DEPARTMENT OF TAXATION

Income tax

- Reduces income tax rates in all brackets by 23% over two years.

- Increases the personal exemption amounts available to lower income taxpayers, from $2,200 to $4,000 for taxpayers with an Ohio adjusted gross income (OAGI) of $40,000 or less, and from $1,950 to $2,800 for taxpayers with an OAGI of between $40,000 and $80,000.

- Restricts the state income tax deduction for Social Security and Tier One railroad retirement benefits to taxpayers whose federal adjusted gross income (FAGI) is not more than $100,000.

- Restricts the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit to taxpayers whose individual or joint adjusted gross income (less personal exemptions) for the taxable year is less than $100,000.

- Revises the small business income tax deduction to allow individuals to deduct 100% of business income derived from businesses with annual gross receipts of $2 million or less, and 50% of business income derived from businesses with annual gross receipts of more than $2 million.

- Removes the $125,000 cap (or $62,500 for spouses filing separate returns) on the small business income tax deduction for business income derived from businesses with annual gross receipts of $2 million or less, but retains the cap for business income derived from businesses with annual gross receipts of more than $2 million.

- Adjusts the amount of "withholding" tax that must be paid by a pass-through entity, at least one owner of which is subject to Ohio income tax, and restricts the reclassification of such owners' compensation from such an entity as a distributive share.

Sales and use tax

- Increases the rate of the state sales and use tax from 5.75% to 6.25% beginning October 1, 2015.

- Subjects cable television services, the transfer of bad debt, travel services, research and public opinion polling services, public relations services, lobbying services, management consulting services, parking services, debt collection services, and repossession services to sales and use tax.

- Repeals the sales and use tax exemption for the sale of services by the state, political subdivisions, and other government entities.
- Reduces the trade-in credit for purchases of a watercraft or new motor vehicle from a licensed dealer to 50% of the trade-in value.
- Clarifies that the impoundment of motor vehicles by the state or a political subdivision is not subject to sales and use tax.
- Limits the discount afforded to vendors and sellers that timely file their sales or use tax returns to a maximum of $1,000 per month.

Alcoholic beverage tax

- Eliminates the 3% credit and discounts granted to beer, wine, and mixed alcoholic beverage taxpayers that timely file required reports and remit the taxes due.

Cigarette and tobacco excise taxes

- Increases the rate of the cigarette excise tax from $1.25 per pack to $2.25 per pack.
- Increases the rate of the excise tax levied on tobacco products other than cigarettes and little cigars from 17% to 60% of such products' wholesale price.
- Increases the rate of the excise tax levied on little cigars from 37% to 60% of wholesale price.
- Eliminates the 2.5% discount to which a seller or distributor is entitled for timely remitting excise taxes for tobacco products other than cigarettes.
- Modifies the method for calculating minimum wholesale and retail cigarette prices, effective July 1, 2015.
- Requires a cigarette manufacturer to certify to the Tax Commissioner the list price of each cigarette brand the manufacturer will sell in the state, and requires the Department of Taxation to post the prices on its website.
- Eliminates the 1.8% tax stamping discount provided to wholesale dealers as consideration for affixing tax stamps to cigarette packages.

Tax on vapor products

- Levies a tax on the sale or use of nicotine vapor products (such as may be used in "electronic" cigarettes), effective January 1, 2016.
- Commits all revenue to the GRF.
- Imposes the tax upon each "cigarette equivalent" of vapor product at the same rate as the state cigarette tax, and defines a "cigarette equivalent" as .10 milliliter of liquid vapor product or 1 gram of nonliquid vapor product regardless of nicotine concentration.
- Defines a vapor product as a noncombustible product that contains nicotine, is intended and marketed for human consumption, and includes a component that is used to deliver the product by means of a mechanical heating element, battery, or electronic circuit.
- Imposes the tax on wholesale dealers of vapor products, and requires both wholesale and retail dealers of such products to be licensed to operate in Ohio on an annual basis.
- Prohibits municipal corporations from levying a similar tax.

Commercial activity tax (CAT)

- Decreases the minimum tax due for CAT taxpayers that have between $1 million and $2 million in annual taxable gross receipts.
- Increases the CAT rate on taxable gross receipts in excess of $1 million from 0.26% to 0.32%.

TPP reimbursements

- Resumes the phase-out of reimbursement payments to school districts and other taxing units for tangible personal property tax losses.
- Increases the portion of CAT revenue and kilowatt-hour excise tax revenue to be credited to the GRF and reduces the portion used to reimburse school districts and other taxing units for tangible personal property tax losses.

Hydrocarbon severance taxes

- Repeals a cost recovery assessment imposed on a well's owner for the severance of oil and gas.

- Increases the rate of severance tax levied on oil and gas severed by a nonhorizontal well up to the combined rate of the repealed cost recovery assessment and current law's rate of severance tax on oil and gas.
- Exempts from severance tax any gas severed from a nonhorizontal well producing an average of 10 Mcf of gas per day or less or an exempt domestic well, but subjects the owners of most such wells to a $60 annual fee.
- Levies a new value-based severance tax on oil, gas, condensate, and natural gas liquids (NGLs) severed from or collected from oil or gas severed from a horizontal well based on the volume of the resource severed or collected.
- Divides revenue from the new tax among oil and gas regulatory functions of DNR, the General Revenue Fund, and local governments in areas of the state with drilled horizontal wells or oil and gas shale development.
- Creates the 13-member Ohio Shale Products Regional Commission to make grants to local governments in the shale region one-half of the revenue from the new tax allocated for local governments.
- Commits one-half of the revenue administered by the Commission to an endowment fund that cannot be used until 2025.
- Eliminates a severance tax exemption for severed resources used to improve the severer's homestead.

Severance tax administration

- Transfers the severance permit responsibilities from the Department of Taxation to DNR.
- Adjusts the due dates of severance tax returns.
- Requires severance tax revenue to be credited to funds on a monthly, rather than quarterly, basis.
- Limits the ability of DNR to disclose severance tax information received by the Tax Commissioner.

Tax credits and exemptions

- Revises computation of the job creation and retention tax credits so that the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll rather than Ohio income tax withholdings.

- Removes the 75% cap on the percentage of Ohio employee payroll (or, under current law, Ohio income tax withholdings) a taxpayer and the Tax Credit Authority (TCA) may agree to for the purposes of computing the job retention tax credit.

- Authorizes the TCA to require taxpayers to refund all or a portion of job creation or job retention tax credits if the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the tax credit agreement or files for bankruptcy.

- Reduces from 60 to 30 days the amount of time a taxpayer has to submit a copy of a job creation or job retention tax credit certificate.

- Revises the role of the Director of Budget and Management, the Tax Commissioner, and the Superintendent of Insurance in evaluating applications for job retention tax credits and data center sales tax exemptions.

Current expense levies allocated to community schools

- Authorizes any school district that contains, in its territory, a community school with an "exemplary" sponsor to propose a levy for the current operating expenses of the school district and the community school.

- Authorizes school districts other than the Cleveland Metropolitan School District to allocate 100% of the proceeds of such a levy to partnering community schools.

Tax Expenditure Review Committee

- Creates a temporary nine-member committee to review most existing "tax expenditures" over a four-year cycle and make recommendations whether to continue, modify, or repeal each expenditure.

- Limits the definition of "tax expenditure" to a tax provision that reduces revenue to the GRF.

- Requires any bill proposing a new or modified tax expenditure explain the expenditure's public policy objectives.

Administration of county 9-1-1 assistance

- Requires the Tax Commissioner to transfer funds remaining in the Wireless 9-1-1 Government Assistance Fund to the Next Generation 9-1-1 Fund at the direction of the Statewide Emergency Services Internet Protocol Network Steering Committee rather than after monthly disbursements are made to counties.

- Requires that any shortfall in monthly disbursements to counties from the Wireless 9-1-1 Government Assistance Fund be remedied in the following month.

Income tax

Rate reduction

(R.C. 5747.02)

The bill phases in a 23% reduction in income tax rates for all income tax brackets over two years. Under the phase-in, tax rates are reduced by 15% for taxable years beginning in 2015 and 23% for taxable years beginning in 2016 or thereafter compared to the rates in effect for 2014.

For taxable years beginning in 2014, the income tax is levied at rates ranging from 0.528% for taxable income up to $5,200 to 5.333% for taxable income above $208,500. There are nine income brackets with increasingly greater rates assigned to higher income brackets.

The income tax is levied on individuals, estates, and some trusts. The tax base for individuals is federal adjusted gross income (FAGI) after several deductions and a few additions; for estates and trusts, the base is federal taxable income after several additions and deductions. An $88 credit is granted for individuals filing a return (joint or individual) showing tax due, after personal and dependent exemptions, of $10,000 or less; the effect of the credit is to exempt such filers from the income tax. The tax applies to residents, and to nonresidents who have income that is attributable to Ohio under statutory attribution rules. For residents who have income taxable by another state with an income tax, a credit is available to offset the tax paid to other states; for nonresidents who have income attributable to Ohio and another state, a credit is allowed to the extent the income is not attributable to Ohio.

Personal exemption increase for lower income taxpayers

(R.C. 5747.025)

Continuing law allows an income tax taxpayer to claim a personal exemption for the taxpayer, the taxpayer's spouse (if the spouses do not file separately), and the taxpayer's dependents. For taxable years beginning in 2015 and thereafter, the act increases the personal exemption amount available to taxpayers with an Ohio adjusted gross income of $80,000 or less, as reported on the taxpayer's individual or joint annual return. The following chart outlines current personal exemption amounts and the amounts proposed under the bill:

Ohio adjusted gross income	Current personal exemption amount	Proposed personal exemption amount
$40,000 or less	$2,200	$4,000
$40,001 to $80,000	$1,950	$2,800
$80,001 or more	$1,700	$1,700

Means test for Social Security income tax deduction

(R.C. 5747.01(A)(5); Section 803.120)

The bill restricts the state income tax deduction for Social Security and Tier One railroad retirement benefits to taxpayers whose FAGI is less than or equal to $100,000. Under current law, all taxpayers are authorized to deduct Social Security and Tier One railroad retirement benefits they receive. Deductible Social Security benefits include old-age, survivor, and disability insurance benefits. Tier One railroad retirement benefits are the equivalent of Social Security benefits for railroad employees.

The means test on the Social Security income tax deduction would apply to taxable years beginning on or after January 1, 2015.

Means test for retirement income and senior tax credits

(R.C. 5747.05, 5747.055, 5747.08, 5747.71, and 5747.98; Section 803.70)

The bill restricts the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit to taxpayers whose individual or joint adjusted gross income (less personal exemptions) for the taxable year is less than $100,000. Under current law, the credits are available to taxpayers aged 65 years and older regardless of income. The income limits apply to taxable years beginning in or after 2015.

Calculation of the retirement income credit varies depending on whether the retiree (aged 65 years and older) claims the credit on an annual basis or on the basis of a lump-sum distribution of income. For retirees who claim the annual credit, the credit ranges from $25 for retirement income of at least $500, to $200 for retirement income of at least $8,000. The $200 credit is equivalent to exempting at least $15,000 of retirement income from taxation. Retirees who receive a lump-sum distribution of retirement income may claim a one-time credit equivalent to receiving the annual credit each year of the retiree's expected remaining life according to actuarial tables.

The senior citizen credit is an annual credit for taxpayers aged 65 years and older equal to $50; receiving retirement income is not necessary to claim the credit. As an alternative, a taxpayer aged at least 65 years who receives a lump-sum distribution of retirement income may claim a one-time credit equivalent to $50 for each year of their expected remaining life.

The means test for the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit applies to taxable years beginning on or after January 1, 2015.

The bill also moves language relating to those credits and strikes obsolete language.

Small business income tax deduction

(R.C. 5747.01(A)(31); Section 803.110)

The bill increases the amount of the small business income tax deduction to allow individuals to deduct 100% of business income derived from businesses with gross receipts not exceeding $2 million for the taxable year. In addition, individuals may deduct 50% of business income from businesses with gross receipts exceeding $2 million for the taxable year. The aggregate deduction for business income from businesses with gross receipts exceeding $2 million may not exceed $125,000 (or $62,500 for spouses who file separate returns and each report business income). There is no cap on the deduction for business income from businesses with gross receipts not exceeding $2 million. A business's annual gross receipts would be determined in the same manner as under federal income tax law for the purpose of determining whether certain taxpayers may use cash-basis accounting.

Under continuing law, "business income" is income from the regular conduct of a trade or business, including gains or losses, and includes gains or losses from liquidating a business or from selling goodwill. It is deductible to the extent it is apportioned or allocated to Ohio, in cases taxpayers who have business income attributable to other states The deduction is not available to estates or trusts subject to the income tax. The deduction does not affect the school district income tax base: any taxpayer making the deduction for state income tax purposes must add the deducted amount back into the taxpayer's school district taxable income if the school district's income tax base is based on state taxable income (as opposed to just earned income).

Under current law, the small business income tax deduction equals 50% of business income included in a taxpayer's federal adjusted gross income. The amount of the deduction is limited to $125,000 per taxpayer per year (or $62,500 for spouses who file separate returns and each report business income). The deduction was first available in 2013.

Pass-through entity withholding tax adjustments

(R.C. 5733.40; Section 803.110)

The bill makes two adjustments to the amount of pass-through entity "withholding" tax that must be paid by some pass-through entities. One adjustment allows an entity to exclude from the withholding tax base any amount paid as an expense to a related person or entity ("related member") if the related member is subject to Ohio income tax on the basis of that amount. Currently, the only expenses paid to related members that may be excluded from the entity withholding tax base are compensation and guaranteed payments paid to owners who hold at least a 20% share of the entity.[133]

The second adjustment allows an entity to exclude from its adjusted qualifying amount compensation or guaranteed payments paid to an owner holding at least a 20% share only to the extent the compensation or payment is not otherwise taxable under the personal income tax. Currently, such compensation or guaranteed payments are considered part of the owner's distributive share of income from the entity and therefore taxable to the entity as part of the adjusted qualifying amount. Also, to the extent that an entity owner's compensation or guaranteed payment is subject to the personal income tax, it could not be considered a distributive share of income for the purposes of the income tax.

The pass-through entity withholding tax is a tax imposed on pass-through entities (e.g., partnerships, S corporations, limited liability companies) having at least one owner who is not an Ohio resident or for whom the entity does not file a return and pay income tax and estimated income tax. The entity is required to pay the withholding tax in an amount approximately equal to the income tax owed by all such owners. The entity's tax payment is meant to ensure that the owners' individual liabilities are satisfied; if an owner files an individual return reporting the income passed through from the entity and paying tax on the income, the owner receives a refundable credit for the owner's share of the withholding tax paid by the entity.

[133] The withholding tax base is termed "adjusted qualifying amount." A guaranteed payment is a payment made by a pass-through entity to an owner regardless of the entity's income; for federal and state income tax purposes, such payments represent an ordinary expense of the entity and ordinary income of the owner.

Sales and use tax

Rate increase

(R.C. 5739.02(A) and 5739.10; Sections 812.20 and 812.60)

Under current law, the state imposes a sales and use tax rate of 5.75% on all retail sales or storage, use, or consumption of tangible personal property and taxable services in Ohio. Counties and transit authorities are authorized to impose additional "piggyback" sales and use taxes. The bill increases the state sales and use tax rate to 6.25% for retail sales and tangible personal property or taxable services stored, used, or consumed on or after October 1, 2015.

Expansion of base

(R.C. 5739.01(B)(3)(v) to (x), (B)(13), and (B)(52); Sections 812.20 and 812.60)

Under continuing law, the sales or use tax generally does not apply to a service unless the service is expressly made subject to the tax. Beginning on and after October 1, 2015, the bill expands the sales and use tax base by expressly including the sale or use of cable services, travel services, research and public opinion polling services, public relations services, lobbying services, management consulting services, motor vehicle parking services, debt collection services, and repossession services. The bill also extends the taxes to the transfer of "bad" (i.e., uncollectible or worthless debt).

For the purposes of sales and use taxation:

- "Cable services" are the one-way transmission of video and other programming services to subscribers, including any subscriber interaction required for the selection or use of those services.
- "Travel services" are the selling of travel, tour, and accommodation services by an agent to the general public and commercial clients.
- "Research and public opinion polling services" are gathering and presenting marketing and public opinion data related to broadcast media ratings, political opinions, marketing analysis and research, statistical sampling, opinion research, economic research and analysis, and sociological research and analysis.
- "Lobbying services" are activities that serve to influence the behavior or opinion of individuals, industries, or organizations.

- "Management consulting services" are activities that provide advice and assistance to businesses and other organizations on business issues.
- "Debt collection services" are collecting payments for claims and remitting the payments collected to clients.
- "Repossession services" are repossessing tangible assets including automobiles, boats, equipment, aircraft, furniture, and appliances, for a creditor as a result of delinquent debts.
- "Bad debt" is any debt that is worthless or uncollectible, has been uncollected for at least six months, and is deductible for federal income tax purposes.[134]

Sale of services by government entities

(R.C. 5739.02(B)(22); Sections 812.20 and 812.60)

The bill eliminates a sales and use tax exemption for the sale or use of services provided by the state, political subdivisions, and their agencies. Consequently, the sale or use of such services will be subject to sales and use taxation beginning October 1, 2015, unless the service is not otherwise subject to taxation or another exemption applies.

Motor vehicle and watercraft trade-in credit

(R.C. 5739.01(H)(2) and (3); Sections 812.20 and 812.60)

The bill reduces the trade-in credit for purchases of a watercraft or new motor vehicle from a licensed dealer to 50% of the trade-in value. Under current law, the taxable "price" of a watercraft or new motor vehicle is reduced by the value of any watercraft or motor vehicle, respectively, accepted by the dealer as part of the transaction. The bill revises this taxable price reduction to one-half of the trade-in value, meaning the consumer will owe sales and use tax on the other half. The change applies to sales of watercraft and new motor vehicles on and after October 1, 2015.

Impoundment of motor vehicles

(R.C. 5739.01(B)(9); Sections 812.20 and 812.60)

Under continuing law, the storage of tangible personal property is a taxable service. The bill specifies that the impoundment of motor vehicles by the state or a

[134] R.C. 5739.121.

political subdivision is not the storage of tangible personal property for sales and use tax purposes. Accordingly, motor vehicle impoundment by a government entity is not subject to sales and use tax.

Discount for timely filing a return

(R.C. 5739.12; Section 803.30)

Ohio vendors are generally required to file a monthly sales tax return and remit tax collections to the state by the 23rd day of each month. Vendors with less than $15,000 in quarterly tax liability are authorized to file quarterly returns by the 23rd day of January, April, July, and October. Vendors with less than $1,200 in semi-annual liability are authorized to file semi-annual returns based on a filing schedule determined by the Tax Commissioner.[135]

Under continuing law, vendors receive a discount of 0.75% of the tax due for each timely filed return. The bill limits this discount to $1,000 per month beginning October 1, 2015.

Alcoholic beverage tax

Continuing law levies an excise tax on manufacturers, importers, and wholesale distributors who sell and distribute beer, wine, or mixed alcoholic beverages in and to Ohio. The tax is due monthly. All revenue is credited to the General Revenue Fund except for a percentage of the wine tax revenue earmarked for the Ohio Grape Industries Fund.

Beer excise tax credit and discount

(R.C. 4301.42 and 4303.33(A) and (B); Sections 803.20 and 812.20)

The bill eliminates the 3% credit and discount currently granted to beer excise taxpayers who timely file and accurately estimate the required advanced tax payment. Continuing law requires beer excise taxpayers to estimate and pay the tax due for the whole month by the eighteenth day of that month. On or before the tenth day of the following month, the taxpayer is required to report the actual amount of beer produced, bottled, sold, and distributed for sale in this state during the preceding month and pay any additional tax due to the extent that the taxpayer's liability exceeds the advanced payment.

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[135] Ohio Department of Taxation, How to File Sales Tax, www.tax.ohio.gov/taxeducation/Filing_Sales_Tax.aspx.

Under current law, beer excise taxpayers may claim a credit equal to 3% of the advanced tax payment if the payment is received by the Tax Commissioner by the due date. In addition, the taxpayer may claim a 3% discount on any remaining beer excise tax liability (due the tenth day of the following month) to the extent such liability does not exceed 10% of the advanced tax payment. The bill eliminates this credit and discount beginning July 1, 2015.

Wine, cider, and mixed beverages excise tax discount

(R.C. 4303.33(C); Sections 803.20 and 812.20)

The bill also eliminates the 3% discount currently granted to wine, cider, and mixed beverage excise taxpayers who timely report and remit the tax due. Continuing law requires taxpayers to report monthly sales and distribution of wine, cider, and mixed beverages in this state and remit the excise taxes due on such sales and distribution or before the eighteenth day of the following month. The 3% discount would be eliminated beginning July 1, 2015.

Cigarette and tobacco excise taxes

Ohio levies an excise tax on the sale, distribution, or use of cigarettes at the current rate of $1.25 per pack. The tax is paid primarily by wholesale dealers through the purchase of stamps that are affixed to packs of cigarettes. Retail sellers must pay the tax on cigarettes that are not taxed at the wholesale dealer level. A separate tax is levied on tobacco products other than cigarettes at the current rate of 17% of the wholesale price, or 37% of wholesale price for "little cigars" – which are noncigarette, filtered smoking rolls wrapped in any substance containing tobacco, other than natural leaf tobacco. (This tax is often referred to as the other tobacco products (OTP) tax.) Revenue from the cigarette and OTP tax is credited to the GRF.

Cigarette excise tax rate

(R.C. 5743.02 and 5743.32; Sections 757.30 and 803.50)

The bill increases the rate of the cigarette excise tax from the current $1.25 per pack to $2.25 per pack beginning July 1, 2015. On a per-cigarette basis, the increase is from 6.25¢ to 11.25¢. All revenue from the cigarette excise tax will continue to be credited to the GRF.

The rate increase also applies to cigarettes in wholesale and retail dealers' inventories and tax stamps in wholesale dealers' inventories on July 1, 2015. Dealers must pay a "net additional tax" on those inventories. The net additional tax is the additional tax resulting from the rate increase for all cigarette packs bearing a tax stamp and for all unaffixed tax stamps in the dealer's possession at the beginning of business on that day. All dealers owing additional tax must file a return with the Tax Commissioner and pay the tax by September 30, 2015. A late charge applies for late payments or returns equal to $50 or 10% of the tax due, whichever is greater.

Tobacco products excise tax rate

(R.C. 5743.01, 5743.51, 5743.62(A), and 5743.63; Section 803.60)

The bill increases the rate of the OTP tax from the current 17% of the wholesale price (37% in the case of little cigars) to 60% beginning July 1, 2015. All revenue from the OTP tax will continue to be credited to the GRF.

Tobacco products excise tax discount

(R.C. 5743.52 and 5743.62(C); Section 803.40)

The bill discontinues a discount available under current law to sellers and distributors that file OTP tax returns and remit the tax on or before the date the return is due. Currently, the discount equals 2.5% of the amount of tax due. Under continuing law, sellers and distributors file OTP tax returns for each month, and each return is due on or before the 23rd day of the following month.

Cigarette minimum prices

(R.C. 1333.11 to 1333.211, 1333.99, 5743.01, 5743.05, 5743.15, 5743.20, 5743.36 to 5743.365; Section 812.20)

Continuing law prohibits cigarette retailers and wholesalers from selling cigarettes at below statutory minimum prices with the intent to injure competition. The bill modifies the method for calculating these minimum prices.

Minimum wholesale cigarette price

The bill modifies the minimum wholesale cigarette price computation as follows:

Minimum wholesale cigarette price	
Current law	**Bill**
Wholesaler's invoice cost	Manufacturer's list price
+	+
Wholesaler's mark-up = [3.5% (or actual cost of doing business) x invoice cost]	Wholesaler's mark-up = [3.5% x (manufacturer's list price + state and county excise taxes)]
+	+

Minimum wholesale cigarette price	
Current law	**Bill**
State and county excise taxes = Minimum price ("cost to wholesaler")	State and county excise taxes = Minimum price (renamed the "wholesale cigarette price")

First, the bill requires that the minimum wholesale price calculation begin with the "manufacturer's list price," rather than the "wholesaler's invoice cost." Correspondingly, the bill adds a requirement that manufacturers certify their brand list prices to the Tax Commissioner each year (see below). Second, the bill requires that, when calculating the wholesaler's mark-up, the mark-up percentage must be applied to the sum of the list price and the state and any county tax levied on the cigarettes.[136] By comparison, under current law, the mark-up percentage is applied only to the invoice cost. Third, the bill prescribes a mark-up percentage of 3.5%, whereas current law creates the presumption of a 3.5% mark-up but allows wholesalers to use a different percentage by demonstrating a higher or lower actual cost of doing business.

Minimum retail cigarette price

The bill modifies the minimum retail cigarette price formula as follows:

Minimum retail cigarette price	
Current law	**Bill**
Retailer's invoice cost + Retailer's mark-up = [8% x (retailer's invoice cost – county excise taxes)] + If the retailer pays cartage costs, the actual cartage costs or 0.75% of the retailer's invoice cost, subtracted by any state or county excises taxes paid by the wholesaler = Minimum price ("cost to retailer")	Wholesale cigarette price + Retailer's mark-up = [8% x (wholesale cigarette price – county excise taxes)] = Minimum price (renamed the "retail cigarette price")

Under the bill, the basis for computing a retailer's price is the wholesale cigarette price, an amount calculated according to a statutory formula (see above), instead of the

[136] Only Cuyahoga County is authorized to levy a county cigarette excise tax. The total rate levied by the county is 34.5¢ per pack.

retailer's "invoice cost." In addition, the bill removes the express provision for retailer cartage costs.

Certification of manufacturer list prices

(R.C. 5743.15 and 5743.20)

Continuing law requires cigarette manufacturers to be licensed by the Tax Commissioner to operate in the state. The bill requires that, as part of its annual license application, a manufacturer must certify to the Tax Commissioner the manufacturer list price of each cigarette brand the entity manufactures. The Commissioner must post, on the Department of Taxation's website, a list of each manufacturer licensed to operate in the state, the manufacturer's brands available for sale in the state, and the manufacturer list price of each of those brands.

Beginning July 1, 2015, a manufacturer may not sell a cigarette brand in Ohio unless the brand is listed on the Department's website. If a manufacturer intends to change the list price of one of its brands during a license year, the manufacturer must certify the new price to the Commissioner before selling the brand at the new price.

Administrative provisions

(R.C. 5743.36 to 5743.365, R.C. 1333.11 to 1333.211 repealed)

The bill moves provisions related to the enforcement of cigarette minimum prices from R.C. Chapter 1333. (UCC trade practices) to R.C. 5743. (cigarette and other tobacco taxes).

Cigarette tax wholesale stamping discount

(R.C. 5743.05)

Current law provides a tax discount to wholesalers as consideration for affixing tax stamps to cigarette packages. The discount equals 1.8% of the value of any tax stamps purchased by the wholesale dealer. The bill eliminates this discount.

Tax on vapor products

The bill levies an excise tax on the sale or use of nicotine vapor products, effective January 1, 2016. The tax is levied on each "cigarette equivalent" of vapor product at the same rate as the state cigarette tax (currently, 6.25¢ per cigarette). All revenue from the tax is to be credited to the General Revenue Fund.

A corresponding "use" tax also is imposed on persons using, storing, or consuming vapor products for which a wholesale dealer has not paid the tax. (That is, the use tax applies, for example, to vapor products purchased outside Ohio and brought into Ohio, or otherwise acquired from someone other than a wholesale or retail dealer, in a manner analogous to the cigarette and tobacco product use taxes levied under continuing law.)

Tax base

(R.C. 5744.01, 5744.02, and 5744.03)

The bill defines a vapor product as any noncombustible product that (1) contains nicotine, in any concentration, (2) is intended and marketed for human consumption, (3) includes a component that is used to deliver the vapor product by means of a mechanical heating element, battery, or electronic circuit, and (4) is not regulated as a drug or device by the U.S. Food and Drug Administration.

A "cigarette equivalent" of vapor product equals .10 milliliter of liquid vapor product or, if the vapor product is not in liquid form, 1 gram of vapor product. The tax is imposed on the basis of the entire volume or weight of the vapor product, not solely on the portion of the product that contains nicotine.

The tax applies to only one sale of a product in the supply chain, unless the product has been repackaged, reconstituted, diluted, or reprocessed. In the latter case, the first transaction after the product has been altered is also subject to taxation.

Taxpayers

(R.C. 5744.03, 5744.04, and 5744.05)

The excise tax is payable by wholesale dealers of vapor products. A wholesale dealer includes any person that:

(1) Sells vapor products to retail dealers;

(2) Is a retail dealer that receives vapor products upon which the tax has not been paid by another person;

(3) Is a "vapor dealer," i.e., a person that repackages, reconstitutes, dilutes, or reprocesses vapor products for resale to consumers.

The use tax is payable by any person who uses, stores, or consumes vapor products for which the tax has not already been paid.

Tax returns and payments

(R.C. 5744.06)

Wholesale dealers must file returns and pay the tax on a monthly basis, by the 15th day of each month, unless the Commissioner allows a longer reporting interval. Returns must be filed electronically through the Ohio Business Gateway or other website specified by the Commissioner. Dealers must also maintain the invoice from each vapor product transaction. For each vapor product, the invoice must indicate the total volume or weight of the product and the proportion of that volume or weight that is nicotine.

Licensing requirements

(R.C. 5744.05)

The bill requires both wholesale and retail dealers of vapor products to obtain an annual license to operate in the state. Under the bill, a retail dealer may purchase vapor products only from a licensed wholesale dealer. Similarly, a wholesale dealer may sell vapor products only to licensed retail dealers, other licensed wholesale dealers, or, if the dealer is a "vapor dealer," to consumers. A person may be licensed as both a wholesale dealer and retail dealer.

Dealers must apply to the Tax Commissioner for the license, which is valid for one year beginning on the first day of October. For wholesale dealers, the application fee is $1,000 per business location. For retail dealers, the per-location fee is $125. If a license is issued after October 1, the application fee is reduced proportionately for the remainder of the year. Revenue from the fee is to be used by the Commissioner for administering the tax.

The Commissioner may refuse to issue or reissue a license if the applicant has any outstanding tax liability or has failed to file any prior vapor products tax return. The Commissioner may also suspend or revoke a license if a taxpayer fails to file a return or pay the tax, and may revoke a license if a taxpayer files a false return. In addition, the Commissioner may cancel a license at the request of the licensee.

The Commissioner must maintain a list on the Department of Taxation's website of all licensed wholesale dealers (but not licensed retail dealers) in the state.

Administration and enforcement

The bill includes provisions for the administration and enforcement of the new tax that are substantially the same as similar provisions applicable to other statewide taxes, including the state cigarette and other tobacco product tax. Those provisions address the following:

- Tax refunds and the application of a taxpayer's refund to offset a debt the taxpayer owes to the state (R.C. 5744.07 and 5744.08).
- Interest on unpaid taxes and refund payments (R.C. 5744.07, 5744.13, and 5744.97).
- Assessments to collect unpaid tax, penalty, or interest (R.C. 5744.13).
- Procedures for tax payment by taxpayers that discontinue operations in the state (R.C. 5744.11).
- Records retention and inspection (R.C. 5744.09).
- Seizure and forfeiture of vapor products when the Commissioner has reason to believe that a person is avoiding paying the tax (R.C. 5744.10).
- Officer and employee liability for an entity's failure to file returns or pay the tax (R.C. 5744.11).
- Civil and criminal penalties (R.C. 5744.97 and 5744.99).

CAT exclusion for vapor product tax payments

(R.C. 5751.01(F)(2)(jj))

For the purpose of the commercial activity tax, wholesale and retail dealers may exclude any amount of state vapor product excise taxes paid during the dealer's tax period from the dealer's taxable gross receipts. This provision is substantially similar to an existing exclusion for cigarette and other tobacco tax payments.

Municipal taxing authority

(R.C. 715.013)

The bill specifies that municipal corporations may not levy a tax that is "the same as or similar to" the new tax. Continuing law prohibits municipal corporations from levying most of the kinds of taxes the state currently levies (the income tax being the major exception). If there were no such prohibition, municipal corporations would be authorized to levy taxes under their home rule authority, without authorization from the General Assembly.[137]

Commercial activity tax (CAT)

(R.C. 5751.03; Sections 803.90 and 803.100)

The CAT is an annual tax imposed on businesses for the privilege of doing business in Ohio that is based on a business's taxable gross receipts. Taxable gross receipts are derived from the business's "gross receipts," which is defined broadly to include all amounts realized that contribute to the production of gross income. Persons with less than $150,000 in taxable gross receipts are excluded from paying the CAT. All other CAT taxpayers pay a minimum tax on their first $1 million in taxable gross receipts plus the CAT rate, 0.26%, multiplied by the taxpayer's receipts in excess of $1 million.

Minimum tax amount

The bill decreases the minimum tax for CAT taxpayers that have more than $1 million but not more than $2 million in annual taxable gross receipts. The minimum CAT amount for such taxpayers would be reduced from $800 to $150. The decrease would apply to tax periods beginning on or after January 1, 2016.

Rate

The bill increases the CAT rate due for a taxpayer's taxable gross receipts in excess of $1 million from 0.26% to 0.32%. The increased rate applies to tax periods beginning on or after July 1, 2015.

Tangible personal property tax reimbursements

Background

The bill resumes the phase-out of payments currently being made to school districts and other local taxing units to partly reimburse them for the loss of property tax revenue resulting from previously legislated reductions in local property taxes on tangible personal property. Beginning in 2001, the taxable value of some electric utility tangible personal property (TPP) was reduced by legislation that partly deregulated electric utilities. Subsequent utility deregulation legislation in following years reduced the taxable value of natural gas utility TPP and telephone utility TPP. In 2005,

[137] The doctrine of implied pre-emption was abandoned by the Ohio Supreme Court in 1998. Before then, if the state levied a certain kind of tax, municipal corporations were held to be impliedly pre-empted from levying the same kind of tax unless the General Assembly expressly authorized them to levy the tax.

legislation eliminated taxes on TPP used in business over a five-year period. These reductions caused locally levied property taxes to decline accordingly. The legislation provided initial reimbursement for most of the revenue loss and gradual phase-out of the reimbursement over several years. In 2011 and 2012, reimbursement payments were immediately reduced by about 25% and 50%, respectively, and the phase-out of the reduced payments accelerated relative to the original phase-out schedule.[138]

School district reimbursement

(R.C. 5709.92, 5727.84, 5727.85, 5751.20, and 5751.21)

Under current law, reimbursement payments are generally constant for those districts whose reimbursements have not already been phased out under the 2011-2012 changes. The bill's resumption of the reimbursement phase-out begins in FY 2016 on the basis of a district's combined business and utility property tax replacement payments received in FY 2015. Different phase-out schedules are prescribed for different classes of tax levies, as follows:

Current expense levies: Payments for most current expense-purpose levies are phased out according to the amount of a district's FY 2015 current expense levy replacement payment ("current expense allocation") relative to its total operating revenue from state and local sources ("total resources"). Payments are phased out more quickly for districts whose current replacement payments are a relatively small percentage of their total resources. The phase-out also incorporates a tax-raising capacity factor designed to continue relatively greater payments for more years for districts that have relatively lower personal income and per-pupil property wealth. For districts in the middle 20% (third quintile) of tax capacity, the replacement payment will be made in FY 2016 only if and to the extent that the FY 2015 payment represents more than 1.5% of the district's total resources; in FY 2017, the percentage increases from 1.5% to 3%, and it increases by an increment of 1.5% each year thereafter. The percentage for each quintile, both the initial and annual increment, is as follows:

[138] A complete description of the 2011-2012 changes to the reimbursement scheme is available in the LSC bill analysis for H.B. 153 of the 129th GA, pp. 655-665.

Quintile	Percentage
Fifth (highest capacity)	2%
Fourth	1.75%
Third	1.5%
Second	1.25%
First (lowest capacity)	1%

As each percentage increases incrementally each year, the amount of the payment decreases until the payments eventually end.

The percentage for all joint vocational school districts is 2% initially, with a 2% incremental increase each year.

Currently, school districts and JVSDs receive payments for such current expense levies only if the district's FY 2011 payment for those levies exceeds 4% of its total resources for the corresponding year. The annual payment equals the amount by which a district's FY 2011 payment for those levies exceeds 4% of its total resources for the corresponding year.

Non-current-expense, nondebt levies: Replacement payments for levies funding purposes other than current expenses or debt payment (e.g., permanent improvement levies) are made in FY 2015 in an amount equal to 50% of a district's FY 2015 payment. No payments for such levies will be made after FY 2016. Current law provides for annual payments equal to 50% of the payment a district received in FY 2011.

Emergency and other fixed-sum levies: Replacement payments for emergency levies and other levies designed to raise a fixed amount of revenue for current expenses or other purposes (except debt levies) are phased out in one-fifth increments over five years. The phase-out begins in 2017 for utility property-based replacement payments and in 2018 for business property-based payments. Currently, payments for nondebt fixed-sum levies are scheduled to end in 2017 for utility TPP-based reimbursements and in 2018 for business TPP-based reimbursements.

Debt levies: Replacement payments for voter-approved fixed-sum debt levies will continue to be paid in the same amount paid in 2014 until the levy is no longer imposed. Payments for debt levies imposed without the need for voter approval (i.e., within the 10-mill limitation on unvoted taxes) and that qualified for reimbursement in FY 2015 will be reimbursed through FY 2016 (for utility TPP-based payments) or through FY 2018 (for business TPP-based payments). This is a continuation of current law.

Other local taxing unit reimbursement

(R.C. 5709.93, 5727.84, 5727.86, 5751.20, and 5751.22; Section 757.10)

Similar to school district reimbursements, reimbursement payments for other local taxing units currently are generally constant for those still receiving payments after the 2011-2012 changes. The bill's resumption of the phase-out of reimbursements begins in FY 2016 on the basis of a district's combined business and utility property tax replacement payments received in FY 2015.

As with school district reimbursements, different phase-out schedules are prescribed for different classes of tax levies, as follows:

Current expense levies: Most current expense-purpose levies are phased out according to the amount of a taxing unit's FY 2015 current expense levy replacement payments ("current expense allocation") relative to its total operating revenue from state and local sources ("total resources"). Payments are phased out more quickly for taxing units whose FY 2015 replacement payments are a relatively small percentage of their total resources. Replacement payments for most current expense levies will be made in FY 2016 only if and to the extent that the FY 2015 payment represent more than 2% of the district's total resources. In FY 2017, the percentage increases from 2% to 4%, and it increases by 2% each year thereafter. As the percentage increases incrementally each year, the amount of the payment decreases until the payments eventually end.

Currently, taxing units and libraries receive payments for such current expense levies only if their CY 2010 payment for those levies exceeds 6% of its total resources for the corresponding year. The annual payment equals the amount by which the CY 2010 payment for those levies exceeds 4% of total resources for the corresponding year.

Unvoted debt levies: Replacement payments for debt levies imposed without the need for voter approval (i.e., within the 10-mill limitation on unvoted taxes) and that qualified for reimbursement in CY 2015 will be reimbursed through CY 2016 (for utility TPP-based payments) or through CY 2017 (for business TPP-based payments).

Library total resources certification

The bill requires each county auditor to certify to the Tax Commissioner the amount of money distributed from the County Public Library Fund in 2014 to each public library system that received a TPP reimbursement in 2014. Certification must be made by July 31, 2015. The certification is to enable the Commissioner to compute a library system's total resources used in the computation of new reimbursements.

Appeal of reimbursement computation

(Section 757.20)

The bill authorizes school districts and other local taxing units affected by the bill's TPP reimbursement changes to contest how the Tax Commissioner has classified a levy or calculated its total resources for the purpose of computing the reimbursement payments. Appeals must be filed with the Commissioner and the Commissioner may adjust the classification or computation if warranted by the appeal's merits. The Commissioner's decision is final and not appealable. No adjustments may be made after June 30, 2016.

CAT revenue to GRF

(R.C. 5751.02 and 5751.20)

The bill increases the percentage of commercial activity tax revenue to be credited to the GRF beginning July 1, 2015, and reduces the percentages to be credited to the School District Tangible Property Tax Replacement Fund and Local Government Tangible Property Tax Replacement Fund. Aside from the small percentage of CAT revenue (0.85%) that will continue to be earmarked for CAT administration expenses and to implement unspecified "tax reform measures," the percentage of CAT revenue credited to the GRF increases from 50% to 75%. The percentage credited to the school district replacement fund decreases from 35% to 20%, and the percentage credited to the local government replacement fund decreases from 15% to 5%.

The bill also moves language related to the use of CAT revenue from one section of law (R.C. 5751.20(B) and (J)) to another (R.C. 5751.02(C) to (F)) without changing the substance of the language other than to change the allocation of revenue between the GRF and the replacement funds as described above.

Under continuing law, the School District Tangible Property Tax Replacement Fund and Local Government Tangible Property Tax Replacement Fund are used to make payments to school districts and other local taxing units to partially reimburse them for the phase-out and eventual repeal (2009) of property taxes on business tangible personal property.

Kilowatt-hour excise tax revenue to GRF

(R.C. 5727.81, 5727.811, and 5727.84)

The bill directs that all revenue from the kilowatt-hour excise tax be credited to the General Revenue Fund beginning July 1, 2015. Currently, revenue from the tax is apportioned among the GRF and two other funds, as follows: 88% to the GRF, 9% to the

School District Property Tax Replacement Fund, and 3% to the Local Government Property Tax Replacement Fund. The latter two funds are used to make payments to school districts and other local taxing units to partially reimburse them for previously legislated reductions in property tax assessments on tangible personal property of electric and natural gas utilities as part of the deregulation of some aspects of such utilities. In accord with the change in the revenue distribution, the bill changes the statement of the purpose of the tax.

The kilowatt-hour excise tax is levied on the basis of electricity distributed to electricity meters in Ohio. In most cases it is payable by the company that distributes the electricity. Consumers that receive electricity directly from suppliers outside Ohio and large-volume commercial and industrial consumers (using at least 45 million kwh annually at a single site) must pay the tax directly.

Hydrocarbon severance taxes

Current law levies a tax on any person that severs either of two hydrocarbons – oil or natural gas – from the ground or water in Ohio. The tax equals 10¢ per barrel of oil and 2½¢ per Mcf (1,000 cubic feet) of natural gas and is generally quarterly. A separate "cost recovery assessment" is levied in the additional amount of 10¢ per barrel of oil and ½¢ per Mcf of natural gas for all oil and gas wells, except very low volume wells.

Effective July 1, 2015, the bill repeals the cost recovery assessment, distinguishes between horizontal and nonhorizontal wells for the purposes of imposing different tax rates, bases, and exemptions for oil and gas produced from each type of well, distinguishes for tax purposes additional types of hydrocarbons, and earmarks the revenue from hydrocarbons produced from each type of well for different purposes.

Horizontal versus nonhorizontal wells

(R.C. 5749.01)

The bill distinguishes between "horizontal" wells and "nonhorizontal" wells for severance tax purposes. Horizontal wells are wells drilled to produce oil or gas with a wellbore that reaches a horizontal or near horizontal position in the Point Pleasant, Utica, or Marcellus formation and that is stimulated to produce. (Stimulation is defined as a "process of enhancing well productivity, including hydraulic fracturing operations.")

Taxable resources

(R.C. 5749.01)

The bill defines "oil" and "gas" for the purposes of the severance tax. "Gas" (as compared to the current "natural gas"), is defined as hydrocarbons in a gaseous phase at standard temperature and pressure. "Oil" is defined as hydrocarbons produced in liquid form by ordinary production methods.

The bill also distinguishes two other types of hydrocarbons for purposes of the horizontal well severance tax: condensate – liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by gas processing – and natural gas liquids (NGLs) – hydrocarbons separated from severed gas, such as propane and ethane.

Nonhorizontal well tax rates; cost recovery assessment

(R.C. 1509.50 and 5749.02; R.C. 1509.02, 1509.34, 5703.052, 5749.03, 5749.06, 5749.07, 5749.08, 5749.09, 5749.10, 5749.12 to 5749.15, and 5749.17)

The bill increases the tax rate on the severance of oil from nonhorizontal wells from 10¢ per barrel to 20¢ per barrel. The bill also increases the tax on gas extracted from nonhorizontal wells from the current 2½¢ per Mcf rate to 3¢ per Mcf. Despite this increase, however, the total rate of excise on oil and gas remains the same because the bill repeals the cost recovery assessment. As under current law, the bill dedicates 90% of the revenue from the nonhorizontal well severance taxes to the Oil and Gas Well Fund to fund the oil and gas regulatory activities of DNR and 10% to the Geological Mapping Fund to fund the activities of DNR's Division of Geological Survey.

Exemption and fee for gas severed from certain wells

(R.C. 1509.11)

The bill exempts from severance tax gas severed from a non-horizontal well if the total volume of gas produced by that well does not exceed certain thresholds. For a severer filing quarterly returns, the gas is exempt if the well produces an average quarterly gas volume of 910 Mcf or less as measured over the preceding year.

The bill also exempts from the severance tax gas severed from all exempt domestic wells – generally wells owned by a landowner for the purpose of providing gas for the owner's domestic use. Under continuing law, only wells designated as exempt domestic wells on or after June 30, 2010, are exempt from severance tax on the basis of the exempt status.[139] In lieu of paying a severance tax, the bill requires the owners of such wells, except for an exempt domestic well designated before June 30, 2010, to pay an annual $60 fee to DNR by March 31 of each year. Collected fees are credited to the Oil and Gas Well Fund. Under current law, exempt domestic wells designated on or after June 30, 2010, are subject to an annual cost recovery assessment of $60, payable by July 1. As discussed above, the bill repeals this assessment.

Horizontal well severance tax

(R.C. 5749.01 and 5749.02)

Beginning July 1, 2015, the bill levies a new value-based severance tax on oil and gas severed from a horizontal well, and condensate and NGL byproducts thereof, and exempts that oil and gas from continuing law's volume-based tax. The new tax, similar to continuing law's severance tax, is imposed on the person that severs the oil or gas. The table below summarizes the base and rates of the new tax, categorized according to each resource. Gas is taxed at one of two rates depending on whether the gas is placed directly into the natural gas distribution system or processed first to extract condensate or NGLs.

	Tax base (Quarterly)	Tax rate
Oil	Barrels severed × average oil spot price	6½%
Unprocessed Gas	Mcf severed × average gas spot price	6½%
Processed Gas	Mcf collected after processing × average gas spot price	4½%
Condensate	Barrels separated and collected × average condensate spot price	6½%
NGLs	BTUs separated and collected × average NGL spot price	4½%

As the table indicates, the new tax is based on the product of two variables – the "spot price" of severed gas, oil, condensate, or NGL multiplied by the quantity of each resource severed from, or separated from oil or gas severed from, a horizontal well. The Tax Commissioner calculates the quarterly spot price for a unit of each hydrocarbon by averaging each day's closing spot price reported for that hydrocarbon during the quarter beginning six months before the current quarter, as reported by a publicly available source determined by the Commissioner. The spot price for condensate is

[139] R.C. 1509.31(B).

based on the price of Marcellus-Utica condensate, and the spot price for NGLs is based on the price of natural gas plant liquids composite.

The bill requires the Commissioner to post average quarterly spot prices for oil, gas, condensate, and NGLs applicable to each quarter on the Department of Taxation's website by the last day of the first month of the quarter for which the tax is due. Thus, the average quarterly spot price applicable for a particular quarter is made available to taxpayers several months before the due date of the severance tax return (see "**Return due dates**," below).

Horizontal well revenue distribution

All revenue collected from the new horizontal well severance tax is first credited monthly to the Oil and Gas Well Fund and the Geological Mapping Fund according to a deposit schedule prescribed by the Director of OBM on or after July 1 of each year. In creating the deposit schedule, the bill requires the Director to consider amounts currently appropriated from those funds compared to the funds' current balance and anticipated revenue to those funds from other sources. The first required transfer, for November 2015, must occur by December 15, 2015.

After crediting revenue to DNR, the Director quarterly credits remaining horizontal well severance tax revenue as follows:

- 80% to the General Revenue Fund;
- 10% to the County Severance Tax Fund (see "**Revenue to counties**," below);
- 5% to a custodial fund called the Severance Tax Infrastructure Fund (see "**Ohio Shale Products Regional Commission**," below);
- 5% to a custodial fund called the Severance Tax Endowment Fund (see "**Ohio Shale Products Regional Commission**," below).

Interest earnings on money in the latter three funds is credited to the respective fund.

Enforcement of horizontal well severance tax

(R.C. 5703.19)

For purposes of enforcing the new severance tax, the bill authorizes the Tax Commissioner to inspect the books and records of any person involved in the sale or transfer of oil, gas, condensate, or NGLs.

Revenue to counties

(R.C. 190.03, 190.04, 321.50, 1509.11, and 5749.02)

Under the bill, all horizontal well severance tax revenue credited to the County Severance Tax Fund must be distributed quarterly to each county treasury. The amount each county receives is proportionate to the number of horizontal wells located in the county on the last day of the preceding year that had been drilled or for which drilling had been initiated pursuant to a DNR permit, compared to such wells located in the entire state on that day. The proportion is calculated for each year by the Chief of DNR's Division of Oil and Gas Resources Management and certified to the Director of OBM and the Tax Commissioner.

Once received by the county treasury, the money is to be credited to a special county fund called the "Severance Tax Fund." Money in each county's Severance Tax Fund is distributed to local governments in the county according to an order issued by the county's budget commission, which, under continuing law, is a commission consisting of the county auditor, prosecutor, treasurer, and, in some counties, two additional elected members. The primary functions of the budget commission under continuing law include auditing annual tax budgets of taxing authorities in the county, determining annual property tax rates for each taxing authority, and distributing property tax revenue to each taxing authority. The bill requires the budget commission to establish procedures and standards for distributing the money, but the bill does not require the commission to adopt any particular procedure or standard.

Ohio Shale Products Regional Commission

(R.C. 190.01 to 190.04)

The bill requires horizontal well severance tax revenue credited to the Severance Tax Infrastructure Fund and Severance Tax Endowment Fund to be awarded as grants to local governments in counties with active oil and gas development in the shale formations (defined as "eligible subdivisions" and "eligible counties"). The bill requires the Chief of DNR's Division of Oil and Gas Resources Management to annually update the list of eligible counties. Both funds, which are custodial and not in the state treasury, are administered by a new commission created by the bill called the Ohio Shale Products Regional Commission.

Members and administration

The Ohio Shale Products Regional Commission be responsible for all of the following:

(1) Awarding grants to eligible subdivisions from the Severance Tax Infrastructure Fund and Severance Tax Endowment Fund;

(2) Identifying "local match programs" for investments in eligible subdivisions;

(3) Assisting the short-term and long-term needs of eligible subdivisions;

(4) Overseeing the long-term success of eligible subdivisions.

The Commission is a 13-member body with nine members appointed by the Governor and four ex officio members. The nine appointed members include the following:

(1) A county or civil engineer;

(2) A person experienced in local economic development;

(3) A representative of the active oil and gas production region overlaying Ohio's shale formations;

(4) A representative of eligible counties;

(5) A representative of municipal corporations that are eligible subdivisions;

(6) A representative of townships that are eligible subdivisions;

(7) A person recommended for appointment by the Speaker of the House;

(8) A person recommended for appointment by the President of the Senate;

(9) The president of the nonprofit corporation, The Foundation for Appalachian Ohio, or the president's designee.

Appointed members serve four-year, staggered terms except for the representative of the Foundation for Appalachian Ohio, who is a permanent member of the Commission. The bill requires the Governor to appoint members by October 1, 2015, and authorizes the Governor to remove any appointed member for any of several specified reasons (for example, if the member is inefficient or derelict in the discharge of the member's duties or if the member is found by the Ohio Ethics Commission to have violated Ohio ethics law). An appointed member is deemed to automatically resign from the Commission if the member misses 60% or more of Commission meetings over a two-year period. Additionally, the Governor may not appoint someone to the committee who has been convicted of or pled guilty or no contest to a felony offense.

Any member, including an ex officio member, serving on the Commission is deemed to resign automatically upon the member's indictment for a felony offense.

In addition to the nine appointed members, the Commission has the following four ex officio members:

(1) The Director of DNR;

(2) The Chief Investment Officer of JobsOhio;

(3) The Director of Transportation;

(4) The Director of the Governor's Office of Appalachian Ohio.

Any member except for the representative of The Foundation for Appalachian Ohio may be elected chairperson or vice-chairperson of the Commission by the Commission's members. Meetings of the Commission are subject to the requirements of Ohio's Open Meetings Law (R.C. 121.22), and documents of the Commission are public records.

Members of the Commission may be reimbursed for their official travel expenses. The Commission may incur expenses to help the Commission in the performance of its duties. The bill requires the Governor's Office of Appalachian Ohio to provide staff and administrative assistance to the Commission upon request. Any such expenses of the Commission or the Governor's Office of Appalachian Ohio are paid from the Severance Tax Infrastructure Fund and, beginning on or after July 1, 2025, from the Severance Tax Endowment Fund, up to a certain amount.

The Ohio Shale Products Regional Commission is the trustee of the money in the Severance Tax Infrastructure Fund and Severance Tax Endowment Fund and is the only body able to withdraw money from those funds. Upon the request of the Commission, the bill requires the Treasurer of State to select one or more investment managers to invest the money in those funds. Any selected investment manager is subject to the investment limitations imposed on the Ohio Public Employees Retirement System and is bound by interested party and conflict of interest restrictions similar to those applicable to the System.

On or before November 1 of each year, the bill requires the Commission to submit a report to the Governor that includes the financial statements for the Severance Tax Infrastructure Fund and Severance Tax Endowment Fund and persons requesting or receiving money from those funds and for what purpose. The report may be audited by the Auditor of State.

Grants to eligible subdivisions

In addition to funding the administrative expenses of the Commission and the expenses of the Governor's Office of Appalachian Ohio for assisting the Commission, money in the Severance Tax Infrastructure Fund and Severance Tax Endowment Fund must be used by the Commission to award grants to eligible subdivisions. The Commission may award grants from the Severance Tax Infrastructure Fund to "support and supplement investments" in eligible subdivisions.

In contrast, the Commission may not award grants or withdraw money from the Severance Tax Endowment Fund until July 1, 2025. However, on or after that date, the Commission may award grants from that fund to any subdivision that is or has been an eligible subdivision for projects that "target long-term growth and continued prosperity" in those subdivisions.

Severance tax homestead use exemption

(R.C. 5749.03)

Beginning July 1, 2015, the bill eliminates an exemption from the severance tax for resources with an annual value of not more than $1,000 that are severed from land owned by a severer and used in or used to improve the severer's homestead.

Severance tax administration

(R.C. 5749.04, 5749.06, and 5749.17)

Beginning July 1, 2015, the bill makes several administrative changes applicable to all severance taxes.

Severance tax permits

Current law requires a severer to obtain a license from the Tax Commissioner, or, if required to do so under another provision of law, a permit from DNR before severing natural resources from Ohio's soil or water. Under the bill, the Commissioner would no longer issue severance licenses. Instead, severers would have to obtain a permit from or register with DNR. However, before severing natural resources, severers must apply to the Commissioner to open a severance tax account.

Return due dates

Under continuing law, severers are generally required to file returns for natural resources severed in each calendar quarter unless the Tax Commissioner prescribes a different reporting period. Current law requires severers to file returns 45 days after the end of a calendar quarter or other prescribed reporting period. The bill adjusts the return due dates by requiring returns to be filed no later than the 15th day of the second month following the end of each quarter or other reporting period.

Revenue transfers

The bill provides for monthly distribution of severance tax revenues instead of the current quarterly distribution schedule. Current law requires the Tax Commissioner, by the 15th day of the month following the end of each calendar quarter (i.e., January 15, April 15, July 15, and October 15) to certify to the Director of OBM the total amount in the fund that holds all severance tax revenue – the Severance Tax Receipts Fund – after accounting for amounts set aside for severance tax refunds. The certification must include the proportion of such revenue attributed to the tax on each type of natural resource.

The bill instead requires the Tax Commissioner to make this certification by the 15th day of each month. Additionally, after making this certification, the bill requires the Tax Commissioner to provide for payment of severance tax revenue from the Severance Tax Receipts Fund to the funds to which each severance tax is required to be credited.

Disclosure of severance tax information

Current law appears to authorize DNR to publicly disclose severance tax information given to it by the Tax Commissioner for the purpose of enforcing oil and gas regulatory laws. The bill explicitly limits the ability of DNR to disclose severance tax information by allowing disclosure only to the Attorney General for purposes of enforcing those laws.

Effective date

(Section 812.20)

The severance tax provisions take effect July 1, 2015.

Tax credits and exemptions

Job creation and retention tax credits

(R.C. 122.17, 122.171, 5725.98, 5726.50, 5729.98, 5733.0610, 5736.50, 5747.058, and 5751.50)

The bill makes several revisions to the computation and administration of the job creation tax credit (JCTC) and the job retention tax credit (JRTC). Under continuing law, the Tax Credit Authority (TCA) is authorized, upon the application of a taxpayer and the recommendation of JobsOhio and the Director of Development Services, to enter into JCTC and JRTC agreements with the taxpayer to foster job creation, job retention, and capital investment in this state.

The bill revises the computation of JCTCs so that the amount of the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll (taxable income paid to Ohio residents) minus baseline payroll (taxable income paid to Ohio residents during the 12 months preceding the agreement). For JRTCs, the amount of the credit would equal an agreed-upon percentage of the taxpayer's Ohio employee payroll. Under current law, both credits are calculated as a percentage of the taxpayer's Ohio income tax withholdings (which could include nonresidents working in Ohio). The bill's change to the credit base would prevent a reduction in the credit amount due to declining Ohio income tax rates.

The bill also removes the 75% cap currently placed on the JRTC percentage. The JRTC percentage is multiplied by the taxpayer's Ohio employee payroll (or, under current law, the taxpayer's Ohio income tax withholdings) to determine the amount of the credit. Under continuing law, the JRTC percentage is negotiated by the TCA and the taxpayer as part of the JRTC agreement.

The bill authorizes the TCA to require the taxpayer to refund all or a portion of a JCTC or JRTC if the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the tax credit agreement or files for bankruptcy. Under continuing law, the TCA may seek to recoup all or a portion of the credit if the taxpayer fails to maintain operations at the project site (generally, the business's place of operations in Ohio) for the period of time specified in the tax credit agreement.

The bill reduces from 60 to 30 days the amount of time a taxpayer has to submit a copy of a JCTC or JRTC certificate after a request of the Tax Commissioner or the Superintendent of Insurance. Continuing law permits the Tax Commissioner or Superintendent of Insurance to request a copy of the certificate only when the taxpayer fails to include a copy with their return as required by continuing law.

The bill authorizes the TCA, upon mutual agreement of the taxpayer and the Development Services Agency, to revise JCTC agreements originally approved in 2014 or 2015 to conform with the bill's revisions to the credit. Otherwise, the bill's revisions apply to JCTC and JRTC agreements entered into after the bill's 90-day effective date.

Evaluation of JRTC and data center sales tax exemption applications

(R.C. 122.171 and 122.175)

The bill revises the role of the Director of Budget and Management, the Tax Commissioner, and the Superintendent of Insurance in evaluating applications for JRTCs and data center sales tax exemptions. Continuing law authorizes the Ohio Tax Credit Authority (TCA) to grant JRTCs to qualifying businesses that complete a capital investment project and agree to retain a specified number of full-time equivalent employees or maintain a certain threshold payroll. The TCA is also authorized to exempt purchases of certain personal property that will be used at an eligible computer data center by a business, or group of businesses, that agrees to invest at least $100 million in the data center and maintain a minimum payroll of $1.5 million.

Under current law, the Director of Budget and Management, the Commissioner, and the Director of Development Services are required to review JRTC and data center sales tax exemption applications and determine the economic impact of proposed projects on state and the affected political subdivisions. These determinations must be sent, along with a recommendation on the application, to the TCA to assist in its determination of whether to grant the credit or exemption. The Superintendent is required to complete this process with respect to JRTC applications submitted by insurance companies.

The bill eliminates the requirement that such government officials' submission to the TCA include a recommendation on the application. The Director of Development Services would still be required to determine the local economic impact of proposed projects and submit recommendations to the TCA.

Current expense levies allocated to partnering community schools

(R.C. 5705.21 and 5705.212)

Continuing law authorizes certain school districts to propose and levy a property tax for current operating expenses and allocate a portion of the proceeds to one or more "partnering" community schools. The tax may be levied for up to ten years or for a continuing period of time. It may be renewed or replaced, imposed as an "incremental levy," or combined with a bond levy for permanent improvements. If combined with such a bond levy, only the current expense levy revenue may be shared; the bond levy is solely for the purpose of the school district. A levy imposed for a continuing period of time may be reduced by initiative petition in the same manner as any school district continuing expense levy.

The resolution and ballot language proposing such a levy must specify the portion of the proceeds allocated to the school district and the portion allocated to partnering community schools. The revenue allocated to the partnering community schools is credited to a "partnering community schools fund" created by the school district board of education and distributed to the partnering community schools on a per-pupil basis. Only pupils residing in the school district levying the tax are counted for the purposes of determining a partnering community school's share of the revenue deposited to the partnering community schools fund.

Qualifying school districts

The bill extends the authority to levy property taxes for community schools to any school district that contains a community school sponsored by an "exemplary" sponsor according to the annual ratings published by the Department of Education.[140] Current law limits this authority to the Cleveland Metropolitan School District and the Columbus City School District.

The bill retains all provisions in current law pertaining specifically to the Cleveland Metropolitan School District, but removes criteria that were enacted specifically to enable the Columbus City School District to seek approval of such a levy. A proposed tax in the Columbus district was rejected by voters in 2013.

Eligible partnering community schools

The bill revises the qualifications for community schools that are allocated levy revenue in school districts other than the Cleveland Metropolitan School District. Under the bill, the community school must be located within the territory of the school district and be sponsored by a sponsor rated "exemplary" in the ratings most recently published before the resolution proposing the levy is certified to the board of elections. Under continuing law unchanged by the bill, a community school located in the Cleveland Metropolitan School District must be sponsored by the district or be a party to an agreement with the district whereby the district and the community school endorse each other's programs.

Allocating all revenue to partnering community schools

The bill authorizes school districts other than the Cleveland Metropolitan School District to levy a property tax solely for and on behalf of one or more partnering

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[140] Continuing law requires the Department to annually rate all entities that sponsor community schools as either "exemplary," "effective," or "ineffective" based on academic performance of students, adherence to quality practices prescribed by the Department, and compliance with applicable laws and administrative rules. R.C. 3314.016.

community schools. Current law does not cap the percentage of levy revenue that may be allocated to community schools, but could imply that at least a portion must be levied for the school district's own expenses. The resolution and ballot language proposing such a levy would be required to specify that all of the levy proceeds are allocated to partnering community schools.

Tax Expenditure Review Committee

(R.C. 5703.48 and 5703.94)

The bill creates a temporary committee – composed of four legislators, two state agency heads, and three appointees of the Governor – to review the effectiveness of many existing "tax expenditures." This review occurs over four years, beginning in 2016, during which each such tax expenditure is scheduled to be reviewed once. The new committee is named the Tax Expenditure Review Committee.

"Tax expenditure"

The bill adopts a modified version of existing law's definition of "tax expenditure." Under continuing law, the term is used to define the content of the Department of Taxation's Tax Expenditure Report that accompanies the Governor's proposed biennial operating budget. Under current law, a tax expenditure is "any tax provision in the Revised Code that exempts, either in whole or in part, certain persons, income, goods, services, or property from the effect of taxes established in the Revised Code, including, but not limited to, tax deductions, exemptions, deferrals, exclusions, allowances, credits, reimbursements, and preferential tax rates."

The bill modifies that definition to specify that a provision qualifies as a tax expenditure only if it relates to a tax levied by the state and only if it reduces revenue to the GRF. This modified definition reflects the current understanding of tax expenditures by the Department of Taxation in its preparation of the Tax Expenditure Report. According to the most recently issued Tax Expenditure Report, there are currently 128 tax expenditures (see Tax Expenditure Report, Fiscal Years 2016-2017, available at www.blueprint.ohio.gov/doc/budget/State_of_Ohio_Budget_Tax_Expenditure_Report_FY-16-17.pdf).

Duty of committee

The bill requires the Tax Expenditure Review Committee to review most existing tax expenditures once over a four-year period (see "**Review schedule**," below). The Committee recommends whether each such tax expenditure should be continued, modified, or repealed and may also recommend "accountability standards" for any future reviews of such expenditures.

By the last day of 2016, 2017, 2018, and 2019, the Committee is required to issue a report of its recommendations for each tax expenditure it reviewed for that year (see "**Review schedule**," below). If the Committee recommends repealing a tax expenditure, the report must include suggestions for contending with amounts of that expenditure earned or received, but not yet realized, by taxpayers for a period before the recommended repeal date. The Committee must deliver a copy of this report to the Governor, the Speaker of the House, the Senate President, the minority leaders of each chamber, and each legislator that serves on each chamber's tax-related standing committee.

After completing its work, the Committee ceases to exist after 2019.

Review criteria

The bill establishes the following factors the Committee may consider in reviewing existing tax expenditures:

- The number and classes of persons that benefit from the tax expenditure;
- State and local fiscal effects;
- Public policy objectives, for which the committee may consider legislative history, the sponsor's intent, and the tax expenditure's effects on economic development, "high-wage jobs," and "community stabilization";
- The success of the tax expenditure in meeting its objectives;
- Whether the objectives could be served by other means or with less fiscal cost;
- Whether the objectives could have been accomplished by appropriations rather than tax expenditures;
- Whether the tax expenditure is more expansive than intended or has any other unintended effects, including giving an unfair competitive advantage to recipients at the expense of other businesses.

Review schedule

The bill requires the Committee to review and report on each of the following groupings of tax expenditures, arranged according to each tax (first column of the table below), and the year in which the review must occur (first row of the table).

	2016	2017	2018	2019
Sales and use tax (expenditure is exemption unless noted)	(1) Copyrighted motion pictures and films	(1) Value of motor vehicle trade-ins	(1) Property used in eligible computer data centers	(1) Property used in energy or waste conversion facilities
	(2) Ships and rail rolling stock used in interstate or foreign commerce	(2) Value of watercraft trade-ins	(2) Sales to facilities financed with public hospital bonds	(2) Property used in highway transportation for hire
	(3) Emergency and fire vehicles and equipment	(3) Sales to the state and subdivisions	(3) Food sold to students on school premises	(3) Sales to veterans' headquarters
	(4) Bulk water for residential use	(4) Transportation of persons and property	(4) Controlled circulation magazines	(4) Used mobile homes
	(5) Tangible personal property (TPP) for making retail sales	(5) Packaging and packaging equipment	(5) Sales by churches and nonprofits	(5) Tax reduction on new mobile homes
	(6) Computers sold to certified teachers	(6) Agricultural "use on use" property	(6) Sales to churches and nonprofits	(6) TPP used in mining
	(7) TPP sold to qualified motor racing teams	(7) Durable medical equipment	(7) Building and construction materials and services used in certain structures	(7) TPP used in agriculture
	(8) Equipment used in private warehouses and distribution centers with inventory primarily shipped out of state	(8) Property for use in a retail business outside Ohio	(8) Prescription drugs and selected medical items	(8) TPP used in commercial fishing
	(9) TPP and services for maintenance of fractionally owned aircraft	(9) Motor vehicles for use outside Ohio	(9) Sales of animals by nonprofit shelters	(9) TPP used to produce farming TPP

	2016	2017	2018	2019
	(10) TPP and services for maintenance of aircraft (11) Flight simulators (12) Cable and video service sold by cable or video service providers (13) Tax cap on fractionally owned aircraft (14) Partial refund on TPP used by electronic information service providers	(10) TPP used in preparing eggs for sale (11) TPP for storing, preparing, and serving food (12) Agricultural land tile and portable grain bins (13) TPP and services used in providing broadcasting services (14) TPP and services to electricity providers (15) TPP used directly in providing public utility services (16) TPP used to produce printed materials (17) TPP used primarily in manufacturing TPP (18) TPP used in research and development (19) Property used to fulfill a warranty or service contract	(10) Sales to qualifying nonprofit corporations (11) Drugs distributed to physicians as free samples	

	2016	2017	2018	2019
		(20) TPP used in electronic publishing (21) Telecom service used by qualified call center (22) Vendor discount		
Income tax (expenditure is deduction unless noted)	(1) Uniformed services retirement income	(1) Enterprise zone day care and training credit	(1) Medical insurance paid by taxpayers not eligible for employer-sponsored medical plans	(1) Social security and railroad retirement benefits
	(2) Pell grant or Ohio college opportunity grant proceeds	(2) Enterprise zone employee credit	(2) Active-duty military income	(2) Small business investor income deduction
	(3) Exemption for pre-1972 trusts	(3) Disability income	(3) Organ donation expenses	(3) Senior citizen tax credit
	(4) Personal exemption credit	(4) Contributions to college savings programs	(4) Joint filer credit	(4) Lump sum distribution credit
	(5) Resident credit for income taxed by another state	(5) Contributions to medical savings accounts	(5) Credit for taxpayers with income below $10,000	(5) Retirement income credits
	(6) Campaign contribution credit	(6) Personal, spousal, and dependent exemption	(6) Displaced worker job training credit	(6) Credit for pass-through entity investor's share of financial institutions tax
	(7) Credit for adoption related expenses	(7) Dependent care credit	(7) Earned income tax credit	
	(8) Ethanol plant investment credit	(8) Grape production credit		

	2016	2017	2018	2019
		(9) Small business investment credit		
Commercial activity tax (expenditure is exclusion unless noted)	(1) Exemption for pre-1972 trusts (2) Receipts from sale of anti-neoplastic drugs (3) Receipts from sale of agricultural commodities by commodity handlers (4) Exclusion of first $1 million of gross receipts	(1) Receipts from a financial institution for certain services (2) Receipts received by a professional employer organization from client employer	(1) State and federal cigarette excise taxes (2) Motor vehicle transfer receipts (3) Unretained real estate brokerage receipts (4) Credit for increased qualified research and development expenses (5) Credit for net operating loss carry-forwards and other deferred tax assets	(1) State and federal alcoholic beverage excise taxes (2) Horse racing taxes and purse (3) Qualified distribution center receipts (4) Receipts from sales of uranium from qualifying uranium enrichment zones (5) Research and development loan program credit
Financial institutions tax	(1) Credit for Division of Financial Institutions assessments	None	(1) Credit for increased qualified research and development expenses	None
Public utility excise taxes	(1) $25,000 exemption from gross receipts for each public utility	None	(1) Exemption for municipal utilities and nonprofit waterworks	(1) Credit for certain natural gas companies (2) Sales to other public utilities for resale

	2016	2017	2018	2019
				(3) Exemption for qualified end-users
Insurance taxes	None	None	None	(1) Deduction for premiums received from qualified small business alliances (2) Ohio Life and Health Guaranty Association contribution credit (3) Credit for small insurers
Wine and beer taxes	None	(1) Small brewer's credit	(1) Sacramental wine exemption (2) Small wine producer's credit	(1) Advance payment credit or discount
Tobacco taxes	None	None	None	(1) Discount for cigarette tax stamps (2) Discount for timely payment of other tobacco products excise tax
Multi-tax expenditures	(1) Motion picture credit (2) Historic structure rehabilitation credit	(1)Job creation tax credit (2) Job retention tax credit	None	(1) Credit for venture capital loan loss (2) New Markets tax credit

Committee composition

The Committee is composed of nine members: the chairpersons of each chamber's tax-related standing committees, the ranking minority members of those committees, the Tax Commissioner or Commissioner's designee, the Director of Budget and Management or the Director's designee, and three members of the public, appointed by the Governor. The Governor designates the Committee's chairperson. Appointed members' terms on the Committee coincide with the term of each General Assembly.

Meetings

The bill requires the Committee to meet at least once annually to complete its review of and report on the tax expenditures described above. The Committee may hold additional meetings at the chairperson's discretion. The Committee's meetings are open to the public to the extent required under the existing Open Meetings Law (R.C. 121.22), and the Committee may, but is not required to, allow any person to present testimony or evidence related to a tax expenditure.

Proposed tax expenditures

The bill requires any bill introduced in the General Assembly that proposes to enact or modify a tax expenditure to include a statement explaining the expenditure's public policy objectives.

Administration of county 9-1-1 assistance

(R.C. 128.54 and 128.55; conforming changes in R.C. 128.57)

Transfers to the Next Generation 9-1-1 Fund

The bill requires the Tax Commissioner to transfer funds remaining in the Wireless 9-1-1 Government Assistance Fund to the Next Generation 9-1-1 Fund *at the direction of the Statewide Emergency Services Internet Protocol Network Steering Committee*. Current law requires these transfers to be made on a monthly basis after disbursements are made to counties from the Wireless 9-1-1 Government Assistance Fund. Under continuing law, the Next Generation 9-1-1 Fund is used for costs associated with phase II wireless systems and a county's migration to next generation 9-1-1 systems and technology.[141]

Remedying shortfalls in monthly county disbursements

The bill requires that any shortfall in monthly county disbursements from the Wireless 9-1-1 Government Assistance Fund be remedied in the following month. Under continuing law, counties receive monthly disbursements from the fund based on how much was distributed to each county in the year 2013. The funds come from a 25-cent monthly charge on Ohio wireless subscribers (and a charge of 0.5% of the sale price

[141] R.C. 128.022, not in the bill.

of prepaid wireless services).[142] Under continuing law, if the amount available in the Wireless 9-1-1 Government Assistance Fund is insufficient to make the required monthly disbursements, each county's share is proportionately reduced for the month. Current law does not provide for this shortfall to be remedied.

142 R.C. 128.42, not in the bill.