from the taxpayer's performance of	2210
services for another;	2211
(c) Amounts realized from another's use or possession of	2212
the taxpayer's property or capital;	2213
(d) Any combination of the foregoing amounts.	2214
(2) "Gross receipts" excludes the following amounts:	2215
(a) Interest income except interest on credit sales;	2216
(b) Dividends and distributions from corporations, and	2217
distributive or proportionate shares of receipts and income from	2218
a pass-through entity as defined under section 5733.04 of the	2219
Revised Code;	2220
(c) Receipts from the sale, exchange, or other disposition	2221
of an asset described in section 1221 or 1231 of the Internal	2222
Revenue Code, without regard to the length of time the person	2223
held the asset. Notwithstanding section 1221 of the Internal	2224
Revenue Code, receipts from hedging transactions also are	2225

excluded to the extent the transactions are entered into 2226
primarily to protect a financial position, such as managing the 2227
risk of exposure to (i) foreign currency fluctuations that 2228
affect assets, liabilities, profits, losses, equity, or 2229
investments in foreign operations; (ii) interest rate 2230
fluctuations; or (iii) commodity price fluctuations. As used in 2231
division (F) (2) (c) of this section, "hedging transaction" has 2232
the same meaning as used in section 1221 of the Internal Revenue 2233
Code and also includes transactions accorded hedge accounting 2234
treatment under statement of financial accounting standards 2235
number 133 of the financial accounting standards board. For the 2236
purposes of division (F) (2) (c) of this section, the actual 2237
transfer of title of real or tangible personal property to 2238
another entity is not a hedging transaction. 2239

(d) Proceeds received attributable to the repayment, 2240
maturity, or redemption of the principal of a loan, bond, mutual 2241
fund, certificate of deposit, or marketable instrument; 2242

(e) The principal amount received under a repurchase 2243
agreement or on account of any transaction properly 2244
characterized as a loan to the person; 2245

(f) Contributions received by a trust, plan, or other 2246
arrangement, any of which is described in section 501(a) of the 2247
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 2248
1, Subchapter (D) of the Internal Revenue Code applies; 2249

(g) Compensation, whether current or deferred, and whether 2250
in cash or in kind, received or to be received by an employee, 2251
former employee, or the employee's legal successor for services 2252
rendered to or for an employer, including reimbursements 2253
received by or for an individual for medical or education 2254
expenses, health insurance premiums, or employee expenses, or on 2255

account of a dependent care spending account, legal services	2256
plan, any cafeteria plan described in section 125 of the	2257
Internal Revenue Code, or any similar employee reimbursement;	2258
(h) Proceeds received from the issuance of the taxpayer's	2259
own stock, options, warrants, puts, or calls, or from the sale	2260
of the taxpayer's treasury stock;	2261
(i) Proceeds received on the account of payments from	2262
insurance policies, except those proceeds received for the loss	2263
of business revenue;	2264
(j) Gifts or charitable contributions received; membership	2265
dues received by trade, professional, homeowners', or	2266
condominium associations; and payments received for educational	2267
courses, meetings, meals, or similar payments to a trade,	2268
professional, or other similar association; and fundraising	2269
receipts received by any person when any excess receipts are	2270
donated or used exclusively for charitable purposes;	2271
(k) Damages received as the result of litigation in excess	2272
of amounts that, if received without litigation, would be gross	2273
receipts;	2274
(l) Property, money, and other amounts received or	2275
acquired by an agent on behalf of another in excess of the	2276
agent's commission, fee, or other remuneration;	2277
(m) Tax refunds, other tax benefit recoveries, and	2278
reimbursements for the tax imposed under this chapter made by	2279
entities that are part of the same combined taxpayer or	2280
consolidated elected taxpayer group, and reimbursements made by	2281
entities that are not members of a combined taxpayer or	2282
consolidated elected taxpayer group that are required to be made	2283
for economic parity among multiple owners of an entity whose tax	2284

obligation under this chapter is required to be reported and	2285
paid entirely by one owner, pursuant to the requirements of	2286
sections 5751.011 and 5751.012 of the Revised Code;	2287
(n) Pension reversions;	2288
(o) Contributions to capital;	2289
(p) Sales or use taxes collected as a vendor or an out-of-	2290
state seller on behalf of the taxing jurisdiction from a	2291
consumer or other taxes the taxpayer is required by law to	2292
collect directly from a purchaser and remit to a local, state,	2293
or federal tax authority;	2294
(q) In the case of receipts from the sale of cigarettes or	2295
tobacco products by a wholesale dealer, retail dealer,	2296
distributor, manufacturer, or seller, all as defined in section	2297
5743.01 of the Revised Code, an amount equal to the federal and	2298
state excise taxes paid by any person on or for such cigarettes	2299
or tobacco products under subtitle E of the Internal Revenue	2300
Code or Chapter 5743. of the Revised Code;	2301
(r) In the case of receipts from the sale, transfer,	2302
exchange, or other disposition of motor fuel as "motor fuel" is	2303
defined in section 5736.01 of the Revised Code, an amount equal	2304
to the value of the motor fuel, including federal and state	2305
motor fuel excise taxes and receipts from billing or invoicing	2306
the tax imposed under section 5736.02 of the Revised Code to	2307
another person;	2308
(s) In the case of receipts from the sale of beer or	2309
intoxicating liquor, as defined in section 4301.01 of the	2310
Revised Code, by a person holding a permit issued under Chapter	2311
4301. or 4303. of the Revised Code, an amount equal to federal	2312
and state excise taxes paid by any person on or for such beer or	2313

intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code; 2314
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(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle; 2316
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(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners; 2324
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(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer; 2332
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(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person 2336
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engaged in table-funding or warehouse-lending mortgage loans	2344
that are first lien mortgage loans.	2345
(x) Property, money, and other amounts received by a	2346
professional employer organization, as defined in section	2347
4125.01 of the Revised Code, from a client employer, as defined	2348
in that section, in excess of the administrative fee charged by	2349
the professional employer organization to the client employer;	2350
(y) In the case of amounts retained as commissions by a	2351
permit holder under Chapter 3769. of the Revised Code, an amount	2352
equal to the amounts specified under that chapter that must be	2353
paid to or collected by the tax commissioner as a tax and the	2354
amounts specified under that chapter to be used as purse money;	2355
(z) Qualifying distribution center receipts.	2356
(i) For purposes of division (F) (2) (z) of this section:	2357
(I) "Qualifying distribution center receipts" means	2358
receipts of a supplier from qualified property that is delivered	2359
to a qualified distribution center, multiplied by a quantity	2360
that equals one minus the Ohio delivery percentage. If the	2361
qualified distribution center is a refining facility, "supplier"	2362
includes all dealers, brokers, processors, sellers, vendors,	2363
cosigners, and distributors of qualified property.	2364
(II) "Qualified property" means tangible personal property	2365
delivered to a qualified distribution center that is shipped to	2366
that qualified distribution center solely for further shipping	2367
by the qualified distribution center to another location in this	2368
state or elsewhere or, in the case of gold, silver, platinum, or	2369
palladium delivered to a refining facility solely for refining	2370
to a grade and fineness acceptable for delivery to a registered	2371
commodities exchange. "Further shipping" includes storing and	2372

repackaging property into smaller or larger bundles, so long as 2373
the property is not subject to further manufacturing or 2374
processing. "Refining" is limited to extracting impurities from 2375
gold, silver, platinum, or palladium through smelting or some 2376
other process at a refining facility. 2377

(III) "Qualified distribution center" means a warehouse, a 2378
facility similar to a warehouse, or a refining facility in this 2379
state that, for the qualifying year, is operated by a person 2380
that is not part of a combined taxpayer group and that has a 2381
qualifying certificate. All warehouses or facilities similar to 2382
warehouses that are operated by persons in the same taxpayer 2383
group and that are located within one mile of each other shall 2384
be treated as one qualified distribution center. All refining 2385
facilities that are operated by persons in the same taxpayer 2386
group and that are located in the same or adjacent counties may 2387
be treated as one qualified distribution center. 2388

(IV) "Qualifying year" means the calendar year to which 2389
the qualifying certificate applies. 2390

(V) "Qualifying period" means the period of the first day 2391
of July of the second year preceding the qualifying year through 2392
the thirtieth day of June of the year preceding the qualifying 2393
year. 2394

(VI) "Qualifying certificate" means the certificate issued 2395
by the tax commissioner after the operator of a distribution 2396
center files an annual application with the commissioner. The 2397
application and annual fee shall be filed and paid for each 2398
qualified distribution center on or before the first day of 2399
September before the qualifying year or within forty-five days 2400
after the distribution center opens, whichever is later. 2401

The applicant must substantiate to the commissioner's 2402
satisfaction that, for the qualifying period, all persons 2403
operating the distribution center have more than fifty per cent 2404
of the cost of the qualified property shipped to a location such 2405
that it would be situated outside this state under the provisions 2406
of division (E) of section 5751.033 of the Revised Code. The 2407
applicant must also substantiate that the distribution center 2408
cumulatively had costs from its suppliers equal to or exceeding 2409
five hundred million dollars during the qualifying period. (For 2410
purposes of division (F) (2) (z) (i) (VI) of this section, 2411
"supplier" excludes any person that is part of the consolidated 2412
elected taxpayer group, if applicable, of the operator of the 2413
qualified distribution center.) The commissioner may require the 2414
applicant to have an independent certified public accountant 2415
certify that the calculation of the minimum thresholds required 2416
for a qualified distribution center by the operator of a 2417
distribution center has been made in accordance with generally 2418
accepted accounting principles. The commissioner shall issue or 2419
deny the issuance of a certificate within sixty days after the 2420
receipt of the application. A denial is subject to appeal under 2421
section 5717.02 of the Revised Code. If the operator files a 2422
timely appeal under section 5717.02 of the Revised Code, the 2423
operator shall be granted a qualifying certificate effective for 2424
the remainder of the qualifying year or until the appeal is 2425
finalized, whichever is earlier. If the operator does not 2426
prevail in the appeal, the operator shall pay the ineligible 2427
operator's supplier tax liability. 2428

(VII) "Ohio delivery percentage" means the proportion of 2429
the total property delivered to a destination inside Ohio from 2430
the qualified distribution center during the qualifying period 2431
compared with total deliveries from such distribution center 2432

everywhere during the qualifying period. 2433

(VIII) "Refining facility" means one or more buildings 2434
located in a county in the Appalachian region of this state as 2435
defined by section 107.21 of the Revised Code and utilized for 2436
refining or smelting gold, silver, platinum, or palladium to a 2437
grade and fineness acceptable for delivery to a registered 2438
commodities exchange. 2439

(IX) "Registered commodities exchange" means a board of 2440
trade, such as New York mercantile exchange, inc. or commodity 2441
exchange, inc., designated as a contract market by the commodity 2442
futures trading commission under the "Commodity Exchange Act," 7 2443
U.S.C. 1 et seq., as amended. 2444

(X) "Ineligible operator's supplier tax liability" means 2445
an amount equal to the tax liability of all suppliers of a 2446
distribution center had the distribution center not been issued 2447
a qualifying certificate for the qualifying year. Ineligible 2448
operator's supplier tax liability shall not include interest or 2449
penalties. The tax commissioner shall determine an ineligible 2450
operator's supplier tax liability based on information that the 2451
commissioner may request from the operator of the distribution 2452
center. An operator shall provide a list of all suppliers of the 2453
distribution center and the corresponding costs of qualified 2454
property for the qualifying year at issue within sixty days of a 2455
request by the commissioner under this division. 2456

(ii) (I) If the distribution center is new and was not open 2457
for the entire qualifying period, the operator of the 2458
distribution center may request that the commissioner grant a 2459
qualifying certificate. If the certificate is granted and it is 2460
later determined that more than fifty per cent of the qualified 2461
property during that year was not shipped to a location such 2462

that it would be situated outside of this state under the 2463
provisions of division (E) of section 5751.033 of the Revised 2464
Code or if it is later determined that the person that operates 2465
the distribution center had average monthly costs from its 2466
suppliers of less than forty million dollars during that year, 2467
then the operator of the distribution center shall pay the 2468
ineligible operator's supplier tax liability. (For purposes of 2469
division (F) (2) (z) (ii) of this section, "supplier" excludes any 2470
person that is part of the consolidated elected taxpayer group, 2471
if applicable, of the operator of the qualified distribution 2472
center.) 2473

(II) The commissioner may grant a qualifying certificate 2474
to a distribution center that does not qualify as a qualified 2475
distribution center for an entire qualifying period if the 2476
operator of the distribution center demonstrates that the 2477
business operations of the distribution center have changed or 2478
will change such that the distribution center will qualify as a 2479
qualified distribution center within thirty-six months after the 2480
date the operator first applies for a certificate. If, at the 2481
end of that thirty-six-month period, the business operations of 2482
the distribution center have not changed such that the 2483
distribution center qualifies as a qualified distribution 2484
center, the operator of the distribution center shall pay the 2485
ineligible operator's supplier tax liability for each year that 2486
the distribution center received a certificate but did not 2487
qualify as a qualified distribution center. For each year the 2488
distribution center receives a certificate under division (F) (2) 2489
(z) (ii) (II) of this section, the distribution center shall pay 2490
all applicable fees required under division (F) (2) (z) of this 2491
section and shall submit an updated business plan showing the 2492
progress the distribution center made toward qualifying as a 2493

qualified distribution center during the preceding year. 2494

(III) An operator may appeal a determination under 2495
division (F) (2) (z) (ii) (I) or (II) of this section that the 2496
ineligible operator is liable for the operator's supplier tax 2497
liability as a result of not qualifying as a qualified 2498
distribution center, as provided in section 5717.02 of the 2499
Revised Code. 2500

(iii) When filing an application for a qualifying 2501
certificate under division (F) (2) (z) (i) (VI) of this section, the 2502
operator of a qualified distribution center also shall provide 2503
documentation, as the commissioner requires, for the 2504
commissioner to ascertain the Ohio delivery percentage. The 2505
commissioner, upon issuing the qualifying certificate, also 2506
shall certify the Ohio delivery percentage. The operator of the 2507
qualified distribution center may appeal the commissioner's 2508
certification of the Ohio delivery percentage in the same manner 2509
as an appeal is taken from the denial of a qualifying 2510
certificate under division (F) (2) (z) (i) (VI) of this section. 2511

(iv) (I) In the case where the distribution center is new 2512
and not open for the entire qualifying period, the operator 2513
shall make a good faith estimate of an Ohio delivery percentage 2514
for use by suppliers in their reports of taxable gross receipts 2515
for the remainder of the qualifying period. The operator of the 2516
facility shall disclose to the suppliers that such Ohio delivery 2517
percentage is an estimate and is subject to recalculation. By 2518
the due date of the next application for a qualifying 2519
certificate, the operator shall determine the actual Ohio 2520
delivery percentage for the estimated qualifying period and 2521
proceed as provided in division (F) (2) (z) (iii) of this section 2522
with respect to the calculation and recalculation of the Ohio 2523

delivery percentage. The supplier is required to file, within 2524
sixty days after receiving notice from the operator of the 2525
qualified distribution center, amended reports for the impacted 2526
calendar quarter or quarters or calendar year, whichever the 2527
case may be. Any additional tax liability or tax overpayment 2528
shall be subject to interest but shall not be subject to the 2529
imposition of any penalty so long as the amended returns are 2530
timely filed. 2531

(II) The operator of a distribution center that receives a 2532
qualifying certificate under division (F) (2) (z) (ii) (II) of this 2533
section shall make a good faith estimate of the Ohio delivery 2534
percentage that the operator estimates will apply to the 2535
distribution center at the end of the thirty-six-month period 2536
after the operator first applied for a qualifying certificate 2537
under that division. The result of the estimate shall be 2538
multiplied by a factor of one and seventy-five one-hundredths. 2539
The product of that calculation shall be the Ohio delivery 2540
percentage used by suppliers in their reports of taxable gross 2541
receipts for each qualifying year that the distribution center 2542
receives a qualifying certificate under division (F) (2) (z) (ii) 2543
(II) of this section, except that, if the product is less than 2544
five per cent, the Ohio delivery percentage used shall be five 2545
per cent and that, if the product exceeds forty-nine per cent, 2546
the Ohio delivery percentage used shall be forty-nine per cent. 2547

(v) Qualifying certificates and Ohio delivery percentages 2548
issued by the commissioner shall be open to public inspection 2549
and shall be timely published by the commissioner. A supplier 2550
relying in good faith on a certificate issued under this 2551
division shall not be subject to tax on the qualifying 2552
distribution center receipts under division (F) (2) (z) of this 2553
section. An operator receiving a qualifying certificate is 2554

liable for the ineligible operator's supplier tax liability for 2555
each year the operator received a certificate but did not 2556
qualify as a qualified distribution center. 2557

(vi) The annual fee for a qualifying certificate shall be 2558
one hundred thousand dollars for each qualified distribution 2559
center. If a qualifying certificate is not issued, the annual 2560
fee is subject to refund after the exhaustion of all appeals 2561
provided for in division (F) (2) (z) (i) (VI) of this section. The 2562
first one hundred thousand dollars of the annual application 2563
fees collected each calendar year shall be credited to the 2564
revenue enhancement fund. The remainder of the annual 2565
application fees collected shall be distributed in the same 2566
manner required under section 5751.20 of the Revised Code. 2567

(vii) The tax commissioner may require that adequate 2568
security be posted by the operator of the distribution center on 2569
appeal when the commissioner disagrees that the applicant has 2570
met the minimum thresholds for a qualified distribution center 2571
as set forth in division (F) (2) (z) of this section. 2572

(aa) Receipts of an employer from payroll deductions 2573
relating to the reimbursement of the employer for advancing 2574
moneys to an unrelated third party on an employee's behalf; 2575

(bb) Cash discounts allowed and taken; 2576

(cc) Returns and allowances; 2577

(dd) Bad debts from receipts on the basis of which the tax 2578
imposed by this chapter was paid in a prior quarterly tax 2579
payment period. For the purpose of this division, "bad debts" 2580
means any debts that have become worthless or uncollectible 2581
between the preceding and current quarterly tax payment periods, 2582
have been uncollected for at least six months, and that may be 2583

claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered; 2584
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(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer; 2592
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(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code. 2596
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(gg) (i) As used in this division: 2599

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. 2600
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(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor. 2608
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(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F) (2) (gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F) (2) (gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

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

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

(jj) Receipts realized by a taxpayer that is a severer from the sale of oil or gas severed from the soil or water of this state on or after October 1, 2015, or condensate or natural gas liquids separated from such oil or gas, on the basis of which the severer is liable for a tax imposed under section 5749.02 of the Revised Code, if the severer is subject to the tax imposed under section 5747.02 of the Revised Code on income from that sale or is a pass-through entity, the direct or indirect owners of which are subject to that tax on the income from that sale. A pass-through entity may exclude only those receipts proportionate to such direct or indirect owners' distributive or proportionate shares of the pass-through entity. As used in division (F) (2) (jj) of this section, "severer," "gas," "oil," "condensate," and "natural gas liquids" have the same meanings as in section 5749.01 of the Revised Code.

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

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

salesperson" have the same meanings as in section 4735.01 of the Revised Code.

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

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

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

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

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

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

(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. 2702

(2) Has during the calendar year payroll in this state of 2703
at least fifty thousand dollars. Payroll in this state includes 2704
all of the following: 2705

(a) Any amount subject to withholding by the person under 2706
section 5747.06 of the Revised Code; 2707

(b) Any other amount the person pays as compensation to an 2708
individual under the supervision or control of the person for 2709
work done in this state; and 2710

(c) Any amount the person pays for services performed in 2711
this state on its behalf by another. 2712

(3) Has during the calendar year taxable gross receipts of 2713
at least five hundred thousand dollars. 2714

(4) Has at any time during the calendar year within this 2715
state at least twenty-five per cent of the person's total 2716
property, total payroll, or total gross receipts. 2717

(5) Is domiciled in this state as an individual or for 2718
corporate, commercial, or other business purposes. 2719

(J) "Tangible personal property" has the same meaning as 2720
in section 5739.01 of the Revised Code. 2721

(K) "Internal Revenue Code" means the Internal Revenue 2722
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 2723
used in this chapter that is not otherwise defined has the same 2724
meaning as when used in a comparable context in the laws of the 2725
United States relating to federal income taxes unless a 2726
different meaning is clearly required. Any reference in this 2727
chapter to the Internal Revenue Code includes other laws of the 2728
United States relating to federal income taxes. 2729

(L) "Calendar quarter" means a three-month period ending	2730
on the thirty-first day of March, the thirtieth day of June, the	2731
thirtieth day of September, or the thirty-first day of December.	2732
(M) "Tax period" means the calendar quarter or calendar	2733
year on the basis of which a taxpayer is required to pay the tax	2734
imposed under this chapter.	2735
(N) "Calendar year taxpayer" means a taxpayer for which	2736
the tax period is a calendar year.	2737
(O) "Calendar quarter taxpayer" means a taxpayer for which	2738
the tax period is a calendar quarter.	2739
(P) "Agent" means a person authorized by another person to	2740
act on its behalf to undertake a transaction for the other,	2741
including any of the following:	2742
(1) A person receiving a fee to sell financial	2743
instruments;	2744
(2) A person retaining only a commission from a	2745
transaction with the other proceeds from the transaction being	2746
remitted to another person;	2747
(3) A person issuing licenses and permits under section	2748
1533.13 of the Revised Code;	2749
(4) A lottery sales agent holding a valid license issued	2750
under section 3770.05 of the Revised Code;	2751
(5) A person acting as an agent of the division of liquor	2752
control under section 4301.17 of the Revised Code.	2753
(Q) "Received" includes amounts accrued under the accrual	2754
method of accounting.	2755
(R) "Reporting person" means a person in a consolidated	2756

elected taxpayer or combined taxpayer group that is designated 2757
by that group to legally bind the group for all filings and tax 2758
liabilities and to receive all legal notices with respect to 2759
matters under this chapter, or, for the purposes of section 2760
5751.04 of the Revised Code, a separate taxpayer that is not a 2761
member of such a group. 2762

Section 2. That existing sections 1509.02, 1509.071, 2763
1509.11, 1509.34, 1509.50, 1513.08, 1513.182, 1514.11, 5747.98, 2764
5749.01, 5749.02, 5749.06, 5749.11, and 5751.01 of the Revised 2765
Code are hereby repealed. 2766

Section 3. On or before the effective date of this act, 2767
the Chief of the Division of Oil and Gas Resources Management 2768
shall prepare a plan for the development of the inventory 2769
described in division (B) of section 1509.075 of the Revised 2770
Code and deliver that plan to the Speaker of the House of 2771
Representatives and the President of the Senate. The plan shall 2772
include the time and internal or external resources that the 2773
Chief believes are necessary to complete that inventory. 2774