

OHIO

House

of

Representatives

JOURNAL

TUESDAY, APRIL 12, 2005

THIRTY-SEVENTH DAY

Hall of the House of Representatives, Columbus, Ohio
Tuesday, April 12, 2005 at 11:00 o'clock a.m.

The House met pursuant to adjournment.

Prayer was offered by Monsignor Joseph Hendricks of St. Brigid of Kildare Church in Dublin, Ohio, and Reverend A. Victor Brown of the Metropolitan CME Church, followed by the Pledge of Allegiance to the Flag.

The journal of the previous legislative day was read and approved.

The following guests of the House of Representatives were recognized by Speaker Husted prior to the commencement of business:

Kyle Cayton received House Resolution No. 24, presented by Representative Book-89th district.

Students from the Fairfield Career Center, guests of Representative Schaffer-5th district.

Mayor Tom Perciak, a guest of Representative T. Patton-18th district.

Mayor Jeff Miller, a guest of Representative Flowers-19th district.

Justin Fiksel, a guest of Representative G. Smith-24th district.

Zeke Childers and students from Diamon Oaks High School, guests of Representative Driehaus-31st district.

Gloria Harms, Frank Meyers, and Students from Akron Public Schools, guests of Representative Williams-41st district.

Students from Oregon City Schools, guests of Representative Perry-49th district.

Barb Stura, Sam Battle, Matt Blansett, David Nemcovski, Katie Calhoun, and Brandy Phillips, guests of Representative Martin-57th district.

Amanda Martin, Matt Pinkus, Kaley Anderson, Jessica Hensley, Rachel Skok, Rick Brady, Bob Hermiller, and Zach Myers, guests of Representative Chandler-68th district.

Jerry and Lori Kaup, and students from Lima North Middle School, guests of Representative Faber-77th district.

Debbie Cook, Dennis West, Peggy Brown, and students from the Laurel Oaks Career Technical Center, guests of Representative Daniels-86th district.

Steve and Lisa Cayton, Bob Johnson, Teresa Canter, and students from South Webster High School, guests of Representative Book-89th district.

INTRODUCTION OF BILLS

The following bills were introduced:

H. B. No. 190-Representatives Cassell, Schaffer, Miller, DeGeeter, J. Stewart, Chandler, Hood, Skindell, Yuko, Fende.

To amend section 1541.03 of the Revised Code to prohibit the Division of Parks and Recreation in the Department of Natural Resources from adopting rules establishing a fee for parking a motor vehicle in a state park or for admission to a state park and to declare an emergency.

H. B. No. 191-Representatives DeGeeter, Hartnett, Beatty, Cassell, Distel, Strahorn, McGregor, Perry, Martin, Trakas, Koziura, Brown, Reidelbach, Schaffer, Taylor, Allen, Webster, Flowers.

To amend section 2950.99 of the Revised Code to make a violation of the prohibition under the Sex Offender Registration and Notification Law against certain offenders residing within 1,000 feet of any school premises a felony of the fifth degree.

H. B. No. 192-Representatives DeGeeter, Cassell, T. Patton, Seitz, McGregor, Hood, Raussen, Schneider, D. Evans.

To amend sections 4503.181, 4503.19, 4503.21, 4503.23, and 4549.10 and to enact section 4503.192 of the Revised Code to require that motor vehicles carry only one license plate, to be displayed on the rear of the vehicle.

H. B. No. 193-Representatives Daniels, G. Smith, Fessler, Combs, Wolpert, C. Evans, Martin.

To amend sections 9.90, 3917.01, 3917.06, and 3917.07, to enact new section 3917.03 and section 3917.02, and to repeal section 3917.03 of the Revised Code to permit the sale of group life insurance to specified groups and provide the Superintendent of Insurance with the discretion to authorize the sale of group life insurance to additional groups.

H. B. No. 194-Representatives Kearns, Bubb, Buehrer, Fessler, McGregor, S. Patton, Raussen, Seaver, Seitz, Setzer, Skindell, Wolpert.

To amend sections 511.27, 1545.21, 1901.07, 3501.01, 3501.02, 3501.17, 3503.16, 3505.01, 3505.32, 3509.01, 3509.03, 3509.05, 3511.02, 3511.04, 3511.11, 3513.01, 3513.05, 3513.12, 3513.121, 3513.151, 3513.262, 3513.30, and 5705.23 of the Revised Code to require primary elections, including those held in presidential election years, to be held on the first Tuesday after the first Monday in May.

H. B. No. 195-Representatives Kearns, Aslanides, Boccieri, Chandler, Combs, DeGeeter, C. Evans, D. Evans, Faber, Garrison, Gilb, Hartnett, Harwood, Latta, Law, McGregor, Miller, T. Patton, Schaffer, Seaver, Setzer, Skindell, J. Stewart, Strahorn, Trakas, Ujvagi, Willamowski, Wolpert.

To amend section 5533.09 of the Revised Code to designate Interstate Routes 70 and 71 as the "Purple Heart Trail."

H. B. No. 196-Representatives Kearns, Barrett, Chandler, Collier, C. Evans, Hartnett, Harwood, McGregor, Miller, S. Patton, Perry, Schaffer, Seitz, Setzer.

To amend section 3727.06 of the Revised Code to allow advanced practice nurses to make hospital admissions.

Said bills were considered the first time.

REPORTS OF STANDING AND SELECT COMMITTEES AND BILLS FOR SECOND CONSIDERATION

Representative Williams submitted the following report:

The standing committee on Finance and Appropriations to which was referred **H. B. No. 66**-Representative Calvert, having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: 06-07 OPERATING BUDGET

Representative Calvert moved to amend the title as follows:

Add the names: "Flowers, Martin, McGregor, Peterson, Schlichter, Webster."

CHARLES E. CALVERT
JIMMY STEWART
MARK D. WAGONER
JIM MCGREGOR
MATTHEW J. DOLAN
JON M. PETERSON
DIXIE J. ALLEN
SHAWN N. WEBSTER
JAMES PETER TRAKAS
ANTHONY CORE
MERLE GRACE KEARNS

TOM RAGA
JOHN SCHLICHTER
THOMAS F. PATTON
KEVIN DEWINE
EARL MARTIN
BILL COLEY
MICHELLE G. SCHNEIDER
CLYDE EVANS
LARRY L. FLOWERS
JAMES M. HOOPS

The following members voted "NO"

TYRONE K. YATES
FRED STRAHORN
BARBARA A. SYKES

WILLIAM J. HARTNETT
MICHAEL J. SKINDELL
PETER S. UJVAGI

DALE MILLER
JOYCE BEATTY

KEITH L. FABER
BRIAN G. WILLIAMS

The report was agreed to.

The bill was ordered to be engrossed and placed on the calendar.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 50-Representatives Setzer, Hughes, C. Evans, DeWine, Gilb, McGregor, Fessler, Latta, Walcher, D. Evans, Willamowski, Seaver, Perry.

To amend section 2907.09 of the Revised Code to expand and modify the penalty for the offense of public indecency, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Setzer moved that **Sub. H. B. No. 50**-Representative Setzer, et al., be informally passed and retain its place on the calendar.

The motion was agreed to.

On motion of Representative Blasdel, the House recessed.

The House met pursuant to recess.

Sub. H. B. No. 66-Representatives Calvert, Flowers, Martin, McGregor, Peterson, Schlichter, Webster.

To amend sections 9.06, 9.24, 9.833, 9.90, 101.68, 102.01, 105.41, 108.05, 109.57, 109.572, 109.91, 117.10, 117.16, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 123.152, 123.17, 125.041, 125.05, 125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.09, 140.01, 140.08, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 150.07, 150.10, 153.44, 173.40, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 307.88, 317.08, 317.36, 319.20, 319.301, 319.302, 319.54, 321.24, 323.01, 323.152, 323.17, 325.31, 329.04, 329.051, 339.72, 339.73, 339.88, 340.03, 340.16, 718.09, 718.10, 723.52, 723.53, 742.59, 901.43, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 911.02, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 927.69, 1327.511, 1327.62, 1327.99, 1333.11, 1502.02, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1711.53, 1713.03, 1751.03, 1901.26, 1901.31, 1907.24, 2113.041, 2151.031, 2151.352, 2151.416, 2151.86, 2152.43, 2152.74, 2303.201, 2305.234, 2329.66, 2744.05, 2901.07, 2913.40, 2919.22, 2921.13, 2923.25, 2925.01, 2925.04, 2925.041, 2929.13, 2929.14, 2967.13, 3107.10,

3111.04, 3119.54, 3121.12, 3121.50, 3125.18, 3301.079, 3301.0710,
3301.0711, 3301.0714, 3301.0715, 3301.12, 3301.16, 3301.311, 3301.32,
3301.86, 3301.88, 3311.19, 3313.12, 3313.202, 3313.207, 3313.208,
3313.209, 3313.33, 3313.489, 3313.975, 3313.976, 3313.977, 3313.978,
3313.98, 3314.013, 3314.015, 3314.02, 3314.021, 3314.03, 3314.06,
3314.074, 3314.08, 3314.13, 3315.17, 3315.18, 3315.37, 3316.06, 3316.16,
3317.01, 3317.012, 3317.013, 3317.02, 3317.021, 3317.022, 3317.023,
3317.024, 3317.026, 3317.027, 3317.028, 3317.029, 3317.0212, 3317.0216,
3317.0217, 3317.03, 3317.05, 3317.052, 3317.053, 3317.06, 3317.081,
3317.09, 3317.10, 3317.16, 3317.20, 3317.21, 3317.22, 3317.23, 3317.50,
3317.51, 3318.011, 3318.33, 3319.081, 3319.17, 3319.22, 3319.235, 3319.55,
3323.021, 3323.091, 3323.14, 3323.16, 3327.01, 3332.092, 3333.04,
3333.044, 3333.12, 3333.121, 3333.27, 3333.28, 3333.36, 3333.38, 3334.01,
3334.02, 3334.03, 3334.07, 3334.08, 3334.09, 3334.10, 3334.11, 3334.12,
3334.15, 3334.16, 3334.17, 3334.18, 3345.32, 3353.01, 3353.06, 3353.07,
3365.01, 3365.02, 3365.021, 3365.04, 3365.07, 3365.10, 3375.40, 3375.48,
3375.49, 3375.54, 3375.55, 3377.03, 3379.04, 3381.07, 3381.17, 3383.02,
3501.141, 3501.17, 3701.021, 3701.023, 3701.146, 3701.65, 3702.141,
3702.51, 3702.68, 3702.74, 3703.01, 3703.03, 3703.04, 3703.05, 3703.06,
3703.07, 3703.08, 3703.10, 3703.99, 3705.24, 3709.29, 3709.34, 3712.03,
3714.07, 3721.01, 3721.03, 3721.07, 3721.15, 3721.21, 3721.50, 3721.51,
3721.52, 3721.56, 3721.58, 3722.01, 3722.02, 3734.01, 3734.28, 3734.57,
3734.901, 3734.9010, 3743.57, 3745.11, 3745.12, 3746.04, 3746.071,
3748.07, 3748.13, 3773.34, 3773.38, 3773.39, 3773.40, 3773.57, 3793.09,
3901.021, 3901.17, 3901.78, 3903.14, 3905.04, 3905.36, 3905.40, 3923.27,
4112.12, 4117.03, 4117.08, 4117.24, 4123.27, 4141.29, 4301.10, 4301.42,
4301.43, 4305.01, 4505.06, 4511.75, 4519.02, 4519.09, 4561.17, 4561.18,
4561.21, 4703.15, 4705.09, 4709.05, 4731.65, 4731.71, 4736.11, 4736.12,
4757.30, 4775.04, 4905.10, 4905.54, 4905.95, 4911.02, 4911.18, 4973.171,
5101.181, 5101.21, 5101.24, 5101.241, 5101.26, 5101.31, 5101.35, 5101.36,
5101.46, 5101.47, 5101.75, 5101.752, 5101.80, 5101.801, 5101.821, 5104.01,
5104.32, 5104.38, 5107.05, 5107.10, 5107.26, 5107.30, 5107.58, 5110.01,
5110.05, 5110.352, 5110.39, 5111.019, 5111.0112, 5111.02, 5111.021,
5111.023, 5111.025, 5111.042, 5111.06, 5111.082, 5111.11, 5111.111,
5111.113, 5111.16, 5111.19, 5111.20, 5111.204, 5111.21, 5111.22, 5111.221,
5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,
5111.255, 5111.257, 5111.26, 5111.261, 5111.263, 5111.264, 5111.27,
5111.28, 5111.29, 5111.291, 5111.30, 5111.31, 5111.32, 5111.33, 5111.62,
5111.85, 5111.87, 5111.88, 5111.911, 5111.97, 5111.99, 5112.03, 5112.08,
5112.17, 5112.30, 5112.31, 5115.20, 5115.22, 5115.23, 5119.61, 5120.09,
5120.16, 5120.48, 5120.51, 5121.01, 5121.02, 5121.03, 5121.04, 5121.05,
5121.06, 5121.061, 5121.07, 5121.08, 5121.09, 5121.10, 5121.11, 5121.12,
5121.21, 5122.03, 5122.04, 5122.31, 5123.01, 5123.046, 5123.047, 5123.049,
5123.0412, 5123.19, 5123.196, 5123.20, 5123.34, 5123.701, 5123.71,
5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 5126.056,
5126.057, 5126.12, 5139.01, 5139.36, 5153.16, 5502.01, 5502.03, 5517.02,

5540.01, 5540.09, 5543.19, 5549.01, 5573.13, 5575.01, 5701.03, 5703.052, 5703.053, 5703.47, 5703.50, 5703.70, 5703.80, 5705.02, 5705.091, 5705.214, 5705.29, 5705.391, 5705.392, 5709.07, 5709.40, 5709.41, 5709.73, 5709.77, 5709.78, 5711.21, 5711.22, 5713.08, 5715.24, 5719.041, 5725.19, 5727.01, 5727.02, 5727.06, 5727.10, 5727.11, 5727.111, 5727.12, 5727.81, 5727.82, 5727.84, 5727.85, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 5731.181, 5731.22, 5731.23, 5731.39, 5731.41, 5733.01, 5733.065, 5733.066, 5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5739.01, 5739.02, 5739.025, 5739.10, 5741.02, 5743.01, 5743.02, 5743.025, 5743.03, 5743.04, 5743.05, 5743.071, 5743.08, 5743.081, 5743.12, 5743.13, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 5743.34, 5743.35, 5743.51, 5743.62, 5743.63, 5747.01, 5747.02, 5747.05, 5747.08, 5747.331, 5747.70, 5747.80, 5747.98, 5749.02, 5919.33, 5920.01, 6109.21, and 6111.02; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 (3318.49), 5101.75 (173.42), 5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 5111.022 (5111.023), 5111.023 (5111.0114), 5111.112 (5111.113), 5111.113 (5111.114), 5111.231 (5111.232), 5111.257 (5111.258), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 (5121.02), 5121.02 (5121.03), and 5121.03 (5121.01); to enact new sections 5111.02, 5111.112, 5111.231, 5111.257, and 5111.262, and sections 9.901, 117.162, 120.36, 121.381, 121.382, 121.403, 122.083, 125.18, 131.022, 131.46, 153.692, 173.39, 173.391, 173.392, 173.393, 173.394, 173.395, 173.396, 173.397, 173.44, 173.45, 173.46, 173.47, 173.48, 173.49, 173.50, 341.192, 901.44, 907.111, 1327.70, 1327.71, 1547.721, 1547.722, 1547.723, 1547.724, 1547.725, 1547.726, 1751.271, 2925.15, 2927.30, 2967.24, 3125.191, 3310.01, 3310.02, 3310.03, 3310.04, 3310.05, 3310.06, 3310.07, 3310.08, 3310.09, 3310.10, 3310.11, 3310.12, 3310.13, 3310.14, 3310.15, 3310.16, 3310.17, 3314.035, 3314.061, 3314.29, 3316.043, 3317.034, 3317.035, 3317.201, 3318.111, 3319.0810, 3319.172, 3323.20, 3323.30, 3323.31, 3323.32, 3323.33, 3324.10, 3325.10, 3325.11, 3325.12, 3325.15, 3325.16, 3325.17, 3333.047, 3333.122, 3333.162, 3365.11, 3702.83, 3705.242, 3714.073, 3715.04, 3719.47, 3719.48, 3721.032, 3721.541, 3721.561, 3745.015, 3745.114, 3770.061, 3903.421, 4905.261, 4911.021, 5101.07, 5101.071, 5101.461, 5101.802, 5101.803, 5107.301, 5111.026, 5111.027, 5111.061, 5111.062, 5111.072, 5111.083, 5111.10, 5111.161, 5111.176, 5111.177, 5111.191, 5111.222, 5111.234, 5111.242, 5111.254, 5111.256, 5111.265, 5111.266, 5111.851, 5111.852, 5111.853, 5111.854, 5111.855, 5111.89, 5111.891, 5111.892, 5111.893, 5111.914, 5111.915, 5111.98, 5112.341, 5121.30, 5121.31, 5121.32, 5121.33, 5121.34, 5121.35, 5121.36, 5121.37, 5121.38, 5121.39, 5121.40, 5121.41, 5121.42, 5121.43, 5121.44, 5121.45, 5121.46, 5121.47, 5121.49, 5121.50, 5121.51, 5121.52, 5121.53, 5121.54, 5121.55, 5123.1910, 5540.032, 5703.057, 5705.219, 5707.031, 5727.031, 5727.241, 5743.021, 5743.022, 5743.031, 5743.072, 5743.321, 5743.71, 5743.72, 5743.73, 5743.74, 5743.75,

5743.76, 5747.056, 5751.01, 5751.011, 5751.012, 5751.02, 5751.021, 5751.03, 5751.031, 5751.032, 5751.033, 5751.034, 5751.04, 5751.05, 5751.06, 5751.07, 5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 5751.22, 5751.31, 5751.50, 5751.51, 5751.52, 5751.98, 5751.99, 5919.31, 5919.341, 6111.0210, 6111.0211, 6111.0212, and 6111.0213; and to repeal sections 181.53, 339.77, 742.36, 1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.0213, 3353.02, 3353.03, 3353.04, 3721.511, 3901.781, 3901.782, 3901.783, 3901.784, 5101.751, 5101.753, 5101.754, 5111.041, 5111.205, 5111.262, 5111.34, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5571.13, 5731.20, 5733.122, and 6111.028 of the Revised Code; to amend Sections 16.09, 19.01, 20.01, 22.03, 23.11, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub. H.B. 16 of the 126th General Assembly; to amend Sections 203.03.09 and 203.03.10 of Am. Sub. H.B. 68 of the 126th General Assembly; to amend Section 4 of Am. Sub. H.B. 516 of the 125th General Assembly; to amend Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as subsequently amended; to amend Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as subsequently amended; and to repeal Sections 59.19 and 147 of Am. Sub. H.B. 95 of the 125th General Assembly to make operating appropriations for the biennium beginning July 1, 2005 and ending June 30, 2007, and to provide authorization and conditions for the operation of state programs, and to further amend sections 3215.18, 5101.35, 5101.80, 5101.801, and 5153.16 of the Revised Code on January 1, 2006, to provide authorization and continuation for the operation of certain state programs, and to repeal Section 553.01 of this act on December 16, 2005, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Trakas moved to amend as follows:

In line 79199, delete "\$857,371,490 \$873,888,880" and insert "\$854,371,490 \$870,888,880"

In line 79201, delete "\$38,104,924 \$38,105,128" and insert "\$41,104,924 \$41,105,128"

Between lines 79232 and 79233, insert:

"CORRECTION OFFICER TO INMATE RATIO

A \$6,000,000 total reduction in the original fiscal year 2006 and fiscal year 2007 recommended appropriation for appropriation item 501-321, Institutional Operations, shall not affect the correction officer to inmate ratio."

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 96, nays 3, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Boccieri	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	Distel
Dolan	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fende	Fessler
Flowers	Garrison	Gibbs	Gilb
Hagan	Hartnett	Harwood	Healy
Hood	Hoops	Hughes	Kearns
Key	Kilbane	Koziura	Latta
Law	Martin	Mason	McGregor
Miller	Mitchell	Oelslager	Otterman
Patton S.	Patton T.	Perry	Peterson
Raga	Rausen	Redfern	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Skindell	Smith G.	Smith S.	Stewart J.
Strahorn	Sykes	Taylor	Trakas
Uecker	Ujvagi	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Williams	Wolpert
Woodard	Yates	Yuko	Husted-96.

Representatives Book, DeWine, and Stewart D. voted in the negative-3.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

Representative Core moved to amend as follows:

Between lines 76814 and 76815, insert:

"GRF 725-401 Wildlife-GRF Central Support\$250,000 \$250,000"

In line 76834, delete "\$125,235,534\$128,059,034" and insert "\$125,485,534\$128,309,034"

In line 76926, delete "\$328,424,777\$329,108,244" and insert "\$328,674,777\$329,358,244"

In line 76929, delete "The" and insert "With the exception of the Division of Wildlife, whose direct and indirect central support charges shall be paid out of the General Revenue Fund from the foregoing appropriation item 725-401, Wildlife-GRF Central Support, the"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 98, nays 1, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Boccieri	Book
Brinkman	Brown	Bubp	Buehrer

Calvert	Carano	Carmichael	Cassell
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Flowers	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hood	Hoops	Hughes
Kearns	Key	Kilbane	Koziura
Latta	Law	Martin	Mason
McGregor	Miller	Mitchell	Oelslager
Otterman	Patton S.	Patton T.	Perry
Peterson	Raga	Rausen	Redfern
Reidelbach	Reinhard	Sayre	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Skindell	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Uecker	Ujvagi
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Williams	Wolpert	Woodard	Yates
Yuko			Husted-98.

Representative Chandler voted in the negative-1.

The motion was agreed to and the bill so amended.

The question recurring, "Shall the bill as amended pass?"

Representative Widener moved to amend as follows:

In line 1199, after "districts" insert ", or a consortium of one or more districts and one or more political subdivisions as defined in section 9.833 of the Revised Code."

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 99, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Bocchieri	Book
Brinkman	Brown	Bubp	Buehrer
Calvert	Carano	Carmichael	Cassell
Chandler	Coley	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Dolan	Domenick
Driehaus	Evans C.	Evans D.	Faber
Fende	Fessler	Flowers	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hood	Hoops
Hughes	Kearns	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor	Miller	Mitchell
Oelslager	Otterman	Patton S.	Patton T.
Perry	Peterson	Raga	Rausen

Redfern	Reidelbach	Reinhard	Sayre
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Skindell	Smith G.
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Uecker
Ujvagi	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Williams	Wolpert	Woodard
Yates	Yuko		Husted-99.

The motion was agreed to and the bill so amended.

The question recurring, "Shall the bill as amended pass?"

Representative Miller moved to amend as follows:

In line 212, delete "9.24,"

In line 218, delete "131.23,"

In line 222, delete "323.01,"

In line 222, delete "329.051,"

In line 231, delete "2305.234,"

In line 232, delete "2744.05,"

In line 234, delete "3111.04, 3119.54,"

In line 244, delete "3317.10,"

In line 254, delete "3702.74,"

In line 262, delete "4123.27,"

In line 264, delete "4731.65, 4731.71,"

In line 266, delete "5101.181,"; delete "5101.26,"

In line 267, delete "5101.31,"; delete "5101.36,"

In line 269, delete "5110.01, 5110.05,"

In line 277, delete "5112.03, 5112.08, 5112.17,"

In line 278, delete "5115.20, 5115.22, 5115.23,"

In line 308, delete "and"

In line 309, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 311, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 336, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

Delete lines 709 through 849

In line 5709, reinsert "or payments or provider agreements under"

Reinsert line 5710

In line 5711, reinsert "Chapter 5115. of the Revised Code"

Delete lines 6014 through 6130

Delete lines 8937 through 8992

In line 9244, reinsert "Administer disability medical assistance, as required by"

Reinsert lines 9245 and 9246

In line 9247, reinsert "(4)"

In line 9250, reinsert "(5)" and delete "(4)"

In line 9253, reinsert "(6)" and delete "(5)"

In line 9256, reinsert "(7)" and delete "(6)"

In line 9262, reinsert "(8)" and delete "(7)"

In line 9264, reinsert "(9)" and delete "(8)"

In line 9268, reinsert "(10)" and delete "(9)"

In line 9276, reinsert "(11)" and delete "(10)"

In line 9280, reinsert "(12)" and delete "(11)"

Delete lines 9294 through 9308

Delete lines 14247 through 14516

Delete lines 14803 through 14889

Delete lines 17533 through 17588

Reinsert line 23678

In line 23679, reinsert "under Chapter 5115. of the Revised Code"

Delete lines 25400 through 25441

Delete lines 30875 through 30933

Delete lines 38895 through 38960

Delete lines 40512 through 40635

Delete lines 41245 through 41316

Delete lines 41941 through 41989

Delete lines 42108 through 42129

Delete lines 43589 through 43747

Delete lines 48912 through 49085

Delete lines 49134 through 49310

Between lines 54821 and 54822, insert:

"Sec. ~~5703.65~~5703.58. Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

Sec. 5703.61. (A) As used in this section:

(1) "Listed transaction" means a listed transaction as defined in 26 C.F.R. 1.6011-4, or a transaction the same as, or substantially similar to, such a listed transaction, that the tax commissioner determines to be a tax avoidance transaction for purposes of Chapter 5733. or 5747. of the Revised Code, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(2) "Reportable transaction" means a reportable transaction as defined in 26 C.F.R. 1.6011-4 that the tax commissioner determines as having a potential for tax avoidance or evasion, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(3) "Reportable transaction disclosure statement" means the "reportable transaction disclosure statement" (Form 8886) required to be filed for federal income tax purposes under 26 C.F.R. 1.6011-4, or any successor to that form serving substantially the same purpose.

(B)(1) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file a reportable transaction disclosure statement for federal tax purposes for the same year or any of the preceding three years shall file a copy of that statement with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The statement shall be filed in the manner prescribed by the tax commissioner.

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, except that there is no bar or limit on

the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code.

(C) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file an investor reporting of tax shelter registration number form for federal tax purposes for the same year or any of the preceding three years shall file a copy of that form with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The form shall be filed in the manner prescribed by the tax commissioner.

Sec. 5703.62. (A) As used in this section:

(1) "Listed transaction" has the same meaning as in section 5703.61 of the Revised Code.

(2) "Listed transaction organizer" means any person that discovers, creates, investigates, or initiates investment in a listed transaction, devises the business or financial plans for the investment, or carries out such plans through negotiations or transactions with others. "Listed transaction promoter" includes any other person who participates in the organization or management of the listed transaction.

(3) "Tax shelter" means a tax shelter as defined in section 6111 of the Internal Revenue Code, including a tax shelter described in section 6111(d) of the Internal Revenue Code, except that:

(a) The tax shelter ratio of a tax shelter shall be determined as provided in section 6111(c) of the Internal Revenue Code but inserting "or under Chapter 5733, or 5747, of the Revised Code" after "subtitle A" in subsection (c)(2)(A) of that section.

(b) With respect to a tax shelter described in section 6111(d) of the Internal Revenue Code, subsection (d)(1)(A) of that section shall be modified by inserting "or the taxes imposed under Chapter 5733, or 5747, of the Revised Code" after "Federal income tax."

(4) "Ohio-connected tax shelter" means a tax shelter that is organized in this state, does business in this state, or derives income from sources in this state, or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(5) "Potentially abusive tax shelter" has the same meaning as in section 6112 of the Internal Revenue Code.

(6) "Tax shelter organizer" means a tax shelter organizer as defined in section 6111 of the Internal Revenue Code.

(7) "Tax shelter registration application" means the "application for tax

shelter registration" form (Form 8264) required to be filed for federal income tax purposes, or any successor to that form serving substantially the same purpose.

(B)(1) Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that also is an Ohio-connected tax shelter shall file a copy of the tax shelter registration application with the tax commissioner not later than the day on which the first offering for sale of interests in the tax shelter occurs. Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that becomes an Ohio-connected tax shelter after the day on which the first offering for sale of interests in the tax shelter occurs shall file a copy of the tax shelter registration application with the tax commissioner not later than sixty days after the day on which the tax shelter becomes an Ohio-connected tax shelter. The copy of the tax shelter registration application shall be filed in the manner prescribed by the tax commissioner.

(2) Any tax shelter organizer of tax shelter that is an Ohio-connected tax shelter at the time the organizer files the application for tax registration number with the internal revenue service shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after receiving the number from the internal revenue service. If the tax shelter becomes an Ohio-connected tax shelter after the organizer files the application for tax registration number with the internal revenue service, the organizer shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after the tax shelter first becomes an Ohio-connected tax shelter.

(C) Any listed transaction organizer of a transaction that is organized in this state, doing business in this state, or deriving income from sources in this state or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code and that becomes a listed transaction at any time after January 1, 2005, shall file a copy of the tax shelter registration application with the tax commissioner if such an application was required to be filed for federal income tax purposes, or, if such an application was not required to be so filed, shall file any other form prescribed by the tax commissioner for the purpose of registering the transaction with the tax commissioner. The filing shall be made not later than the later of sixty days after the transaction becomes a listed transaction or sixty days after the transaction becomes organized in this state, first does business in this state, first derives income from sources in this state, or first has an investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(D) Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that is an Ohio-connected tax shelter or that, at the time it is first offered for sale to investors, is organized in this state, doing business in this state, deriving income from sources in this state, or has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal

Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that, at any time after it is first offered for sale to investors, the person knows has become an Ohio-connected tax shelter or began doing business in this state, deriving income from sources in this state, or acquired at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

(E)(1)(a) If a person required by division (B)(1) of this section to file a copy of a tax shelter registration application fails to file the copy as required, a penalty shall be imposed equal to fifteen thousand dollars.

(b) If a person required by division (B)(2) of this section to provide the registration number of the tax shelter to the tax commissioner fails to provide that number as required by that division, a penalty shall be imposed equal to fifteen thousand dollars.

(c) If a person required by division (C) of this section to file with the tax commissioner a copy of the tax shelter registration application or other form prescribed by the commissioner as required by that division, a penalty shall be imposed equal to the greater of one hundred thousand dollars or fifty per cent of the gross income derived from the transaction.

(d) If a person required to maintain a list of investors in a potentially abusive tax shelter and to provide it to the tax commissioner upon the tax commissioner's request fails to provide the list to the commissioner as required under division (D) of this section, a penalty shall be imposed equal to ten thousand dollars for each day the person fails to provide the list.

(2) Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. of the Revised Code, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06 of the Revised Code.

Sec. 5703.63. As used in sections 5703.63 to 5703.65 of the Revised Code:

(A)(1) "Qualified entity" means a person satisfying all of the following:

(a) The person is a corporation, a limited liability company, or a qualified trust;

(b) Neither the person nor any predecessor to the person has previously

filed a report or return under Chapter 5733. or 5747. of the Revised Code;

(c) Neither the person nor any predecessor to the person has previously been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733. or 5747. of the Revised Code; and

(d) The person voluntarily comes forward before any unilateral contact from the tax commissioner, the department of taxation, or any agent or employee of the department, applies for a voluntary disclosure agreement in the form and manner prescribed by the tax commissioner, and makes a full and accurate statement of its activities in this state for the six immediately preceding taxable years.

(2) "Qualified entity" does not include any of the following:

(a) A person that is organized under the laws of this state.

(b) A person that holds a license to transact business in this state issued by the secretary of state.

(c) A person that maintains and staffs a permanent facility in this state. For the purposes of this subdivision, storing tangible personal property in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(B) "Qualified shareholder" means an individual satisfying all of the following:

(1) A nonresident on the signing date of the voluntary disclosure agreement; and

(2) A shareholder of an S corporation that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement as required under division (C)(2) of that section.

(C) "Qualified member" means an individual, corporation, or limited liability company that satisfies all of the following:

(1)(a) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement; or

(b) In the case of a corporation or limited liability company, is not organized under the laws of this state or does not hold a license to transact business in this state issued by the secretary of state under section 1703.03 or 1705.54 of the Revised Code.

(2) A member of a limited liability company that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as required under division (C)(2) of that section.

(D) "Qualified trust" means a trust satisfying both of the following:

(1) Administration of the trust, other than administration activities that are inconsequential to the overall administration of the trust, has never been performed in this state; and

(2) For the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiary other than a resident beneficiary whose interest in the trust is contingent. For the purposes of this division, a resident beneficiary's interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately before the signing date of the voluntary disclosure agreement.

(E) "Qualified beneficiary" means an individual who satisfies all of the following:

(1) The individual is a nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement; and

(2) The individual is a beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under division (C)(2) of that section.

(F) "Qualified person" means a qualified entity, qualified member, qualified shareholder, or qualified beneficiary.

(G) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code.

(H) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(I) "Signing date" of a voluntary disclosure agreement means the date on which a person duly authorized by the tax commissioner signs the agreement.

Sec. 5703.64. (A) The tax commissioner may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary. The agreement is binding on both the tax commissioner and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(B) The tax commissioner shall do all of the following:

(1) Prescribe procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary

disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Provide procedures for accepting applications for voluntary disclosure agreements through the national nexus program administered by the multistate tax commission.

(4) For the purpose of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(a) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary's with this state was established;

(b) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272, 73 Stat. 555, 15 U.S.C. 381, or otherwise;

(c) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the activities of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary were immune from taxation by this state;

(d) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary;

(e) Demonstrations of good faith on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary; and

(f) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application for a voluntary disclosure agreement within one hundred twenty days after receiving the application.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in division (A) of this section and based on the criteria set forth in division (B)(4) of this section.

(C) A voluntary disclosure agreement entered into by the tax commissioner and a qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall provide for both of the following:

(1) That the tax commissioner shall, with respect to a qualified entity,

qualified shareholder, qualified member, or qualified beneficiary, except as provided in division (E)(1), (2), or (3) of this section:

(a) Waive the tax commissioner's authority to make an assessment for taxes, additions to tax, fees, or penalties under Chapter 5733. or 5747. of the Revised Code with respect to each taxable year ending before six years from the signing date of the voluntary disclosure agreement:

(b) With respect to each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, agree to waive any or all of the following, as specified in the agreement:

(i) Any penalty related to a failure to make and file a report or return, as provided in division (A)(1) of section 5733.28 or division (A)(1) of section 5747.15 of the Revised Code.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in division (A)(2) of section 5733.28 or division (A)(2) of section 5747.15 of the Revised Code.

(iii) Any penalty or addition to tax related to an underpayment of estimated tax, as provided in section 5733.29, division (D) of section 5747.09, or division (C) of section 5747.43 of the Revised Code.

(iv) Any penalty prescribed by 5733.21 of the Revised Code.

(2) That the qualified entity, qualified shareholder, qualified member, or qualified beneficiary, with respect to each of the six taxable years ending immediately preceding the signing date of the written agreement, shall do both of the following:

(a) Voluntarily and fully disclose all material facts pertinent to the qualified entity's, qualified shareholder's, qualified member's, or qualified beneficiary's liability for any taxes imposed under Chapter 5733. or 5747. of the Revised Code;

(b) Except as provided in division (D) of this section, within thirty days after the signing date of the voluntary disclosure agreement, file all returns required under Chapter 5733. or 5747. of the Revised Code and pay in full any tax, interest, fee, and penalties imposed under Chapter 5733. or 5747. of the Revised Code, other than penalties specifically waived under the terms of the voluntary disclosure agreement in the manner prescribed by the tax commissioner.

(c) Agree to comply with all provisions of Chapter 5733. or 5747. of the Revised Code and other laws governing the taxes imposed under those chapters in subsequent taxable years by filing all returns required and paying all amounts due under those chapters.

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the agreement to be paid in installments, with provisions for the accrual of interest

on balances that remain outstanding after a specified date.

(E)(1) Division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the S corporation that filed an application under this section.

(2) In the case of a qualified member who is an individual, division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the limited liability company that filed an application under this section.

(3) Division (C)(1) of this section does not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this section.

(F) The Tax Commissioner may extend the time for filing returns and paying amounts due to one hundred twenty days after the signing date of the voluntary disclosure agreement.

(G) Nothing in sections 5703.63 to 5703.65 of the Revised Code shall be construed to mean that by accepting and signing a voluntary disclosure agreement the tax commissioner abdicates the right and authority to examine returns and determine the correct amount of tax for any of the taxable years covered by the voluntary disclosure period agreed upon and to assess any additional tax, penalty, or interest owed as a result of that examination, as otherwise provided by law.

Sec. 5703.65. (A) A voluntary disclosure agreement shall be null and void if the tax commissioner finds that, with respect to the agreement, any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any report or return for any taxable year covered by the agreement on or before the due date prescribed under the terms of the agreement.

(3) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the agreement or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with division (D) of section 5703.64 of the Revised Code.

(4) The tax shown by the qualified entity on its report or return filed for

any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733. or 5747. of the Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with Chapter 5733. or 5747. of the Revised Code or both, as applicable to the entity, and all other laws governing the taxes imposed under those chapters, according to the terms of the voluntary disclosure agreement.

(B) If the tax commissioner finds that the qualified entity has failed to comply under any of the circumstances that render the voluntary disclosure agreement null and void as set forth in division (A) of this section, the limitation on the tax commissioner issuing an assessment for any taxable year covered by the agreement, and the waiver of any penalties under the agreement, are not binding on the tax commissioner.

Sec. 5703.66. (A) As used in this section:

(1) "Listed transaction" and "reportable transaction" have the same meanings as in section 5703.61 of the Revised Code.

(2) "Reportable transaction understatement" means the sum of divisions (A)(2)(a) and (b) of this section:

(a) The product of division (A)(2)(a)(i) and (ii) of this section:

(i) The amount of the increase, if any, in net income or Ohio taxable income resulting from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax report or return; times

(ii) Eight and one-half per cent in the case of a taxpayer subject to division (A) or (B) of section 5733.06 of the Revised Code or seven and one-half per cent in the case of a taxpayer subject to section 5747.02 of the Revised Code.

For the purpose of division (A)(2) of this section, any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses that would be allowed for that year without regard to section 1211 of the Internal Revenue Code, shall be treated as an increase in net income or Ohio taxable income.

(b) The amount of the decrease, if any, in the aggregate amount of credits allowed under Chapter 5733. or 5747. of the Revised Code, as applicable, that results from a difference between the taxpayer's treatment of an item to which this section applies, as shown on the taxpayer's tax report or return, and the proper tax treatment of that item.

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a reportable transaction having as a significant purpose the avoidance or evasion

of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount equal to twenty per cent of the amount of that understatement. The amount added under this section is in addition to any other penalty or other additions to tax under Chapter 5733. or 5747. of the Revised Code, shall be assessed in the same manner as such penalties or additions to tax, and shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable to the taxpayer.

(C) Any tax treatment included with an amended report or return shall not be taken into account in determining the amount of any reportable transaction understatement if the amended report or return is filed after the earlier of the date the taxpayer is first contacted by either the internal revenue service for federal income tax purposes or the tax commissioner regarding the examination of the report or return."

In line 68167, delete "9.24,"

In line 68173, delete "131.23,"

In line 68177, delete "323.01,"

In line 68178, delete "329.051,"

In line 68186, delete "2305.234,"

In line 68187, delete "2744.05,"

In line 68189, delete "3111.04, 3119.54,"

In line 68199, delete "3317.10,"

In line 68209, delete "3702.74,"

In line 68217, delete "4123.27,"

In line 68219, delete "4731.65, 4731.71,"

In line 68221, delete "5101.181, "; delete "5101.26,"

In line 68222, delete "5101.31, "; delete "5101.36,"

In line 68224, delete "5110.01, "; delete "5110.05,"

In line 68232, delete "5112.03, 5112.08, 5112.17,"

In line 68233, delete "5115.20, 5115.22, 5115.23,"

In line 68241, after "5703.50," insert "5703.65,"

In line 68262, delete "5115.10, 5115.11, 5115.12, 5115.13, 5115.14,"

In line 74849, delete "TERMINATION OF THE"

Delete lines 74851 through 74900 and insert:

"(A) Notwithstanding sections 5115.10 and 5115.12 of the Revised Code

or any rules adopted by the Director of Job and Family Services under those sections, and subject to division (B) of this section, the Department of Job and Family Services shall, during at least six months of each of fiscal years 2006 and 2007, permit individuals to enroll in the disability medical assistance program established under section 5115.10 of the Revised Code.

(B) The department shall limit the enrollment of new participants in the Program to a total of fifteen thousand new participants.

Section ____. Section 206.66.42. shall take effect July 1, 2005."

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,838,483,830 \$3,903,436,128"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,497,734,117 \$9,671,728,704"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$4,018,636,727 \$4,267,069,326"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,704,426,558 \$10,061,172,311"

In line 76102, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,704,426,558 \$10,061,172,311"

In line 81749, delete "5112.03,"

Between lines 82840 and 82841, insert:

"Section ____. (A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2005.

The Tax Commissioner shall issue forms and instructions and may take any other actions necessary to implement this section. The Tax Commissioner shall publicize the voluntary compliance initiative so as to maximize public awareness of and participation in the initiative.

(C) Any person satisfying the requirements of division (F) of this section may enter into an agreement with the Tax Commissioner providing for all of the following:

(1) The Tax Commissioner shall waive or abate all penalties imposed under Chapter 5703., 5733., or 5747., of the Revised Code as applicable, for all tax years or taxable years for which the person elects to participate in the initiative as a result of the underreporting of tax liabilities attributable to the use of abusive tax avoidance transactions.

(2) No criminal action shall be brought against the person for the taxable years with respect to issues for which the person voluntarily complies under this section.

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2005.

(4) The person may not file a claim for refund for amounts paid in connection with abusive tax avoidance transactions under this section.

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2004, any of the following applies:

(1) A criminal complaint was filed against the person in connection with an abusive tax avoidance transaction or transactions.

(2) The person is the subject of a criminal investigation in connection with an abusive tax avoidance transaction.

(E) No refund or credit shall be granted with respect to any penalty paid before a person applies for participation in the voluntary compliance initiative authorized by this section.

(F) The voluntary compliance initiative applies to any person that was not eligible to participate in the Internal Revenue Service's Offshore Voluntary Compliance Initiative described in Revenue Procedure 2003-11, and that, during the three-month period of the initiative period, does both of the following:

(1) Files an amended tax report or return under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, for each taxable year for which the person has previously filed a report or return using an abusive tax avoidance transaction to underreport the person's tax liability for that taxable year. Each amended report or return shall report all income from all sources, without regard to the abusive tax avoidance transaction.

(2)(a) Except as provided in division (F)(2)(b) of this section, pays in full all taxes and interest due.

(b) The Tax Commissioner may enter into an installment payment agreement in lieu of the full payment required under division (F)(2)(a) of this section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total

amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

(G) After the end of the three-month period during which the initiative is conducted, the Tax Commissioner may issue a deficiency assessment upon an amended report or return filed pursuant to division (F)(1) of this section, impose penalties, or initiate criminal action arising from a violation of any provision of Chapter 5733. or 5747. of the Revised Code with respect to the difference between the amount shown on that report or return and the correct amount of tax. Such an action does not invalidate any waiver granted under division (C) of this section.

(H) In addition to any other authority to examine reports or returns under the Revised Code, for the purpose of improving state tax administration, the Tax Commissioner may inquire into the facts and circumstances related to the use of abusive tax avoidance transactions to underreport the tax liabilities for which a taxpayer has participated in the voluntary compliance initiative under this section. Persons shall cooperate fully with such inquiries. Failure by a person to fully cooperate in such an inquiry shall render the waiver of penalties under this section null and void, and the person may be assessed any penalties that may apply under law without regard to this section.

(I) Notwithstanding section 5733.11 or 5747.13 of the Revised Code, with respect to proposed deficiency assessments related to an abusive tax avoidance transaction, a notice of a proposed deficiency assessment may be mailed to the taxpayer within eight years after the report or return was filed, or within the period otherwise provided in that section, whichever expires later.

Section ____. Section ____ of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section ____ of this act. The repeal of Section ____ of this act does not affect, after the effective date of the repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those agreements."

In line 82948, delete "9.24,"; delete "131.23,"

In line 82949, delete "323.01, 329.051,"

In line 82950, delete "2305.234, 2744.05, 3111.04, 3119.54,"; delete "3317.10,"

In line 82951, delete "3702.74, 4123.27,"; "4731.65, 4731.71,"; delete "5101.181,"

In line 82952, delete "5101.26, 5101.31, 5101.36,"; delete "5110.01,"

In line 82953, delete "5110.05,"

In line 82956, delete "5112.03, 5112.08,"

In line 82957, delete "5112.17, 5115.10,"

In line 82958, delete "5115.22, 5115.23,"

In line 83066, after "5703.50," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.65 (5703.58), 5703.66,"

Between lines 83086 and 83087, insert:

"Section 612.22. New section 5703.65 of the Revised Code, as enacted by this act, and the items of law of which such section as enacted by this act is composed, provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, such section as enacted by this act, and the items of law of which such section as enacted by this act is composed, are not subject to the referendum and goes into immediate effect when this act becomes law."

In line 1 of the title, delete "9.24,"

In line 8 of the title, delete "131.23,"

In line 14 of the title, delete "323.01,"

In line 14 of the title, delete "329.051,"

In line 26 of the title, delete "2305.234,"

In line 27 of the title, delete "2744.05,"

In line 29 of the title, delete "3111.04,"

In line 30 of the title, delete "3119.54,"

In line 43 of the title, delete "3317.10,"

In line 57 of the title, delete "3702.74,"

In line 68 of the title, delete "4123.27,"

In line 71 of the title, delete "4731.65,"

In line 72 of the title, delete "4731.71,"

In line 74 of the title, delete "5101.181,"

In line 75 of the title, delete "5101.26, 5101.31,"; delete "5101.36,"

In line 78 of the title, delete "5110.01,"

In line 79 of the title, delete "5110.05,"

In line 89 of the title, delete "5112.03, 5112.08, 5112.17,"

In line 90 of the title, delete "5115.20, 5115.22, 5115.23,"

In line 133 of the title, delete "and"

In line 134 of the title, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 135 of the title, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 168 of the title, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 185 of the title, delete "5115.10"

In line 186 of the title, delete "5115.11, 5115.12, 5115.13, 5115.14,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 40, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Oelslager	Patton T.
Peterson	Raga	Raussen	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Smith S.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-40.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Skindell moved to amend as follows:

In line 259, after "3748.13," insert "3770.03,"

Between lines 37976 and 37977, insert:

"Sec. 3770.03. (A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under

division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(C) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

(D)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission."

In line 68214, after "3748.13," insert "3770.03,"

In line 64 of the title, after "3748.13," insert "3770.03,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 60, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs

Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart D.	Stewart J.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-60.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Skindell	Smith S.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Driehaus moved to amend as follows:

In line 327, after "5107.301," insert "5709.95, 5709.96, 5709.961, 5709.962, 5709.963, 5709.964, 5709.965, 5709.966, 5709.967,"

Between lines 56468 and 56469, insert:

Sec. 5709.95. As used in sections 5709.95, 5709.96, and 5709.961 to 5709.967 of the Revised Code, "tax expenditure" means a statutory provision, however denominated, that exempts certain persons, property, goods, or services, in whole or in part, from the operation of a tax.

Sec. 5709.96. A tax expenditure created on or after April 15, 2005, expires at the end of the thirty-first day of December of the fifth year after the year in which it was created, unless, before its expiration date, it is renewed under section 5709.962 of the Revised Code. A tax expenditure does not apply to taxable years that begin in the year the tax expenditure expires.

Sec. 5709.961. An act creating a tax expenditure shall specify:

(A) The purpose served by the tax expenditure;

(B) The date on which the tax expenditure expires;

(C) The class of taxpayers that will benefit from the tax expenditure; and

(D) Methods to be used to appraise the tax expenditure's effectiveness in

serving its purpose.

Division (D) of this section may be fulfilled by applying general statutes or by enacting statutory provisions that apply particularly to the tax expenditure.

Sec. 5709.962. The general assembly may renew a tax expenditure by enacting an act that:

(A) Addresses only that subject;

(B) Fulfills the criteria specified in section 5709.961 of the Revised Code, including specifying a new expiration date for the tax expenditure; and

(C) Improves the tax expenditure's effectiveness in serving its purpose; redefines the tax expenditure's purpose to serve or better serve a public need; retains or improves the statutes that enhance, or amends or repeals statutes that impede, the tax expenditure's effectiveness in serving its purpose; improves the tax expenditure's effectiveness in promoting economic growth and development; reduces the amount of revenue lost as a result of the tax expenditure; or re-enacts the tax expenditure to continue it without change.

Housekeeping repeal of a tax expenditure that has expired shall not be combined in an act renewing a tax expenditure.

Sec. 5709.963. Not later than the date that is twenty-four months before a tax expenditure expires, the tax commissioner shall notify the tax expenditure sunset review committee of the tax expenditure's expiration. The committee thereupon shall prepare a schedule for appraising the tax expenditure so that the appraisal and the report required under section 5709.966 of the Revised Code will be completed not later than the date that is twelve months before the tax expenditure expires. The schedule shall provide for a public hearing on the tax expenditure. The committee chairperson shall send a copy of the schedule to the tax commissioner, and the commissioner shall publish the schedule in the register of Ohio.

Sec. 5709.964. (A) For each tax expenditure scheduled for appraisal by the tax expenditure sunset review committee, the tax commissioner, and any other state official responsible for administering the tax expenditure, shall submit to the committee a report that:

(1) Explains the tax expenditure's purpose;

(2) Expresses an opinion as to the public need for the tax expenditure;

(3) Expresses an opinion as to whether the tax expenditure has been impeded or enhanced by existing statutes;

(4) Describes how, if at all, the tax expenditure promotes economic growth and development;

(5) Provides an estimate of the amount of tax revenue lost each fiscal year as a result of the tax expenditure;

(6) Expresses an opinion as to whether the tax expenditure should be allowed to expire or be renewed;

(7) Contains any other information relevant to the committee's appraisal of the tax expenditure.

The report shall be submitted to the committee on or before the date scheduled for the tax expenditure's public hearing under section 5709.963 of the Revised Code.

(B) Each year, beginning in 2006, the legislative service commission shall prepare and submit to the committee a report that describes each tax expenditure created on or after April 15, 2006, or renewed under section 5709.962 of the Revised Code; identifies the tax expenditure's intended purpose; and appraises the tax expenditure's effectiveness using the methods prescribed in the act creating the tax expenditure.

Sec. 5709.965. At the time and place specified in the schedule, the tax expenditure sunset review committee shall hold a public hearing on the tax expenditure, at which any person may present testimony or tangible evidence relevant to the tax expenditure. After the hearing, the committee shall appraise the tax expenditure. In making its appraisal, the committee shall consider the reports submitted under section 5709.964 of the Revised Code and knowledge gleaned from the hearing, but is not limited to these sources. Upon the committee's request, the department of taxation, office of budget and management, and any other state agency shall provide the committee with any information in its possession the committee requires to appraise the tax expenditure. The legislative service commission shall provide drafting and clerical support to the committee.

Sec. 5709.966. The tax expenditure sunset review committee shall prepare a report of its appraisal of a tax expenditure that contains:

(A) A statement of the purpose served by the tax expenditure;

(B) An appraisal of the tax expenditure's effectiveness in serving its purpose;

(C) An evaluation of whether the tax expenditure's purpose serves a public need;

(D) An evaluation of whether other statutes have enhanced or impeded the tax expenditure's effectiveness in serving its purpose;

(E) An appraisal of whether the tax expenditure promotes economic growth and development;

(F) An estimate of the amount of revenue lost each fiscal year because of the tax expenditure;

(G) A recommendation as to whether the tax expenditure should be allowed to expire or be renewed; and

(H) Any other information the committee considers relevant.

In an appendix to its report, the committee shall include a draft of a bill that would implement its recommendation under division (G) of this section and, if the tax expenditure is recommended for renewal, section 5709.962 of the Revised Code. If the committee recommends renewal of the tax expenditure, the appendix shall include a commentary to the bill draft explaining how renewal of the tax expenditure will fulfill the criteria specified in division (C) of section 5709.962 of the Revised Code.

The committee shall provide a copy of the report to the governor, the tax commissioner, the director of budget and management, and each member of the general assembly. The report is a public record.

Sec. 5709.967. There is hereby created the tax expenditure sunset review committee composed of nine members. The president of the senate, within fifteen days after the first day of the first regular session of the general assembly, shall appoint three members of the senate to the committee, not more than two of whom are members of the same political party. The speaker of the house of representatives, within fifteen days after the first day of the first regular session of the general assembly, shall appoint three members of the house of representatives to the committee, not more than two of whom are members of the same political party. The governor, within fifteen days after the first day of the first regular session of the general assembly and with the advice and consent of the senate, shall appoint three members to the committee, not more than two of whom are members of the same political party.

Legislative members of the committee hold office until their successors are appointed or until they earlier cease to be members of the senate or house of representatives, as the case may be. Members appointed by the governor hold office for terms ending on the thirty-first day of December of each even-numbered year. A member appointed by the governor continues to hold office after the expiration of the member's term until the member's successor is appointed, or until thirty days have elapsed, whichever occurs first.

In the first regular session of the general assembly, the committee shall elect a member of the house of representatives as chairperson of the committee and a member of the senate as vice-chairperson of the committee. In the second regular session of the general assembly, the committee shall elect a member of the senate as chairperson of the committee and a member of the house of representatives as vice-chairperson of the committee.

A vacancy on the committee shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy occurring prior to the expiration of the term to which the member's predecessor was appointed holds office for the remainder of the unexpired term.

Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses they incur in performance of their duties.

The committee shall meet as often as necessary to perform its duties.

Five members of the committee constitute a quorum. The committee shall not take any action without the concurrence of at least five members. So long as a quorum is present, a vacancy on the committee does not impair the ability of the remaining members to perform the committee's duties.

Between lines 82865 and 82866, insert:

"**Section ____.** A tax expenditure in existence on April 15, 2006, expires at the end of December 31, 2007, unless, before that expiration date, it is renewed under section 5709.962 of the Revised Code. A tax expenditure in existence on April 15, 2006, that expires does not apply to taxable years beginning in 2007.

Section ____. On or before January 1, 2007, the Tax Commissioner shall prepare a list of the tax expenditures in existence on April 15, 2006, and shall provide a copy of the list to the chairperson of the Tax Expenditure Sunset Review Committee. The Committee thereupon shall prepare a schedule under section 5709.963 of the Revised Code for appraising the listed tax expenditures so that the appraisal and the report required under section 5709.966 of the Revised Code will be completed not later than November 1, 2007. The schedule shall provide for a public hearing on each tax expenditure. The chairperson of the Committee shall send a copy of the schedule to the Tax Commissioner, and the Tax Commissioner shall publish the schedule in the Register of Ohio. On or before the date scheduled for a tax expenditure's public hearing, the Tax Commissioner, and any other state official responsible for administering the tax expenditure, shall submit the reports required under division (A) of section 5709.964 of the Revised Code. The Committee shall proceed to appraise the listed tax expenditures under section 5709.965 of the Revised Code, and to report upon its appraisal of the listed tax expenditures under section 5709.966 of the Revised Code.

Section ____. (A) Not later than thirty days after the effective date of this section, the Governor, with the advice and consent of the Senate, shall make initial appointments to the Tax Expenditure Sunset Review Committee under section 5709.967 of the Revised Code. The members thus appointed hold office for terms ending on December 31, 2006. Thereafter, gubernatorial appointments and terms of office shall be as prescribed in section 5709.967 of the Revised Code.

(B) Not later than thirty days after the effective date of this section, the President of the Senate and the Speaker of the House of Representatives shall make initial appointments to the Tax Expenditure Sunset Review Committee under section 5709.967 of the Revised Code. The members thus appointed hold office for terms ending as prescribed in section 5709.967 of the Revised Code."

In line 83066, after "5707.031," insert "5709.95, 5709.96, 5709.961, 5709.962, 5709.963, 5709.964, 5709.965, 5709.966, 5709.967,"

In line 156 of the title, after "5107.301," insert "5709.95, 5709.96, 5709.961, 5709.962, 5709.963, 5709.964, 5709.965, 5709.966, 5709.967,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Raussen	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Yates moved to amend as follows:

In line 70683, delete "\$875,000\$725,000" and insert "\$779,688\$629,688"

In line 70686, delete "\$97,234,946\$100,894,946" and insert "\$97,139,634\$100,799,634"

In line 70742, delete "\$852,488,868\$868,238,554" and insert "\$852,393,556\$868,143,242"

In line 74266, delete "\$754,884\$754,884" and insert "\$850,196\$850,196"

In line 74269, delete "\$13,382,155\$13,182,155" and insert "\$13,477,467\$13,277,467"

In line 74270, delete "\$13,382,155\$13,182,155" and insert "\$13,477,467\$13,277,467"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 40, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-40.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Yates moved to amend as follows:

Between lines 75402 and 75403, insert:

"Section ____ . COMMUNITY PROGRAMS

The Department of Job and Family Services shall use the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), to provide each of

the following organizations \$2 million in each fiscal year to support TANF eligible youth programming: the Council of Ohio YWCAs, Ohio 4-H, and the Ohio Future Farmers of America Association.

Of the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), the Department shall, in a manner determined by the Department, divide: \$2 million each fiscal year among the YMCAs of Ohio; \$2 million each fiscal year among the Boy Scouts councils in Ohio; \$2 million each fiscal year among the Girl Scouts councils in Ohio; and \$2 million each fiscal year among the Big Brothers Big Sisters organizations in Ohio.

The Department of Job and Family Services shall enter a into a grant agreement with the eight largest municipal corporations in Ohio, as determined by the United States Bureau of the Census's most recent decennial census, to provide \$2 million in each fiscal year from the foregoing appropriation item 600-689, TANF Block Grant (Fund 3V6), which shall be used to support the municipal corporation's after-school programming."

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 55, nays 42, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Buehrer
Calvert	Carmichael	Coley	Collier
Combs	Core	Daniels	DeWine
Dolan	Evans C.	Evans D.	Fessler
Flowers	Gibbs	Gilb	Hagan
Hoops	Hughes	Kearns	Kilbane
Latta	Law	Martin	McGregor
Oelslager	Patton T.	Peterson	Raga
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-55.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Raussen	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Williams	Woodard

Yates

Yuko-42.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Skindell moved to amend as follows:

In line 312, after "120.36," insert "121.231,"

Between lines 3210 and 3211, insert:

"Sec. 121.231. (A) As used in this section:

(1) "Compelling public interest" includes, but is not limited to, the public interest in ensuring the provision of essential services, ensuring the public health and safety, or responding to an emergency.

(2) "Emergency" means a sudden, unexpected occurrence that poses a clear and imminent danger and requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

(3) "Expatriate corporation" means a publicly held corporation to which all of the following apply:

(a) The corporation is incorporated in a tax haven country included on the most recent list required under division (B) of this section, whether or not, at an earlier time, it had been incorporated under the laws of a state of the United States.

(b) The principal market for the public trading of the corporation's stock is the United States;

(c) The corporation has no substantial business activities in its place of incorporation.

(4) "Public moneys" and "public moneys of the state" have the same meaning as in section 135.01 of the Revised Code.

(5) "Tax haven country" means a country that has no corporate income tax or that has an effective tax rate of less than ten per cent on income not arising in or derived from that country, but excludes a country that is a signatory to a treaty or other international agreement that would negate those tax policies.

(B) The secretary of state shall establish and maintain a list of all tax haven countries for the purpose of this section. The list shall be updated annually, published on the secretary of state's web site, and publicly accessible at no cost.

(C)(1) No department, office, institution, board, commission, authority, or other agency of this state, for the supply of goods or services or of a public improvement, shall enter into a contract with a corporation that is an expatriate corporation at the time the contract is entered into.

(2) No person with which a department, office, institution, board, commission, authority, or other agency of this state has contracted for the supply of goods or services or of a public improvement shall enter into any associated subcontract with a corporation that is an expatriate corporation at the time the associated subcontract is entered into.

(3) Divisions (C)(1) and (2) and (E) of this section do not apply to a particular proposed contract or subcontract, described in division (C)(1) or (2) of this section, with an expatriate corporation upon a finding by a department, office, institution, board, commission, authority, or other agency of this state that the contract or subcontract is necessary to meet a compelling public interest. Any such finding shall be in writing and be made only, as applicable, by the agency's chief executive or the chief executive's designee or by affirmative vote of the majority of the agency's governing body.

(D) No department, office, institution, board, commission, authority, or other agency of this state shall award a state tax credit or use public moneys of this state to make a loan or award a grant or any other form of public financial assistance to a corporation that is an expatriate corporation at the time the tax credit, loan, grant, or assistance is awarded or made.

(E)(1) Immediately prior to entering into a contract or subcontract described in division (C)(1) or (2) of this section or to initially receiving a state tax credit or a loan, a grant, or other public financial assistance described in division (D) of this section, a corporation shall submit to the department, office, institution, board, commission, authority, or other agency of this state a written certification, signed by an officer of the corporation or the officer's designee, that the corporation is not an expatriate corporation.

(2) Whoever knowingly makes a false statement concerning a certification under division (E)(1) of this section is guilty of falsification under section 2921.13 of the Revised Code."

In line 136 of the title, after "120.36," insert "121.231,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 57, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Flowers	Gibbs	Gilb
Hagan	Hoops	Hughes	Kearns
Kilbane	Latta	Law	Martin
McGregor	Oelslager	Patton T.	Peterson
Raga	Raussen	Reidelbach	Reinhard

Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart J.
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
			Husted-57.

Those who voted in the negative were: Representatives

Allen	Barrett	Bocchieri	Book
Brinkman	Brown	Carano	Cassell
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Fende	Fessler
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Strahorn moved to amend as follows:

In line 217, after "125.832," insert "126.02, 126.022,"

In line 312, after "117.162," insert "117.53,"; after "125.18," insert "126.04,"

Between lines 2531 and 2532 insert:

"Sec. 117.53. Each biennium, beginning with the biennium ending June 30, 2009, the auditor of state shall conduct a performance audit of four state agencies selected by the auditor of state that have been required to file performance data with the director of budget and management under section 126.04 of the Revised Code for at least one biennium. Two of the audits shall be of administrative departments listed in section 121.02 of the Revised Code or the department of education and two of the audits shall be of other state agencies. The cost of performance audits under this section shall be paid from appropriations made to the auditor of state for the purpose. Appropriations necessary for the purpose shall be requested by the auditor of state each biennium under section 126.02 of the Revised Code."

Between lines 5661 and 5662 insert:

"Sec. 126.02. The director of budget and management shall prepare and submit to the governor, biennially, not later than the first day of January preceding the convening of the general assembly, state budget estimates of revenues and expenditures for each state fund and budget estimates for each state agency, except such estimates as are required under section 126.022 of the

Revised Code. The budget estimates for each state agency for which direct appropriations are proposed shall include the following details:

- (A) Estimates of the operating budget;
- (B) Estimates of the subsidy appropriations necessary, delineated by a distinct subsidy program;
- (C) Estimates for special purposes, delineated by a distinct special purpose program;
- (D) Estimates of appropriations necessary from each fund in reasonable detail to allow for adequate planning and oversight of programs and activities.

In the preparation of state revenue and expenditure estimates, the director of budget and management shall, not later than the fifteenth day of September in the year preceding the first regular session of the general assembly, distribute to all affected state agencies the forms necessary for the preparation of budget requests, which shall be in the form prescribed by the director in consultation with the legislative service commission to procure information concerning the revenues and expenditures for the preceding and current bienniums, an estimate of the revenues and expenditures of the current fiscal year, ~~and~~ an estimate of the revenues and proposed expenditures for the respective agencies for the two succeeding fiscal years for which appropriations have to be made, and, as applicable, the performance data required by division (A) of section 126.04 of the Revised Code. Each such agency shall, not later than the first day of November, file with the director its estimate of revenues and proposed expenditures for the succeeding biennium and, where required by section 126.04 of the Revised Code, a comprehensive and integrated statement of agency missions and outcome and performance measures.

Each such agency shall, not later than the first day of December, file with the chairperson of the finance committees of the senate and house of representatives and the legislative service commission a duplicate copy of such budget request.

The budget request shall be accompanied by a statement in writing giving facts and explanation of reasons for the items requested. The director and the legislative service commission may make further inquiry and investigation as to any item desired. The director may approve, disapprove, or alter the requests, excepting those for the legislative and judicial branches of the state. The requests as revised by the director constitute the state budget estimates of revenues ~~and~~, expenditures, and performance measures which the director is required to submit to the governor.

Sec. 126.022. Not later than four weeks after the general assembly convenes in each even-numbered year, the director of budget and management shall prepare and recommend to the general assembly, subject to the concurrence of the governor, estimates of revenues from, or derived from, payments to the state under the tobacco master settlement agreement ~~and~~, expenditures of such revenues for the biennium beginning on the following first day of July, and, as

applicable, the performance data required by division (A) of section 126.04 of the Revised Code. Each state agency affected by such revenues or expenditures shall submit to the director of budget and management any related information the director requires, in such form and at such times as the director prescribes, and, where required by section 126.04 of the Revised Code, a comprehensive and integrated statement of agency missions and outcome and performance measures.

Sec. 126.04. (A) Except for the offices of the attorney general, auditor of state, governor, secretary of state, and treasurer of state and agencies of the legislative and judicial branches, each state agency filing budget requests under section 126.02 of the Revised Code shall, in accordance with the schedule set forth in division (B) of this section, include with its requests data that measure the performance of the programs and activities of the agency in meeting program goals and objectives. Data reported shall include indicators of output, efficiency, outcomes, and other measures relevant to each program and activity. The agency shall also include historical data needed for an understanding of major trends and shall set targets for future performance where feasible and appropriate. All such data shall be presented in a manner that serves to assist legislative review of and decision making concerning the programs and activities of the agency.

(B)(1) Division (A) of this section shall apply to the budget requests of the department of education, department of job and family services, and two other state agencies selected by the director of budget and management beginning with their budget requests for the biennium ending June 30, 2009.

(2) The director of budget and management shall divide all other state agencies subject to division (A) of this section into the following three categories:

(a) Agencies to which division (A) of this section shall apply beginning with their budget requests for the biennium ending June 30, 2011;

(b) Agencies to which division (A) of this section shall apply beginning with their budget requests for the biennium ending June 30, 2013;

(c) Agencies to which division (A) of this section shall apply beginning with their budget requests for the biennium ending June 30, 2015.

(C) The director shall provide all agencies subject to division (A) of this section with substantial technical assistance in carrying out the requirements of that division and shall review the appropriateness, validity, and reliability of agency performance measures and data.

(D) Beginning with the biennium after the biennium in which the budget requests of the Ohio board of regents first become subject to division (A) of this section, the board shall offer assistance to each state university or college as defined in section 3345.12 of the Revised Code in developing relevant performance measures for the university's or college's programs and activities and in setting targets for future performance where feasible and appropriate."

In line 68172, after "125.832," insert "126.02, 126.022,"

Between lines 82198 and 82199, insert:

"Section ____. Notwithstanding anything to the contrary in section 117.16 of the Revised Code, the Auditor of State shall conduct performance audits of the Department of Education and the Department of Job and Family Services during the biennium ending June 30, 2009."

In line 8 of the title, after "125.832," insert "126.02, 126.022,"

In line 136 of the title, after "117.162," insert "117.53,"

In line 137 of the title, after "125.18," insert "126.04,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 54, nays 44, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Kearns
Kilbane	Latta	Law	Martin
McGregor	Oelslager	Patton T.	Peterson
Raga	Rausen	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-54.

Those who voted in the negative were: Representatives

Allen	Barrett	Bocchieri	Book
Brinkman	Brown	Carano	Cassell
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Fende	Garrison
Hartnett	Harwood	Healy	Hood
Hughes	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Reidelbach	Sayre
Skindell	Smith S.	Stewart D.	Stewart J.
Strahorn	Sykes	Taylor	Ujvagi
Williams	Woodard	Yates	Yuko-44.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Williams moved to amend as follows:

In line 213, delete "109.572,"

In line 317, delete "3310.01,"

Delete lines 318 and 319

In line 320, delete "3310.16, 3310.17,"

In line 1809, delete "or division (F) of section 3310.11"

In line 1815, delete "the"

In line 1816, delete all before "the"

In line 1851, delete "or a registered private school"

In line 1854, delete "or division (F) of section 3310.11"

In line 1859, delete "or school"

In line 1863, delete "or school"

Delete lines 1929 through 2299

Delete lines 19071 through 19327

In line 22375, delete everything after "Code"

In line 22376, delete everything before the underlined period

In line 24515, delete everything after "(f)"

Delete line 24516

In line 24517, delete "(g)"

In line 68168, delete "109.572,"

Delete lines 73519 through 73536

In line 82964, delete "109.572,"

Delete lines 82976 and 82977

In line 82978, delete "3310.15, 3310.16, 3310.17,"

In line 144 of the title, delete "3310.01, 3310.02, 3310.03, 3310.04,"

Delete lines 145 and 146 of the title

In line 147 of the title, delete "3310.15, 3310.16, 3310.17,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Blessing
Bubp	Buehrer	Calvert	Carmichael
Coley	Collier	Combs	Core
Daniels	DeWine	Dolan	Evans C.
Evans D.	Faber	Fessler	Flowers
Gibbs	Gilb	Hagan	Hood
Hoops	Hughes	Kearns	Kilbane
Latta	Law	Martin	McGregor
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Barrett	Bocchieri	Book	Brinkman
Brown	Carano	Cassell	Chandler
DeBose	DeGeeter	Distel	Domenick
Driehaus	Fende	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Mason	Miller	Mitchell	Oelslager
Otterman	Patton S.	Perry	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Sykes moved to amend as follows:

In line 270, delete "5111.019,"

Delete lines 43790 through 43814

In line 68225, delete "5111.019,"

In line 64943, after "individuals" insert "having Ohio adjusted gross income less than two hundred thousand dollars."

In line 64947, after the semicolon insert "measured in the case of individuals having Ohio adjusted gross income of two hundred thousand dollars or more by Ohio adjusted gross income:"

Delete lines 74838 through 74848

In line 82994, delete "5111.019,"

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,785,272,889 \$3,854,201,955"

In line 76095, delete "\$5,659,250,287 \$5,768,292,576" and insert

"\$5,664,370,027 \$5,818,831,296"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,449,642,916 \$9,673,033,251"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$3,965,425,786 \$4,217,835,153"

In line 76100, delete "\$5,685,789,831 \$5,794,102,985" and insert "\$5,690,909,571 \$5,844,641,705"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,656,335,357 \$10,062,476,858"

In line 76102, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,656,335,357 \$10,062,476,858"

In line 79 of the title, delete "5111.019,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Skindell	Stewart D.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Hartnett moved to amend as follows:

In line 312, after "125.18," insert "125.80,"

In line 313, after "153.692," insert "153.72,"

Between lines 5489 and 5490, insert:

"Sec. 125.80. No bid for a state contract for purchasing services or supplies that is greater than fifty thousand dollars shall be accepted unless the submitting contractor has a drug-free workplace policy in place that meets the standards which the director of administrative services shall establish by rule."

Between lines 7561 and 7562, insert:

"Sec. 153.72. No bid for a state public improvement contract that is greater than fifty thousand dollars shall be accepted unless the submitting contractor has a drug-free workplace policy in place that meets the standards which the director of administrative services shall establish by rule."

In line 137 of the title, after "125.18," insert "125.80,"

In line 138 of the title, after "153.692," insert "153.72,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 55, nays 42, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Oelslager	Peterson
Raga	Rausen	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-55.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter

Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Patton T.	Perry	Redfern	Sayre
Skindell	Stewart D.	Strahorn	Sykes
Trakas	Ujvagi	Williams	Woodard
Yates			Yuko-42.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Skindell moved to amend as follows:

In line 36095, strike through "four" and insert "ten"

In line 36096, strike through "The" and insert "(a) Except as provided in division (C)(2)(b) of this section, the"

In line 36098, after "program" insert "and shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code"

Between lines 36098 and 36099, insert:

"(b) With respect to emissions of a regulated pollutant of more than four thousand tons, but less than or equal to ten thousand tons in a calendar year from an air contaminant source, the fees levied for those emissions under division (C)(1) of this section shall be used for the purpose of providing funding for motor vehicle inspection and maintenance programs as provided by law."

In line 73758, delete "(A)"

In line 73759, after "(Fund 5BZ)" insert ", to consist of money required to be expended for motor vehicle inspection and maintenance programs, as required in division (C)(2)(b) of section 3745.11 of the Revised Code, as amended by this act"

Delete lines 73767 through 73794

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 60, nays 36, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Cassell
Coley	Collier	Combs	Core
Daniels	DeWine	Dolan	Evans C.
Evans D.	Faber	Fende	Fessler
Flowers	Gibbs	Gilb	Hagan

Hood	Hoops	Hughes	Kearns
Kilbane	Latta	Law	Martin
McGregor	Oelslager	Patton T.	Peterson
Raga	Rausen	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-60.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Garrison	Harwood
Healy	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-36.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Yates moved to amend as follows:

In line 66155, after "(5)" insert "Has bright-line presence in the state;
(6)"

In line 66158, after "(I)" insert "A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has payroll in this state of at least fifty thousand dollars. Payroll in this state includes both of the following:

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

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

(3) Derives taxable gross receipts from this state of at least five hundred thousand dollars;

(4) Has within this state at least twenty-five per cent of the person's total property, total payroll, or total sales;

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

(J)"

In line 66160, delete "(J)" and insert "(K)"

In line 66168, delete "(K)" and insert "(L)"

In line 66172, delete "(L)" and insert "(M)"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 57, nays 40, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Oelslager	Patton T.
Peterson	Raga	Raussen	Reinhard
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart J.
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
			Husted-57.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-40.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Garrison moved to amend as follows:

In line 308, delete "and"

In line 309, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 311, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 336, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

Between lines 54821 and 54822, insert:

"Sec. ~~5703.65~~5703.58. Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

Sec. 5703.61. (A) As used in this section:

(1) "Listed transaction" means a listed transaction as defined in 26 C.F.R. 1.6011-4, or a transaction the same as, or substantially similar to, such a listed transaction, that the tax commissioner determines to be a tax avoidance transaction for purposes of Chapter 5733. or 5747. of the Revised Code, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(2) "Reportable transaction" means a reportable transaction as defined in 26 C.F.R. 1.6011-4 that the tax commissioner determines as having a potential for tax avoidance or evasion, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(3) "Reportable transaction disclosure statement" means the "reportable transaction disclosure statement" (Form 8886) required to be filed for federal income tax purposes under 26 C.F.R. 1.6011-4, or any successor to that form serving substantially the same purpose.

(B)(1) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file a reportable transaction disclosure statement for federal tax purposes for the same year or any of the preceding three years shall file a copy of that statement with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The statement shall be filed in the manner prescribed by the tax commissioner.

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. or 5747. of the

Revised Code, as applicable to the person, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code.

(C) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file an investor reporting of tax shelter registration number form for federal tax purposes for the same year or any of the preceding three years shall file a copy of that form with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The form shall be filed in the manner prescribed by the tax commissioner.

Sec. 5703.62. (A) As used in this section:

(1) "Listed transaction" has the same meaning as in section 5703.61 of the Revised Code.

(2) "Listed transaction organizer" means any person that discovers, creates, investigates, or initiates investment in a listed transaction, devises the business or financial plans for the investment, or carries out such plans through negotiations or transactions with others. "Listed transaction promoter" includes any other person who participates in the organization or management of the listed transaction.

(3) "Tax shelter" means a tax shelter as defined in section 6111 of the Internal Revenue Code, including a tax shelter described in section 6111(d) of the Internal Revenue Code, except that:

(a) The tax shelter ratio of a tax shelter shall be determined as provided in section 6111(c) of the Internal Revenue Code but inserting "or under Chapter 5733, or 5747, of the Revised Code" after "subtitle A" in subsection (c)(2)(A) of that section.

(b) With respect to a tax shelter described in section 6111(d) of the Internal Revenue Code, subsection (d)(1)(A) of that section shall be modified by inserting "or the taxes imposed under Chapter 5733, or 5747, of the Revised Code" after "Federal income tax."

(4) "Ohio-connected tax shelter" means a tax shelter that is organized in this state, does business in this state, or derives income from sources in this state, or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(5) "Potentially abusive tax shelter" has the same meaning as in section 6112 of the Internal Revenue Code.

(6) "Tax shelter organizer" means a tax shelter organizer as defined in section 6111 of the Internal Revenue Code.

(7) "Tax shelter registration application" means the "application for tax shelter registration" form (Form 8264) required to be filed for federal income tax purposes, or any successor to that form serving substantially the same purpose.

(B)(1) Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that also is an Ohio-connected tax shelter shall file a copy of the tax shelter registration application with the tax commissioner not later than the day on which the first offering for sale of interests in the tax shelter occurs. Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that becomes an Ohio-connected tax shelter after the day on which the first offering for sale of interests in the tax shelter occurs shall file a copy of the tax shelter registration application with the tax commissioner not later than sixty days after the day on which the tax shelter becomes an Ohio-connected tax shelter. The copy of the tax shelter registration application shall be filed in the manner prescribed by the tax commissioner.

(2) Any tax shelter organizer of tax shelter that is an Ohio-connected tax shelter at the time the organizer files the application for tax registration number with the internal revenue service shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after receiving the number from the internal revenue service. If the tax shelter becomes an Ohio-connected tax shelter after the organizer files the application for tax registration number with the internal revenue service, the organizer shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after the tax shelter first becomes an Ohio-connected tax shelter.

(C) Any listed transaction organizer of a transaction that is organized in this state, doing business in this state, or deriving income from sources in this state or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code and that becomes a listed transaction at any time after January 1, 2005, shall file a copy of the tax shelter registration application with the tax commissioner if such an application was required to be filed for federal income tax purposes, or, if such an application was not required to be so filed, shall file any other form prescribed by the tax commissioner for the purpose of registering the transaction with the tax commissioner. The filing shall be made not later than the later of sixty days after the transaction becomes a listed transaction or sixty days after the transaction becomes organized in this state, first does business in this state, first derives income from sources in this state, or first has an investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(D) Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that is an Ohio-connected tax shelter or that, at the time it is first offered for sale to investors, is organized in this state, doing business in this state, deriving income from sources in this state, or has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code shall maintain a list of

investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that, at any time after it is first offered for sale to investors, the person knows has become an Ohio-connected tax shelter or began doing business in this state, deriving income from sources in this state, or acquired at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

(E)(1)(a) If a person required by division (B)(1) of this section to file a copy of a tax shelter registration application fails to file the copy as required, a penalty shall be imposed equal to fifteen thousand dollars.

(b) If a person required by division (B)(2) of this section to provide the registration number of the tax shelter to the tax commissioner fails to provide that number as required by that division, a penalty shall be imposed equal to fifteen thousand dollars.

(c) If a person required by division (C) of this section to file with the tax commissioner a copy of the tax shelter registration application or other form prescribed by the commissioner as required by that division, a penalty shall be imposed equal to the greater of one hundred thousand dollars or fifty per cent of the gross income derived from the transaction.

(d) If a person required to maintain a list of investors in a potentially abusive tax shelter and to provide it to the tax commissioner upon the tax commissioner's request fails to provide the list to the commissioner as required under division (D) of this section, a penalty shall be imposed equal to ten thousand dollars for each day the person fails to provide the list.

(2) Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. of the Revised Code, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06 of the Revised Code.

Sec. 5703.63. As used in sections 5703.63 to 5703.65 of the Revised Code:

(A)(1) "Qualified entity" means a person satisfying all of the following:

(a) The person is a corporation, a limited liability company, or a qualified trust;

(b) Neither the person nor any predecessor to the person has previously filed a report or return under Chapter 5733. or 5747. of the Revised Code;

(c) Neither the person nor any predecessor to the person has previously been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733. or 5747. of the Revised Code; and

(d) The person voluntarily comes forward before any unilateral contact from the tax commissioner, the department of taxation, or any agent or employee of the department, applies for a voluntary disclosure agreement in the form and manner prescribed by the tax commissioner, and makes a full and accurate statement of its activities in this state for the six immediately preceding taxable years.

(2) "Qualified entity" does not include any of the following:

(a) A person that is organized under the laws of this state.

(b) A person that holds a license to transact business in this state issued by the secretary of state.

(c) A person that maintains and staffs a permanent facility in this state. For the purposes of this subdivision, storing tangible personal property in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(B) "Qualified shareholder" means an individual satisfying all of the following:

(1) A nonresident on the signing date of the voluntary disclosure agreement; and

(2) A shareholder of an S corporation that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement as required under division (C)(2) of that section.

(C) "Qualified member" means an individual, corporation, or limited liability company that satisfies all of the following:

(1)(a) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement; or

(b) In the case of a corporation or limited liability company, is not organized under the laws of this state or does not hold a license to transact business in this state issued by the secretary of state under section 1703.03 or 1705.54 of the Revised Code.

(2) A member of a limited liability company that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as

required under division (C)(2) of that section.

(D) "Qualified trust" means a trust satisfying both of the following:

(1) Administration of the trust, other than administration activities that are inconsequential to the overall administration of the trust, has never been performed in this state; and

(2) For the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiary other than a resident beneficiary whose interest in the trust is contingent. For the purposes of this division, a resident beneficiary's interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately before the signing date of the voluntary disclosure agreement.

(E) "Qualified beneficiary" means an individual who satisfies all of the following:

(1) The individual is a nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement; and

(2) The individual is a beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under division (C)(2) of that section.

(F) "Qualified person" means a qualified entity, qualified member, qualified shareholder, or qualified beneficiary.

(G) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code.

(H) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(I) "Signing date" of a voluntary disclosure agreement means the date on which a person duly authorized by the tax commissioner signs the agreement.

Sec. 5703.64. (A) The tax commissioner may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary. The agreement is binding on both the tax commissioner and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(B) The tax commissioner shall do all of the following:

(1) Prescribe procedures for qualified entities and their qualified

shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Provide procedures for accepting applications for voluntary disclosure agreements through the national nexus program administered by the multistate tax commission.

(4) For the purpose of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(a) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary's with this state was established;

(b) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272, 73 Stat. 555, 15 U.S.C. 381, or otherwise;

(c) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the activities of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary were immune from taxation by this state;

(d) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary;

(e) Demonstrations of good faith on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary; and

(f) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application for a voluntary disclosure agreement within one hundred twenty days after receiving the application.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in division (A) of this section and based on the criteria set forth in division (B)(4) of this section.

(C) A voluntary disclosure agreement entered into by the tax commissioner and a qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall provide for both of the following:

(1) That the tax commissioner shall, with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in division (E)(1), (2), or (3) of this section:

(a) Waive the tax commissioner's authority to make an assessment for taxes, additions to tax, fees, or penalties under Chapter 5733. or 5747. of the Revised Code with respect to each taxable year ending before six years from the signing date of the voluntary disclosure agreement:

(b) With respect to each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, agree to waive any or all of the following, as specified in the agreement:

(i) Any penalty related to a failure to make and file a report or return, as provided in division (A)(1) of section 5733.28 or division (A)(1) of section 5747.15 of the Revised Code.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in division (A)(2) of section 5733.28 or division (A)(2) of section 5747.15 of the Revised Code.

(iii) Any penalty or addition to tax related to an underpayment of estimated tax, as provided in section 5733.29, division (D) of section 5747.09, or division (C) of section 5747.43 of the Revised Code.

(iv) Any penalty prescribed by 5733.21 of the Revised Code.

(2) That the qualified entity, qualified shareholder, qualified member, or qualified beneficiary, with respect to each of the six taxable years ending immediately preceding the signing date of the written agreement, shall do both of the following:

(a) Voluntarily and fully disclose all material facts pertinent to the qualified entity's, qualified shareholder's, qualified member's, or qualified beneficiary's liability for any taxes imposed under Chapter 5733. or 5747. of the Revised Code:

(b) Except as provided in division (D) of this section, within thirty days after the signing date of the voluntary disclosure agreement, file all returns required under Chapter 5733. or 5747. of the Revised Code and pay in full any tax, interest, fee, and penalties imposed under Chapter 5733. or 5747. of the Revised Code, other than penalties specifically waived under the terms of the voluntary disclosure agreement in the manner prescribed by the tax commissioner.

(c) Agree to comply with all provisions of Chapter 5733. or 5747. of the Revised Code and other laws governing the taxes imposed under those chapters in subsequent taxable years by filing all returns required and paying all amounts due under those chapters.

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the

agreement to be paid in installments, with provisions for the accrual of interest on balances that remain outstanding after a specified date.

(E)(1) Division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the S corporation that filed an application under this section.

(2) In the case of a qualified member who is an individual, division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the limited liability company that filed an application under this section.

(3) Division (C)(1) of this section does not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this section.

(F) The Tax Commissioner may extend the time for filing returns and paying amounts due to one hundred twenty days after the signing date of the voluntary disclosure agreement.

(G) Nothing in sections 5703.63 to 5703.65 of the Revised Code shall be construed to mean that by accepting and signing a voluntary disclosure agreement the tax commissioner abdicates the right and authority to examine returns and determine the correct amount of tax for any of the taxable years covered by the voluntary disclosure period agreed upon and to assess any additional tax, penalty, or interest owed as a result of that examination, as otherwise provided by law.

Sec. 5703.65. (A) A voluntary disclosure agreement shall be null and void if the tax commissioner finds that, with respect to the agreement, any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any report or return for any taxable year covered by the agreement on or before the due date prescribed under the terms of the agreement.

(3) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the agreement or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with division (D) of section 5703.64 of the Revised Code.

(4) The tax shown by the qualified entity on its report or return filed for any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733. or 5747. of the Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with Chapter 5733. or 5747. of the Revised Code or both, as applicable to the entity, and all other laws governing the taxes imposed under those chapters, according to the terms of the voluntary disclosure agreement.

(B) If the tax commissioner finds that the qualified entity has failed to comply under any of the circumstances that render the voluntary disclosure agreement null and void as set forth in division (A) of this section, the limitation on the tax commissioner issuing an assessment for any taxable year covered by the agreement, and the waiver of any penalties under the agreement, are not binding on the tax commissioner.

Sec. 5703.66. (A) As used in this section:

(1) "Listed transaction" and "reportable transaction" have the same meanings as in section 5703.61 of the Revised Code.

(2) "Reportable transaction understatement" means the sum of divisions (A)(2)(a) and (b) of this section:

(a) The product of division (A)(2)(a)(i) and (ii) of this section:

(i) The amount of the increase, if any, in net income or Ohio taxable income resulting from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax report or return; times

(ii) Eight and one-half per cent in the case of a taxpayer subject to division (A) or (B) of section 5733.06 of the Revised Code or seven and one-half per cent in the case of a taxpayer subject to section 5747.02 of the Revised Code.

For the purpose of division (A)(2) of this section, any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses that would be allowed for that year without regard to section 1211 of the Internal Revenue Code, shall be treated as an increase in net income or Ohio taxable income.

(b) The amount of the decrease, if any, in the aggregate amount of credits allowed under Chapter 5733. or 5747. of the Revised Code, as applicable, that results from a difference between the taxpayer's treatment of an item to which this section applies, as shown on the taxpayer's tax report or return, and the proper tax treatment of that item.

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a

reportable transaction having as a significant purpose the avoidance or evasion of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount equal to twenty per cent of the amount of that understatement. The amount added under this section is in addition to any other penalty or other additions to tax under Chapter 5733. or 5747. of the Revised Code, shall be assessed in the same manner as such penalties or additions to tax, and shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable to the taxpayer.

(C) Any tax treatment included with an amended report or return shall not be taken into account in determining the amount of any reportable transaction understatement if the amended report or return is filed after the earlier of the date the taxpayer is first contacted by either the internal revenue service for federal income tax purposes or the tax commissioner regarding the examination of the report or return."

In line 68241, after "5703.50," insert "5703.65,"

In line 79443, delete "\$83,754,100 \$77,384,100" and insert "\$86,974,809 \$82,524,046"

In line 79444, delete "\$439,372,980 \$430,584,650" and insert "\$440,991,540 \$433,209,383"

In line 79447, delete "\$598,454,000 \$560,455,299" and insert "\$602,411,133 \$566,811,782"

In lines 79454 and 79455, add \$8,796,403 to fiscal year 2006 and \$14,121,162 to fiscal year 2007

Between lines 82198 and 82199, insert:

"Section ____. (A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2005.

The Tax Commissioner shall issue forms and instructions and may take any other actions necessary to implement this section. The Tax Commissioner shall publicize the voluntary compliance initiative so as to maximize public awareness of and participation in the initiative.

(C) Any person satisfying the requirements of division (F) of this section may enter into an agreement with the Tax Commissioner providing for all of the following:

(1) The Tax Commissioner shall waive or abate all penalties imposed under Chapter 5703., 5733., or 5747., of the Revised Code as applicable, for all tax years or taxable years for which the person elects to participate in the initiative as a result of the underreporting of tax liabilities attributable to the use of abusive tax avoidance transactions.

(2) No criminal action shall be brought against the person for the taxable years with respect to issues for which the person voluntarily complies under this section.

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2005.

(4) The person may not file a claim for refund for amounts paid in connection with abusive tax avoidance transactions under this section.

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2004, any of the following applies:

(1) A criminal complaint was filed against the person in connection with an abusive tax avoidance transaction or transactions.

(2) The person is the subject of a criminal investigation in connection with an abusive tax avoidance transaction.

(E) No refund or credit shall be granted with respect to any penalty paid before a person applies for participation in the voluntary compliance initiative authorized by this section.

(F) The voluntary compliance initiative applies to any person that was not eligible to participate in the Internal Revenue Service's Offshore Voluntary Compliance Initiative described in Revenue Procedure 2003-11, and that, during the three-month period of the initiative period, does both of the following:

(1) Files an amended tax report or return under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, for each taxable year for which the person has previously filed a report or return using an abusive tax avoidance transaction to underreport the person's tax liability for that taxable year. Each amended report or return shall report all income from all sources, without regard to the abusive tax avoidance transaction.

(2)(a) Except as provided in division (F)(2)(b) of this section, pays in full all taxes and interest due.

(b) The Tax Commissioner may enter into an installment payment agreement in lieu of the full payment required under division (F)(2)(a) of this

section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

(G) After the end of the three-month period during which the initiative is conducted, the Tax Commissioner may issue a deficiency assessment upon an amended report or return filed pursuant to division (F)(1) of this section, impose penalties, or initiate criminal action arising from a violation of any provision of Chapter 5733. or 5747. of the Revised Code with respect to the difference between the amount shown on that report or return and the correct amount of tax. Such an action does not invalidate any waiver granted under division (C) of this section.

(H) In addition to any other authority to examine reports or returns under the Revised Code, for the purpose of improving state tax administration, the Tax Commissioner may inquire into the facts and circumstances related to the use of abusive tax avoidance transactions to underreport the tax liabilities for which a taxpayer has participated in the voluntary compliance initiative under this section. Persons shall cooperate fully with such inquiries. Failure by a person to fully cooperate in such an inquiry shall render the waiver of penalties under this section null and void, and the person may be assessed any penalties that may apply under law without regard to this section.

(I) Notwithstanding section 5733.11 or 5747.13 of the Revised Code, with respect to proposed deficiency assessments related to an abusive tax avoidance transaction, a notice of a proposed deficiency assessment may be mailed to the taxpayer within eight years after the report or return was filed, or within the period otherwise provided in that section, whichever expires later.

Section ____. Section ____ of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section ____ of this act. The repeal of Section ____ of this act does not affect, after the effective date of the repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those agreements."

In line 82312, delete "(G)" and insert "(H)"

In line 82320, delete "and"; after "(F)" insert ", and (H)"

In line 82325, delete "and"; after "(F)" insert ", and (H)"

In line 82472, delete "and"; after "(E)" insert ", and (H)"

In line 82477, delete "(I)" and insert "(J)"

In line 82478, delete "and"; after "(E)" insert ", and (H)"

In line 82519, after "(H)" insert "(1) As used in this section, "distressed county" means a county that satisfies the definition of "distressed area" under section 122.16 of the Revised Code on July 1, 2005, or July 1, 2006.

(2) Division (H)(2) of this section applies to distributions to and from county undivided local government, county undivided local government revenue assistance, and county undivided library and local government support funds of counties that are distressed counties on July 1, 2005.

To each of the amounts credited each month in December 2005 through June 2006 under division (C) of this section and each of the amounts credited each month in July 2005 through June 2006 under divisions (D) and (E) of this section, the Tax Commissioner shall add an amount such that the amount available for distribution for each of those months from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund to the corresponding undivided local government funds of distressed counties equals one hundred per cent of the average of the monthly amounts distributed to those undivided funds in fiscal year 2005.

(3) Division (H)(3) of this section applies to distributions to and from county undivided local government, county undivided local government revenue assistance, and county undivided library and local government support funds of counties that are distressed counties on July 1, 2006.

To each of the amounts credited each month in July 2006 through June 2007 under division (C) of this section and each of the amounts credited each month in July 2006 through June 2007 under divisions (D) and (E) of this section, the Tax Commissioner shall add an amount such that the amount available for distribution for each of those months from the Local Government Fund, Local Government Revenue Assistance Fund, and Library and Local Government Support Fund to the corresponding undivided local government funds of distressed counties equals one hundred per cent of the corresponding monthly amounts distributed to those undivided funds in fiscal year 2006.

(I)"

In line 82532, after "2004" insert ", except that the undivided fund of a distressed county shall receive the same amount that it received for the respective month during that period"

In line 82537, after "2004" insert ", except that such a municipal corporation located in a distressed county shall receive the same amount that it received for the respective month during that period"

In line 82542, after "2004" insert ", except that the undivided fund of a distressed county shall receive the same amount that it received for the respective month during that period"

In line 82547, after "2005" insert ", except that the undivided fund of a

distressed county shall receive the same amount that it received for the respective month during that period"

In line 82548, delete "(I)" and insert "(J) Division (J) of this section does not apply to distributions to a county undivided local government fund or county undivided local government revenue assistance fund of a county that is a distressed county."

In lines 82556, 82576, 82589, 82592, 82595, 82596, 82603, 82604, 82612, 82619, 82628, 82639, 82650, 82653, 82658, and 82674, delete "(I)" and insert "(J)"

In line 82679, delete "(J)" and insert "(K) Division (K) of this section does not apply to distributions from a county undivided local government fund or county undivided local government revenue assistance fund of a county that is a distressed county."

In line 82690, delete "(I)" and insert "(J)"

In lines 82694, 82698, and 82706, delete "(J)" and insert "(K)"

In line 82728, delete "(K)" and insert "(L) Division (L) of this section does not apply to distributions from a county undivided local government fund or county undivided local government revenue assistance fund of a county that is a distressed county."

In line 82735, delete "(K)" and insert "(L)"

In line 82739, delete "(I)" and insert "(J)"

In lines 82743, 82755, and 82761, delete "(K)" and insert "(L)"

In line 82777, delete "(L)" and insert "(M)"

In line 82796, delete "(M)" and insert "(N)"

In line 83066, after "5703.50," insert "5703.61, 5703.62, 5703.63, 5703.64, new 5703.65, 5703.65 (5703.58), 5703.66,"

In line 133 of the title, delete "and"; after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 135 of the title, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 168 of the title, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 211 of the title, after "2005" insert ", and to repeal Section ____ of this act one year after the end of the abusive tax avoidance transaction program created by this act"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 54, nays 44, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans D.	Faber
Flowers	Gibbs	Gilb	Hagan
Hoops	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausсен
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-54.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Evans C.
Fende	Fessler	Garrison	Hartnett
Harwood	Healy	Hood	Hughes
Key	Koziura	Mason	Miller
Mitchell	Otterman	Perry	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-44.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Mitchell moved to amend as follows:

In line 61448, after "state" insert ". but the exemption applies only if the purchaser is a resident of a state that levies a tax on sales of motor vehicles and that provides a similar exemption for residents of this state"

In line 83072, delete "5739.02,"

Between lines 83279 and 83280, insert:

"Section ____. (A) Except as otherwise provided in division (B) of this section, the amendments by this act to section 5739.02 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into immediate effect when this act becomes law.

(B) The amendment to division (B)(23) of section 5739.02 of the Revised

Code provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendment is not subject to the referendum and goes into effect July 1, 2005."

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 57, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Flowers	Gibbs	Gilb
Hagan	Hoops	Hughes	Kearns
Kilbane	Latta	Law	Martin
McGregor	Oelslager	Patton T.	Peterson
Raga	Rausen	Reidelbach	Reinhard
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart J.
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
			Husted-57.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Fessler	Garrison	Hartnett	Harwood
Healy	Hood	Key	Koziura
Mason	Miller	Mitchell	Otterman
Perry	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Williams moved to amend as follows:

In line 212, delete "9.833, 9.90,"

In line 236, delete "3311.19, 3313.12, 3313.202,"

In line 237, delete "3313.33,"

In line 261, delete "4117.03,"

In line 262, delete "4117.08,"

In line 311, delete "9.901,"

Delete lines 850 to 1273

Delete lines 19328 to 19571

Delete lines 19654 to 19684

In line 20688, reinsert the stricken semicolon and delete the balance of the line

Delete line 20689

Delete lines 38761 to 38855

In line 68167, delete "9.833,"

In line 68168, delete "9.90,"

In line 68191, delete "3311.19, 3313.12, 3313.202,"

In line 68192, delete "3313.33,"

In line 68216, delete "4117.03,"

In line 68217, delete "4117.08,"

Delete lines 68969 and 68969a

In line 68985, delete "\$161,597,507 \$161,611,940" and insert "\$162,347,507 \$161,861,940"

In line 69022, delete "\$2,428,056,981 \$2,427,280,226" and insert "\$2,428,806,981 \$2,427,530,226"

Delete lines 69081 through 69094

Between lines 73624 and 73625, insert:

"Section ____. The Department of Education shall study the consolidation of health care insurance purchasing by school districts and shall make recommendations based on its findings to the General Assembly not later than March 31, 2006. In conducting the study, the Department shall consult with boards of education, school district employees, and other parties with an interest in the issue. The study shall examine each of the following:

(1) The financial efficiencies of limiting the number of health care plans available to school district employees and the maximum number of plans a district should offer;

(2) Cost savings of offering a prescription drug program that emphasizes the use of generic drugs;

(3) Advantages and disadvantages to implementing a health insurance pool at a statewide level and at a regional level for the purchase of health care

insurance for school district employees and the advantages and disadvantages for districts of mandatory versus voluntary participation;

(4) Forming school district committees comprised of labor and management for the purpose of reviewing health care insurance programs."

Delete lines 83153 through 83165

In line 1 of the title, delete "9.833, 9.90,"

In line 33 of the title, delete "3311.19, 3313.12, 3313.202,"

In line 34 of the title, delete "3313.33,"

In line 68 of the title, delete "4117.03, 4117.08,"

In line 136 of the title, delete "9.901,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 55, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Peterson	Raga
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-55.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Oelslager	Patton T.
Perry	Rausen	Redfern	Sayre
Skindell	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Strahorn moved to amend as follows:

In lines 63032 and 63807, after "~~twenty seven~~" insert "fifty"; reinsert "and one-half"; delete "fifty"

Between lines 74809 and 74810, insert:

"Section ____ . MEDICAID RATES FOR CHILDREN'S HOSPITALS

As used in this section, "children's hospital" has the same meaning as in section 3702.51 of the Revised Code.

For fiscal years 2006 and 2007, Medicaid payment rates for services provided by children's hospitals shall be at least equal to the rates for those services under rules adopted under section 5111.02 of the Revised Code that were in effect on March 1, 2005, including rules that provide for inflationary adjustments."

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,783,042,629 \$3,824,740,675"

In line 76095, delete "\$5,659,250,287 \$5,768,292,576" and insert "\$5,661,050,287 \$5,774,892,576"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,444,092,916 \$9,599,633,251"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$3,963,195,526 \$4,188,373,873"

In line 76100, delete "\$5,685,789,831 \$5,794,102,985" and insert "\$5,687,589,831 \$5,800,702,985"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,650,785,357 \$9,989,076,858"

In line 76102, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,650,785,357 \$9,989,076,858"

In line 78727, delete "5739.02,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Book
Bubp	Buehrer	Calvert	Carmichael
Coley	Collier	Combs	Core
Daniels	DeWine	Dolan	Evans C.
Evans D.	Faber	Fessler	Flowers

Gibbs	Gilb	Hagan	Hood
Hoops	Hughes	Kearns	Kilbane
Latta	Law	Martin	McGregor
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Brinkman	Brown	Carano	Cassell
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Fende	Garrison
Hartnett	Harwood	Healy	Key
Koziura	Mason	Miller	Mitchell
Oelslager	Otterman	Perry	Redfern
Sayre	Skindell	Stewart D.	Strahorn
Sykes	Trakas	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Yates moved to amend as follows:

In line 342, delete "5751.31,"

Delete lines 67508 through 67517

In line 83080, delete "5751.31,"

In line 176 of the title, delete "5751.31,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter

Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Perry	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Redfern moved to amend as follows:

In line 228, after "1502.02," insert "1505.07,"

Between lines 11219 and 11220, insert:

"Sec. 1505.07. (A) Subject to the ~~limitation~~limitations set forth in division (B) of this section and in section 1505.08 of the Revised Code, the director of natural resources, with the approval of the director of environmental protection, the attorney general, and the governor, may issue permits and make leases to parties making application for permission to take and remove sand, gravel, stone, and other minerals or substances from and under the bed of Lake Erie, either upon a royalty or rental basis, as ~~he~~the director of natural resources determines to be best for the state. Permits shall be issued for terms of not less than one year nor more than ten years, and leases shall be for a term of years or until the economic extraction of the mineral or other substance covered thereby has been completed. Such taking and removal shall be within certain fixed boundaries that do not conflict with the rights of littoral owners. Upon request from the holder of a permit, it shall be canceled, but in the case of any permit or lease, any equipment or buildings owned by the permittee or lessee shall be held as security by the director of natural resources for payment of all rentals or royalties due the state at the time of cancellation.

(B) The director of natural resources shall not issue any permit or make any lease under division (A) of this section to take or remove oil or natural gas from and under the bed of Lake Erie.

(C) No person shall remove sand, gravel, stone, or other minerals or substances from and under the bed of Lake Erie without first obtaining a permit

or lease therefor from the director.

(D) The director of ~~natural resources~~ may, in accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind rules for the administration, implementation, and enforcement of this section."

In line 68183, after "1502.02," insert "1505.07,"

In line 21 of the title, after "1502.02," insert "1505.07,"

The question being, "Shall the motion to amend be agreed to?"

Representative Trakas moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 40, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausсен
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
Woodard			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Perry	Redfern
Sayre	Skindell	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Ujvagi	Williams	Yates	Yuko-40.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Skindell moved to amend as follows:

In line 66106, delete "amounts" and insert "all of the following, even if such amounts are received in the ordinary course of the taxpayer's trade or business and are a form of payment for a transaction listed in division (F)(1) of

this section:(a) Amounts"

In line 66109, delete "even if"

Delete lines 66110 through 66112 and insert ":

(b) Proceeds received from the sale or purchase of food for human consumption off the premises where sold;

(c) Proceeds received from any wholesale sale or wholesale purchase of food for human consumption, including nonalcoholic beverages, its ingredients, or its packaging;

(d) Proceeds received from any sale or purchase of such items sold to or purchased by a manufacturer, processor, packager, distributor, or reseller of food for human consumption, including nonalcoholic beverages, or its ingredients, for use in its trade or business;

(e) Proceeds received in any retail transaction, on any packaging that contains food for human consumption, including nonalcoholic beverages, on or off the premises where sold."

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 56, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Flowers	Gibbs	Hagan
Hoops	Hughes	Kearns	Kilbane
Latta	Law	Martin	McGregor
Oelslager	Patton T.	Peterson	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert	Yates	Husted-56.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Domenick	Driehaus	Fende	Fessler
Garrison	Gilb	Hartnett	Harwood
Healy	Hood	Key	Koziura

Mason	Miller	Mitchell	Otterman
Patton S.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Williams	Woodard
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Ujvagi moved to amend as follows:

In line 247, after "3333.121," insert "3333.26,"

In line 295, after "5739.01," insert "5739.011,"

Between lines 27743 and 27744, insert:

"Sec. 3333.26. (A) Any citizen of this state who has resided within the state for one year and who was in the active service of the United States as a soldier, sailor, nurse, or marine between April 6, 1917, and November 11, 1918, and who has been honorably discharged from such service, shall be admitted to any school, college, or university that receives state funds in support thereof, without being required to pay any tuition or matriculation fee, but is not relieved from the payment of laboratory or similar fees.

(B)(1) As used in this division:

(a) "Volunteer firefighter" has the meaning given in division (B)(1) of section 146.01 of the Revised Code;

(b) "Public service officer" means an Ohio firefighter, volunteer firefighter, police officer, member of the highway patrol, employee designated to exercise the powers of police officers pursuant to section 1545.13 of the Revised Code, or other peace officer as defined by division (B) of section 2935.01 of the Revised Code, or a person holding any equivalent position in another state;

(c) "Qualified former spouse" means the former spouse of a public service officer, or of a member of the armed services of the United States, who is the custodial parent of a minor child of that marriage pursuant to an order allocating the parental rights and responsibilities for care of the child issued pursuant to section 3109.04 of the Revised Code.

(d) "Operation enduring freedom" means that period of conflict which began October 7, 2001, and ends on a date declared by the president of the United States or the congress.

(e) "Operation Iraqi freedom" means that period of conflict which began March 20, 2003, and ends on a date declared by the president of the United States or the congress.

(f) "Combat zone" means an area which the president of the United States by executive order designates, for purposes of 26 U.S.C. 112, as an area in which

armed forces of the United States are or have engaged in combat.

(2) Any resident of this state who is under twenty-six years of age, or under thirty years of age if the resident has been honorably discharged from the armed services of the United States, and who is the child of a public service officer killed in the line of duty or of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

A child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom is eligible for a waiver of tuition and student fees under this division only if the student is not eligible for a war orphans scholarship authorized by Chapter 5910. of the Revised Code. In any year in which the war orphans scholarship board reduces the percentage of tuition covered by a war orphans scholarship below one hundred per cent pursuant to division (A) of section 5910.04 of the Revised Code, the waiver of tuition and student fees under this division for a child of a member of the armed services of the United States killed in the line of duty during operation enduring freedom or operation Iraqi freedom shall be reduced by the same percentage.

(3) Any resident of this state who is the spouse or qualified former spouse of a public service officer killed in the line of duty or of a member of the armed services of the United States killed in the line of duty while serving in a combat zone after May 7, 1975, and who is admitted to any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college, state community college, university branch, or technical college, shall not be required to pay any tuition or any student fee for up to four academic years of education, which shall be at the undergraduate level.

(C) Any institution that is not subject to division (B) of this section and that holds a valid certificate of registration issued under Chapter 3332., a valid certificate issued under Chapter 4709., or a valid license issued under Chapter 4713. of the Revised Code, or that is nonprofit and has a certificate of authorization issued under section 1713.02 of the Revised Code or that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code that reduces tuition and student fees of a student who is eligible to attend an institution of higher education under the provisions of division (B) of this section by an amount indicated by the Ohio board of regents shall be eligible to receive a grant in that amount from the board. Each institution that enrolls students under division (B) of this section shall report to the board, by the first day of July of each year, the number of students who were so enrolled and the average amount of all such tuition and fees waived during the preceding year. The board shall determine the

average amount of all such tuition and fees waived during the preceding year. The average amount of tuition and fees waived under division (B) of this section during the preceding year shall be the amount of grants that participating institutions shall receive under this division during the current year, but no grant under this division shall exceed the tuition and student fees due and payable by the student prior to the reduction referred to in this division. Such grants shall be made for four years of undergraduate education of an eligible student."

In line 60482, strike through "(43)" and insert "(42)"

Between lines 61165 and 61166, insert:

"**Sec. 5739.011.** (A) As used in this section:

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale.

(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

(B) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;

(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the

product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;

(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;

(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;

(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;

(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;

(11) Parts, components, and repair and installation services for items described in division (B) of this section.

(C) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the

Revised Code, the "thing transferred" does not include any of the following:

- (1) Tangible personal property used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;
 - (2) Tangible personal property used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form;
 - (3) Tangible personal property used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility;
 - (4) Tangible personal property that is or is to be incorporated into realty;
 - (5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;
 - (6) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation;
 - (7) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation;
 - (8) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility;
 - (9) Motor vehicles registered for operation on public highways.
- (D) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner."

In line 61373, strike through "(43)" and insert "(42)"

In line 61522, after "(35)" strike through the remainder of the line

Strike through lines 61523 through 61535

In line 61536, strike through "(36)"

In line 61546, strike through "(36)" and insert "(35)"

In line 61553, strike through "(36)" and insert "(35)"

In line 61561, strike through "(37)" and insert "(36)"

In line 61564, strike through "(38)" and insert "(37)"

In line 61569, strike through "(39)" and insert "(38)"

In line 61581, strike through "(40)" and insert "(39)"

In line 61584, strike through "(41)" and insert "(40)"

In line 61597, strike through "(43)" and insert "(42)"

In line 61601, strike through "(42)" and insert "(41)"

In line 61605, strike through "(43)" and insert "(42)"

In line 61664, strike through "(36)" and insert "(35)"

In line 61680, strike through "(43)" and insert "(42)"

In line 61683, strike through "(44)" and insert "(43)"

In line 61690, strike through "(45)" and insert "(44)"

In line 61696, strike through "(46)" and insert "(45)"

In line 68202, after "3333.121," insert "3333.26,"

In line 68250, after "5739.01," insert "5739.011,"

In line 77686, delete "\$121,151,870 \$92,496,969" and insert "\$121,251,870 \$92,596,969"

In lines 77722 and 77750, add \$100,000 to each fiscal year

In line 82986, after "3325.17," insert "3333.26,"

In line 82999, after "5731.39," insert "5739.011,"

In line 47 of the title, after "3333.121," insert "3333.26,"

In line 113 of the title, after "5739.01," insert "5739.011,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Oelslager	Patton T.

Peterson	Raga	Rausen	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Redfern moved to amend as follows:

In line 79443, delete "\$83,754,100 \$77,384,100" and insert "\$94,597,556 \$94,597,556"

In line 79444, delete "\$439,372,980 \$430,584,650" and insert "\$458,510,155 \$458,510,155"

In line 79447, delete "\$598,454,000 \$560,455,299" and insert "\$662,184,888 \$662,184,888"

Delete lines 79451 through 79452a

In line 79454, delete "\$2,344,592,080 \$2,451,701,049" and insert "\$2,429,803,599 \$2,592,069,599"

In line 79455, delete "\$4,252,292,740 \$4,443,027,009" and insert "\$4,337,504,259 \$4,583,395,559"

In line 82312, delete "(G)" and insert "(D)"

In line 82320, delete "divisions" and insert "division"; delete ", (D), (E), and (F)"

In line 82324, delete "divisions" and insert "division"; delete ", (D),"

In line 82325, delete "(E), and (F)"

In line 82328, delete "(G)" and insert "(D)"

In line 82329, delete the semicolon and insert a period

Delete lines 82330 through 82333

In line 82335, after "the" insert "public utility excise,"

In line 82335, after "2005" insert "and 2006"

In line 82338, after "2005" insert "and 2006"

In line 82339, delete everything after the semicolon

Delete line 82340

In line 82341, after "2005" insert "and 2006"

In line 82342, delete everything after the semicolon

Delete line 82343

In line 82344, after "2005" insert "and 2006"

In line 82345, delete everything after the semicolon

Delete line 82346

In line 82348, delete everything after the semicolon

Delete line 82349

In line 82350, after "2005" insert "and 2006"

In line 82351, delete everything after the semicolon

Delete line 82352

In line 82353, after "2005" insert "and 2006"; delete "eighty" and insert "one hundred"

In line 82354, delete everything after "2004" and insert a semicolon

Delete lines 82355 through 82360

In line 82361, after "2006" insert "and 2007"; delete "eighty" and insert "one hundred"

In line 82362, delete everything after the semicolon

Delete line 82363

In line 82364, after "2006" insert "and 2007"; delete "eighty" and insert "one hundred"

In line 82365, delete everything after the semicolon

Delete line 82366

In line 82367, after "2006" insert "and 2007"; delete "eighty" and insert

"one hundred"

In line 82368, delete everything after the semicolon

Delete line 82369

In line 82370, after "2006" insert "and 2007"; delete "eighty" and insert "one hundred"

In line 82371, delete everything after the semicolon

Delete line 82372

In line 82373, after "2006" insert "and 2007"; delete "eighty" and insert "one hundred"

In line 82374, delete everything after the semicolon

Delete line 82375

In line 82376, after "2006" insert "and 2007"; delete "eighty" and insert "one hundred"

In line 82377, delete everything after "2005" and insert a period

Delete line 82378

In line 82379, delete everything after "(D)"

Delete lines 82380 through 82479

In line 82480, delete "(G)"

In line 82483, after "2005" insert "and 2006"

In line 82484, delete everything after the semicolon

Delete line 82485

In line 82486, after "2005" insert "and 2006"

In line 82487, delete everything after the semicolon

Delete line 82488

In line 82489, after "2005" insert "and 2006"

In line 82490, delete everything after the semicolon

Delete line 82491

In line 82492, after "2005" insert "and 2006"

In line 82493, delete everything after the semicolon

Delete line 82494

In line 82495, after "2005" insert "and 2006"

In line 82496, delete everything after the semicolon

Delete line 82497

In line 82498, after "2005" insert "and 2006"; delete "ninety-five" and insert "one hundred"

In line 82499, delete everything after the semicolon

Delete line 82500

In line 82501, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82502, delete everything after the semicolon

Delete line 82503

In line 82504, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82505, delete everything after the semicolon

Delete line 82506

In line 82507, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82508, delete everything after the semicolon

Delete line 82509

In line 82510, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82511, delete everything after the semicolon

Delete line 82512

In line 82513, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82514, delete everything after the semicolon

Delete line 82515

In line 82516, after "2006" insert "and 2007"; delete "ninety-five" and insert "one hundred"

In line 82517, delete everything after "2005" and insert a period

Delete line 82518

In line 82519, delete "(H)" and insert "(E)"

In line 82520, delete "and" and insert a comma; after "Fund" insert ", and the Library and Local Government Support Fund"

In line 82521, delete "November 2005" and insert "June 2007"

In line 82523, delete everything after "manner" and insert a colon

Delete lines 82524 through 82527

In line 82532, delete "December 31, 2004" and insert "July 31, 2005"

In line 82537, delete "December 31, 2004" and insert "July 31, 2005"

In line 82542, delete "December 31, 2004" and insert "July 31, 2005"

Delete lines 82548 through 82776

In line 82777, delete "(L)" and insert "(F)"

In line 82796, delete "(M)" and insert "(G)"

In line 22115, reinsert "and"; delete the underlined comma

In line 22116, delete "\$5,283" and insert ". The base cost per pupil is \$5,333"; delete the second underlined comma; delete "\$5,399" and insert "\$5,437"

In line 71379, delete "\$5,582,820,663 \$5,692,271,366" and insert "\$5,659,520,663 \$5,769,171,366"

In line 71385, delete "\$7,482,048,102 \$7,571,309,899" and insert "\$7,558,748,102 \$7,648,209,899"

In line 71452, delete "\$10,119,320,385 \$10,600,545,703" and insert "\$10,196,020,385 \$10,677,445,703"

In line 64950, after "2004" insert "or 2005"

Delete lines 64966 through 65045a and insert:

"(2) For taxable years beginning in 2006:

OHIO ADJUSTED GROSS

INCOME LESS

EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO

TAXABLE INCOME

(TRUSTS)

OR

OHIO TAXABLE INCOME

(ESTATES)

TAX

\$5,000 or less

.691%

More than \$5,000 but not more than \$10,000

\$35.60 plus 1.382% of the amount in excess of \$5,000

More than \$10,000 but not more than \$15,000

\$103.65 plus 2.764% of the amount in excess of \$10,000

More than \$15,000 but not more than \$20,000

\$241.85 plus 3.455% of the amount in excess of \$15,000

More than \$20,000 but not more

\$414.60 plus 4.145% of the

<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,243.60 plus 4.837% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,178.40 plus 5.527% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,283.80 plus 6.90% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$11,183.80 plus 7.50% of the amount in excess of \$200,000</u>

(3) For taxable years beginning in 2007:

OHIO ADJUSTED GROSS

INCOME LESS

EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO

TAXABLE INCOME

(TRUSTS)

OR

OHIO TAXABLE INCOME

(ESTATES)

TAX

<u>\$5,000 or less</u>	<u>.643%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$32.15 plus 1.285% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$96.40 plus 2.570% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$224.90 plus 3.213% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$385.55 plus 3.855% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,156.55 plus 4.498% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,955.75 plus 5.140% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,983.75 plus 6.728% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$10,711.75 plus 7.313% of the amount in excess of \$200,000</u>

(4) For taxable years beginning in 2008:

OHIO ADJUSTED GROSS

INCOME LESS

EXEMPTIONS

(INDIVIDUALS)

OR

MODIFIED OHIO

TAXABLE INCOME

(TRUSTS)

OR

OHIO TAXABLE INCOME(ESTATES)TAX

<u>\$5,000 or less</u>	<u>.598%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$29.90 plus 1.195% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$89.65 plus 2.391% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$209.20 plus 2.988% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$358.60 plus 3.585% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,075.60 plus 4.183% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,748.80 plus 4.780% of the amount in excess of \$80,000</u>
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,704.80 plus 6.559% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$10,263.80 plus 7.130% of the amount in excess of \$200,000</u>

(5) For taxable years beginning in 2009 or thereafter:

OHIO ADJUSTED GROSSINCOME LESSEXEMPTIONS(INDIVIDUALS)

OR

MODIFIED OHIOTAXABLE INCOME(TRUSTS)

OR

OHIO TAXABLE INCOME(ESTATES)TAX

<u>\$5,000 or less</u>	<u>.556%</u>
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$27.80 plus 1.112% of the amount in excess of \$5,000</u>
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$83.40 plus 2.223% of the amount in excess of \$10,000</u>
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$194.50 plus 2.779% of the amount in excess of \$15,000</u>
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$333.45 plus 3.334% of the amount in excess of \$20,000</u>
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,000.25 plus 3.891% of the amount in excess of \$40,000</u>
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,556.65 plus 4.446% of the amount in excess of \$80,000</u>

<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,445.85 plus 6.559% of the amount in excess of \$100,000</u>
<u>More than \$200,000</u>	<u>\$10,004.85 plus 7.130% of the amount in excess of \$200,000"</u>

In line 64332, delete "but not for any taxable"

In line 64333, delete "year beginning after December 31, 2005"

In line 82858, delete "division"

In line 82859, delete "(A)(18) of section 5747.01 and"

In line 270, delete "5111.019,"

Delete lines 43790 through 43814

In line 68225, delete "5111.019,"

Delete lines 74838 through 74848

In line 82994, delete "5111.019,"

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,785,272,889 \$3,854,201,955"

In line 76095, delete "\$5,659,250,287 \$5,768,292,576" and insert "\$5,664,370,027 \$5,818,831,296"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,449,642,916 \$9,673,033,251"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$3,965,425,786 \$4,217,835,153"

In line 76100, delete "\$5,685,789,831 \$5,794,102,985" and insert "\$5,690,909,571 \$5,844,641,705"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,656,335,357 \$10,062,476,858"

In line 76012, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,656,335,357 \$10,062,476,858"

In line 79 of the title, delete "5111.019,"

Delete lines 74948 through 74958 and insert:

"For fiscal years 2006 and 2007, the Medicaid program shall cover dental services in at least the amount, duration, and scope that the program covered those services immediately prior to the effective date of this section."

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,791,833,018 \$3,843,373,281"

In line 76095, delete "\$5,659,250,287 \$5,768,292,576" and insert "\$5,674,161,167 \$5,802,669,258"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,465,994,185 \$9,646,042,539"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$3,971,985,915 \$4,207,006,479"

In line 76100, delete "\$5,685,789,831 \$5,794,102,985" and insert "\$5,700,700,711 \$5,828,479,667"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,672,686,626 \$10,035,486,146"

In line 76102, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,672,686,626 \$10,035,486,146"

In line 212, delete "9.24,"

In line 218, delete "131.23,"

In line 222, delete "323.01, "; delete "329.051,"

In line 231, delete "2305.234,"

In line 232, delete "2744.05,"

In line 234, delete "3111.04, 3119.54,"

In line 244, delete "3317.10,"

In line 254, delete "3702.74,"

In line 262, delete "4123.27,"

In line 264, delete "4731.65, 4731.71,"

In line 266, delete "5101.181, "; delete "5101.26,"

In line 267, delete "5101.31, "; delete "5101.36,"

In line 269, delete "5110.01, 5110.05,"

In line 277, delete "5112.03, 5112.08, 5112.17,"

In line 278, delete "5115.20, 5115.22, 5115.23,"

Delete lines 709 through 849

In line 5709, reinsert "or payments or provider agreements under"

Reinsert line 5710

In line 5711, reinsert "Chapter 5115. of the Revised Code"

Delete lines 6014 through 6130

Delete lines 8937 through 8992

In line 9244, reinsert "Administer disability medical assistance, as required by"

Reinsert lines 9245 and 9246

In line 9247, reinsert "(4)"

In line 9250, reinsert "(5)" and delete "(4)"

In line 9253, reinsert "(6)" and delete "(5)"

In line 9256, reinsert "(7)" and delete "(6)"

In line 9262, reinsert "(8)" and delete "(7)"

In line 9264, reinsert "(9)" and delete "(8)"

In line 9268, reinsert "(10)" and delete "(9)"

In line 9276, reinsert "(11)" and delete "(10)"

In line 9280, reinsert "(12)" and delete "(11)"

Delete lines 9294 through 9308

Delete lines 14247 through 14516

Delete lines 14803 through 14889

Delete lines 17533 through 17588

Reinsert line 23678

In line 23679, reinsert "under Chapter 5115. of the Revised Code"

Delete lines 25400 through 25441

Delete lines 30875 through 30933

Delete lines 38895 through 38960

Delete lines 40512 through 40635

Delete lines 41245 through 41316

Delete lines 41941 through 41989

Delete lines 42108 through 42129

Delete lines 43589 through 43747

Delete lines 48912 through 49085

Delete lines 49134 through 49309

In line 68167, delete "9.24,"

In line 68173, delete "131.23,"

In line 68177, delete "323.01,"

In line 68178, delete "329.051,"

In line 68186, delete "2305.234,"

In line 68187, delete "2744.05,"

In line 68189, delete "3111.04, 3119.54,"

In line 68199, delete "3317.10,"

In line 68209, delete "3702.74,"

In line 68217, delete "4123.27,"

In line 68219, delete "4731.65, 4731.71,"

In line 68221, delete "5101.181,"; delete "5101.26,"

In line 68222, delete "5101.31,"; delete "5101.36,"

In line 68224, delete "5110.01, 5110.05,"

In line 68232, delete "5112.03, 5112.08, 5112.17,"

In line 68233, delete "5115.20, 5115.22, 5115.23,"

In line 68262, delete "5115.10, 5115.11, 5115.12, 5115.13, 5115.14,"

In line 74849, delete "TERMINATION OF THE"

Delete lines 74851 through 74900 and insert:

"(A) Notwithstanding sections 5115.10 and 5115.12 of the Revised Code or any rules adopted by the Director of Job and Family Services under those sections, and subject to division (B) of this section, the Department of Job and Family Services shall, during at least six months of each of fiscal years 2006 and 2007, permit individuals to enroll in the Disability Medical Assistance Program established under section 5115.10 of the Revised Code.

(B) The Department shall limit the enrollment of new participants in the Program to a total of 15,000 new participants.

Section ____. Section 206.66.42 shall take effect July 1, 2005."

In line 76094, delete "\$3,781,842,629 \$3,820,340,675" and insert "\$3,838,483,830 \$3,903,436,128"

In line 76096, delete "\$9,441,092,916 \$9,588,633,251" and insert "\$9,497,734,117 \$9,671,728,704"

In line 76099, delete "\$3,961,995,526 \$4,183,973,873" and insert "\$4,018,636,727 \$4,267,069,326"

In line 76101, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,704,426,558 \$10,061,172,311"

In line 76102, delete "\$9,647,785,357 \$9,978,076,858" and insert "\$9,704,426,558 \$10,061,172,311"

In line 82948, delete "9.24,"; delete "131.23,"

In line 82949, delete "323.01, 329.051,"

In line 82950, delete "2305.234, 2744.05, 3111.04, 3119.54,"; delete "3317.10,"

In line 82951, delete "3702.74, 4123.27,"; "4731.65, 4731.71,"; delete "5101.181,"

In line 82952, delete "5101.26, 5101.31, 5101.36,"; delete "5110.01,"

In line 82953, delete "5110.05,"

In line 82956, delete "5112.03, 5112.08,"

In line 82957, delete "5112.17, 5115.10,"

In line 82958, delete "5115.22, 5115.23,"

In line 1 of the title, delete "9.24,"

In line 8 of the title, delete "131.23,"

In line 14 of the title, delete "323.01,"; delete "329.051,"

In line 26 of the title, delete "2305.234,"

In line 27 of the title, delete "2744.05,"

In line 29 of the title, delete "3111.04,"

In line 30 of the title, delete "3119.54,"

In line 43 of the title, delete "3317.10,"

In line 57 of the title, delete "3702.74,"

In line 68 of the title, delete "4123.27,"

In line 71 of the title, delete "4731.65,"

In line 72 of the title, delete "4731.71,"

In line 74 of the title, delete "5101.181,"

In line 75 of the title, delete "5101.26, 5101.31,"; delete "5101.36,"

In line 78 of the title, delete "5110.01,"

In line 79 of the title, delete "5110.05,"

In line 89 of the title, delete "5112.03, 5112.08, 5112.17,"

In line 90 of the title, delete "5115.20, 5115.22, 5115.23,"

In line 185 of the title, delete "5115.10,"

In line 186 of the title, delete "5115.11, 5115.12, 5115.13, 5115.14,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 56, nays 43, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Kearns
Kilbane	Latta	Law	Martin
McGregor	Oelslager	Patton T.	Peterson
Raga	Rausson	Reidelbach	Reinhard
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-56.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Hughes	Key	Koziura
Mason	Miller	Mitchell	Otterman
Patton S.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Stewart J.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-43.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Skindell moved to amend as follows:

In line 259, after "3748.13," insert "3770.03,"

Between lines 37976 and 37977, insert:

"Sec. 3770.03. (A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and

frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(C) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items

that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

(D)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission."

In line 68214, after "3748.13," insert "3770.03,"

In line 71358, delete "\$10,540,753 \$10,612,181" and insert "\$13,540,753 \$13,612,181"

In line 71385, delete "\$7,482,048,102 \$7,571,309,899" and insert "\$7,485,048,102 \$7,574,309,899"

In line 71452, delete "\$10,119,320,385 \$10,600,545,703" and insert "\$10,122,320,385 \$10,603,545,703"

Between lines 71875 and 71876, insert:

"Of the foregoing appropriation item 200-427, Academic Standards, \$3,000,000 in each fiscal year shall be used for the Ohio Science Institute (OSCI)."

In line 64 of the title, after "3748.13," insert "3770.03,"

In line 8688, reinsert "ten"; delete "twenty"

In line 290, delete "5727.81,"

In line 291, delete "5727.82,"

Delete lines 57501 through 57823

In line 68245, delete "5727.81,"

In line 68246, delete "5727.82,"

Delete lines 82847 through 82849

In line 83069, delete "5727.81, 5727.82,"

In line 107 of the title, delete "5727.81,"

In line 108 of the title, delete "5727.82,"

Between lines 75266 and 75267, insert:

"Section ____. PLAN FOR RESTORING HABILITATION CENTER SERVICES

As used in this section, "habilitation center services" has the same meaning as in former section 5111.041 of the Revised Code as that section existed on June 30, 2005.

The Director of Job and Family Services and the Director of Mental Retardation and Developmental Disabilities shall prepare a written report on how to restore habilitation center services as a covered service under the Medicaid Program. The Directors shall provide a copy of the report to the Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate."

In line 308, delete "and"

In line 309, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 311, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 336, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

Between lines 54821 and 54822, insert:

"Sec. ~~5703.65~~5703.58. Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

Sec. 5703.61. (A) As used in this section:

(1) "Listed transaction" means a listed transaction as defined in 26 C.F.R. 1.6011-4, or a transaction the same as, or substantially similar to, such a listed transaction, that the tax commissioner determines to be a tax avoidance transaction for purposes of Chapter 5733, or 5747, of the Revised Code, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(2) "Reportable transaction" means a reportable transaction as defined in 26 C.F.R. 1.6011-4 that the tax commissioner determines as having a potential for tax avoidance or evasion, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(3) "Reportable transaction disclosure statement" means the "reportable transaction disclosure statement" (Form 8886) required to be filed for federal

income tax purposes under 26 C.F.R. 1.6011-4, or any successor to that form serving substantially the same purpose.

(B)(1) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file a reportable transaction disclosure statement for federal tax purposes for the same year or any of the preceding three years shall file a copy of that statement with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The statement shall be filed in the manner prescribed by the tax commissioner.

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733, or 5747, of the Revised Code, as applicable to the person, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code.

(C) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file an investor reporting of tax shelter registration number form for federal tax purposes for the same year or any of the preceding three years shall file a copy of that form with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The form shall be filed in the manner prescribed by the tax commissioner.

Sec. 5703.62. (A) As used in this section:

(1) "Listed transaction" has the same meaning as in section 5703.61 of the Revised Code.

(2) "Listed transaction organizer" means any person that discovers, creates, investigates, or initiates investment in a listed transaction, devises the business or financial plans for the investment, or carries out such plans through negotiations or transactions with others. "Listed transaction promoter" includes any other person who participates in the organization or management of the listed transaction.

(3) "Tax shelter" means a tax shelter as defined in section 6111 of the Internal Revenue Code, including a tax shelter described in section 6111(d) of

the Internal Revenue Code, except that:

(a) The tax shelter ratio of a tax shelter shall be determined as provided in section 6111(c) of the Internal Revenue Code but inserting "or under Chapter 5733. or 5747. of the Revised Code" after "subtitle A" in subsection (c)(2)(A) of that section.

(b) With respect to a tax shelter described in section 6111(d) of the Internal Revenue Code, subsection (d)(1)(A) of that section shall be modified by inserting "or the taxes imposed under Chapter 5733. or 5747. of the Revised Code" after "Federal income tax."

(4) "Ohio-connected tax shelter" means a tax shelter that is organized in this state, does business in this state, or derives income from sources in this state, or that has at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code.

(5) "Potentially abusive tax shelter" has the same meaning as in section 6112 of the Internal Revenue Code.

(6) "Tax shelter organizer" means a tax shelter organizer as defined in section 6111 of the Internal Revenue Code.

(7) "Tax shelter registration application" means the "application for tax shelter registration" form (Form 8264) required to be filed for federal income tax purposes, or any successor to that form serving substantially the same purpose.

(B)(1) Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that also is an Ohio-connected tax shelter shall file a copy of the tax shelter registration application with the tax commissioner not later than the day on which the first offering for sale of interests in the tax shelter occurs. Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that becomes an Ohio-connected tax shelter after the day on which the first offering for sale of interests in the tax shelter occurs shall file a copy of the tax shelter registration application with the tax commissioner not later than sixty days after the day on which the tax shelter becomes an Ohio-connected tax shelter. The copy of the tax shelter registration application shall be filed in the manner prescribed by the tax commissioner.

(2) Any tax shelter organizer of tax shelter that is an Ohio-connected tax shelter at the time the organizer files the application for tax registration number with the internal revenue service shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after receiving the number from the internal revenue service. If the tax shelter becomes an Ohio-connected tax shelter after the organizer files the application for tax registration number with the internal revenue service, the organizer shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after the tax shelter first becomes an Ohio-connected tax shelter.

(C) Any listed transaction organizer of a transaction that is organized in

this state, doing business in this state, or deriving income from sources in this state or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code and that becomes a listed transaction at any time after January 1, 2005, shall file a copy of the tax shelter registration application with the tax commissioner if such an application was required to be filed for federal income tax purposes, or, if such an application was not required to be so filed, shall file any other form prescribed by the tax commissioner for the purpose of registering the transaction with the tax commissioner. The filing shall be made not later than the later of sixty days after the transaction becomes a listed transaction or sixty days after the transaction becomes organized in this state, first does business in this state, first derives income from sources in this state, or first has an investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(D) Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that is an Ohio-connected tax shelter or that, at the time it is first offered for sale to investors, is organized in this state, doing business in this state, deriving income from sources in this state, or has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that, at any time after it is first offered for sale to investors, the person knows has become an Ohio-connected tax shelter or began doing business in this state, deriving income from sources in this state, or acquired at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

(E)(1)(a) If a person required by division (B)(1) of this section to file a copy of a tax shelter registration application fails to file the copy as required, a penalty shall be imposed equal to fifteen thousand dollars.

(b) If a person required by division (B)(2) of this section to provide the registration number of the tax shelter to the tax commissioner fails to provide that number as required by that division, a penalty shall be imposed equal to fifteen thousand dollars.

(c) If a person required by division (C) of this section to file with the tax commissioner a copy of the tax shelter registration application or other form prescribed by the commissioner as required by that division, a penalty shall be imposed equal to the greater of one hundred thousand dollars or fifty per cent of the gross income derived from the transaction.

(d) If a person required to maintain a list of investors in a potentially abusive tax shelter and to provide it to the tax commissioner upon the tax commissioner's request fails to provide the list to the commissioner as required under division (D) of this section, a penalty shall be imposed equal to ten thousand dollars for each day the person fails to provide the list.

(2) Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. of the Revised Code, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06 of the Revised Code.

Sec. 5703.63. As used in sections 5703.63 to 5703.65 of the Revised Code:

(A)(1) "Qualified entity" means a person satisfying all of the following:

(a) The person is a corporation, a limited liability company, or a qualified trust;

(b) Neither the person nor any predecessor to the person has previously filed a report or return under Chapter 5733. or 5747. of the Revised Code;

(c) Neither the person nor any predecessor to the person has previously been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733. or 5747. of the Revised Code; and

(d) The person voluntarily comes forward before any unilateral contact from the tax commissioner, the department of taxation, or any agent or employee of the department, applies for a voluntary disclosure agreement in the form and manner prescribed by the tax commissioner, and makes a full and accurate statement of its activities in this state for the six immediately preceding taxable years.

(2) "Qualified entity" does not include any of the following:

(a) A person that is organized under the laws of this state.

(b) A person that holds a license to transact business in this state issued by the secretary of state.

(c) A person that maintains and staffs a permanent facility in this state. For the purposes of this subdivision, storing tangible personal property in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(B) "Qualified shareholder" means an individual satisfying all of the following:

(1) A nonresident on the signing date of the voluntary disclosure agreement; and

(2) A shareholder of an S corporation that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement as required under division (C)(2) of that section.

(C) "Qualified member" means an individual, corporation, or limited liability company that satisfies all of the following:

(1)(a) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement; or

(b) In the case of a corporation or limited liability company, is not organized under the laws of this state or does not hold a license to transact business in this state issued by the secretary of state under section 1703.03 or 1705.54 of the Revised Code.

(2) A member of a limited liability company that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as required under division (C)(2) of that section.

(D) "Qualified trust" means a trust satisfying both of the following:

(1) Administration of the trust, other than administration activities that are inconsequential to the overall administration of the trust, has never been performed in this state; and

(2) For the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiary other than a resident beneficiary whose interest in the trust is contingent. For the purposes of this division, a resident beneficiary's interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately before the signing date of the voluntary disclosure agreement.

(E) "Qualified beneficiary" means an individual who satisfies all of the following:

(1) The individual is a nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement; and

(2) The individual is a beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under division (C)(2) of that section.

(F) "Qualified person" means a qualified entity, qualified member,

qualified shareholder, or qualified beneficiary.

(G) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code.

(H) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(I) "Signing date" of a voluntary disclosure agreement means the date on which a person duly authorized by the tax commissioner signs the agreement.

Sec. 5703.64. (A) The tax commissioner may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary. The agreement is binding on both the tax commissioner and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(B) The tax commissioner shall do all of the following:

(1) Prescribe procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Provide procedures for accepting applications for voluntary disclosure agreements through the national nexus program administered by the multistate tax commission.

(4) For the purpose of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(a) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary's with this state was established;

(b) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272, 73 Stat. 555, 15 U.S.C. 381, or otherwise;

(c) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the activities of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary were immune from taxation by this state;

(d) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary;

(e) Demonstrations of good faith on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary; and

(f) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application for a voluntary disclosure agreement within one hundred twenty days after receiving the application.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in division (A) of this section and based on the criteria set forth in division (B)(4) of this section.

(C) A voluntary disclosure agreement entered into by the tax commissioner and a qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall provide for both of the following:

(1) That the tax commissioner shall, with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in division (E)(1), (2), or (3) of this section:

(a) Waive the tax commissioner's authority to make an assessment for taxes, additions to tax, fees, or penalties under Chapter 5733, or 5747, of the Revised Code with respect to each taxable year ending before six years from the signing date of the voluntary disclosure agreement;

(b) With respect to each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, agree to waive any or all of the following, as specified in the agreement:

(i) Any penalty related to a failure to make and file a report or return, as provided in division (A)(1) of section 5733.28 or division (A)(1) of section 5747.15 of the Revised Code.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in division (A)(2) of section 5733.28 or division (A)(2) of section 5747.15 of the Revised Code.

(iii) Any penalty or addition to tax related to an underpayment of estimated tax, as provided in section 5733.29, division (D) of section 5747.09, or division (C) of section 5747.43 of the Revised Code.

(iv) Any penalty prescribed by 5733.21 of the Revised Code.

(2) That the qualified entity, qualified shareholder, qualified member, or qualified beneficiary, with respect to each of the six taxable years ending immediately preceding the signing date of the written agreement, shall do both of the following:

(a) Voluntarily and fully disclose all material facts pertinent to the qualified entity's, qualified shareholder's, qualified member's, or qualified beneficiary's liability for any taxes imposed under Chapter 5733. or 5747. of the Revised Code:

(b) Except as provided in division (D) of this section, within thirty days after the signing date of the voluntary disclosure agreement, file all returns required under Chapter 5733. or 5747. of the Revised Code and pay in full any tax, interest, fee, and penalties imposed under Chapter 5733. or 5747. of the Revised Code, other than penalties specifically waived under the terms of the voluntary disclosure agreement in the manner prescribed by the tax commissioner.

(c) Agree to comply with all provisions of Chapter 5733. or 5747. of the Revised Code and other laws governing the taxes imposed under those chapters in subsequent taxable years by filing all returns required and paying all amounts due under those chapters.

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the agreement to be paid in installments, with provisions for the accrual of interest on balances that remain outstanding after a specified date.

(E)(1) Division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the S corporation that filed an application under this section.

(2) In the case of a qualified member who is an individual, division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the limited liability company that filed an application under this section.

(3) Division (C)(1) of this section does not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this section.

(F) The Tax Commissioner may extend the time for filing returns and paying amounts due to one hundred twenty days after the signing date of the voluntary disclosure agreement.

(G) Nothing in sections 5703.63 to 5703.65 of the Revised Code shall be construed to mean that by accepting and signing a voluntary disclosure agreement the tax commissioner abdicates the right and authority to examine returns and determine the correct amount of tax for any of the taxable years

covered by the voluntary disclosure period agreed upon and to assess any additional tax, penalty, or interest owed as a result of that examination, as otherwise provided by law.

Sec. 5703.65. (A) A voluntary disclosure agreement shall be null and void if the tax commissioner finds that, with respect to the agreement, any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any report or return for any taxable year covered by the agreement on or before the due date prescribed under the terms of the agreement.

(3) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the agreement or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with division (D) of section 5703.64 of the Revised Code.

(4) The tax shown by the qualified entity on its report or return filed for any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733, or 5747, of the Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with Chapter 5733, or 5747, of the Revised Code or both, as applicable to the entity, and all other laws governing the taxes imposed under those chapters, according to the terms of the voluntary disclosure agreement.

(B) If the tax commissioner finds that the qualified entity has failed to comply under any of the circumstances that render the voluntary disclosure agreement null and void as set forth in division (A) of this section, the limitation on the tax commissioner issuing an assessment for any taxable year covered by the agreement, and the waiver of any penalties under the agreement, are not binding on the tax commissioner.

Sec. 5703.66. (A) As used in this section:

(1) "Listed transaction" and "reportable transaction" have the same meanings as in section 5703.61 of the Revised Code.

(2) "Reportable transaction understatement" means the sum of divisions (A)(2)(a) and (b) of this section:

(a) The product of division (A)(2)(a)(i) and (ii) of this section:

(i) The amount of the increase, if any, in net income or Ohio taxable income resulting from a difference between the proper tax treatment of an item

to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax report or return; times

(ii) Eight and one-half per cent in the case of a taxpayer subject to division (A) or (B) of section 5733.06 of the Revised Code or seven and one-half per cent in the case of a taxpayer subject to section 5747.02 of the Revised Code.

For the purpose of division (A)(2) of this section, any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses that would be allowed for that year without regard to section 1211 of the Internal Revenue Code, shall be treated as an increase in net income or Ohio taxable income.

(b) The amount of the decrease, if any, in the aggregate amount of credits allowed under Chapter 5733. or 5747. of the Revised Code, as applicable, that results from a difference between the taxpayer's treatment of an item to which this section applies, as shown on the taxpayer's tax report or return, and the proper tax treatment of that item.

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a reportable transaction having as a significant purpose the avoidance or evasion of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount equal to twenty per cent of the amount of that understatement. The amount added under this section is in addition to any other penalty or other additions to tax under Chapter 5733. or 5747. of the Revised Code, shall be assessed in the same manner as such penalties or additions to tax, and shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable to the taxpayer.

(C) Any tax treatment included with an amended report or return shall not be taken into account in determining the amount of any reportable transaction understatement if the amended report or return is filed after the earlier of the date the taxpayer is first contacted by either the internal revenue service for federal income tax purposes or the tax commissioner regarding the examination of the report or return."

In line 68241, after "5703.50," insert "5703.65,"

Between lines 82865 and 82866, insert:

"Section ____. (A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative

shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2005.

The Tax Commissioner shall issue forms and instructions and may take any other actions necessary to implement this section. The Tax Commissioner shall publicize the voluntary compliance initiative so as to maximize public awareness of and participation in the initiative.

(C) Any person satisfying the requirements of division (F) of this section may enter into an agreement with the Tax Commissioner providing for all of the following:

(1) The Tax Commissioner shall waive or abate all penalties imposed under Chapter 5703., 5733., or 5747., of the Revised Code as applicable, for all tax years or taxable years for which the person elects to participate in the initiative as a result of the underreporting of tax liabilities attributable to the use of abusive tax avoidance transactions.

(2) No criminal action shall be brought against the person for the taxable years with respect to issues for which the person voluntarily complies under this section.

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2005.

(4) The person may not file a claim for refund for amounts paid in connection with abusive tax avoidance transactions under this section.

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2004, any of the following applies:

(1) A criminal complaint was filed against the person in connection with an abusive tax avoidance transaction or transactions.

(2) The person is the subject of a criminal investigation in connection with an abusive tax avoidance transaction.

(E) No refund or credit shall be granted with respect to any penalty paid before a person applies for participation in the voluntary compliance initiative authorized by this section.

(F) The voluntary compliance initiative applies to any person that was not eligible to participate in the Internal Revenue Service's Offshore Voluntary Compliance Initiative described in Revenue Procedure 2003-11, and that, during the three-month period of the initiative period, does both of the following:

(1) Files an amended tax report or return under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, for each taxable year for which

the person has previously filed a report or return using an abusive tax avoidance transaction to underreport the person's tax liability for that taxable year. Each amended report or return shall report all income from all sources, without regard to the abusive tax avoidance transaction.

(2)(a) Except as provided in division (F)(2)(b) of this section, pays in full all taxes and interest due.

(b) The Tax Commissioner may enter into an installment payment agreement in lieu of the full payment required under division (F)(2)(a) of this section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

(G) After the end of the three-month period during which the initiative is conducted, the Tax Commissioner may issue a deficiency assessment upon an amended report or return filed pursuant to division (F)(1) of this section, impose penalties, or initiate criminal action arising from a violation of any provision of Chapter 5733. or 5747. of the Revised Code with respect to the difference between the amount shown on that report or return and the correct amount of tax. Such an action does not invalidate any waiver granted under division (C) of this section.

(H) In addition to any other authority to examine reports or returns under the Revised Code, for the purpose of improving state tax administration, the Tax Commissioner may inquire into the facts and circumstances related to the use of abusive tax avoidance transactions to underreport the tax liabilities for which a taxpayer has participated in the voluntary compliance initiative under this section. Persons shall cooperate fully with such inquiries. Failure by a person to fully cooperate in such an inquiry shall render the waiver of penalties under this section null and void, and the person may be assessed any penalties that may apply under law without regard to this section.

(I) Notwithstanding section 5733.11 or 5747.13 of the Revised Code, with respect to proposed deficiency assessments related to an abusive tax avoidance transaction, a notice of a proposed deficiency assessment may be mailed to the taxpayer within eight years after the report or return was filed, or within the period otherwise provided in that section, whichever expires later.

Section ____. Section ____ of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section ____ of this act. The repeal of Section ____ of this act does not affect, after the effective date of the repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those

agreements."

In line 83066, after "5703.50," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.65 (5703.58), 5703.66,"

Between lines 83086 and 83087, insert:

"Section 612.22. New section 5703.65 of the Revised Code, as enacted by this act, and the items of law of which such section as enacted by this act is composed, provides for or is essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, such section as enacted by this act, and the items of law of which such section as enacted by this act is composed, are not subject to the referendum and goes into immediate effect when this act becomes law."

In line 133 of the title, delete "and"

In line 134 of the title, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 135 of the title, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 168 of the title, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 2216, delete "\$.5,283" and insert ". The base cost per pupil is \$5,449"; delete "\$5,399" and insert "\$5,523"

In lines 22776, 22836, 22948, 25461, 25503, and 25581, delete "Formula" and insert "Cost-of-doing business factor X formula"

In line 71351, delete "\$23,423,057 \$23,923,057" and insert "\$24,323,057 \$24,823,057"

In line 71359, delete "\$19,862,484 \$23,191,663" and insert "\$20,262,484 \$23,591,663"

In line 71370, delete "\$8,600,000 \$12,500,000" and insert "\$17,199,160 \$17,199,160"

In line 71379, delete "\$5,582,820,663 \$5,692,271,366" and insert "\$5,857,220,663 \$6,067,871,366"

In line 71385, delete "\$7,482,048,102 \$7,571,309,899" and insert "\$7,766,347,262 \$7,952,909,059"

In line 71452, delete "\$10,119,320,385 \$10,600,545,703" and insert "\$10,403,619,545 \$10,982,144,863"

Between lines 71627 and 71628, insert:

"Of the foregoing appropriation item 200-410, Educator Training, up to \$900,000 in each fiscal year shall be used to support entry year programs for beginning principals."

In line 71900, delete "\$315,000" and insert "\$715,000"

In line 215, after "122.011," insert "122.16,"

In line 218, delete "140.08,"

In line 224, after "742.59," insert "901.13,"

In line 286, delete "5703.053,"

In line 287, delete "5703.70,"

In line 288, after "5709.07," insert "5709.65,"

In line 293, after "5733.01," insert, "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"

In line 294, after "5733.066," insert "5733.09, 5733.11, 5733.12,"

In line 295, delete "5739.01" and insert "5733.98"

In line 299, after "5747.08," insert "5747.21, 5747.211, 5747.212, 5747.31,"

In line 308, delete "and"

In line 309, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 311, delete the first "and"; after "5111.262" insert ", 5703.65, and 5733.061"

In line 329, delete "5111.242,"

In line 336, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 337, after "5727.241," insert "5733.044,"

In line 339, delete all after "5747.056,"

Delete lines 340 through 342

In line 343, delete "5751.98, 5751.99,"

Delete lines 3852 through 4531 and insert:

"Sec. 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(2) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its

taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

- (a) The number of jobs lost by the closing or downsizing;
- (b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;
- (c) The annual payroll associated with the job loss;
- (d) The amount of state and local taxes associated with the job loss;
- (e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The application shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of

development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the Revised Code to submit an affidavit to the director of development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of development may grant under such agreements shall be as follows:

1996	\$5,000,000
1997	\$10,000,000
1998	\$10,000,000
1999	\$5,000,000

For any year in which the director of development does not grant tax credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more than one site may apply to the director of development to enter into more than one agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not

including any amount that may be carried forward from previous years under former section 5733.34 or 5747.32 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under former section 5733.34 or 5747.32 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director

of development:

(1) The status of all cost recovery litigation described in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of development requires to perform the director's duties under this section.

(G) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the calendar year that includes that first day of January.

(H) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section.

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

(1) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(2) "New employee" means one of the following:

(a) A full-time employee first employed by a taxpayer in the project that is the subject of the agreement after the taxpayer enters into a tax credit agreement with the tax credit authority under this section;

(b) A full-time employee first employed by a taxpayer in the project that is the subject of the tax credit after the tax credit authority approves a project for a tax credit under this section in a public meeting, as long as the taxpayer enters into the tax credit agreement prepared by the department of development after such meeting within sixty days after receiving the agreement from the department. If the taxpayer fails to enter into the agreement within sixty days, "new employee" has the same meaning as under division (A)(2)(a) of this section.

Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. Except as otherwise provided in this paragraph, "new employee" does not include any employee of the taxpayer who was previously

employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting, or any employee of the taxpayer for which the taxpayer has been granted a certificate under division (B) of section 5709.66 of the Revised Code. However, if the taxpayer is engaged in the enrichment and commercialization of uranium or uranium products or is engaged in research and development activities related thereto and if the tax credit authority determines it appropriate, "new employee" may include an employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting. "New employee" does not include an employee of the taxpayer who is employed in an employment position that was relocated to a project from other operations of the taxpayer in this state or from operations of a related member of the taxpayer in this state. In addition, "new employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or indirect ownership interest of at least five per cent in the profits, capital, or value of the taxpayer. Such ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.

(3) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code.

(4) "Related member" has the same meaning as under ~~division (A)(6)~~ of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code. The credit shall be claimed for the taxable years specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The credit shall be claimed ~~after the allowance of all other credits provided by Chapter 5733. or 5747. in the order required under section 5733.98 or 5747.98~~ of the Revised Code. The amount of the credit equals the new income tax revenue for the taxable year multiplied by the percentage specified in the agreement with the tax credit authority.

(C) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this

section if it determines all of the following:

- (1) The taxpayer's project will create new jobs in this state;
- (2) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;
- (3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(D) ~~An~~ No agreement may be entered into under this section, providing for a credit against the tax imposed under section 5733.06 of the Revised Code, on or after the effective date of the amendment of this section by of the 126th general assembly.

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

- (1) A detailed description of the project that is the subject of the agreement;
- (2) The term of the tax credit, which shall not exceed fifteen years, and the first taxable year for which the credit may be claimed;
- (3) A requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax credit;
- (4) The percentage, as determined by the tax credit authority, of new income tax revenue that will be allowed as the amount of the credit for each taxable year;
- (5) A specific method for determining how many new employees are employed during a taxable year;
- (6) A requirement that the taxpayer annually shall report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this section;
- (7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified;
- (8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (D)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the tax credit.
- (b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of

development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under former section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under former section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

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

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the

chairperson of the authority shall provide to the commissioner any statement or information submitted by an applicant or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or information.

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (D)(7) of this section for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

(I) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

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

(1) If the taxpayer maintained operations at the project location for at least one and one-half times the number of years of the term of the tax credit, an amount not exceeding twenty-five per cent of the sum of any previously allowed credits under this section;

(2) If the taxpayer maintained operations at the project location for at least the number of years of the term of the tax credit, an amount not exceeding fifty per cent of the sum of any previously allowed credits under this section;

(3) If the taxpayer maintained operations at the project location for less than the number of years of the term of the tax credit, an amount not exceeding one hundred per cent of the sum of any previously allowed credits under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under ~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

(L) On or before the thirty-first day of March each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

~~During the fifth year of the tax credit program, the director of development in conjunction with the director of budget and management shall conduct an evaluation of it. The evaluation shall include assessments of the effectiveness of the program in creating new jobs in this state and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director of development shall submit a report on the evaluation to the governor, the president of the senate, and the speaker of the house of representatives on or before January 1, 1998.~~

(M) There is hereby created the tax credit authority, which consists of the director of development and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in economic development; the governor also shall appoint a member who is a specialist in taxation. Of the initial appointees, the members appointed by the governor shall serve a term of two years; the members appointed by the president of the senate and the speaker of the house of representatives shall serve a term of four years. Thereafter, terms of office shall be for four years. Initial appointments to the authority shall be made within thirty days after January 13, 1993. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of the authority.

The director of development shall serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

The director of development may appoint a professional employee of the department of development to serve as the director's substitute at a meeting of the authority. The director shall make the appointment in writing. In the absence of the director from a meeting of the authority, the appointed substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

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

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

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

(b) Project costs paid before January 1, 2002, ~~or after December 31, 2006;~~

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code.

(2) "Eligible business" means a business with Ohio operations satisfying all of the following:

(a) Employed an average of at least one thousand employees in full-time employment positions at a project site during each of the twelve months preceding the application for a tax credit under this section; and

(b) On or after January 1, 2002, has made payments for the capital investment project of either of the following:

(i) At least two hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted;

(ii) If the average wage of all full-time employment positions at the project site is greater than four hundred per cent of the federal minimum wage, at least one hundred million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year with respect to which the credit is granted.

(c) Is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions;

(d) Has had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section.

(3) "Full-time employment position" means a position of employment for consideration for at least thirty-five hours a week that has been filled for at least one hundred eighty days immediately preceding the filing of an application under this section and for at least one hundred eighty days during each taxable year with respect to which the credit is granted.

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

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

(6) "Applicable corporation" means a corporation satisfying all of the following:

(a)(i) For the entire taxable year immediately preceding the tax year, the corporation develops software applications primarily to provide telecommunication billing and information services through outsourcing or licensing to domestic or international customers.

(ii) Sales and licensing of software generated at least six hundred million dollars in revenue during the taxable year immediately preceding the tax year the corporation is first entitled to claim the credit provided under division (B) of this section.

(b) For the entire taxable year immediately preceding the tax year, the corporation or one or more of its related members provides customer or employee care and technical support for clients through one or more contact centers within this state, and the corporation and its related members together have a daily average, based on a three-hundred-sixty-five-day year, of at least five hundred thousand successful customer contacts through one or more of their contact centers, wherever located.

(c) The corporation is eligible for the credit under division (B) of this section for the tax year.

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

(8) "Successful customer contact" means a contact with an end user via telephone, including interactive voice recognition or similar means, where the contact culminates in a conversation or connection other than a busy signal or equipment busy.

(9) "Telecommunications" means all forms of telecommunications service as defined in section 5739.01 of the Revised Code, and includes services in wireless, wireline, cable, broadband, internet protocol, and satellite.

(10)(a) "Applicable difference" means the difference between the tax for the tax year under Chapter 5733. of the Revised Code applying the law in effect for ~~that~~ tax year 2005, and the tax for that tax year if section 5733.042 of the Revised Code applied as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997, subject to division (A)(10)(b) of this section.

(b) If the tax rate set forth in division ~~(B)~~(A) of section 5733.06 of the Revised Code for ~~the~~ tax year before tax year 2006 is less than eight and one-half per cent, the tax calculated under division (A)(10)(a) of this section shall be computed by substituting a tax rate of eight and one-half per cent for the rate set forth in division (B) of section 5733.06 of the Revised Code for the tax year.

(c) If the resulting difference is negative, the applicable tax difference for the tax year shall be zero.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant tax credits under this section for the purpose of fostering job retention in this state. Upon application by an eligible business and upon consideration of the recommendation of the director of budget and management, tax commissioner, and director of development under division (C) of this section, the tax credit authority may grant to an eligible business a nonrefundable credit against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a period up to fifteen taxable years. The credit shall be in an amount not exceeding seventy-five per cent of the Ohio income tax withheld from the employees of the eligible business occupying full-time employment positions at the project site during the calendar year that includes the last day of such business' taxable year with respect to which the credit is granted. The amount of the credit shall not be based on the Ohio income tax withheld from full-time employees for a calendar year prior to the calendar year in which the minimum investment requirement referred to in division (A)(2)(b) of this section is completed. The credit shall be claimed only for the taxable years specified in the eligible business' agreement with the tax credit authority under division (E) of this section, but in no event shall the credit be claimed for a taxable year terminating before the date specified in the agreement.

The credit computed under this division is in addition to any credit allowed under division (M) of this section which the tax credit authority may also include in the agreement.

Any unused portion of a tax credit may be carried forward for not more than three additional years after the year for which the credit is granted.

(C) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a

tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the director of development, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority. The authority shall make no agreements under this section on or after the effective date of the amendment of this section by of the 126th general assembly granting a credit against the tax imposed by section 5733.06 of the Revised Code. The authority shall make no agreements under this section granting a credit against the tax imposed by section 5747.02 of the Revised Code after June 30, 2007.

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

(1) The taxpayer's capital investment project will result in the retention of full-time employment positions in this state.

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

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least twice the term of the credit.

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

(5) The political subdivisions in which the project is located have agreed to provide substantial financial support to the project.

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

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, and the number of full-time employment positions at the project site.

(2) The method of calculating the number of full-time employment positions as specified in division (A)(3) of this section.

(3) The term and percentage of the tax credit, and the first year for which the credit may be claimed.

(4) A requirement that the taxpayer maintain operations at the project site for at least twice the number of years as the term of the credit.

(5) A requirement that the taxpayer retain a specified number of full-time employment positions at the project site and within this state for the term of the credit, including a requirement that the taxpayer continue to employ at least one

thousand employees in full-time employment positions at the project site during the entire term of any agreement, subject to division (E)(7) of this section.

(6) A requirement that the taxpayer annually report to the director of development the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for the capital investment project, and any other information the director needs to perform the director's duties under this section.

(7) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(6) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year. Unless otherwise specified by the tax credit authority in a resolution and included as part of the agreement, the director shall not issue a certificate for any year in which the total number of filled full-time employment positions for each day of the calendar year divided by three hundred sixty-five is less than ninety per cent of the full-time employment positions specified in division (E)(5) of this section. In determining the number of full-time employment positions, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (E)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(9) A waiver by the taxpayer of any limitations periods relating to

assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under former section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under former section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the commissioner any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (E)(7) of this section for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A tax credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

(J) If the director of development determines that a taxpayer that received a tax credit under this section is not complying with the requirement under division (E)(4) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer to refund to the state all or a portion of the credit claimed in previous years, as follows:

(1) If the taxpayer maintained operations at the project site for less than the term of the credit, the amount required to be refunded shall not exceed the amount of any tax credits previously allowed and received under this section.

(2) If the taxpayer maintained operations at the project site longer than the term of the credit but less than one and one-half times the term of the credit, the amount required to be refunded shall not exceed fifty per cent of the sum of any tax credits previously allowed and received under this section.

(3) If the taxpayer maintained operations at the project site for at least one and one-half times the term of the credit but less than twice the term of the credit, the amount required to be refunded shall not exceed twenty-five per cent of the sum of any tax credits previously allowed and received under this section.

In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under Chapter 5733. or 5747. of the Revised Code do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

If the director of development determines that a taxpayer that received a tax credit under this section has reduced the number of employees agreed to under division (E)(5) of this section by more than ten per cent, the director shall notify the tax credit authority of the noncompliance. After receiving such notice, and after providing the taxpayer an opportunity to explain the noncompliance, the authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction in the percentage or term shall take effect in the taxable year in which the authority amends the agreement.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the thirty-first day of March of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a

description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M)(1) A nonrefundable credit shall be allowed to an applicable corporation and its related members in an amount equal to the applicable difference. The credit is in addition to the credit granted to the corporation or related members under division (B) of this section. The credit is subject to divisions (B) to (E) and division (J) of this section.

(2) A person qualifying as an applicable corporation under this section for a tax year does not necessarily qualify as an applicable corporation for any other tax year. No person is entitled to the credit allowed under division (M) of this section for the tax year immediately following the taxable year during which the person fails to meet the requirements in divisions (A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled to the credit allowed under division (M) of this section for any tax year for which the person is not eligible for the credit provided under division (B) of this section."

Delete lines 6332 through 6370

Between lines 10099 and 10100, insert:

"**Sec. 901.13.** (A) As used in this section:

(1) "Ethanol" ~~has the same meaning as in section 5733.46 of the Revised Code~~ means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grain, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(2) "Facility" means an ethanol production plant that will be located in this state.

(B) There is hereby created the ethanol incentive board. The board shall consist of the following five members: the director of agriculture, who shall serve as chairperson of the board, the director of development, the executive director of the Ohio air quality development authority, one member appointed by the speaker of the house of representatives, and one member appointed by the president of the senate. Initial appointments to the board shall be made within thirty days of ~~the effective date of this section~~ March 21, 2002. Vacancies shall be filled in the same manner provided for original appointments. Members of the board shall serve without compensation. The board shall meet and conduct its business as directed by the chairperson. The board shall cease to exist January 1, 2014.

(C) The board's sole duty is to review any application that is submitted to

it under this section. The board shall approve an application only if it determines, by the affirmative vote of all members of the board, that the applicant's business plan for a facility meets the requirements established by division (D) of this section.

(D) The owner of a facility may apply to the board, on an application provided by the director of agriculture, for approval of the facility's business plan under this section. Within sixty days of receipt of an application, the board shall determine whether the applicant's business plan meets the following requirements:

- (1) The business plan is for the construction and operation of a facility.
- (2) The business plan contains detailed information regarding:
 - (a) The availability and price of corn in the area where the facility will be located;
 - (b) The availability and cost of energy needed for operation of the facility;
 - (c) The availability of water and waste disposal systems in the area where the facility will be located;
 - (d) The availability of labor and a qualified site manager for the facility.
- (3) The business plan analyzes any proposed marketing agreements for the products produced by the facility.
- (4) The facility to be constructed and operated under the business plan is majority-owned by Ohio farmers or will be prior to the first day the facility commences production.
- (5) The business plan meets any other requirements established by the board under rules adopted in accordance with division (G) of this section.

The board shall issue a certificate of approval for each application approved under this section, and any taxpayer that invests money in the facility for which a business plan has been approved may claim a tax credit for such investment under ~~former~~section 5733.46 or 5747.75 of the Revised Code.

(E) Any business plan submitted to the board under this section is not a public record subject to section 149.43 of the Revised Code.

(F) The board shall notify the tax commissioner of any certificate of approval issued under this section, within ten days of its issuance.

(G) The director of agriculture, in consultation with the director of development and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing procedures and forms for administering this section.

(H) The ethanol incentive board created by this section is not an agency for purposes of ~~section~~sections 101.82 to 101.87 of the Revised Code."

Delete lines 46237 through 46245

Delete lines 47405 through 47408

In line 54681, after "5748.," insert "or"

In line 54682, strike through ", or"; delete "5751."; strike through the second comma

Delete lines 54714 through 54737

In line 54809, reinsert the first "and"; delete ", and 5751."

In line 54818, reinsert "or"; delete ", or 5751.09"

Delete lines 54822 through 54868 and insert:

"Sec. ~~5703.65~~5703.58. Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

Sec. 5703.61. (A) As used in this section:

(1) "Listed transaction" means a listed transaction as defined in 26 C.F.R. 1.6011-4, or a transaction the same as, or substantially similar to, such a listed transaction, that the tax commissioner determines to be a tax avoidance transaction for purposes of Chapter 5733. or 5747. of the Revised Code, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(2) "Reportable transaction" means a reportable transaction as defined in 26 C.F.R. 1.6011-4 that the tax commissioner determines as having a potential for tax avoidance or evasion, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(3) "Reportable transaction disclosure statement" means the "reportable transaction disclosure statement" (Form 8886) required to be filed for federal income tax purposes under 26 C.F.R. 1.6011-4, or any successor to that form serving substantially the same purpose.

(B)(1) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file a reportable transaction disclosure statement for federal tax purposes for the same year or any of the preceding three years shall file a copy of that statement with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The statement shall be filed in the manner prescribed by the tax commissioner.

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal

to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code.

(C) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file an investor reporting of tax shelter registration number form for federal tax purposes for the same year or any of the preceding three years shall file a copy of that form with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The form shall be filed in the manner prescribed by the tax commissioner.

Sec. 5703.62. (A) As used in this section:

(1) "Listed transaction" has the same meaning as in section 5703.61 of the Revised Code.

(2) "Listed transaction organizer" means any person that discovers, creates, investigates, or initiates investment in a listed transaction, devises the business or financial plans for the investment, or carries out such plans through negotiations or transactions with others. "Listed transaction promoter" includes any other person who participates in the organization or management of the listed transaction.

(3) "Tax shelter" means a tax shelter as defined in section 6111 of the Internal Revenue Code, including a tax shelter described in section 6111(d) of the Internal Revenue Code, except that:

(a) The tax shelter ratio of a tax shelter shall be determined as provided in section 6111(c) of the Internal Revenue Code but inserting "or under Chapter 5733. or 5747. of the Revised Code" after "subtitle A" in subsection (c)(2)(A) of that section.

(b) With respect to a tax shelter described in section 6111(d) of the Internal Revenue Code, subsection (d)(1)(A) of that section shall be modified by inserting "or the taxes imposed under Chapter 5733. or 5747. of the Revised Code" after "Federal income tax."

(4) "Ohio-connected tax shelter" means a tax shelter that is organized in this state, does business in this state, or derives income from sources in this state, or that has at least one investor that is a taxpayer for the purposes of Chapter

5733. or 5747. of the Revised Code.

(5) "Potentially abusive tax shelter" has the same meaning as in section 6112 of the Internal Revenue Code.

(6) "Tax shelter organizer" means a tax shelter organizer as defined in section 6111 of the Internal Revenue Code.

(7) "Tax shelter registration application" means the "application for tax shelter registration" form (Form 8264) required to be filed for federal income tax purposes, or any successor to that form serving substantially the same purpose.

(B)(1) Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that also is an Ohio-connected tax shelter shall file a copy of the tax shelter registration application with the tax commissioner not later than the day on which the first offering for sale of interests in the tax shelter occurs. Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that becomes an Ohio-connected tax shelter after the day on which the first offering for sale of interests in the tax shelter occurs shall file a copy of the tax shelter registration application with the tax commissioner not later than sixty days after the day on which the tax shelter becomes an Ohio-connected tax shelter. The copy of the tax shelter registration application shall be filed in the manner prescribed by the tax commissioner.

(2) Any tax shelter organizer of tax shelter that is an Ohio-connected tax shelter at the time the organizer files the application for tax registration number with the internal revenue service shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after receiving the number from the internal revenue service. If the tax shelter becomes an Ohio-connected tax shelter after the organizer files the application for tax registration number with the internal revenue service, the organizer shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after the tax shelter first becomes an Ohio-connected tax shelter.

(C) Any listed transaction organizer of a transaction that is organized in this state, doing business in this state, or deriving income from sources in this state or that has at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code and that becomes a listed transaction at any time after January 1, 2005, shall file a copy of the tax shelter registration application with the tax commissioner if such an application was required to be filed for federal income tax purposes, or, if such an application was not required to be so filed, shall file any other form prescribed by the tax commissioner for the purpose of registering the transaction with the tax commissioner. The filing shall be made not later than the later of sixty days after the transaction becomes a listed transaction or sixty days after the transaction becomes organized in this state, first does business in this state, first derives income from sources in this state, or first has an investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code.

(D) Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that is an Ohio-connected tax shelter or that, at the time it is first offered for sale to investors, is organized in this state, doing business in this state, deriving income from sources in this state, or has at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that, at any time after it is first offered for sale to investors, the person knows has become an Ohio-connected tax shelter or began doing business in this state, deriving income from sources in this state, or acquired at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

(E)(1)(a) If a person required by division (B)(1) of this section to file a copy of a tax shelter registration application fails to file the copy as required, a penalty shall be imposed equal to fifteen thousand dollars.

(b) If a person required by division (B)(2) of this section to provide the registration number of the tax shelter to the tax commissioner fails to provide that number as required by that division, a penalty shall be imposed equal to fifteen thousand dollars.

(c) If a person required by division (C) of this section to file with the tax commissioner a copy of the tax shelter registration application or other form prescribed by the commissioner as required by that division, a penalty shall be imposed equal to the greater of one hundred thousand dollars or fifty per cent of the gross income derived from the transaction.

(d) If a person required to maintain a list of investors in a potentially abusive tax shelter and to provide it to the tax commissioner upon the tax commissioner's request fails to provide the list to the commissioner as required under division (D) of this section, a penalty shall be imposed equal to ten thousand dollars for each day the person fails to provide the list.

(2) Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. of the Revised Code, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06 of the Revised Code.

Sec. 5703.63. As used in sections 5703.63 to 5703.65 of the Revised

Code:

(A)(1) "Qualified entity" means a person satisfying all of the following:

(a) The person is a corporation, a limited liability company, or a qualified trust;

(b) Neither the person nor any predecessor to the person has previously filed a report or return under Chapter 5733. or 5747. of the Revised Code;

(c) Neither the person nor any predecessor to the person has previously been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733. or 5747. of the Revised Code; and

(d) The person voluntarily comes forward before any unilateral contact from the tax commissioner, the department of taxation, or any agent or employee of the department, applies for a voluntary disclosure agreement in the form and manner prescribed by the tax commissioner, and makes a full and accurate statement of its activities in this state for the six immediately preceding taxable years.

(2) "Qualified entity" does not include any of the following:

(a) A person that is organized under the laws of this state.

(b) A person that holds a license to transact business in this state issued by the secretary of state.

(c) A person that maintains and staffs a permanent facility in this state. For the purposes of this subdivision, storing tangible personal property in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(B) "Qualified shareholder" means an individual satisfying all of the following:

(1) A nonresident on the signing date of the voluntary disclosure agreement; and

(2) A shareholder of an S corporation that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement as required under division (C)(2) of that section.

(C) "Qualified member" means an individual, corporation, or limited liability company that satisfies all of the following:

(1)(a) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement; or

(b) In the case of a corporation or limited liability company, is not organized under the laws of this state or does not hold a license to transact business in this state issued by the secretary of state under section 1703.03 or

1705.54 of the Revised Code.

(2) A member of a limited liability company that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as required under division (C)(2) of that section.

(D) "Qualified trust" means a trust satisfying both of the following:

(1) Administration of the trust, other than administration activities that are inconsequential to the overall administration of the trust, has never been performed in this state; and

(2) For the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiary other than a resident beneficiary whose interest in the trust is contingent. For the purposes of this division, a resident beneficiary's interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately before the signing date of the voluntary disclosure agreement.

(E) "Qualified beneficiary" means an individual who satisfies all of the following:

(1) The individual is a nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement; and

(2) The individual is a beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under division (C)(2) of that section.

(F) "Qualified person" means a qualified entity, qualified member, qualified shareholder, or qualified beneficiary.

(G) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code.

(H) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(I) "Signing date" of a voluntary disclosure agreement means the date on which a person duly authorized by the tax commissioner signs the agreement.

Sec. 5703.64. (A) The tax commissioner may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified

member, or qualified beneficiary. The agreement is binding on both the tax commissioner and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(B) The tax commissioner shall do all of the following:

(1) Prescribe procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Provide procedures for accepting applications for voluntary disclosure agreements through the national nexus program administered by the multistate tax commission.

(4) For the purpose of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(a) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary's with this state was established;

(b) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272, 73 Stat. 555, 15 U.S.C. 381, or otherwise;

(c) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the activities of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary were immune from taxation by this state;

(d) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary;

(e) Demonstrations of good faith on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary; and

(f) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application for a voluntary disclosure agreement within one hundred twenty days after receiving the application.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as

authorized in division (A) of this section and based on the criteria set forth in division (B)(4) of this section.

(C) A voluntary disclosure agreement entered into by the tax commissioner and a qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall provide for both of the following:

(1) That the tax commissioner shall, with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in division (E)(1), (2), or (3) of this section:

(a) Waive the tax commissioner's authority to make an assessment for taxes, additions to tax, fees, or penalties under Chapter 5733. or 5747. of the Revised Code with respect to each taxable year ending before six years from the signing date of the voluntary disclosure agreement;

(b) With respect to each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, agree to waive any or all of the following, as specified in the agreement:

(i) Any penalty related to a failure to make and file a report or return, as provided in division (A)(1) of section 5733.28 or division (A)(1) of section 5747.15 of the Revised Code.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in division (A)(2) of section 5733.28 or division (A)(2) of section 5747.15 of the Revised Code.

(iii) Any penalty or addition to tax related to an underpayment of estimated tax, as provided in section 5733.29, division (D) of section 5747.09, or division (C) of section 5747.43 of the Revised Code.

(iv) Any penalty prescribed by 5733.21 of the Revised Code.

(2) That the qualified entity, qualified shareholder, qualified member, or qualified beneficiary, with respect to each of the six taxable years ending immediately preceding the signing date of the written agreement, shall do both of the following:

(a) Voluntarily and fully disclose all material facts pertinent to the qualified entity's, qualified shareholder's, qualified member's, or qualified beneficiary's liability for any taxes imposed under Chapter 5733. or 5747. of the Revised Code;

(b) Except as provided in division (D) of this section, within thirty days after the signing date of the voluntary disclosure agreement, file all returns required under Chapter 5733. or 5747. of the Revised Code and pay in full any tax, interest, fee, and penalties imposed under Chapter 5733. or 5747. of the Revised Code, other than penalties specifically waived under the terms of the voluntary disclosure agreement in the manner prescribed by the tax commissioner.

(c) Agree to comply with all provisions of Chapter 5733. or 5747. of the Revised Code and other laws governing the taxes imposed under those chapters in subsequent taxable years by filing all returns required and paying all amounts due under those chapters.

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the agreement to be paid in installments, with provisions for the accrual of interest on balances that remain outstanding after a specified date.

(E)(1) Division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the S corporation that filed an application under this section.

(2) In the case of a qualified member who is an individual, division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the limited liability company that filed an application under this section.

(3) Division (C)(1) of this section does not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this section.

(F) The Tax Commissioner may extend the time for filing returns and paying amounts due to one hundred twenty days after the signing date of the voluntary disclosure agreement.

(G) Nothing in sections 5703.63 to 5703.65 of the Revised Code shall be construed to mean that by accepting and signing a voluntary disclosure agreement the tax commissioner abdicates the right and authority to examine returns and determine the correct amount of tax for any of the taxable years covered by the voluntary disclosure period agreed upon and to assess any additional tax, penalty, or interest owed as a result of that examination, as otherwise provided by law.

Sec. 5703.65. (A) A voluntary disclosure agreement shall be null and void if the tax commissioner finds that, with respect to the agreement, any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any report or return for any taxable year covered by the agreement on or before the due date prescribed under the terms of the agreement.

(3) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the agreement or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with division (D) of section 5703.64 of the Revised Code.

(4) The tax shown by the qualified entity on its report or return filed for any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733. or 5747. of the Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with Chapter 5733. or 5747. of the Revised Code or both, as applicable to the entity, and all other laws governing the taxes imposed under those chapters, according to the terms of the voluntary disclosure agreement.

(B) If the tax commissioner finds that the qualified entity has failed to comply under any of the circumstances that render the voluntary disclosure agreement null and void as set forth in division (A) of this section, the limitation on the tax commissioner issuing an assessment for any taxable year covered by the agreement, and the waiver of any penalties under the agreement, are not binding on the tax commissioner.

Sec. 5703.66. (A) As used in this section:

(1) "Listed transaction" and "reportable transaction" have the same meanings as in section 5703.61 of the Revised Code.

(2) "Reportable transaction understatement" means the sum of divisions (A)(2)(a) and (b) of this section:

(a) The product of division (A)(2)(a)(i) and (ii) of this section:

(i) The amount of the increase, if any, in net income or Ohio taxable income resulting from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax report or return; times

(ii) Eight and one-half per cent in the case of a taxpayer subject to division (A) or (B) of section 5733.06 of the Revised Code or seven and one-half per cent in the case of a taxpayer subject to section 5747.02 of the Revised Code.

For the purpose of division (A)(2) of this section, any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses that would be allowed for that year without regard to section 1211 of the Internal Revenue Code, shall be treated as an increase in net income or Ohio taxable income.

(b) The amount of the decrease, if any, in the aggregate amount of credits allowed under Chapter 5733. or 5747. of the Revised Code, as applicable, that

results from a difference between the taxpayer's treatment of an item to which this section applies, as shown on the taxpayer's tax report or return, and the proper tax treatment of that item.

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a reportable transaction having as a significant purpose the avoidance or evasion of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount equal to twenty per cent of the amount of that understatement. The amount added under this section is in addition to any other penalty or other additions to tax under Chapter 5733. or 5747. of the Revised Code, shall be assessed in the same manner as such penalties or additions to tax, and shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable to the taxpayer.

(C) Any tax treatment included with an amended report or return shall not be taken into account in determining the amount of any reportable transaction understatement if the amended report or return is filed after the earlier of the date the taxpayer is first contacted by either the internal revenue service for federal income tax purposes or the tax commissioner regarding the examination of the report or return."

Between lines 55908 and 55909, insert:

"Sec. 5709.65. (A) An enterprise issued a certificate under section 5709.64 of the Revised Code shall be entitled to the following tax incentives:

(1) ~~With the exception of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility~~For agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code before the effective date of of the 126th general assembly, any improvement to land or tangible personal property at a facility for which a certificate is issued; and that is first used in business at the facility as the result of a project; shall not be considered an asset of a ~~corporate~~an enterprise in determining the value of its issued and outstanding stock under division (A) of section 5733.05 of the Revised Code at the end of the taxable year that includes the certificate's date of issuance. Division (A)(1) of this section does not apply to improvements or tangible personal property constituting or used in the retail portion, if any, of the facility.

(2) ~~With the exception of the original cost of improvements to land or tangible personal property constituting or used in the retail portion, if any, of a facility~~For agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code before the effective date of of the 126th general assembly, the original cost of any improvement to land or tangible personal property at the facility for which the certificate is issued, first used in business at the facility as a result of a project, shall be excluded from the numerator upon computation of the property factor of a ~~corporate~~an enterprise under division (B)(2)(a) of section

5733.05 of the Revised Code, or of a ~~noncorporate enterprise~~ under division (A) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance. Division (A)(2) of this section does not apply to improvements or tangible personal property constituting or used in the retail portion, if any, of the facility.

As used in divisions (A)(1) and (2) of this section, the "retail portion" of a facility is that part of a facility used primarily for making retail sales as defined in division (O) of section 5739.01 of the Revised Code.

(3) Compensation paid to new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code at the facility for which the certificate is issued, who are hired as a result of a project, shall be excluded from the numerator upon computation of the payroll factor of a ~~corporate~~ an enterprise under division (B)(2)(b) of section 5733.05 of the Revised Code, or of a ~~noncorporate enterprise~~ under division (B) of section 5747.21 of the Revised Code, for the taxable year that includes the certificate's date of issuance.

(4) An enterprise that reimburses its new employees described under divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code for all or part of the cost of day-care services necessary to enable them to be employed at a facility for which a certificate is issued shall be entitled to a credit equal to the amounts so reimbursed, up to a maximum of three hundred dollars for each child or dependent receiving the services, for the taxable year in which reimbursement is made, against the tax imposed by section 5733.06 of the Revised Code ~~on a corporate enterprise~~, or by section 5747.02 of the Revised Code on the owners of a ~~noncorporate enterprise~~ pass-through entity or sole proprietorship, for the taxable year that includes the certificate's date of issuance. Only reimbursements of amounts paid by new employees to day-care centers licensed by the department of job and family services for day-care services provided during the first twenty-four months of employment as a new employee may be applied toward the credit provided under this division. Any enterprise claiming this credit shall maintain records verifying that the credit is claimed only for reimbursement of amounts expended by new employees for such services.

(5) For each new employee described in divisions (A)(2)(a) to (e) of section 5709.64 of the Revised Code who completes a training program and is subsequently employed by an enterprise for at least ninety days, if the enterprise pays or reimburses all or part of the cost of the employee's participation in the training program, it may claim a credit equal to the amount paid or reimbursed or one thousand dollars, whichever is less, in the taxable year in which the employee completes the ninety days of subsequent employment, against the tax imposed ~~on a corporate enterprise~~ by section 5733.06 of the Revised Code, or on the owners of a ~~noncorporate enterprise~~ pass-through entity or sole proprietorship by section 5747.02 of the Revised Code. Only one credit shall be allowed with respect to any individual. Attendance at a qualified training program under this section does not bar an otherwise eligible individual from receipt of benefits under Chapter 4141. of the Revised Code.

(B) None of the items set forth in divisions (A)(2) and (3) of this section shall be considered in making any allocation or apportionment under division (B)(2)(d) of section 5733.05 or division (D) of section 5747.21 of the Revised Code.

(C) All credits provided under this section to a ~~noncorporate~~ enterprise-pass-through entity shall be divided pro rata among the owners of the enterprise subject to the tax imposed by section 5747.02 of the Revised Code, based upon their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the commissioner, a statement showing the total available credit and the portion thereof attributed to each owner. The statement shall identify each owner by name and social security number and shall be filed with the tax commissioner by the date prescribed by the commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

(D) All state income tax or corporation franchise tax credits provided under this section shall be claimed in the order required under section 5733.98 or 5747.98 of the Revised Code. The credits, to the extent they exceed the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credits under this section in that order, shall be carried forward to the next succeeding taxable year or years until fully utilized."

Delete lines 56740 through 56744

In line 59226, after "tax" insert "that"; after "corporation" insert "that is a financial institution"

In line 59228, delete "(a)"

Delete lines 59234 through 59243

In line 59245, delete "(a) or (b)"

Between lines 59299 and 59300, insert:

"**Sec. 5733.04.** As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes, but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution that does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the Revised Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax imposed by section 5733.06 of the Revised Code is required to be paid.

(G) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) Except as provided in section 5733.058 of the Revised Code, "net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter; but ending before January 1, 2005, exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section and in no case shall the deduction be carried over to or allowed in a tax year commencing on or after January 1, 2006. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first. If any portion of a deduction remains unused after tax year 2005, the taxpayer may claim a credit to the extent allowed under section 5733.061 of the Revised Code.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses

incurred in taxable years ending on or after January 1, 1982, and beginning before August 6, 1997, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs, provided that no deduction shall be carried forward to and allowed for a tax year commencing on or after January 1, 2006. For losses incurred in taxable years beginning on or after August 6, 1997, the designated carryover period shall be the ~~twenty~~eight consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than dividend income and income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses, or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior

loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset. The adjustments described in this division do not apply to any gain or loss where the gain or loss is recognized by a qualifying taxpayer, as defined in section 5733.0510 of the Revised Code, with respect to a qualifying taxable event, as defined in that section.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(6) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal taxable income.

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, excluding an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the public utility. As used in division (I)(7) of this section, "public utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the public utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company that is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income before operating loss deduction and special deductions for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(11) Deduct net interest income on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the ~~federal taxable net income before operating loss deduction and special deductions~~ of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) ~~Except as set forth in division (I)(12)(e) of this section, to~~ To the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock, securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the ~~federal taxable net income before operating loss deduction and special deductions~~ of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

~~(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:~~

~~(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;~~

~~(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;~~

~~(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;~~

~~(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.~~

~~The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.~~

~~(F)~~ Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)~~(F)(e)~~(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section;

(ii) A related entity's gains or losses described in division (I)(12)(b) of this section if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) Add any amount claimed as a credit under section 5733.0611 of the Revised Code to the extent that such amount satisfies either of the following:

(a) It was deducted or excluded from the computation of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for the corporation's taxable year under the Internal Revenue Code;

(b) It resulted in a reduction of the corporation's taxable income before operating loss deduction and special deductions as required to be reported for any of the corporation's taxable years under the Internal Revenue Code.

(15) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (I)(15) of this section.

(16) Any adjustment required by section 5733.0510 or 5733.0511 of the Revised Code.

(17)(a)(i) Add five-sixths of the amount of depreciation expense allowed under subsection (k) of section 168 of the Internal Revenue Code, including a person's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to any pass-through entity in which the person has direct or indirect ownership.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference

between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the person owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (I)(17) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back is attributable to property generating income or loss allocable under section 5733.051 of the Revised Code, the add-back shall be allocated to the same location as the income or loss generated by that property. Otherwise, the add-back shall be apportioned, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(18)(a) If a person is required to make the add-back under division (I)(17)(a) of this section for a tax year, the person shall deduct one-fifth of the amount added back for each of the succeeding five tax years.

(b) If the amount deducted under division (I)(18)(a) of this section is attributable to an add-back allocated under division (I)(17)(c) of this section, the amount deducted shall be allocated to the same location. Otherwise, the amount shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to division (B)(2)(d) of section 5733.05 of the Revised Code.

(19) For taxable years ending on or after the effective date of of the 126th general assembly, add, to the extent deducted in computing federal taxable income, taxes on or measured by income that are paid to any jurisdiction other than this state and its political subdivisions.

(J) Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code but does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.

(L)(1) A "qualifying holding company" is any corporation satisfying all of the following requirements:

(a) Subject to divisions (L)(2) and (3) of this section, the net book value of the corporation's intangible assets is greater than or equal to ninety per cent of

the net book value of all of its assets and at least fifty per cent of the net book value of all of its assets represents direct or indirect investments in the equity of, loans and advances to, and accounts receivable due from related members;

(b) At least ninety per cent of the corporation's gross income for the taxable year is attributable to the following:

(i) The maintenance, management, ownership, acquisition, use, and disposition of its intangible property, its aircraft the use of which is not subject to regulation under 14 C.F.R. part 121 or part 135, and any real property described in division (L)(2)(c) of this section;

(ii) The collection and distribution of income from such property.

(c) The corporation is not a financial institution on the last day of the taxable year ending prior to the first day of the tax year;

(d) The corporation's related members make a good faith and reasonable effort to make timely and fully the adjustments required by division ~~(C)(2)~~(D) of section 5733.05 of the Revised Code and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) Subject to division (L)(4) of this section, the corporation elects to be treated as a qualifying holding company for the tax year.

A corporation otherwise satisfying divisions (L)(1)(a) to (e) of this section that does not elect to be a qualifying holding company is not a qualifying holding company for the purposes of this chapter.

(2)(a)(i) For purposes of making the ninety per cent computation under division (L)(1)(a) of this section, the net book value of the corporation's assets shall not include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(ii) For purposes of making the fifty per cent computation under division (L)(1)(a) of this section, the net book value of assets shall include the net book value of aircraft or real property described in division (L)(1)(b)(i) of this section.

(b)(i) As used in division (L) of this section, "intangible asset" includes, but is not limited to, the corporation's direct interest in each pass-through entity only if at all times during the corporation's taxable year ending prior to the first day of the tax year the corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of such pass-through entity do not exceed fifty per cent. If the corporation's interest in the pass-through entity is an intangible asset for that taxable year, then the distributive share of any income from the pass-through entity shall be income from an intangible asset for that taxable year.

(ii) If a corporation's and the corporation's related members' combined direct and indirect interests in the capital or profits of a pass-through entity exceed fifty per cent at any time during the corporation's taxable year ending prior to the first day of the tax year, "intangible asset" does not include the

corporation's direct interest in the pass-through entity, and the corporation shall include in its assets its proportionate share of the assets of any such pass-through entity and shall include in its gross income its distributive share of the gross income of such pass-through entity in the same form as was earned by the pass-through entity.

(iii) A pass-through entity's direct or indirect proportionate share of any other pass-through entity's assets shall be included for the purpose of computing the corporation's proportionate share of the pass-through entity's assets under division (L)(2)(b)(ii) of this section, and such pass-through entity's distributive share of any other pass-through entity's gross income shall be included for purposes of computing the corporation's distributive share of the pass-through entity's gross income under division (L)(2)(b)(ii) of this section.

(c) For the purposes of divisions (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) of this section, real property is described in division (L)(2)(c) of this section only if all of the following conditions are present at all times during the taxable year ending prior to the first day of the tax year:

(i) The real property serves as the headquarters of the corporation's trade or business, or is the place from which the corporation's trade or business is principally managed or directed;

(ii) Not more than ten per cent of the value of the real property and not more than ten per cent of the square footage of the building or buildings that are part of the real property is used, made available, or occupied for the purpose of providing, acquiring, transferring, selling, or disposing of tangible property or services in the normal course of business to persons other than related members, the corporation's employees and their families, and such related members' employees and their families.

(d) As used in division (L) of this section, "related member" has the same meaning as in ~~division (A)(6)~~ of section 5733.042 of the Revised Code without regard to division (B) of that section.

(3) The percentages described in division (L)(1)(a) of this section shall be equal to the quarterly average of those percentages as calculated during the corporation's taxable year ending prior to the first day of the tax year.

(4) With respect to the election described in division (L)(1)(e) of this section:

(a) The election need not accompany a timely filed report;

(b) The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund and timely amended report, or a subsequently filed but timely petition for reassessment;

(c) The election is not irrevocable;

(d) The election applies only to the tax year specified by the corporation;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

Nothing in division (L)(4) of this section shall be construed to extend any statute of limitations set forth in this chapter.

(M) "Qualifying controlled group" means two or more corporations that satisfy the ownership and control requirements of division (A) of section 5733.052 of the Revised Code.

(N) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

(P) "Electric company," "combined company," and "telephone company" have the same meanings as in section 5727.01 of the Revised Code.

(Q) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from real property, tangible personal property, and intangible personal property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill, and includes any other income that is apportionable to the extent allowed under the constitution of the United States.

(R) "Nonbusiness income" means all income other than business income.

(S) "Unitary group" means a group of corporations satisfying the ownership or control requirements of division (A) of section 5733.052 of the Revised Code and that, by a preponderance of the evidence as determined by a court of competent jurisdiction or the tax commissioner, are economically interdependent with one another as evidenced by centralized management, functional integration, and economies of scale, as described in divisions (S)(1), (2), and (3) of this section:

(1) "Centralization of management" exists if directors, officers, or other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one subsidiary entity to another,

from one division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role can be effected through mandates, consensus-building, or an overall operational strategy of the business, or any other mechanism that establishes joint management.

(2) "Functional integration" refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. "Functional integration" includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present.

(3) "Economies of scale" refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management.

Sec. 5733.042. (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Asset value" means the adjusted basis of assets as determined in accordance with Subchapter O of the Internal Revenue Code and the Treasury Regulations thereunder.

(3) ~~"Intangible expenses and costs" include expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition of, the direct or indirect use of, the direct or indirect maintenance or management of, the direct or indirect ownership of, the direct or indirect sale of, the direct or indirect exchange of, or any other direct or indirect disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Internal Revenue Code. Such expenses and costs include, but are not limited to, losses related to or incurred in connection directly or indirectly with factoring transactions, losses related to or incurred in connection directly or indirectly with discounting transactions, royalty, patent, technical, and copyright fees, licensing fees, and other similar expenses and costs.~~

~~(4) "Interest expenses and costs" include but are not limited to amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal~~

~~Revenue Code.~~

~~(5) "Member" has the same meaning as in U.S. Treasury Regulation section 1.1502-1.~~

~~(6) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a "related entity" as defined in division (I)(12)(c) of section 5733.04 of the Revised Code, is a component member as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from whom which there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 per cent" wherever "5 per cent" appears in section 1563(e) of the Internal Revenue Code.~~

~~(B) This section applies to all corporations for tax years 1999 and thereafter. For tax years prior to 1999, this section applies only to a corporation that has, or is a member of an affiliated group that has, or is a member of an affiliated group with another member that has, one or more of the following:~~

~~(1) Gross sales, including sales to other members of the affiliated group, during the taxable year of at least fifty million dollars;~~

~~(2) Total assets whose asset value at any time during the taxable year is at least twenty-five million dollars;~~

~~(3) Taxable income before operating loss deduction and special deductions during the taxable year of at least five hundred thousand dollars.~~

~~(C) Except as otherwise provided in this section and section 5733.044 of the Revised Code:~~

~~(1) For purposes of computing its net income under division (I) of section 5733.04 of the Revised Code, the corporation shall add interest expenses and costs and intangible all expenses and costs, and losses directly or indirectly paid, accrued, or incurred to, or recognized in connection directly or indirectly with one or more direct or indirect transactions with; one or more of the following related members:~~

~~(1) Any related member whose activities, in any one state, are primarily limited to the maintenance and management of intangible investments or of the intangible investments of corporations, business trusts, or other entities registered as investment companies under the "Investment Company Act of 1940," 15 U.S.C. 80a-1 et seq., as amended, and the collection and distribution of the income from such investments or from tangible property physically located outside such state. For purposes of division (C)(1) of this section, "intangible investments" includes, without limitation, investments in stocks, bonds, notes, and other debt obligations, including debt obligations of related members, interests in partnerships, patents, patent applications, trademarks, trade names, and similar types of intangible assets.~~

~~(2) Any related member that is a personal holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;~~

~~(3) Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a personal holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;~~

~~(4) Any related member that is a foreign personal holding company as defined in section 552 of the Internal Revenue Code;~~

~~(5) Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a foreign personal holding company as defined in section 552 of the Internal Revenue Code;~~

~~(6) Any related member if that related member or another related member directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, another related member any interest expenses and costs or intangible expenses and costs in an amount less than, equal to, or greater than such amounts received from the corporation. Division (C)(6) of this section applies only if, within a one-hundred-twenty-month period commencing three years prior to the beginning of the tax year, a related member directly or indirectly paid, accrued, or incurred such amounts or losses with respect to one or more direct or indirect transactions with an entity described in divisions (C)(1) to (5) of this section. A rebuttable presumption exists that a related member did so pay, accrue, or incur such amounts or losses with respect to one or more direct or indirect transactions with an entity described in divisions (C)(1) to (5) of this section. A corporation can rebut this presumption only with a preponderance of the evidence to the contrary.~~

~~(7) Any related member that, with respect to indebtedness directly or indirectly owed by the corporation to the related member, directly or indirectly charged or imposed on the corporation an excess interest rate. If the related member has charged or imposed on the corporation an excess interest rate, the adjustment required by division (C)(7) of this section with respect to such interest expenses and costs directly or indirectly paid, accrued, or incurred to the related member in connection with such indebtedness does not include so much of such interest expenses and costs that the corporation would have directly or indirectly paid, accrued, or incurred if the related member had charged or imposed the highest possible interest rate that would not have been an excess interest rate. For purposes of division (C)(7) of this section, an excess interest rate is an annual rate that exceeds by more than three per cent the greater of the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time of the origination of the indebtedness, or the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time the corporation~~

~~paid, accrued, or incurred the interest expense or cost to the related member.~~

~~(D)(1) In (2) All inter-related member profit in cost of goods sold shall be eliminated.~~

(3) All inter-related member profit and gain in all assets, and the concomitant effect on expense and subsequently recognized gains and losses, shall be eliminated.

In making the adjustment required by division (C) of this section, the corporation shall make the adjustment adjustments required by section 5733.057 of the Revised Code. The

(D)(1) The adjustments required by division (C) of this section are not required if either of the following applies:

~~(a) The corporation establishes by clear and convincing evidence that the adjustments are unreasonable.~~

~~(b) The corporation and the tax commissioner agree in writing to the application or use of alternative adjustments and computations to more properly reflect the base required to be determined in accordance with division (B) of section 5733.05 of the Revised Code. Nothing in this division (D)(1)(b) of this section shall be construed to limit or negate the tax commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.~~

(2) The adjustments required by divisions division (C)(1) to (5) of this section do not apply to such portion of interest expenses and costs and intangible expenses and costs that the corporation can establish by the preponderance of the evidence meets both all of the following:

(a) The related member during the same taxable year directly or indirectly paid, accrued, or incurred such portion to a person who that is not a related member of the corporation;

(b) During the six-year period commencing three years prior to the first day of the corporation's taxable year, such person or any related member of such person did not directly or indirectly pay, accrue, or incur such portion or any part of such portion to the corporation or to any related member of the corporation;

(c) The transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

~~(3) The adjustments required by division (C)(6) of this section do not apply to such portion of interest expenses and costs and intangible expenses and costs that the corporation can establish by the preponderance of the evidence meets both of the following:~~

~~(a) The entity described in any of divisions (C)(1) to (6) of this section to whom the related member directly or indirectly paid, accrued, or incurred such~~

portion, in turn during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and

~~(b) The transaction or transactions giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation, the related member, and the entity described in any of divisions (C)(1) to (5) did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.~~

~~(4)(a) The adjustments required by division (C) of this section do not apply except to the extent that the increased tax, if any, attributable to such adjustments would have been avoided if both the following persons were to compute the tax due under this chapter based upon a combination of income: the corporation and, the related member had been eligible to make and had timely made the election to combine in accordance with division (B) of section 5733.052 of the Revised Code or related members to which the corporation directly or indirectly paid, accrued, or incurred the expenses, costs, or losses described in division (C) of this section, and any other related member or related members directly or indirectly receiving or accruing income from those related members to which the corporation directly or indirectly paid, accrued, or incurred such expenses, costs, or losses described in division (C) of this section.~~

~~(b) In the case of a combination of income for purposes of division (D)(3) of this section, the net income of the taxpayer shall be measured by the combined net income of the corporation and all related members described in division (D)(3)(a) of this section. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the related member or related members were taxpayers under this chapter. In computing combined net income, intercorporate transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report, but in ascertaining if any amount constitutes business income, all members of the combined group shall be considered to be one entity.~~

~~(4) For purposes of division (D)(3) of this section, each corporation's net income allocated or apportioned to this state shall be computed as follows:~~

~~(a) To compute each taxpayer's net nonbusiness income allocated to this state for purposes of division (B) of section 5733.05 of the Revised Code, each corporation's net nonbusiness income for sources allocated under section 5733.051 of the Revised Code shall be separately calculated, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code.~~

(b) To compute each corporation's net business income apportioned to this state for purposes of division (B) of section 5733.05 of the Revised Code, the combined net income, other than net income from nonbusiness income sources allocated under section 5733.051 of the Revised Code, shall be apportioned to this state and then prorated to each corporation on the basis of each corporation's proportionate part of the factors used to apportion the total of such net business income to this state.

(E) Except as otherwise provided in division (F) of this section, if, on the day that is one year after the day the corporation files its report, the corporation has not made the adjustment required by this section or has not fully paid the tax and interest, if any, imposed by this chapter and attributable to such adjustment, the corporation is subject to a penalty equal to twice the interest charged under division (A) of section 5733.26 of the Revised Code for the delinquent payment of such tax and interest. For the purpose of the computation of the penalty imposed by this division, such penalty shall be deemed to be part of the tax due on the dates prescribed by this chapter without regard to the one-year period set forth in this division. The penalty imposed by this division is not in lieu of but is in addition to all other penalties, other similar charges, and interest imposed by this chapter. The tax commissioner may waive, abate, modify, or refund, with interest, all or any portion of the penalty imposed by this division only if the corporation establishes beyond a reasonable doubt that both the failure to fully comply with this section and the failure to fully pay such tax and interest within one year after the date the corporation files its report were not in any part attributable to the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

(F)(1) For purposes of this division, "~~tax differential~~difference" means the difference between (a) the tax that is imposed by section 5733.06 of the Revised Code and that is attributable to the adjustment adjustments required by this section, and (b) the amount paid that is so attributable, prior to the day that is one year after the day the corporation files its report.

(2) The penalty imposed by division (E) of this section does not apply if the tax ~~differential~~difference meets both of the following requirements:

(a) ~~The tax differential~~It is less than ten per cent of the tax imposed by section 5733.06 of the Revised Code; and

(b) ~~The difference~~It is less than fifty thousand dollars.

(3) Nothing in division (F) of this section shall be construed to waive, abate, or modify any other penalties, other similar charges, or interest imposed by other sections of this chapter.

(G) Nothing in this section shall require a corporation to add to its net income more than once any ~~amount of interest expenses and costs or intangible~~ expenses and costs that the corporation pays, accrues, or incurs to a related member ~~described in~~. No adjustments under division (C) of this section shall be made to the extent the effect of such adjustments occurs as a result of a

combined return required under section 5733.052 of the Revised Code, that includes the corporation and the corporation's related member or related members with respect to which such adjustments would be made without regard to this division.

Sec. 5733.044. (A) Section 5733.042 of the Revised Code does not apply to a corporation for a tax year for payments of expenses or costs to which all of the following apply:

(1) The corporation establishes by clear and convincing evidence that the corporation directly remitted such payments to a related member that, for the six-year period beginning three years prior to the remittance, was not subject to federal income tax with respect to the payments and was not required to file a federal income tax return with the internal revenue service for purposes of reporting the payments. For purposes of division (A)(1) of this section, payments shall be treated as directly remitted to the related member even if those payments are processed or paid through another related member that does not charge a fee in connection therewith.

(2) The corporation establishes by clear and convincing evidence that during the six-year period beginning three years prior to the remittance to the related member described in division (A)(1) of this section, the related member did not directly or indirectly remit any portion of the payments referred to in division (A)(1) of this section, or any like, similar, or other amount, to any other related member that, during any portion of that six-year period, was subject to federal income tax and was required to file a federal income tax return with the internal revenue service.

(3) The corporation establishes by clear and convincing evidence that the corporation is allowed a deduction for federal income tax purposes with respect to the remittance made to the related member described in division (A)(1) of this section for the corporation's taxable year pursuant to an advanced pricing agreement between the corporation and the internal revenue service, or that the corporation has satisfied the documentation requirements of sections 482 and 6662(e) of the Internal Revenue Code, or that the corporation has complied with section 482 of the Internal Revenue Code.

(4) The corporation refutes by clear and convincing evidence any reasonable conclusion of the tax commissioner that the transaction giving rise to the remittance to the related member described in division (A)(1) of this section had as a principal purpose the avoidance of any portion of the tax due under this chapter.

For purposes of division (A) of this section, "federal income tax" and "federal income tax return" do not include withholding taxes and returns filed for purposes of reporting withholding taxes, providing information other than reporting income tax liability, or claiming the benefits of a tax treaty between the United States and another government.

(B) Notwithstanding section 5703.56 of the Revised Code to the contrary,

a corporation claiming that division (A) of this section applies must refute by clear and convincing evidence any reasonable conclusion of the tax commissioner that any of the doctrines set forth in that section should apply to deny to the corporation the application of division (A) of this section.

(C) Where the corporation and other related members make payments to another related member described in division (A)(1) of this section, and to the extent such payments are processed or paid through another related member in the manner described in division (A)(1) of this section, this section shall apply only with respect to the corporation's pro-rata share of the total payments made by all such related members to the related member described in division (A)(1) of this section during the taxable year, unless the corporation establishes by clear and convincing evidence the actual amount of the corporation's payments that are made to the related member described in division (A)(1) of this section. Nothing in division (C) of this section shall allow a corporation to apply division (A) of this section to any amount greater than the actual payments made by the corporation to a related member described in division (A)(1) of this section during the taxable year.

(D) Any adjustments made by the internal revenue service to any related member of the corporation with respect to an advanced pricing agreement or with respect to section 482 of the Internal Revenue Code shall be presumed to be adjustments properly attributed to the corporation, unless the corporation establishes by clear and convincing evidence that the adjustment should be attributed, in whole or in part, to another person.

(E)(1) If any corporation claims the benefit provided by division (A) of this section and is not entitled to such benefit, any adjustment otherwise required by section 5733.042 of the Revised Code shall be further increased by an amount equal to two times such adjustment.

(2) Division (E)(1) of this section does not apply to adjustments made in connection with an advanced pricing agreement.

Sec. 5733.05. As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the purposes of this chapter, the value of the

issued and outstanding shares of stock of any corporation that is a financial institution shall be deemed to be the value as calculated in accordance with division (A) of this section. For the purposes of this chapter, the value of the issued and outstanding shares of stock of any corporation that is not a financial institution shall be deemed to be the values as calculated in accordance with divisions (B) and (C) of this section. Except as otherwise required by this section or section 5733.056 of the Revised Code, the value of a taxpayer's issued and outstanding shares of stock under division (A) or (C) of this section does not include any amount that is treated as a liability under generally accepted accounting principles.

(A) The total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves shall be determined as prescribed by section 5733.056 of the Revised Code for tax years 1998 and thereafter.

(B) The sum of the corporation's net income during the corporation's taxable year, allocated or apportioned to this state as prescribed in divisions (B)(1) and (2) of this section, and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 5733.059, and 5733.0510 of the Revised Code:

(1) The net nonbusiness income allocated or apportioned to this state as provided by section 5733.051 of the Revised Code.

(2) The amount of Ohio apportioned net business income, which shall be calculated by multiplying the corporation's net business income by a fraction. The numerator of the fraction is the sum of the following products: the property factor multiplied by twenty, the payroll factor multiplied by twenty, and the sales factor multiplied by sixty. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows, but the numerator and the denominator of the factors shall not include the portion of any property, payroll, and sales otherwise includible in the factors to the extent that the portion relates to, or is used in connection with, the production of nonbusiness income allocated under section 5733.051 of the Revised Code:

(a) The property factor is a fraction computed as follows:

The numerator of the fraction is the average value of the corporation's real and tangible personal property owned or rented, and used in the trade or business in this state during the taxable year, and the denominator of the fraction is the average value of all the corporation's real and tangible personal property owned or rented, and used in the trade or business everywhere during such year. Real and tangible personal property used in the trade or business includes, but is not limited to, real and tangible personal property that the corporation rents, subrents, leases, or subleases to others if the income or loss from such rentals, subrentals, leases, or subleases is business income. There shall be excluded from

the numerator and denominator of the fraction the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to that section or former section 6111.31 of the Revised Code; and property used exclusively during the taxable year for qualified research.

(i) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. If real property is used by the taxpayer in its trade or business and is owned directly or indirectly by a related member exempted from the tax imposed under section 5733.06 pursuant to section 5733.09 of the Revised Code, or is used by the taxpayer in its trade or business and is rented by such a related member from a person that is not a related member of the taxpayer or of the taxpayer's related member, the real property shall be valued at the greater of the following: the average value of the property, eight times the net annual rent rate paid by the taxpayer to the related member, or eight times the net annual rental rate paid by the related member to the person. "Net annual rental rate" means the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals.

(ii) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the corporation's property.

(b) The payroll factor is a fraction computed as follows:

The numerator of the fraction is the total amount paid in this state during the taxable year by the corporation for compensation, and the denominator of the fraction is the total compensation paid everywhere by the corporation during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(i) Compensation means any form of remuneration paid to an employee for personal services.

(ii) Compensation is paid in this state if: (I) the recipient's service is performed entirely within this state, (II) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, (III) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(iii) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(c) The sales factor is a fraction computed as follows:

Except as provided in this section, the numerator of the fraction is the total sales in this state by the corporation during the taxable year or part thereof, and the denominator of the fraction is the total sales by the corporation everywhere during such year or part thereof. In computing the numerator and denominator of the fraction, the following shall be eliminated from the fraction: receipts and any related gains or losses from the sale or other disposal of excluded assets; dividends or distributions; and interest or other similar amounts received for the use of, or for the forbearance of the use of, money. Also, in computing the numerator and denominator of the sales factor, in the case of a corporation owning at least eighty per cent of the issued and outstanding common stock of one or more insurance companies or public utilities, except an electric company and a combined company, and, for tax years 2005 and thereafter, a telephone company, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the corporation from such utilities, insurance companies, and financial institutions shall be eliminated. As used in this division, "excluded assets" means property that is either: intangible property, other than trademarks, trade names, patents, copyrights, and similar intellectual property; or tangible personal property or real property where that property is a capital asset or an asset described in section 1231 of the Internal Revenue Code, without regard to the holding period specified therein.

(i) For the purpose of this section and section 5733.03 of the Revised Code, receipts not eliminated or excluded from the fraction shall be situated as follows:

Receipts from rents and royalties from real property located in this state shall be situated to this state.

Receipts from rents and royalties of tangible personal property, to the extent the tangible personal property is used in this state, shall be situated to this state.

Receipts from the sale of electricity and of electric transmission and distribution services shall be situated to this state in the manner provided under section 5733.059 of the Revised Code.

Receipts from the sale of real property located in this state shall be situated to this state.

Receipts from the sale of tangible personal property shall be situated to this state if such property is received in this state by ~~the~~ purchaser other than the

United States government, or if such property is shipped from a location in this state and either the purchaser is the United States government or the seller is not subject to a tax on or measured by net income in the state where the property is received. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

(ii) Receipts from all other sales not eliminated or excluded from the fraction shall be situated to this state as follows:

Receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be situated to this state to the extent that the receipts are based on the amount of use of that property in this state. If the receipts are not based on the amount of use of that property, but rather on the right to use the property and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state.

Receipts from the sale of services, and receipts from any other sales not eliminated or excluded from the sales factor and not otherwise situated under division (B)(2)(c) of this section, shall be situated to this state in the proportion ~~to that~~ (I) the purchaser's benefit, with respect to the sale, in this state or in any other state where the benefit is received and where the seller is not subject to a tax on or measured by net income, bears to (II) the purchaser's benefit, with respect to the sale, everywhere. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining ~~the~~ that proportion of the benefit in this state to the benefit everywhere.

(iii) Income from receipts eliminated or excluded from the sales factor under division (B)(2)(c) of this section shall not be presumed to be nonbusiness income.

(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, a timely filed petition for reassessment, or a timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's allocated or apportioned base in this state.

An alternative method will be effective only with approval by the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(e) The tax commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation's base, that apply to corporations engaged in telecommunications.

(C)(1) The total value, as shown on the books of each corporation that is not a ~~qualified~~ qualifying holding company, of the net book value of the corporation's assets less the net carrying value of its liabilities, and excluding from the corporation's assets land devoted exclusively to agricultural use as of the first Monday of June in the corporation's taxable year as determined by the county auditor of the county in which the land is located pursuant to section 5713.31 of the Revised Code, and making any adjustment required by division (D) of this section. For the purposes of determining that total value, any reserves shown on the corporation's books shall be considered liabilities or contra assets, as the case may be, except for any reserves that are deemed appropriations of retained earnings under generally accepted accounting principles.

(2) The base upon which the tax is ~~levied~~ computed under division ~~(C)(B)~~ or (D) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under division (C)(1) of this section by the fraction determined under divisions (B)(2)(a) to (c) of this section and, if applicable, divisions (B)(2)(d)(ii) and (iii) of this section, and without regard to section 5733.052 of the Revised Code, but substituting "net worth" for "net income" wherever "net income" appears in division (B)(2)(c) in this section. For purposes of division (C)(2) of this section, the numerator and denominator of each of the fractions shall include the portion of any real and tangible personal property, payroll, and sales, respectively, relating to, or used in connection with the production of, net nonbusiness income allocated under section 5733.051 of the Revised Code. Nothing in this division shall allow any amount to be included in the numerator or denominator more than once.

(D)(1) If, on the last day of the taxpayer's taxable year preceding the tax year, the taxpayer is a related member to a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year, or if, on the last day of the taxpayer's taxable year preceding the tax year, a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year is a related member to the taxpayer, then the taxpayer's total value for the purposes of division (C) of this section shall be adjusted by the qualifying amount. Except as otherwise provided under division (D)(2) of this section,

"qualifying amount" means the amount that, when added to the taxpayer's total value, and when subtracted from the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, or when subtracted from the taxpayer's total value and when added to the net carrying value of the taxpayer's liabilities computed without regard to division (D) of this section, results in the taxpayer's debt-to-equity ratio equaling the debt-to-equity ratio of the qualifying controlled group on the last day of the taxable year ending prior to the first day of the tax year computed on a consolidated basis in accordance with general accepted accounting principles. For the purposes of division (D)(1) of this section, the corporation's total value, after the adjustment required by that division, shall not exceed the net book value of the corporation's assets.

(2)(a) The amount added to the taxpayer's total value and subtracted from the net carrying value of the taxpayer's liabilities shall not exceed the amount of the net carrying value of the taxpayer's liabilities owed to the taxpayer's related members.

(b) A liability owed to the taxpayer's related members includes, but is not limited to, any amount that the corporation owes to a person that is not a related member if the corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) The base upon which the tax is ~~levied~~computed under division ~~(C)~~(B) or (D) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C) and (D) of this section but without regard to section 5733.052 of the Revised Code.

(4) For purposes of division (D) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code.

Sec. 5733.052. (A) ~~At the discretion of the tax commissioner, any~~Any taxpayer that, ~~for more than one-half of its taxable year,~~ owns or controls either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, or has more than fifty per cent of its capital stock with voting rights owned or controlled either directly or indirectly by another corporation, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, ~~may be required or permitted,~~ for purposes of computing the value of its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, ~~to~~shall combine its net income with the net income of ~~any~~all such other corporations that are members of the same unitary group and that are described in any of divisions (A)(1) to (4) of this section:

(1) The corporation is not a financial institution, insurance company, or public utility, and the corporation's property, payroll, and sales factors in the

United States, each bearing an equal weight, averages twenty per cent or more or, if those factors when equally weighted do not average twenty per cent, the corporation does not derive eighty per cent or more of its gross income from the active conduct of a trade or business outside the United States;

(2) The corporation is a domestic international sales corporation as defined in section 992 of the Internal Revenue Code, a foreign sales corporation as described in sections 921 to 927 of the Internal Revenue Code, or an export trade corporation described in sections 970 to 972 of the Internal Revenue Code;

(3) Any other corporation not described in division (A)(1) or (2) of this section, but such a corporation shall be included in the combined report only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States. Income of that corporation derived from or attributable to sources within the United States as determined by federal income tax laws shall be limited to and determined from the books of account maintained by the corporation with respect to its activities conducted within the United States.

(4) A corporation that is a "controlled foreign corporation" as defined in section 957 of the Internal Revenue Code if all or part of the income of the corporation is Subpart F income. For the purposes of division (A)(4) of this section, "Subpart F income" means income defined in section 952 of the Internal Revenue Code. The income and apportionment factors of any such corporation shall be determined by multiplying the income and apportionment factors of that corporation without application of division (A)(4) of this section by a fraction. The numerator of the fraction is the Subpart F income of the corporation for the taxable year, and the denominator of the fraction is the "earnings and profits" of that corporation for the taxable year, as determined in section 964 of the Internal Revenue Code. The fraction shall not exceed one.

(B) A combination of net income may also be made at the election of any two or more taxpayers each having income, other than dividend or distribution income, from sources within Ohio, provided the ownership or control requirements contained in ~~the~~ division (A) of this section are satisfied and such combination is elected in a timely report which sets forth such information as the commissioner requires. This election, once made by two or more such taxpayers, may not be changed by such taxpayers with respect to amended reports or reports for future years without the written consent of the commissioner. As used in this section, "income from sources within Ohio" means income that would be allocated or apportioned to Ohio if the taxpayer computed its franchise tax without regard to this section.

(C) No combination of net income under division (A) of this section shall be required unless the commissioner determines that, in order to properly reflect income, such a combination is necessary because of intercorporate transactions and the tax liability imposed by section 5733.06 of the Revised Code.

(D) In case of a combination of income, the net income of each taxpayer

shall be measured by the combined net income of all the corporations included in the combination. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the corporation were a taxpayer under this chapter. In computing combined net income, intercorporate transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report.

(E) For purposes of division (B) of section 5733.05 of the Revised Code, each taxpayer's net income allocated or apportioned to this state shall be computed as follows: to compute the taxpayer's net income allocated to this state for purposes of division (B)(1) of section 5733.05 of the Revised Code, the taxpayer's net income for sources allocated under section 5733.051 of the Revised Code shall be separately determined, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code. To compute the taxpayer's net income apportioned to this state for purposes of division (B)(2) of section 5733.05 of the Revised Code, the combined net income, other than net income from sources allocated under section 5733.051 of the Revised Code, shall be apportioned to Ohio and then prorated to the taxpayer on the basis of its proportionate part of the factors used to apportion the total of such net income to Ohio.

(F) The tax commissioner shall adopt rules necessary to ensure that the tax liability or net income of any corporation having income derived from or attributable to sources within this state and required to submit a report under division (A) of this section is properly reported, determined, computed, assessed, collected, or adjusted, both during and after the taxable year on the basis of which the report is filed.

Sec. 5733.053. (A) As used in this section:

(1) "Transfer" means a transaction or series of related transactions in which a corporation directly or indirectly transfers or distributes substantially all of its assets or equity to another corporation, if the transfer or distribution qualifies for nonrecognition of gain or loss under the Internal Revenue Code.

(2) "Transferor" means a corporation that has made a transfer.

(3) "Transferee" means a corporation that received substantially all of the assets or equity of a transferor in a transfer.

(B) Except as provided in division (F) of this section, for purposes of valuing its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, a transferee shall add to its net income allocated or apportioned to this state its transferor's net income allocated or apportioned to

this state. The transferee shall add such income in computing its tax for the same tax year or years that such income would have been reported by the transferor if the transfer had not been made. The transferee shall add such income only to the extent the income is not required to be reported by the transferor for the purposes of the tax ~~imposed by divisions (A) and (B)~~ computed under division (A) or (C) of section 5733.06 of the Revised Code.

(C) The following shall be determined in the same manner as if the transfer had not been made:

(1) The transferor's net income allocated or apportioned to this state for the tax year under divisions (B)(1) and (2) of section 5733.05 of the Revised Code;

(2) The transferor's requirements for the combination of net income under section 5733.052 of the Revised Code;

(3) Any other determination regarding the transferor that is necessary to avoid an absurd or unreasonable result in the application of this chapter.

(D) A transferee shall be allowed the following credits and shall make the following adjustments in the same manner that they would have been available to the transferor:

(1) The credits enumerated in section 5733.98 of the Revised Code;

(2) The deduction under division (I)(1) of section 5733.04 of the Revised Code for net operating losses incurred by its transferor, subject to the limitations set forth in that division and in sections 381 and 382 of the Internal Revenue Code concerning net operating loss carryovers;

(3) Any other deduction from or addition to net income under this chapter involving the transferor, the disallowance of which would be absurd or unreasonable. Such adjustments to net income and allowance of credits shall be subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code and regulations prescribed thereunder.

(E) If a transferee subject to this section subsequently becomes a transferor, any net income that the transferee would have been required to add under division (B) of this section shall be included in its income as a transferor and any credits or adjustments to which the transferee would have been entitled under division (D) of this section shall be available to it as a transferor.

(F) The amendments made to this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the transferee makes an election prior to December 31, 2001, to apply those amendments.

Sec. 5733.055. (A) As used in this section:

(1) "Ceiling amount" means the excess of the amount described in

division (A)(1)(a) of this section over the amount described in division (A)(1)(b) of this section:

(a) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by this section;

(b) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by both this section and division (I)(13) of section 5733.04 of the Revised Code.

(2) "Income adjustment amount" means the sum of the amounts described in divisions (A)(2)(a) and (b) of this section:

(a) The related member's net interest income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules;

(b) The related member's net intangible income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules.

For purposes of division (A)(2) of this section, "other states" does not include those states under whose laws the taxpayer files or could have elected to file with the related member, or the related member files or could have elected to file with another related member, a combined income tax report or return, a consolidated income tax report or return, or any other report or return where such report or return is due because of the imposition of a tax measured on or by income and such report or return results in the elimination of the tax effects from transactions directly or indirectly between either the taxpayer and the related member or between the related member and another corporation if such other corporation, during a one-hundred-twenty-month period commencing three years prior to the beginning of the tax year, directly or indirectly paid, accrued, or incurred intangible expenses and costs or interest expenses and costs to an entity described in ~~divisions (C)(4) to (5)~~ division (C)(4) to (5) of section 5733.042 of the Revised Code.

(3) "Intangible expenses and costs" has the same meaning as in ~~division (A)(3)~~ of section 5733.042 of the Revised Code.

(4) "Interest expenses and costs" has the same meaning as in ~~division (A)(4)~~ of section 5733.042 of the Revised Code.

(5) "Intangible income and revenue" are those amounts earned or received by a related member from a taxpayer for the taxpayer's use of intangible property. Such amounts include, but are not limited to, royalty, patent, technical, and copyright fees, licensing fees, and other similar income and revenue.

(6) "Interest income and revenue" are those amounts earned or received by a related member from a taxpayer to the extent such amounts are allowed as

deductions under section 163 of the Internal Revenue Code for purposes of determining the taxpayer's taxable income under the Internal Revenue Code.

(7) "Net intangible income" means intangible income and revenue reduced by intangible expenses and costs paid or accrued directly or indirectly to a related member described in ~~any of divisions~~ division (C)(1) to (7) of section ~~5747.042~~5733.042 of the Revised Code.

(8) "Net interest income" means interest income and revenue reduced by interest expenses and costs paid or accrued directly or indirectly to a related member described in ~~any of divisions~~ division (C)(1) to (7) of section ~~5747.042~~5733.042 of the Revised Code.

(B) Except as set forth in division (C) of this section, a deduction from the corporation's net income allocated and apportioned to this state shall be allowed in an amount equal to the income adjustment amount described in division (A)(2) of this section. However, in no case shall the deduction be greater than the ceiling amount described in division (A)(1) of this section.

(C) The deduction provided by division (B) of this section is available to the taxpayer only if the taxpayer establishes with clear and convincing evidence that the intangible expenses and costs and the interest expenses and costs paid, accrued, or incurred by the corporation to a related member did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

Sec. 5733.056. (A) As used in this section:

(1) "Billing address" means the address where any notice, statement, or bill relating to a customer's account is mailed, as indicated in the books and records of the taxpayer on the first day of the taxable year or on such later date in the taxable year when the customer relationship began.

(2) "Borrower or credit card holder located in this state" means:

(a) A borrower, other than a credit card holder, that is engaged in a trade or business and maintains its commercial domicile in this state; or

(b) A borrower that is not engaged in a trade or business, or a credit card holder, whose billing address is in this state.

(3) "Branch" means a "domestic branch" as defined in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(o), as amended.

(4) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services that are included in such employee's gross income under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, such as those employed in foreign countries, the determination of whether such payments would constitute gross income to such employees under the Internal Revenue Code shall be made as though such employees were subject to the Internal Revenue Code.

(5) "Credit card" means a credit, travel, or entertainment card.

(6) "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

(7) "Deposits" has the meaning given in section 3 of the "Federal Deposit Insurance Act," 64 Stat. 873, 12 U.S.C. 1813(1), as amended.

(8) "Employee" means, with respect to a particular taxpayer, any individual who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.

(9) "Gross rents" means the actual sum of money or other consideration payable for the use or possession of property. "Gross rents" includes:

(a) Any amount payable for the use or possession of real property or tangible personal property whether designated as a fixed sum of money or as a percentage of receipts, profits, or otherwise;

(b) Any amount payable as additional rent or in lieu of rent, such as interest, taxes, insurance, repairs, or any other amount required to be paid by the terms of a lease or other arrangement; and

(c) A proportionate part of the cost of any improvement to real property made by or on behalf of the taxpayer which reverts to the owner or lessor upon termination of a lease or other arrangement. The amount to be included in gross rents is the amount of amortization or depreciation allowed in computing the taxable income base for the taxable year. However, where a building is erected on leased land, by or on behalf of the taxpayer, the value of the land is determined by multiplying the gross rent by eight, and the value of the building is determined in the same manner as if owned by the taxpayer.

(d) The following are not included in the term "gross rents":

(i) Reasonable amounts payable as separate charges for water and electric service furnished by the lessor;

(ii) Reasonable amounts payable as service charges for janitorial services furnished by the lessor;

(iii) Reasonable amounts payable for storage, provided such amounts are payable for space not designated and not under the control of the taxpayer; and

(iv) That portion of any rental payment which is applicable to the space subleased from the taxpayer and not used by it.

(10) "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of such extension of credit from another. Loans include debt obligations of subsidiaries, participations, syndications, and leases treated as loans for federal income tax purposes. "Loan" does not include: properties treated as loans

under section 595 of the Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due from depositor institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security; and other similar items.

(11) "Loan secured by real property" means that fifty per cent or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

(12) "Merchant discount" means the fee, or negotiated discount, charged to a merchant by the taxpayer for the privilege of participating in a program whereby a credit card is accepted in payment for merchandise or services sold to the card holder.

(13) "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

(14) "Principal base of operations" with respect to transportation property means the place of more or less permanent nature from which the property is regularly directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly (a) starts work and to which the employee customarily returns in order to receive instructions from the employer or (b) communicates with the employee's customers or other persons or (c) performs any other functions necessary to the exercise of the trade or profession at some other point or points.

(15) "Qualified institution" means a financial institution that on or after June 1, 1997:

(a)(i) Has consummated one or more approved transactions with insured banks with different home states that would qualify under section 102 of the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994," Public Law 103-328, 108 Stat. 2338;

(ii) Is a federal savings association or federal savings bank that has consummated one or more interstate acquisitions that result in a financial institution that has branches in more than one state; or

(iii) Has consummated one or more approved interstate acquisitions under authority of Title XI of the Revised Code that result in a financial institution that has branches in more than one state; and

(b) Has at least nine per cent of its deposits in this state as of the last day

of June prior to the beginning of the tax year.

(16) "Real property owned" and "tangible personal property owned" mean real and tangible personal property, respectively, on which the taxpayer may claim depreciation for federal income tax purposes, or to which the taxpayer holds legal title and on which no other person may claim depreciation for federal income tax purposes, or could claim depreciation if subject to federal income tax. Real and tangible personal property do not include coin, currency, or property acquired in lieu of or pursuant to a foreclosure.

(17) "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and which is continuously maintained, occupied, and used by employees of the taxpayer.

(18) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

(19) "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

(20) "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to such property, such as rolling stock, barges, trailers, or the like.

(B) The annual financial institution report determines the value of the issued and outstanding shares of stock of the taxpayer, and is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the financial institution's annual accounting period that includes the first day of January of the tax year. For purposes of this section, division (A) of section 5733.05, and division ~~(D)~~(E) of section 5733.06 of the Revised Code, the value of the issued and outstanding shares of stock of the financial institution shall include the total value, as shown by the books of the financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves, but exclusive of:

(1) Reserves for accounts receivable, depreciation, depletion, and any other valuation reserves with respect to specific assets;

(2) Taxes due and payable during the year for which such report was made;

(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, as amended;

(4) Good will, net aggregate appreciation under the equity method of accounting of investments in the capital stock of directly owned first-tier affiliates, and abandoned property as set up in the annual report of the financial

institution, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.

(5) A portion of the value of the issued and outstanding shares of stock of such financial institution equal to the amount obtained by multiplying such value by the quotient obtained by:

(a) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities, except electric companies and combined companies, and, for tax years 2005 and thereafter, telephone companies, of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(b) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the financial institution by (2) the total assets of such financial institution as shown on its books;

(c) Dividing (1) the amount of the financial institution's assets, as shown on its books, represented by investments in the capital stock and indebtedness of other financial institutions of which at least twenty-five per cent of the other financial institution's issued and outstanding common stock is owned by the financial institution by (2) the total assets of the financial institution as shown on its books. Division (B)(5)(c) of this section applies only with respect to such other financial institutions that for the tax year immediately following the taxpayer's taxable year will pay the tax imposed by division ~~(D)~~(E) of section 5733.06 of the Revised Code.

(6) Land that has been determined pursuant to section 5713.31 of the Revised Code by the county auditor of the county in which the land is located to be devoted exclusively to agricultural use as of the first Monday of June in the financial institution's taxable year.

(7) Property within this state used exclusively during the taxable year for qualified research as defined in section 5733.05 of the Revised Code.

(C) The base upon which the tax levied under division ~~(D)~~(E) of section 5733.06 of the Revised Code shall be computed by multiplying the value of a financial institution's issued and outstanding shares of stock as determined in division (B) of this section by a fraction. The numerator of the fraction is the sum of the following: the property factor multiplied by fifteen, the payroll factor multiplied by fifteen, and the sales factor multiplied by seventy. The denominator of the fraction is one hundred, provided that the denominator shall be reduced by fifteen if the property factor has a denominator of zero, by fifteen if the payroll factor has a denominator of zero, and by seventy if the sales factor

has a denominator of zero.

(D) A financial institution shall calculate the property factor as follows:

(1) The property factor is a fraction, the numerator of which is the average value of real property and tangible personal property rented to the taxpayer that is located or used within this state during the taxable year, the average value of real and tangible personal property owned by the taxpayer that is located or used within this state during the taxable year, and the average value of the taxpayer's loans and credit card receivables that are located within this state during the taxable year; and the denominator of which is the average value of all such property located or used within and without this state during the taxable year.

(2)(a) The value of real property and tangible personal property owned by the taxpayer is the original cost or other basis of such property for federal income tax purposes without regard to depletion, depreciation, or amortization.

(b) Loans are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a loan is charged-off in whole or in part for federal income tax purposes, the portion of the loan charged-off is not outstanding. A specifically allocated reserve established pursuant to financial accounting guidelines which is treated as charged-off for federal income tax purposes shall be treated as charged-off for purposes of this section.

(c) Credit card receivables are valued at their outstanding principal balance, without regard to any reserve for bad debts. If a credit card receivable is charged-off in whole or in part for federal income tax purposes, the portion of the receivable charged-off is not outstanding.

(3) The average value of property owned by the taxpayer is computed on an annual basis by adding the value of the property on the first day of the taxable year and the value on the last day of the taxable year and dividing the sum by two. If averaging on this basis does not properly reflect average value, the tax commissioner may require averaging on a more frequent basis. The taxpayer may elect to average on a more frequent basis. When averaging on a more frequent basis is required by the tax commissioner or is elected by the taxpayer, the same method of valuation must be used consistently by the taxpayer with respect to property within and without this state and on all subsequent returns unless the taxpayer receives prior permission from the tax commissioner or the tax commissioner requires a different method of determining value.

(4)(a) The average value of real property and tangible personal property that the taxpayer has rented from another and is not treated as property owned by the taxpayer for federal income tax purposes, shall be determined annually by multiplying the gross rents payable during the taxable year by eight.

(b) Where the use of the general method described in division (D)(4)(a) of this section results in inaccurate valuations of rented property, any other method which properly reflects the value may be adopted by the tax commissioner or by the taxpayer when approved in writing by the tax

commissioner. Once approved, such other method of valuation must be used on all subsequent returns unless the taxpayer receives prior approval from the tax commissioner or the tax commissioner requires a different method of valuation.

(5)(a) Except as described in division (D)(5)(b) of this section, real property and tangible personal property owned by or rented to the taxpayer is considered to be located within this state if it is physically located, situated, or used within this state.

(b) Transportation property is included in the numerator of the property factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of value that is to be included in the numerator of this state's property factor is determined by multiplying the average value of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft everywhere. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(6)(a)(i) A loan, other than a loan or advance described in division (D)(6)(d) of this section, is considered to be located within this state if it is properly assigned to a regular place of business of the taxpayer within this state.

(ii) A loan is properly assigned to the regular place of business with which it has a preponderance of substantive contacts. A loan assigned by the taxpayer to a regular place of business without the state shall be presumed to have been properly assigned if:

(I) The taxpayer has assigned, in the regular course of its business, such loan on its records to a regular place of business consistent with federal or state regulatory requirements;

(II) Such assignment on its records is based upon substantive contacts of the loan to such regular place of business; and

(III) The taxpayer uses the records reflecting assignment of loans for the filing of all state and local tax returns for which an assignment of loans to a regular place of business is required.

(iii) The presumption of proper assignment of a loan provided in division (D)(6)(a)(ii) of this section may be rebutted upon a showing by the tax commissioner, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such loan did not occur at the regular place of business to which it was assigned on the taxpayer's records. When such presumption has been rebutted, the loan shall then be located within this state if (1) the taxpayer had a regular place of business within this state at the time the loan was made; and (2) the taxpayer fails to show, by a preponderance of the evidence, that the preponderance of substantive contacts

regarding such loan did not occur within this state.

(b) In the case of a loan which is assigned by the taxpayer to a place without this state which is not a regular place of business, it shall be presumed, subject to rebuttal by the taxpayer on a showing supported by the preponderance of evidence, that the preponderance of substantive contacts regarding the loan occurred within this state if, at the time the loan was made the taxpayer's commercial domicile was within this state.

(c) To determine the state in which the preponderance of substantive contacts relating to a loan have occurred, the facts and circumstances regarding the loan at issue shall be reviewed on a case-by-case basis and consideration shall be given to such activities as the solicitation, investigation, negotiation, approval, and administration of the loan. The terms "solicitation," "investigation," "negotiation," "approval," and "administration" are defined as follows:

(i) "Solicitation" is either active or passive. Active solicitation occurs when an employee of the taxpayer initiates the contact with the customer. Such activity is located at the regular place of business which the taxpayer's employee is regularly connected with or working out of, regardless of where the services of such employee were actually performed. Passive solicitation occurs when the customer initiates the contact with the taxpayer. If the customer's initial contact was not at a regular place of business of the taxpayer, the regular place of business, if any, where the passive solicitation occurred is determined by the facts in each case.

(ii) "Investigation" is the procedure whereby employees of the taxpayer determine the creditworthiness of the customer as well as the degree of risk involved in making a particular agreement. Such activity is located at the regular place of business which the taxpayer's employees are regularly connected with or working out of, regardless of where the services of such employees were actually performed.

(iii) Negotiation is the procedure whereby employees of the taxpayer and its customer determine the terms of the agreement, such as the amount, duration, interest rate, frequency of repayment, currency denomination, and security required. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed.

(iv) "Approval" is the procedure whereby employees or the board of directors of the taxpayer make the final determination whether to enter into the agreement. Such activity is located at the regular place of business to which the taxpayer's employees are regularly connected or working from, regardless of where the services of such employees were actually performed. If the board of directors makes the final determination, such activity is located at the commercial domicile of the taxpayer.

(v) "Administration" is the process of managing the account. This process

includes bookkeeping, collecting the payments, corresponding with the customer, reporting to management regarding the status of the agreement, and proceeding against the borrower or the security interest if the borrower is in default. Such activity is located at the regular place of business that oversees this activity.

(d) A loan or advance to a subsidiary corporation at least fifty-one per cent of whose common stock is owned by the financial institution shall be allocated in and out of the state by the application of a ratio whose numerator is the sum of the net book value of the subsidiary's real property owned in this state and the subsidiary's tangible personal property owned in this state and whose denominator is the sum of the subsidiary's real property owned wherever located and the subsidiary's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be calculated by including the other corporation's real property and tangible personal property. The calculation of the ratio applies with respect to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of the common stock of that subsidiary.

(7) For purposes of determining the location of credit card receivables, credit card receivables shall be treated as loans and shall be subject to division (D)(6) of this section.

(8) A loan that has been properly assigned to a state shall, absent any change of material fact, remain assigned to that state for the length of the original term of the loan. Thereafter, the loan may be properly assigned to another state if the loan has a preponderance of substantive contact to a regular place of business there.

(E) A financial institution shall calculate the payroll factor as follows:

(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the taxable year by the taxpayer for compensation, and the denominator of which is the total compensation paid both within and without this state during the taxable year.

(2) Compensation is paid in this state if any one of the following tests, applied consecutively, is met:

(a) The employee's services are performed entirely within this state.

(b) The employee's services are performed both within and without this state, but the service performed without this state is incidental to the employee's service within this state. The term "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.

(c) The employee's services are performed both within and without this

state, and:

(i) The employee's principal base of operations is within this state; or

(ii) There is no principal base of operations in any state in which some part of the services are performed, but the place from which the services are directed or controlled is in this state; or

(iii) The principal base of operations and the place from which the services are directed or controlled are not in any state in which some part of the service is performed but the employee's residence is in this state.

(F) A financial institution shall calculate the sales factor as follows:

(1) The sales factor is a fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the denominator is the same as the method used in determining receipts for purposes of the numerator.

(2) The numerator of the sales factor includes receipts from the lease or rental of real property owned by the taxpayer if the property is located within this state, or receipts from the sublease of real property if the property is located within this state.

(3)(a) Except as described in division (F)(3)(b) of this section the numerator of the sales factor includes receipts from the lease or rental of tangible personal property owned by the taxpayer if the property is located within this state when it is first placed in service by the lessee.

(b) Receipts from the lease or rental of transportation property owned by the taxpayer are included in the numerator of the sales factor to the extent that the property is used in this state. The extent an aircraft will be deemed to be used in this state and the amount of receipts that is to be included in the numerator of this state's sales factor is determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft. If the extent of the use of any transportation property within this state cannot be determined, then the property will be deemed to be used wholly in the state in which the property has its principal base of operations. A motor vehicle will be deemed to be used wholly in the state in which it is registered.

(4)(a) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans secured by real property if the property is located within this state. If the property is located both within this state and one or more other states, the receipts described in this paragraph are included in the numerator of the sales factor if more than fifty per cent of the fair market value of the real property is located within this state. If more than fifty per cent of the fair market value of the real property is not located within any one state, then the receipts described in this paragraph shall be included in the

numerator of the sales factor if the borrower is located in this state.

(b) The determination of whether the real property securing a loan is located within this state shall be made as of the time the original agreement was made and any and all subsequent substitutions of collateral shall be disregarded.

(5) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from loans not secured by real property if the borrower is located in this state.

(6) The numerator of the sales factor includes net gains from the sale of loans. Net gains from the sale of loans includes income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code.

(a) The amount of net gains, but not less than zero, from the sale of loans secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(b) The amount of net gains, but not less than zero, from the sale of loans not secured by real property included in the numerator is determined by multiplying such net gains by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(7) The numerator of the sales factor includes interest and fees or penalties in the nature of interest from credit card receivables and receipts from fees charged to card holders, such as annual fees, if the billing address of the card holder is in this state.

(8) The numerator of the sales factor includes net gains, but not less than zero, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(9) The numerator of the sales factor includes all credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(7) of this section and the denominator of which is the taxpayer's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to card holders.

(10) The numerator of the sales factor includes receipts from merchant discount if the commercial domicile of the merchant is in this state. Such receipts shall be computed net of any card holder charge backs, but shall not be reduced by any interchange transaction fees or by any issuer's reimbursement

fees paid to another for charges made by its card holders.

(11)(a)(i) The numerator of the sales factor includes loan servicing fees derived from loans secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(4) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(ii) The numerator of the sales factor includes loan servicing fees derived from loans not secured by real property multiplied by a fraction the numerator of which is the amount included in the numerator of the sales factor pursuant to division (F)(5) of this section and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(b) In circumstances in which the taxpayer receives loan servicing fees for servicing either the secured or the unsecured loans of another, the numerator of the sales factor shall include such fees if the borrower is located in this state.

(12) The numerator of the sales factor includes receipts from services not otherwise apportioned under this section if the service is performed in this state. If the service is performed both within and without this state, the numerator of the sales factor includes receipts from services not otherwise apportioned under this section, if a greater proportion of the income producing activity is performed in this state based on cost of performance.

(13)(a) Interest, dividends, net gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities shall be included in the sales factor. Investment assets and activities and trading assets and activities include but are not limited to: investment securities; trading account assets; federal funds; securities purchased and sold under agreements to resell or repurchase; options; futures contracts; forward contracts; notional principal contracts such as swaps; equities; and foreign currency transactions. With respect to the investment and trading assets and activities described in divisions (F)(13)(a)(i) and (ii) of this section, the sales factor shall include the amounts described in such divisions.

(i) The sales factor shall include the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements.

(ii) The sales factor shall include the amount by which interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from such assets and activities.

(b) The numerator of the sales factor includes interest, dividends, net

gains, but not less than zero, and other income from investment assets and activities and from trading assets and activities described in division (F)(13)(a) of this section that are attributable to this state.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the average value of such assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the average value of federal funds sold and securities purchased under agreements to resell which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book, and foreign currency transaction, but excluding amounts described in division (F)(13)(b)(i) or (ii) of this section, attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the average value of such trading assets which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the average value of all such assets.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the net book value of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(v) For purposes of this division, average value shall be determined using the rules for determining the average value of tangible personal property set forth in ~~division~~divisions (D)(2) and (3) of this section.

(c) In lieu of using the method set forth in division (F)(13)(b) of this section, the taxpayer may elect, or the tax commissioner may require in order to fairly represent the business activity of the taxpayer in this state, the use of the method set forth in division (F)(13)(c) of this section.

(i) The amount of interest, other than interest described in division (F)(13)(b)(iv) of this section, dividends, other than dividends described in that division, net gains, but not less than zero, and other income from investment assets and activities in the investment account to be attributed to this state and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a regular place of business of the taxpayer within this state, and the denominator of which is the gross income from all such assets and activities.

(ii) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this state and included in the numerator is determined by multiplying the amount described in division (F)(13)(a)(i) of this section from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such funds and such securities.

(iii) The amount of interest, dividends, gains, and other income from trading assets and activities, including, but not limited to, assets and activities in the matched book, in the arbitrage book, and foreign currency transactions, but excluding amounts described in division (F)(13)(a)(i) or (ii) of this section, attributable to this state and included in the numerator, is determined by multiplying the amount described in division (F)(13)(a)(ii) of this section by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a regular place of business of the taxpayer within this state and the denominator of which is the gross income from all such assets and activities.

(iv) The amount of dividends received on the capital stock of, and the amount of interest received from loans and advances to, subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting financial institution shall be allocated in and out of this state by the application of a ratio whose numerator is the sum of the net book value of the payor's real property owned in this state and the payor's tangible personal property owned in this state and whose denominator is the sum of the payor's real property owned wherever located and the payor's tangible personal property owned wherever located. For purposes of calculating this ratio, the taxpayer shall determine net book value in accordance with generally accepted accounting principles.

(d) If the taxpayer elects or is required by the tax commissioner to use the method set forth in division (F)(13)(c) of this section, it shall use this method on

all subsequent returns unless the taxpayer receives prior permission from the tax commissioner to use or the tax commissioner requires a different method.

(e) The taxpayer shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this state by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this state. Where the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one such regular place of business is in this state and one such regular place of business is outside this state such asset or activity shall be considered to be located at the regular place of business of the taxpayer where the investment or trading policies or guidelines with respect to the asset or activity are established. Unless the taxpayer demonstrates to the contrary, such policies and guidelines shall be presumed to be established at the commercial domicile of the taxpayer.

(14) The numerator of the sales factor includes all other receipts if either:

(a) The income-producing activity is performed solely in this state; or

(b) The income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance.

(G) A qualified institution may calculate the base upon which the fee provided for in division ~~(D)~~(E) of section 5733.06 of the Revised Code is determined for each tax year by multiplying the value of its issued and outstanding shares of stock determined under division (B) of this section by a single deposits fraction whose numerator is the deposits assigned to branches in this state and whose denominator is the deposits assigned to branches everywhere. Deposits shall be assigned to branches in the same manner in which the assignment is made for regulatory purposes. If the base calculated under this division is less than the base calculated under division (C) of this section, then the qualifying institution may elect to substitute the base calculated under this division for the base calculated under division (C) of this section. Such election may be made annually for each tax year on the corporate report. The election need not accompany the report; rather, the election may accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. The election is not irrevocable and it applies only to the specified tax year. Nothing in this division shall be construed to extend any statute of limitations set forth in this chapter.

(H) If the apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's value.

Sec. 5733.059. (A) As used in this section:

(1) "Customer" means a person who purchases electricity for consumption either by that person or by the person's related member and the electricity is not for resale directly or indirectly to any person other than a related member.

(2) "Related member" has the same meaning as in ~~division (A)(6)~~ of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) Except as provided in division (C) of this section, this division applies only to sales of electric transmission and distribution services. For purposes of sections 5733.05 and 5747.21 of the Revised Code:

(1) Sales of the transmission of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's transmission lines located in this state divided by the wire mileage of the taxpayer's transmission lines located everywhere. Transmission wire mileage shall be weighted for the voltage capacity of each line.

(2) Sales of the distribution of electricity are in this state in proportion to the ratio of the wire mileage of the taxpayer's distribution lines located in this state divided by the wire mileage of the taxpayer's distribution lines located everywhere. Distribution wire mileage shall not be weighted for the voltage capacity of each line.

(C) This division applies only to a person that has transmission or distribution lines in this state. If a contract for the sale of electricity includes the seller's or the seller's related member's obligation to transmit or distribute the electricity and if the sales contract separately identifies the price charged for the transmission or distribution of electricity, the price charged for the transmission and distribution of electricity shall be apportioned to this state in accordance with division (B) of this section. Any remaining portion of the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

If the sales contract does not separately identify the price charged for the transmission or distribution of electricity, the sales price of the electricity shall be situated to this state in accordance with division (D) of this section.

(D) Any person who makes a sale of electricity shall situs the following to this state:

(1) A sale of electricity directly or indirectly to a customer to the extent the customer consumes the electricity in this state;

(2) A sale of electricity directly or indirectly to a related member where the related member directly or indirectly sells electricity to a customer to the extent the customer consumes the electricity in this state;

(3) A sale of electricity if the seller or the seller's related member directly or indirectly delivers the electricity to a location in this state or directly or indirectly delivers the electricity exactly to the border of this state and another state;

(4) A sale of electricity if the seller or the seller's related member directly or indirectly directs the delivery of the electricity to a location in this state or directly or indirectly directs the delivery of the electricity exactly to the border of this state and another state.

(E) If the situsing provisions of this section do not fairly represent the extent of the taxpayer's or the taxpayer's related member's activity in this state, the taxpayer may request, or the tax commissioner may require, in respect to all or part of a taxpayer's or related member's sales, if reasonable, any of the following:

(1) Separate accounting;

(2) The exclusion of one or more additional situsing factors that will fairly represent the taxpayer's and the related member's sales in this state;

(3) The inclusion of one or more additional situsing factors that will fairly represent the taxpayer's and the related member's sales in this state.

The taxpayer's request shall be in writing and shall be filed with the report required by section 5733.02 of the Revised Code, a timely filed petition for reassessment, or a timely filed amended report. An alternative situsing method shall be effective with the approval of the tax commissioner.

Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.

(F) If the situsing provisions of this section do not fairly represent activity in this state, the tax commissioner may promulgate rules to situs sales using a methodology that fairly reflects sales in this state.

(G) Notwithstanding section 5703.56 of the Revised Code to the contrary, a person situsing a sale outside this state has the burden to establish by a preponderance of the evidence that the doctrines enumerated in that section do not apply.

Sec. 5733.06. The tax hereby charged each corporation subject to this chapter ~~that is not a financial institution~~ shall be the greater of the ~~sum of divisions (A) and~~ amount computed under division (A) or (B) of this section, after the reduction, if any, provided by division (J) of this section, or under

division (C) ~~or (D)~~ of this section, after the reduction, if any, provided by division (J) of this section, ~~except that the tax is applicable to the tax year.~~ The tax hereby charged each corporation subject to this chapter that is a financial institution subject to this chapter shall be the amount computed under division ~~(D)~~(E) of this section.

(A) ~~Except~~For tax years before tax year 2006, and except as set forth in division ~~(F)~~(G)(1) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

~~(B) Except as set forth in division (F) of this section, and~~ eight and one-half per cent upon the value so determined in excess of fifty thousand dollars; ~~or.~~

~~(C)(1) Except as otherwise provided under division (G) of this section~~(B) For tax years before tax year 2006, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code. ~~For, not to exceed one hundred fifty thousand dollars.~~

For the purposes of ~~division (C)~~divisions (B) and (D) of this section, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, the value of the issued and outstanding shares of stock of an eligible corporation for tax year 2003 through tax year 2007, or of a ~~qualified~~qualifying holding company, is zero.

~~(2)~~ As used in ~~division (C)~~divisions (B) and (D) of this section, "eligible corporation" means a person treated as a corporation for federal income tax purposes that meets all of the following criteria:

~~(a)~~(1) The corporation conducts business for an entire taxable year as a qualified trade or business as defined by division (C) of section 122.15 of the Revised Code.

~~(b)~~(2) The corporation uses more than fifty per cent of the corporation's assets, based on net book value, that are located in Ohio solely to conduct activities that constitute a qualified trade or business as defined by section 122.15 of the Revised Code.

~~(c)~~(3) The corporation has been formed or organized not more than three years before the report required to be filed by section 5733.02 of the Revised Code is due, without regard to any extensions.

~~(d)~~(4) The corporation is not a related member, as defined in section 5733.042 of the Revised Code, at any time during the taxable year with respect to another person treated as a corporation for federal income tax purposes. A corporation is not a related member if during the entire taxable year at least seventy-five per cent of the corporation's stock is owned directly or through a pass-through entity by individuals, estates, and grantor trusts, and the individuals, estates, and grantor trusts do not directly or indirectly own more

than twenty per cent of the value of another person treated as a corporation for federal income tax purposes that is conducting a qualified trade or business.

(C) For tax year 2006 and each subsequent tax year, the sum of the following amounts, except as provided in division (G)(2) of this section:

(1) Four per cent of the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(2) Seven per cent of such value in excess of fifty thousand dollars but not in excess of one hundred thousand dollars;

(3) Eight per cent of such value in excess of one hundred thousand dollars but not in excess of five hundred thousand dollars;

(4) Eight and one-half per cent on such value in excess of five hundred thousand dollars.

(D) For tax year 2006 and each subsequent tax year, the sum of the following amounts, not to exceed five hundred thousand dollars:

(1) Two mills times that portion of the value of the issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code that is not in excess of one million dollars;

(2) Three mills times that portion of such value in excess of one million dollars but not in excess of two million dollars;

(3) Four mills times that portion of such value that is in excess of two million dollars.

(E) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code, multiplied by the following amounts:

(1) For tax years prior to the 1999 tax year, fifteen mills;

(2) For the 1999 tax year, fourteen mills;

(3) For tax year 2000 and thereafter, thirteen mills.

~~(E)~~(F) No tax shall be charged from any corporation that has been adjudicated bankrupt, or for which a receiver has been appointed, or that has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for each corporation shall be as follows:

(1) One thousand dollars in the case of a corporation having gross receipts for the taxable year equal to at least five million dollars from activities within or outside this state or in the case of a corporation employing at least

three hundred employees at some time during the taxable year within or outside this state;

(2) ~~Fifty~~ Three hundred dollars in the case of any other corporation.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code in this state to impose an income tax on the income of such corporations.

~~(F) If (G)(1) Division (G)(1) of this section applies to tax years before tax year 2006.~~

If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for "fifty thousand dollars" in divisions (A) and (B) of this section. For purposes of this division (G)(1) of this section, "the taxpayer's pro-rata amount" is an amount that, when added to the other such taxpayers' pro-rata amounts, does not exceed fifty thousand dollars. For

(2) Division (G)(2) of this section applies to tax year 2006 and each tax year thereafter.

If two or more taxpayers satisfy the ownership or control requirements of division (A) of section 5733.052 of the Revised Code, each such taxpayer shall substitute "the taxpayer's pro-rata amount" for each of the dollar amounts in divisions (C)(1) to (4) of this section. For each such dollar amount, a taxpayer's pro-rata amount is the amount that, when added to such other taxpayers' pro-rata amounts, does not exceed that dollar amount.

(3) For the purpose of making that computation, the computations under division (G)(1) or (2) of this section, a taxpayer's pro-rata amount shall not be less than zero. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division ~~(C)~~ (B) or (D) of this section.

~~(G) The tax liability of any corporation under division (C) of this section shall not exceed one hundred fifty thousand dollars.~~

(H)(1) For the purposes of division (H) of this section, "exiting corporation" means a corporation that satisfies all of the following conditions:

(a) The corporation had nexus with or in this state under the Constitution of the United States during any portion of a calendar year;

(b) The corporation was not a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately

following that calendar year;

(c) The corporation was not a financial institution on the first day of January immediately following that calendar year;

(d) If the corporation was a transferor as defined in section 5733.053 of the Revised Code, the corporation's transferee was not required to add to the transferee's net income the income of the transferor pursuant to division (B) of that section;

(e) During any portion of that calendar year, or any portion of the immediately preceding calendar year, the corporation had net income that was not included in a report filed by the corporation or its transferee pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code;

(f) The corporation would have been subject to the tax computed under divisions (A), (B), (C), ~~(F)(D)~~, and (G) of this section if the corporation is assumed to be a corporation described in division (A) of section 5733.01 of the Revised Code on the first day of January immediately following the calendar year to which division (H)(1)(a) of this section refers.

(2) For the purposes of division (H) of this section, "unreported net income" means net income that was not previously included in a report filed pursuant to section 5733.02, 5733.021, 5733.03, 5733.031, or 5733.053 of the Revised Code and that was realized or recognized during the calendar year to which division (H)(1) of this section refers or the immediately preceding calendar year.

(3) Each exiting corporation shall pay a tax computed by first allocating and apportioning the unreported net income pursuant to division (B) of section 5733.05 and section 5733.051 and, if applicable, section 5733.052 of the Revised Code. The exiting corporation then shall compute the tax due on its unreported net income allocated and apportioned to this state by applying divisions (A), ~~(B)(C)~~, and ~~(F)(G)~~ of this section to that income.

(4) Divisions ~~(E)(B)~~ and ~~(G)(D)~~ of this section, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code do not apply to an exiting corporation, but exiting corporations are subject to every other provision of this chapter.

(5) Notwithstanding division (B) of section 5733.01 or sections 5733.02, 5733.021, and 5733.03 of the Revised Code to the contrary, each exiting corporation shall report and pay the tax due under division (H) of this section on or before the thirty-first day of May immediately following the calendar year to which division (H)(1)(a) of this section refers. The exiting corporation shall file that report on the form most recently prescribed by the tax commissioner for the purposes of complying with sections 5733.02 and 5733.03 of the Revised Code. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) If, on account of the application of section 5733.053 of the Revised Code, net income is subject to the tax imposed by ~~divisions~~ division (A) and (B) or (C) of this section, such income shall not be subject to the tax imposed by division (H)(3) of this section.

(7) The amendments made to division (H) of this section by Am. Sub. S.B. 287 of the 123rd general assembly do not apply to any transfer, as defined in section 5733.053 of the Revised Code, for which negotiations began prior to January 1, 2001, and that was commenced in and completed during calendar year 2001, unless the taxpayer makes an election prior to December 31, 2001, to apply those amendments.

(8) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

(J)(1) Division (J) of this section applies solely to a combined company. Section 5733.057 of the Revised Code shall apply when calculating the adjustments required by division (J) of this section.

(2) Subject to division (J)(4) of this section, the total tax calculated in ~~divisions~~ division (A) and (B) or (C) of this section shall be reduced by an amount calculated by multiplying such tax by a fraction, the numerator of which is the total taxable gross receipts attributed to providing public utility activity other than as an electric company under section 5727.03 of the Revised Code for the year upon which the taxable gross receipts are measured immediately preceding the tax year, and the denominator of which is the total gross receipts from all sources for the year upon which the taxable gross receipts are measured immediately preceding the tax year. Nothing herein shall be construed to exclude from the denominator any item of income described in section 5733.051 of the Revised Code.

(3) Subject to division (J)(4) of this section, the total tax calculated in division (C) of this section shall be reduced by an amount calculated by multiplying such tax by the fraction described in division (J)(2) of this section.

(4) In no event shall the reduction provided by division (J)(2) or (J)(3) of this section exceed the amount of the excise tax paid in accordance with section 5727.38 of the Revised Code, for the year upon which the taxable gross receipts are measured immediately preceding the tax year.

Sec. 5733.061. (A) As used in this section:

(1) "Qualifying taxpayer" means either of the following:

(a) A person that was subject to the tax imposed under section 5733.06 of the Revised Code for tax year 2005;

(b) A taxpayer not described in division (A)(1)(a) of this section if a person described in that division transfers all or a portion of its assets and equity directly or indirectly to the taxpayer, the transfer occurred as part of an entity organization or reorganization or subsequent entity organization or reorganization, and the gain or loss with respect to the transfer is not recognized in whole or in part for federal income tax purposes under the Internal Revenue Code on account of a transfer as part of an entity organization or reorganization or subsequent entity organization or reorganization.

(2) "Disallowed net operating loss carryforward" means the amount of any unused portion of a net operating loss carryforward from a qualifying taxpayer's taxable year preceding a taxable year ending in 2005 that may not be carried forward to and allowed as a deduction in computing net income for tax year 2006 or thereafter because of the amendment of division (I)(1) of section 5733.04 of the Revised Code by of the 126th general assembly.

(3) "Amortizable amount" means the disallowed net operating loss carryforward of a qualifying taxpayer to the extent such amount is shown as a deferred tax asset on the qualifying taxpayer's books and records on December 31, 2005, in accordance with generally accepted accounting principles, less any related valuation allowance accounts as shown on those books and records on that date.

(B) For tax year 2011 through tax year 2030, there is hereby allowed a refundable credit against the tax imposed under section 5733.06 of the Revised Code for qualifying taxpayers. The credit for each such tax year shall equal one-twentieth of the qualifying taxpayer's amortizable amount. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. If the amount of the credit exceeds the amount of such tax otherwise due after deducting all other credits, the excess shall be refunded to the taxpayer."

In line 59344, strike through "(B)" and insert "(C)(4)"

Between lines 59424 and 59425, insert:

"Sec. 5733.09. (A)(1) Except as provided in divisions (A)(2) and (3) of this section, an incorporated company, whether foreign or domestic, owning and operating a public utility in this state, and required by law to file reports with the tax commissioner and to pay an excise tax upon its gross receipts, and insurance, fraternal, beneficial, bond investment, and other corporations required by law to file annual reports with the superintendent of insurance and dealers in intangibles, the shares of which are, or the capital or ownership in capital employed by such dealer is, subject to the taxes imposed by section 5707.03 of the Revised Code, shall not be subject to this chapter, except for sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, ~~5733.069~~, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of the Revised Code. However, for reports required to be filed under section 5725.14 of the Revised Code in 2003 and thereafter, nothing in this section shall be construed to exempt the property of any dealer in intangibles under section 5725.13 of the Revised

Code from the tax imposed under section 5707.03 of the Revised Code.

(2) An electric company subject to the filing requirements of section 5727.08 of the Revised Code or otherwise having nexus with or in this state under the Constitution of the United States, or any other corporation having any gross receipts directly attributable to providing public utility service as an electric company or having any property directly attributable to providing public utility service as an electric company, is subject to this chapter.

(3) A telephone company that no longer pays an excise tax under section 5727.30 of the Revised Code on its gross receipts billed after June 30, 2004, is first subject to taxation under this chapter for tax year 2005. For that tax year, a telephone company with a taxable year ending in 2004 shall compute the tax imposed under this chapter, and shall compute the net operating loss carry forward for tax year 2005, by multiplying the tax owed under this chapter, net of all nonrefundable credits, or the loss for the taxable year, by fifty per cent.

(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by section 5733.06 of the Revised Code that is based on that taxable year.

A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect.

(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all investors, shareholders, and other similar investors who owned any interest or invested in the entity during the preceding calendar year. The commissioner may extend the date by which the report must be submitted for reasonable cause shown by the entity. The commissioner may prescribe the form of the report required for exemption under this division.

(D)(1) As used in this division:

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation,

cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer" means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

(f) "Related member" has the same meaning as in section 5733.042 of the Revised Code without regard to division (B) of that section.

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(3) The exemption under this division does not apply for a taxable year to any corporation having on the first day of January of the tax year or at any time

during the taxable year ending immediately preceding the first day of January of the tax year a related member which, on the first day of January of the tax year or during any portion of such taxable year of the corporation, has nexus in or with this state under the Constitution of the United States or holds a certificate of compliance with the laws of this state authorizing it to do business in this state.

(4) With respect to allowing the exemption under this division, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A corporation shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this division did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5733.06 of the Revised Code.

Application of the doctrines listed in division (D)(4) of this section is not limited to this division.

Sec. 5733.11. (A) If any corporation required to file a report under this chapter fails to file the report within the time prescribed, files an incorrect report, or fails to remit the full amount of the tax due for the period covered by the report, the tax commissioner may make an assessment against the corporation for any deficiency for the period for which the report or tax is due, based upon any information in the commissioner's possession.

No assessment shall be made or issued against a corporation more than three years after the later of the final date the report subject to assessment was required to be filed or the date the report was filed. Such time limit may be extended if both the corporation and the commissioner consent in writing to the extension or if an agreement waiving or extending the time limit has been entered into pursuant to section 122.171 of the Revised Code. Any such extension shall extend the three-year time limit in division (B) of section 5733.12 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a corporation that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report.

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

(B) Unless the corporation assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment, signed by the ~~corporation's~~ corporation's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the corporation assessed to the treasurer of state. The petition shall indicate the corporation's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under

section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the corporation has an office or place of business in this state, the county in which the corporation's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the corporation assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state corporate franchise and litter taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

The portion of an assessment not paid within sixty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the assessment is paid. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter.

(E) The portion of an assessment that must be paid upon the filing of a petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or interest, payment of the assessment, including interest but not penalty, is required;

(2) If the corporation assessed failed to file, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, any amended report required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, or any amended report required by division (D) of former section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, payment of the assessment, including interest but not penalty, is required;

(3) If the corporation assessed filed, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, all amended reports required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, and all amended reports required by division (D) of former section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, and a balance of the taxes shown due on the reports as computed on the reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance of tax and interest is required;

(4) If the corporation assessed does not dispute that it is a taxpayer but claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only that portion of the assessment representing any balance of taxes shown due on the corporation's annual report required by section 5733.02 of the Revised Code, as computed on the report, that remains unpaid, and that represents taxes imposed by division ~~(C)~~(B) or (D) of section 5733.06, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, together with all related interest, is required;

(5) If none of the conditions specified in divisions (E)(1) to (4) of this section apply, or if the corporation assessed disputes that it is a taxpayer, no payment is required.

(F) Notwithstanding the fact that a petition for reassessment is pending, the corporation may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the corporation under the corrected assessment is less than the portion paid, there shall be issued to the corporation, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 5733.12 of the Revised Code, with interest on that amount as provided by section 5733.26 of the Revised Code, subject to section 5733.121 of the Revised Code.

Sec. 5733.12. (A) Four and two-tenths per cent of all payments received from the taxes imposed under sections 5733.06 and 5733.41 of the Revised Code shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B) Except as otherwise provided under divisions (C) and (D) of this section, an application to refund to the corporation the amount of taxes imposed under section 5733.06 of the Revised Code that are overpaid, paid illegally or erroneously, or paid on any illegal, erroneous, or excessive assessment, with interest thereon as provided by section 5733.26 of the Revised Code, shall be filed with the tax commissioner, on the form prescribed by the commissioner, within three years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (C)(2) of section 5733.031, ~~division (D)(2) of section 5733.067,~~ or division (A) of section 5733.11 of the Revised Code. For purposes of division (B) of this section, any payment that the applicant made before the due date or extended due date for filing the report to which the payment relates shall be deemed to have been made on the due date or extended due date.

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

(C) "Ninety days" shall be substituted for "three years" in division (B) of this section if the taxpayer satisfies both of the following:

(1) The taxpayer has applied for a refund based in whole or in part upon section 5733.0611 of the Revised Code;

(2) The taxpayer asserts that the imposition or collection of the tax imposed or charged by section 5733.06 of the Revised Code or any portion of such tax violates the Constitution of the United States or the Constitution of this state.

(D)(1) Division (D)(2) of this section applies only if all of the following conditions are satisfied:

(a) A qualifying pass-through entity pays an amount of the tax imposed by section 5733.41 of the Revised Code;

(b) The taxpayer is a qualifying investor as to that qualifying pass-through entity;

(c) The taxpayer did not claim the credit provided for in section 5733.0611 of the Revised Code as to the tax described in division (D)(1)(a) of this section;

(d) The three-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit.

(2) A taxpayer shall file an application for refund pursuant to this division within one year after the date the payment described in division (D)(1)(a) of this section is made. An application filed under this division shall only claim refund of overpayments resulting from the taxpayer's failure to claim the credit described in division (D)(1)(c) of this section. Nothing in this division shall be construed to relieve a taxpayer from complying with the provisions of division (I)(14) of section 5733.04 of the Revised Code."

In line 59731, strike through "5733.31, 5733.311,"

In line 59732, strike through the comma

In line 59805, delete "Any"

Delete lines 59806 through 59811

In line 59846, delete "Any credit not"

Delete lines 59847 through 59849

Between lines 59875 and 59876, insert:

"Sec. 5733.39. (A) As used in this section:

(1) "Compliance facility" means property that is designed, constructed, or installed, and used, at a coal-fired electric generating facility for the primary purpose of complying with acid rain control requirements under Title IV of the "Clean Air Act Amendments of 1990," 104 Stat. 2584, 42 U.S.C.A. 7651, and that controls or limits emissions of sulfur or nitrogen compounds resulting from the combustion of coal through the removal or reduction of those compounds before, during, or after the combustion of the coal, but before the combustion products are emitted into the atmosphere. "Compliance facility" also includes any of the following:

(a) A facility that removes sulfur compounds from coal before the combustion of the coal and that is located off the premises of the electric generating facility where the coal processed by the compliance facility is burned;

(b) Modifications to the electric generating facility where the compliance facility is constructed or installed that are necessary to accommodate the construction or installation, and operation, of the compliance facility;

(c) A byproduct disposal facility, as defined in section 3734.051 of the Revised Code, that exclusively disposes of wastes produced by the compliance facility and other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected regardless of whether the byproduct disposal facility is located on the same premises as the compliance facility or generating unit that produces the wastes disposed of at the facility;

(d) Facilities or equipment that is acquired, constructed, or installed, and used, at a coal-fired electric generating facility exclusively for the purpose of handling the byproducts produced by the compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected;

(e) A flue gas desulfurization system that is connected to a coal-fired electric generating unit;

(f) Facilities or equipment acquired, constructed, or installed, and used, at a coal-fired electric generating unit primarily for the purpose of handling the byproducts produced by a compliance facility or other coal combustion byproducts produced by the generating unit in or to which the compliance facility is incorporated or connected.

(2) "Ohio coal" means coal mined from coal deposits in the ground that are located within this state, regardless of the location of the mine's tippie.

(3) "Sale and leaseback transaction" has the same meaning as in section 5727.01 of the Revised Code.

(B) An electric company shall be allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for Ohio coal used in any of its coal-fired electric generating units after April 30, 2001, but before January 1, ~~2008~~2006. Section 5733.057 of the Revised Code shall apply when calculating the credit allowed by this section. The credit shall be claimed at the following rates per ton of Ohio coal burned in a coal-fired electric generating unit during the taxable year ending immediately preceding the tax year: for tax years before tax year 2006, three dollars per ton; and for tax ~~years~~ year 2006, ~~2007, and 2008~~, one dollar per ton. The credit is allowed only if both of the following conditions are met during such taxable year:

(1) The coal-fired electric generating unit is owned and used by the company claiming the credit or leased and used by that company under a sale and leaseback transaction.

(2) A compliance facility is attached to, incorporated in, or used in conjunction with the coal-fired generating unit.

(C) The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit allowed under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is claimed under this section.

(D) The director of environmental protection, upon the request of the tax commissioner, shall certify whether a facility is a compliance facility. In the case of a compliance facility owned by an electric company, the public utilities commission shall certify to the tax commissioner the cost of the facility as of the date it was placed in service. In the case of a compliance facility owned by a person other than an electric company, the tax commissioner shall determine the cost of the facility as of the date it was placed in service. If the owner of such a facility fails to furnish the information necessary to make that determination, no credit shall be allowed."

In line 60036, strike through "(B)" and insert "(C)"

In line 60142, strike through "division"

In line 60143, strike through "(A)(6) of"

In line 60146, strike through "division (A)(6) of"

Delete lines 60164 through 61165 and insert:

"**Sec. 5733.41.** The purpose of the tax imposed by this section is to complement and to reinforce the tax imposed under section 5733.06 of the Revised Code.

For the same purposes for which the tax is levied under section 5733.06 of the Revised Code, there is hereby levied a tax on every qualifying pass-through entity having at least one qualifying investor that is not an

individual. The tax imposed by this section is imposed on the sum of the adjusted qualifying amounts of the qualifying pass-through entity's qualifying investors that are not individuals at the rate specified in division ~~(B)(C)(4)~~ of section 5733.06 of the Revised Code that is in effect on the last day of the entity's taxable year.

The tax imposed by this section applies only if the qualifying entity has nexus with this state under the Constitution of the United States for any portion of the qualifying entity's qualifying taxable year, and the sum of the qualifying entity's adjusted qualifying amounts exceeds one thousand dollars for the qualifying entity's qualifying taxable year. This section does not apply to a pass-through entity if all of the partners, shareholders, members, or investors of the pass-through entity are taxpayers for the purposes of section 5733.04 of the Revised Code without regard to section 5733.09 of the Revised Code for the entire qualifying taxable year of the pass-through entity.

If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or (9) of section 5733.40 of the Revised Code for the qualifying pass-through entity's entire qualifying taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that investor for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that investor for that qualifying taxable year.

If, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the qualifying trust's entire qualifying taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that beneficiary for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that beneficiary for that qualifying taxable year.

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary", and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying

a tax on income.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code;

~~(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;~~

~~(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;~~

~~(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;~~

~~(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;~~

~~(7) The credit for employers that enter into agreements with child day care centers under section 5733.36 of the Revised Code;~~

~~(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;~~

~~(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;~~

~~(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;~~

~~(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;~~

~~(12)~~(4) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

~~(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;~~

~~(14)~~(5) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;

~~(15) The job training credit under section 5733.42 of the Revised Code;~~

~~(16)~~(6) The credit for qualified research expenses under section 5733.351

of the Revised Code;

~~(17)(7)~~ The enterprise zone credit under section 5709.66 of the Revised Code;

~~(18)~~ The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

~~(19)~~ The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;

~~(20)~~ The ethanol plant investment credit under section 5733.46 of the Revised Code;

~~(21)~~ The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

~~(22)~~ The export sales credit under section 5733.069 of the Revised Code;

~~(23)(8)~~ The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

~~(24)~~ The enterprise zone credits under section 5709.65 of the Revised Code;

~~(25)(9)~~ The credit for using Ohio coal under section 5733.39 of the Revised Code;

~~(26)(10)~~ The research and development credit under section 5733.352 of the Revised Code;

~~(27)(11)~~ The credit for small telephone companies under section 5733.57 of the Revised Code;

~~(28)(12)~~ The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;

~~(29)(13)~~ The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;

~~(30)~~ The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;

~~(31)(14)~~ The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code;

~~(32)(15)~~ The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code;

(16) The refundable credit for disallowed net operating loss carryforwards under section 5733.061 of the Revised Code.

(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, ~~(31)~~, and ~~(32)(14), (15), and (16)~~ of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that

precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit."

In line 64422, after "goodwill" insert ", and includes any other income that is apportionable to the extent allowed under the constitution of the United States"

Between lines 65510 and 65511, insert:

"**Sec. 5747.21.** (A) This section applies solely for the purposes of computing the credit allowed under division (A) of section 5747.05 of the Revised Code;~~and~~ computing income taxable in this state under division (D) of section 5747.08 of the Revised Code,~~and computing the credit allowed under section 5747.057 of the Revised Code.~~

(B) Except as otherwise provided under sections 5747.211 and 5747.212 of the Revised Code, all items of business income and business deduction shall be apportioned to this state by multiplying the adjusted gross income by the fraction calculated under division (B)(2) of section 5733.05 ~~and section 5733.057~~ of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by ~~section 5733.06 of the Revised Code.~~

(C) If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying the return or amended return, or the tax commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

- (1) Separate accounting;
- (2) The exclusion of one or more factors;
- (3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;
- (4) The employment of any other method to effectuate an equitable allocation of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

The tax commissioner may adopt rules in the manner provided by sections 5703.14 and 5747.18 of the Revised Code providing for alternative methods of calculating business income and nonbusiness income applicable to all taxpayers and pass-through entities, to classes of taxpayers and pass-through entities, or only to taxpayers and pass-through entities within a certain industry.

Sec. 5747.211. This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code;~~and~~ computing income taxable in this state under division (D) of section 5747.08 of the Revised Code,~~and computing the credit allowed under section~~

~~5747.057 of the Revised Code.~~ In lieu of sections 5747.20 and 5747.21 of the Revised Code, all items of business income or business deductions earned by a financial institution as defined in section 5725.01 of the Revised Code shall be apportioned to this state as required under section 5733.056 of the Revised Code.

Sec. 5747.212. This section applies solely for the purpose of computing the credit allowed under division (A) of section 5747.05 of the Revised Code; ~~and computing income taxable in this state under division (D) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code.~~

A pass-through entity investor that owns, directly or indirectly, at least twenty per cent of the pass-through entity at any time during the current taxable year or either of the two preceding taxable years shall apportion any income, including gain or loss, realized from the sale, exchange, or other disposition of a debt or equity interest in the entity as prescribed in this section. For such purposes, in lieu of using the method prescribed by sections 5747.20 and 5747.21 of the Revised Code, the investor shall apportion the income using the average of the pass-through entity's apportionment fractions otherwise applicable under section 5747.21 of the Revised Code for the current and two preceding taxable years. If the pass-through entity was not in business for one or more of those years, each year that the entity was not in business shall be excluded in determining the average.

Sec. 5747.31. (A) This section applies to an individual or estate that is a proprietor or a pass-through entity investor.

(B) A taxpayer described in division (A) of this section is allowed a credit that shall be computed and claimed in the same manner as the credit allowed to corporations in section 5733.33 of the Revised Code. The taxpayer shall claim one-seventh of the credit amount for the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing taxable years. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

The taxpayer shall file with the department of development a notice of intent to claim the credit in accordance with division (E) of section 5733.33 of the Revised Code.

~~(C)(1) A taxpayer described in division (A) of this section is allowed a credit that shall be computed in the same manner as the credit allowed to a corporation in section 5733.39 of the Revised Code, with the following adjustments:~~

~~(a) Substitute "taxable year" for "tax year" wherever "tax year" appears in section 5733.39 of the Revised Code;~~

~~(b) Substitute "5747.02" for "5733.06" wherever "5733.06" appears in section 5733.39 of the Revised Code;~~

~~(c) Substitute "5747.98" for "5733.98" wherever "5733.98" appears in section 5733.39 of the Revised Code;~~

~~(d) The credit allowed under division (C) of this section shall be subject to the same disallowance for the carryover or carryback of any unused credit as provided in division (C) of section 5733.39 of the Revised Code.~~

~~(2) Notwithstanding section 5703.56 of the Revised Code to the contrary, a taxpayer claiming a credit under this division has the burden of establishing by a preponderance of the evidence that the doctrines enumerated in section 5703.56 of the Revised Code do not apply with respect to the credit provided by this division.~~

~~(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter."~~

In line 65536, delete "Any credit"

Delete lines 65537 through 65540

Delete lines 65673 through 65769 and insert:

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

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

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

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

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

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

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

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

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

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

~~(9)~~(10) The campaign contribution credit under section 5747.29 of the

Revised Code;

~~(10)~~(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

~~(11)~~(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

~~(12)~~(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

~~(13)~~(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

~~(14)~~ The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

~~(15)~~ The credit for employers that reimburse employee child-care expenses under section 5747.36 of the Revised Code;

~~(16)~~(15) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

~~(17)~~ The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

~~(18)~~ The job retention credit under division (B) of section 5747.058 of the Revised Code;

~~(19)~~(16) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;

~~(20)~~ The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

~~(21)~~(17) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

~~(22)~~ The job training credit under section 5747.39 of the Revised Code;

~~(23)~~(18) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(24)~~ The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

~~(25)~~ The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

~~(26)~~ The ethanol plant investment credit under section 5747.75 of the Revised Code;

~~(27)~~ The credit for purchases of qualifying grape production property

~~under section 5747.28 of the Revised Code;~~

~~(28) The export sales credit under section 5747.057 of the Revised Code;~~

~~(29)(19) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;~~

~~(30)(20) The enterprise zone credits under section 5709.65 of the Revised Code;~~

~~(31)(21) The research and development credit under section 5747.331 of the Revised Code;~~

~~(32) The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;~~

~~(33)(22) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;~~

~~(34)(23) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;~~

~~(35)(24) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;~~

~~(36)(25) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.~~

(B) For any credit, except the credits enumerated in divisions (A)~~(32) to (36)(22) to (25)~~ of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year."

Delete lines 65892 through 67656

In line 68170, after "122.011," insert "122.16,"

In line 68173, delete "140.08,"

In line 68179, after "742.59," insert "901.13,"

In line 68241, delete "5703.053, "; delete "5703.50," and insert "5703.65,"

In line 68243, after "5709.41," insert "5709.65,"

In line 68248, after "5733.01," insert "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"

In line 68249, after "5733.066," insert "5733.09, 5733.11, 5733.12, ";

after "5733.352," insert "5733.39,"

In line 68250, delete "5739.01" and insert "5733.98"

In line 68254, after "5747.08," insert "5747.21, 5747.211, 5747.212, 5747.31,"

In line 68263, after "5731.20," insert "5733.061, 5733.067, 5733.068, 5733.069, 5733.0610,"; after "5733.122" insert ", 5733.31, 5733.311, 5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, 5733.46, 5747.057, 5747.058, 5747.28, 5747.32, 5747.34, 5747.35, 5747.36, 5747.38, 5747.75,"

Delete lines 72998 through 73007

In line 73008, after "**206.09.63.**" delete the balance of the line

Delete lines 73009 through 73015

Delete lines 79462 through 79470

Delete lines 80041 through 80045

Between lines 82865 and 82866, insert:

"Section ____. (A) The repeal by this act of sections 5733.0610 and 5747.058 of the Revised Code does not prohibit a taxpayer that has entered into an agreement under section 122.17 or 122.171 of the Revised Code on or before the effective date of the amendment by this act of those latter sections from claiming credits under section 5733.0610 or 5747.058 of the Revised Code, as it existed immediately before that effective date, for the number of years provided in the agreement. Any such credit shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act, or under Chapter 5747. of the Revised Code. Divisions (E) and (K) of section 122.17 and divisions (F) and (J) of section 122.171 of the Revised Code, as amended by this act, and as applicable to the taxpayer, continues to apply after the effective date of this act to any taxpayer otherwise entitled to claim the credit under the authority of this division. No credit may be claimed under the authority of this division by a taxpayer that, on or after the effective date of this act, relocates employment positions in violation of the provision of the agreement required under division (D)(8)(a) of section 122.17 or division (D)(8)(a) of section 122.171 of the Revised Code.

(B) The repeal by this act of section 5733.32 of the Revised Code applies to tax year 2006 and thereafter, and the repeal by this act of section 5747.28 of the Revised Code applies to taxable years beginning after December 31, 2005. The repeal does not prohibit a taxpayer qualified to deduct unused credit amounts carried over from a prior year under that section as it existed immediately before the effective date of this act from deducting the carried-forward amount, as otherwise provided in that section, in tax year 2006 or thereafter in the case of a credit allowed under 5733.32 of the Revised Code, or for a taxable year beginning after December 31, 2005, in the case of a credit allowed under section 5747.28 of the Revised Code. In the case of a credit

claimed under section 5733.32 of the Revised Code, any such carried-forward amount applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than seven tax years after the first year in which the credit was claimed. In the case of a credit claimed under section 5747.28 of the Revised Code, any such carried-forward amount applied to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than seven taxable years after the first year the credit was claimed.

(C) The amendment by this act of section 122.16 and the repeal by this act of sections 5733.34 and 5747.32 of the Revised Code do not prohibit a taxpayer from claiming the credit under section 5733.34 or 5747.32 of the Revised Code as that section existed immediately before the effective date of this act for the number of years provided in the agreement, including unused credit amounts carried forward from a prior year. In the case of a credit claimed under section 5733.34 of the Revised Code, any such credit or carried-forward amount applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act, as applicable to the taxpayer. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied. Any such carried-forward amount applied to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied.

(D) The repeal by this act of sections 5733.37 and 5747.35 of the Revised Code does not prohibit a taxpayer from deducting any unused credit that may be carried forward from a prior tax year to tax year 2006 or thereafter in the case of a credit allowed under section 5733.37 of the Revised Code, or from a prior taxable year to a taxable year beginning after December 31, 2005, in the case of a credit allowed under section 5747.35 of the Revised Code. In the case of a credit allowed under section 5733.37 of the Revised Code, any unused credit carried forward to tax year 2006 or thereafter under this division shall be deducted from the tax as computed under section 5733.06 of the Revised Code,

as amended by this act. If the carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that the credit shall not be carried forward for more than five tax years after the tax year in which the credit was first claimed. In the case of a credit allowed under section 5747.35 of the Revised Code, any unused credit carried forward to a taxable year beginning after December 31, 2005, shall be deducted from the amount of tax as computed under Chapter 5747. of the Revised Code for the first such taxable year. If the carried-forward amount exceeds the amount of tax as so computed for that year, the excess shall be carried forward and applied to the tax due for subsequent taxable years in a similar fashion until the credit has been fully applied, provided that no amount may be carried forward for more than five taxable years after the first year the credit was claimed.

If a taxpayer or pass-through entity disposes of the day-care center or ceases to operate it at any time during the five-year period, the taxpayer or pass-through entity investor shall not carry forward any credit in connection with that property in the taxable year of disposal or cessation or any ensuing taxable year.

(E) A corporation subject to the tax computed under section 5733.06 of the Revised Code, as amended by this act, and entitled to carry forward to tax year 2006 an unused credit amount from a prior tax year from a credit allowed under section 5733.39 of the Revised Code may apply the unused credit amount to the tax as computed under section 5733.06 of the Revised Code as amended by this act. Any such carried-forward amount applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess may be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that the credit shall not be carried forward for more than three years following the tax year in which the credit was first claimed.

(F) The repeal by this act of section 5733.46 of the Revised Code applies to tax years 2006 and thereafter. No credit may be claimed under that section for tax year 2006 or thereafter, but unused credit amounts carried forward from a tax year prior to tax year 2006 may be claimed in tax year 2006 or thereafter to the extent allowed under that section as it existed immediately before the effective date of this act. Any such carried-forward amounts applied to tax year 2006 or thereafter shall be deducted from the tax as computed under section 5733.06 of the Revised Code, as amended by this act. If the amount of the credit or carried-forward amount exceeds the amount of tax as so computed for tax year 2006, the excess shall be carried forward and applied to subsequent tax years in a similar fashion until the credit has been fully applied, provided that any carried-forward amount shall not be carried forward for more than three years after the credit was first claimed.

The repeal by this act of section 5747.75 of the Revised Code applies to taxable years beginning after December 31, 2005. No credit may be claimed for money invested in a certified ethanol plant during a taxable year beginning after that date, but unused credit amounts carried forward from a prior taxable year may be claimed for a taxable year beginning after that date as allowed by that section as it existed before its repeal by this act. No amount may be carried forward under this division for more than three years after the first year the credit was claimed.

(G) The repeal by this act of sections 5733.069, 5733.38, 5733.43, and 5733.44 of the Revised Code applies to tax years 2006 and thereafter; no credit may be claimed under those sections for tax year 2006 or thereafter.

(H) The repeal by this act of sections 5747.057, 5747.36, and 5747.38 of the Revised Code applies to taxable years beginning after December 31, 2005; no credit may be claimed under any of those sections for a taxable year beginning after that date.

Section ____. (A) The amendment by this act of sections 122.171, 5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.056, 5733.11, 5733.41, and 5733.98 of the Revised Code applies to tax year 2006 and each tax year thereafter.

(B) The amendment by this act of sections 5747.01, 5747.31, and 5747.98 of the Revised Code applies to taxable years beginning on or after January 1, 2006.

Section ____. The amendment by this act of section 5733.40 of the Revised Code applies to qualifying taxable years of a qualifying entity, as defined in section 5733.40 of the Revised Code, ending on or after the effective date of this act.

Section ____. The enactment by this act of sections 5733.023 and 5733.044 of the Revised Code applies to tax year 2006 and each tax year thereafter.

Section ____. The repeal by this act of sections 5733.069, 5733.0610, 5733.31, 5733.311, 5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, and 5733.46 of the Revised Code applies to tax year 2006 and each tax year thereafter.

Section ____. The repeal and reenactment by this act of section 5733.061 of the Revised Code applies to tax year 2006 and each tax year thereafter.

Section ____. (A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary

compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2005.

The Tax Commissioner shall issue forms and instructions and may take any other actions necessary to implement this section. The Tax Commissioner shall publicize the voluntary compliance initiative so as to maximize public awareness of and participation in the initiative.

(C) Any person satisfying the requirements of division (F) of this section may enter into an agreement with the Tax Commissioner providing for all of the following:

(1) The Tax Commissioner shall waive or abate all penalties imposed under Chapter 5703., 5733., or 5747., of the Revised Code as applicable, for all tax years or taxable years for which the person elects to participate in the initiative as a result of the underreporting of tax liabilities attributable to the use of abusive tax avoidance transactions.

(2) No criminal action shall be brought against the person for the taxable years with respect to issues for which the person voluntarily complies under this section.

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2005.

(4) The person may not file a claim for refund for amounts paid in connection with abusive tax avoidance transactions under this section.

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2004, any of the following applies:

(1) A criminal complaint was filed against the person in connection with an abusive tax avoidance transaction or transactions.

(2) The person is the subject of a criminal investigation in connection with an abusive tax avoidance transaction.

(E) No refund or credit shall be granted with respect to any penalty paid before a person applies for participation in the voluntary compliance initiative authorized by this section.

(F) The voluntary compliance initiative applies to any person that was not eligible to participate in the Internal Revenue Service's Offshore Voluntary Compliance Initiative described in Revenue Procedure 2003-11, and that, during the three-month period of the initiative period, does both of the following:

(1) Files an amended tax report or return under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, for each taxable year for which the person has previously filed a report or return using an abusive tax avoidance transaction to underreport the person's tax liability for that taxable year. Each amended report or return shall report all income from all sources, without regard to the abusive tax avoidance transaction.

(2)(a) Except as provided in division (F)(2)(b) of this section, pays in full all taxes and interest due.

(b) The Tax Commissioner may enter into an installment payment agreement in lieu of the full payment required under division (F)(2)(a) of this section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

(G) After the end of the three-month period during which the initiative is conducted, the Tax Commissioner may issue a deficiency assessment upon an amended report or return filed pursuant to division (F)(1) of this section, impose penalties, or initiate criminal action arising from a violation of any provision of Chapter 5733. or 5747. of the Revised Code with respect to the difference between the amount shown on that report or return and the correct amount of tax. Such an action does not invalidate any waiver granted under division (C) of this section.

(H) In addition to any other authority to examine reports or returns under the Revised Code, for the purpose of improving state tax administration, the Tax Commissioner may inquire into the facts and circumstances related to the use of abusive tax avoidance transactions to underreport the tax liabilities for which a taxpayer has participated in the voluntary compliance initiative under this section. Persons shall cooperate fully with such inquiries. Failure by a person to fully cooperate in such an inquiry shall render the waiver of penalties under this section null and void, and the person may be assessed any penalties that may apply under law without regard to this section.

(I) Notwithstanding section 5733.11 or 5747.13 of the Revised Code, with respect to proposed deficiency assessments related to an abusive tax avoidance transaction, a notice of a proposed deficiency assessment may be mailed to the taxpayer within eight years after the report or return was filed, or within the period otherwise provided in that section, whichever expires later.

Section ____. Section ____ of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section ____ of this act. The repeal of Section ____ of this act does not affect, after the effective

date of the repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those agreements."

In line 83034, delete "5111.242,"

In line 83066, delete "5703.70,"

In line 83072, delete "5739.01,"

In line 83077, delete "5751.01, 5751.011, 5751.012, 5751.02,"; delete "5751.03,"

In line 83078, delete "5751.031, 5751.032,"; after "5751.033," insert "and"; delete "5751.04, 5751.05, 5751.06,"

Delete lines 83079 and 83080

In line 83081, delete "5751.98 and 5751.99"

Delete lines 83359 and 83360

In line 4 of the title, after "122.011," insert "122.16,"

In line 9 of the title, delete "140.08,"

In line 16 of the title, after "742.59," insert "901.13,"

In line 101 of the title, delete "5703.053,"

In line 102 of the title, delete "5703.70,"

In line 104 of the title, after "5709.41," insert "5709.65,"

In line 112 of the title, after "5733.01," insert "5733.04, 5733.042, 5733.05, 5733.052, 5733.053, 5733.055, 5733.056, 5733.059, 5733.06,"; after "5733.066," insert "5733.09, 5733.11, 5733.12,"

In line 113 of the title, after "5733.352," insert "5733.39,"; delete "5739.01" and insert "5733.98"

In line 120 of the title, after "5747.08," insert "5747.21, 5747.211, 5747.212, 5747.31,"

In line 133 of the title, delete "and"

In line 134 of the title, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 135 of the title, delete the first "and"; after "5111.262," insert "5703.65, and 5733.061,"

In line 159 of the title, delete "5111.242,"

In line 168 of the title, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 169 of the title, after "5727.241," insert "5733.044,"

Deletes lines 172 through 176 of the title

In line 177 of the title, delete everything before "5919.31,"

In line 187 of the title, after "5731.20," insert "5733.061, 5733.067, 5733.068, 5733.069, 5733.0610,"; after "5733.122" insert ", 5733.31, 5733.311, 5733.32, 5733.34, 5733.36, 5733.37, 5733.38, 5733.43, 5733.44, 5733.46, 5747.057, 5747.058, 5747.28, 5747.32, 5747.34, 5747.35, 5747.36, 5747.38, 5747.75,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 60, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Cassell
Coley	Collier	Combs	Core
Daniels	DeWine	Dolan	Evans C.
Evans D.	Faber	Fende	Fessler
Flowers	Gibbs	Gilb	Hagan
Hoops	Hughes	Kearns	Kilbane
Latta	Law	Martin	McGregor
Oelslager	Patton T.	Peterson	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-60.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Garrison	Hartnett
Harwood	Healy	Hood	Key
Koziura	Mason	Miller	Mitchell
Otterman	Patton S.	Perry	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-39.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative D. Stewart moved to amend as follows:

In line 225, delete "905.501,"

In line 258, delete "3734.01,"

In line 300, after "5920.01," insert "and"; delete ", and"

In line 301, delete "6111.02"

In line 315, delete "907.111,"

In line 343, after the third comma insert "and"; after "5919.341" delete the balance of the line

In line 344, delete "6111.0212, and 6111.0213"

Delete lines 10398 through 10417

Delete lines 10425 through 10455

Delete lines 32750 through 33082

Delete lines 67823 through 68166

In line 68180, delete "905.501,"

In line 68213, delete "3734.01,"

In line 68255, after "5920.01," insert "and"; delete ", and"

In line 68256, delete "6111.02"

In line 68263, after "5731.20," insert "and"; delete ", and 6111.028"

In line 18 of the title, delete "905.501,"

In line 62 of the title, delete "3734.01,"

In line 121 of the title, after "5920.01," insert "and"; delete ", and"

In line 122 of the title, delete "6111.02"

In line 141 of the title, delete "907.111,"

In line 177 of the title, after the last comma insert "and"

In line 178 of the title, after "5919.341" delete the balance of the line

In line 179 of the title, delete "6111.0213"

In line 187 of the title, after "5731.20," insert "and"; delete ", and 6111.028"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 64, nays 35, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Cassell
Coley	Collier	Combs	Core

Daniels	DeGeeter	DeWine	Distel
Dolan	Evans C.	Evans D.	Faber
Fessler	Flowers	Gibbs	Gilb
Hagan	Hartnett	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Redfern	Reidelbach	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-64.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Chandler	DeBose	Domenick	Driehaus
Fende	Garrison	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	Williams
Woodard	Yates		Yuko-35.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Williams moved to amend as follows:

In line 259, after "3748.13," insert "3770.03,"

Between lines 37976 and 37977, insert:

"Sec. 3770.03. (A) The state lottery commission shall promulgate rules under which a statewide lottery may be conducted. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

- (1) The type of lottery to be conducted;
- (2) The prices of tickets in the lottery;
- (3) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be

conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(C) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as

applicable.

(D)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission."

In line 68214, after "3748.13," insert "3770.03,"

In line 71358, delete "\$10,540,753 \$10,612,181" and insert "\$13,540,753 \$13,612,181"

In line 71385, delete "\$7,482,048,102 \$7,571,309,899" and insert "\$7,485,048,102 \$7,574,309,899"

In line 71452, delete "\$10,119,320,385 \$10,600,545,703" and insert "\$10,122,320,385 \$10,603,545,703"

Between lines 71875 and 71876, insert:

"Of the foregoing appropriation item 200-427, Academic Standards, \$3,000,000 in each fiscal year shall be used for the Ohio Science Institute (OSCI)."

In line 64 of the title, after "3748.13," insert "3770.03,"

The question being, "Shall the motion to amend be agreed to?"

Representative Flowers moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 36, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Raussen

Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Allen	Beatty	Bocchieri	Book
Brinkman	Brown	Carano	Cassell
Chandler	DeBose	DeGeeter	Distel
Domenick	Driehaus	Fende	Garrison
Harwood	Healy	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Sayre	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-36.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

On motion of Representative Blasdel, the House recessed.

The House met pursuant to recess.

Representative Calvert moved to amend as follows:

In line 300, after "5747.98," insert "5748.01, 5748.02, 5748.03, 5748.04, 5748.08,"

Between lines 65769 and 65770, insert:

"Sec. 5748.01. As used in this chapter:

(A) "School district income tax" means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly.

(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in division (M) of

section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, ~~adjusted~~ one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.

(F) Except as provided in section 5747.25 of the Revised Code, "resident" of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

(2) An estate of a decedent who, at the time of death, was domiciled in the school district.

(G) "School district income" means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.

(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.

(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.

(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code.

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The

resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than eighty-five days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for school district purposes on ~~the school district income of individuals and of estates~~. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section. If the board of education currently imposes an income tax pursuant to this chapter that is due to expire and a question is submitted under this section for a proposed income tax to take effect

upon the expiration of the existing tax, the board may specify in the resolution that the proposed tax renews the expiring tax and is not an additional income tax, provided that the tax rate being proposed is no higher than the tax rate that is currently imposed.

(2) A board of education adopting a resolution under division (B)(1) of this section proposing a school district income tax for a continuing period of time and limited to the purpose of current expenses may propose in that resolution to reduce the rate or rates of one or more of the school district's property taxes levied for a continuing period of time in excess of the ten-mill limitation for the purpose of current expenses. The reduction in the rate of a property tax may be any amount, expressed in mills per one dollar in valuation, not exceeding the rate at which the tax is authorized to be levied. The reduction in the rate of a tax shall first take effect for the tax year that includes the day on which the school district income tax first takes effect, and shall continue for each tax year that both the school district income tax and the property tax levy are in effect.

In addition to the matters required to be set forth in the resolution under division (B)(1) of this section, a resolution containing a proposal to reduce the rate of one or more property taxes shall state for each such tax the maximum rate at which it currently may be levied and the maximum rate at which the tax could be levied after the proposed reduction, expressed in mills per one dollar in valuation, and that the tax is levied for a continuing period of time.

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made in one or more newspapers of general circulation in the county once a week for four consecutive weeks. The notice shall contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate

proposition, but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5748.03. (A) The form of the ballot on a question submitted to the electors under section 5748.02 of the Revised Code shall be as follows:

"Shall an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates be imposed by (state the name of the school district), for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

	FOR THE TAX
	AGAINST THE TAX

(B)(1) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(2) If the question submitted to electors proposes to renew an expiring income tax, the ballot shall be modified by adding the following language immediately after the name of the school district that would impose the tax: "to renew an income tax expiring at the end of (state the last year the existing income tax may be levied)."

(3) If the question includes a proposal under division (B)(2) of section 5748.02 of the Revised Code to reduce the rate of one or more school district property taxes, the ballot shall state that the purpose of the school district income tax is for current expenses, and the form of the ballot shall be modified by adding the following language immediately after the statement of the purpose of the proposed income tax: ", and shall the rate of an existing tax on property, currently levied for the purpose of current expenses at the rate of mills, be REDUCED to mills until any such time as the income tax is repealed." In lieu of "for the tax" and "against the tax," the phrases "for the issue" and "against the issue," respectively, shall be used. If a board of education proposes a reduction in the rates of more than one tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes will be reduced.

(C) The board of elections shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors

voting on the question vote in favor of it, the income tax, the applicable provisions of Chapter 5747. of the Revised Code, and the reduction in the rate or rates of existing property taxes if the question included such a reduction shall take effect on the date specified in the resolution. If the question approved by the voters includes a reduction in the rate of a school district property tax, the board of education shall not levy the tax at a rate greater than the rate to which the tax is reduced, unless the school district income tax is repealed in an election under section 5748.04 of the Revised Code.

(D) If the rate at which a property tax is levied and collected is reduced pursuant to a question approved under this section, the tax commissioner shall compute the percentage required to be computed for that tax under division (D) of section 319.301 of the Revised Code each year the rate is reduced as if the tax had been levied in the preceding year at the rate at which it has been reduced. If the rate of a property tax increases due to the repeal of the school district income tax pursuant to section 5748.04 of the Revised Code, the tax commissioner, for the first year for which the rate increases, shall compute the percentage as if the tax in the preceding year had been levied at the rate at which the tax was authorized to be levied prior to any rate reduction.

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than seventy-five days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district at the next general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district once a week for four consecutive weeks prior to the election, stating the purpose, the time, and the place of the election. The form of the ballot cast at the election shall be as follows:

"Shall the annual income tax of per cent, currently levied on the school district income of individuals and estates by (state the name of the school district) for the purpose of (state purpose of the tax), be repealed?"

	For repeal of the income tax
	Against repeal of the income tax

(B)(1) If the tax is imposed on taxable income as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax currently is levied on the "earned income of individuals residing in the school district" in lieu of the "school district income

of individuals and estates."

(2) If the rate of one or more property tax levies was reduced for the duration of the income tax levy pursuant to division (B)(2) of section 5748.02 of the Revised Code, the form of the ballot shall be modified by adding the following language immediately after "repealed": ", and shall the rate of an existing tax on property for the purpose of current expenses, which rate was reduced for the duration of the income tax, be INCREASED from mills to mills per one dollar of valuation beginning in (state the first year for which the rate of the property tax will increase)." In lieu of "for repeal of the income tax" and "against repeal of the income tax," the phrases "for the issue" and "against the issue," respectively, shall be substituted.

(3) If the rate of more than one property tax was reduced for the duration of the income tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes would be increased.

(C) The question covered by the petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question vote in favor of it, the result shall be certified immediately after the canvass by the board of elections to the board of education of the school district and the tax commissioner, who shall thereupon, after the current year, cease to levy the tax, except that if notes have been issued pursuant to section 5748.05 of the Revised Code the tax commissioner shall continue to levy and collect under authority of the election authorizing the levy an annual amount, rounded upward to the nearest one-fourth of one per cent, as will be sufficient to pay the debt charges on the notes as they fall due.

(D) If a school district income tax repealed pursuant to this section was approved in conjunction with a reduction in the rate of one or more school district property taxes as provided in division (B)(2) of section 5748.02 of the Revised Code, then each such property tax may be levied after the current year at the rate at which it could be levied prior to the reduction, subject to any adjustments required by the county budget commission pursuant to Chapter 5705. of the Revised Code. Upon the repeal of a school district income tax under this section, the board of education may resume levying a property tax, the rate of which has been reduced pursuant to a question approved under section 5748.02 of the Revised Code, at the rate the board originally was authorized to levy the tax. A reduction in the rate of a property tax under section 5748.02 of the Revised Code is a reduction in the rate at which a board of education may levy that tax only for the period during which a school district income tax is levied prior to any repeal pursuant to this section. The resumption of the authority to levy the tax upon such a repeal does not constitute a tax levied in excess of the one per cent limitation prescribed by Section 2 of Article XII, Ohio Constitution, or in excess of the ten-mill limitation.

(E) This section does not apply to school district income tax levies that

are levied for five or fewer years.

Sec. 5748.08. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on ~~the school district income of individuals and estates;~~

(2) Issue general obligation bonds for permanent improvements, stating in the resolution the necessity and purpose of the bond issue and the amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(3) Levy a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities;

(4) Submit the question of the school district income tax and bond issue to the electors of the district at a special election.

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor no later than ninety days prior to the date of the special election at which the board intends to propose the income tax and bond issue. Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in division (A)(1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on ~~the school district income of individuals and of estates~~ and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a

special election, which shall not be earlier than seventy-five days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time;

~~(3)~~(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

~~(4)~~(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least seventy-five days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in one or more newspapers of general circulation in the school district once a week for four consecutive weeks. The notice of election shall state all of the following:

- (1) The questions to be submitted to the electors;
- (2) The rate of the school district income tax;
- (3) The principal amount of the proposed bond issue;
- (4) The permanent improvements for which the bonds are to be issued;

(5) The maximum number of years over which the principal of the bonds may be paid;

(6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;

(7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the school district be authorized to do both of the following:

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

(2) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE

(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

~~(E)~~(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

~~(F)~~(G) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income

tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

~~(G)~~(H) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

~~(H)~~(I) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election."

In line 68255, after "5747.98," insert "5748.01, 5748.02, 5748.03, 5748.04, 5748.08,"

In line 83077, after "5747.98," insert "5748.01, 5748.02, 5748.03, 5748.04, 5748.08,"

In line 121 of the title, after "5747.98," insert "5748.01, 5748.02, 5748.03, 5748.04, 5748.08,"

In line 251, after "3365.04," insert "3365.041, 3365.05,"; after "3365.07," insert "3365.08,"

In line 29180, strike through "receive only college credit for" and insert "be responsible for payment of all tuition and the cost of all textbooks, materials, and fees associated with"

In line 29182, after "college" strike through the remainder of the line

Strike through line 29183

In line 29184, strike through all before the period; strike through "If" and insert "A student electing this option also shall elect, at the time of enrollment, whether to receive only college credit or high school credit and college credit for the course."

(1) The student may elect to receive only college credit for the course. Except as provided in section 3365.041 of the Revised Code, if"

In line 29186, after "education" insert ", community school governing authority."

Between lines 29188 and 29189, insert:

"(2) The student may elect to receive both high school credit and college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course and the board of education or nonpublic school, or community school governing authority shall award the student high school credit."

In line 29190, strike through "receive both" and insert "have the"; strike through "credit and high school credit" and insert "reimbursed under section 3365.07 of the Revised Code"

In line 29193, strike through "or" and insert an underlined comma

In line 29194, reinsert "nonpublic school" and insert ".or"

Between lines 29209 and 29210, insert:

"Sec. 3365.041. (A) When a school district superintendent or governing authority of a community school expels a student under division (B) of section 3313.66 of the Revised Code, the district superintendent or board shall send a written notice of the expulsion to any college in which the expelled student is enrolled under section 3365.03 of the Revised Code at the time the expulsion is imposed. The notice shall indicate the date the expulsion is scheduled to expire. The notice also shall indicate whether the district board of education or community school governing authority has adopted a policy under section 3313.613 of the Revised Code to deny high school credit for post-secondary courses taken during an expulsion. If the expulsion is extended under division (F) of section 3313.66 of the Revised Code, the district superintendent or governing authority shall notify the college of the extension.

(B) A college may withdraw its acceptance under section 3365.03 of the Revised Code of a student who is expelled from school under division (B) of section 3313.66 of the Revised Code. As provided in section 3365.03 of the Revised Code, regardless of whether the college withdraws its acceptance of the student for the college term in which the student is expelled, the student is ineligible to enroll in a college under that section for subsequent college terms during the period of the expulsion, unless the student enrolls in another school district or community school, or participating nonpublic school during that period.

If a college withdraws its acceptance of an expelled student who elected ~~the either~~ option of division (A)(1) or (2) of section 3365.04 of the Revised Code, the college shall refund tuition and fees paid by the student in the same proportion that it refunds tuition and fees to students who voluntarily withdraw from the college at the same time in the term.

If a college withdraws its acceptance of an expelled student who elected the option of division (B) of section 3365.04 of the Revised Code, the school district or community school shall not award high school credit for the college courses in which the student was enrolled at the time the college withdrew its acceptance, and any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the withdrawal shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the term. If the withdrawal results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

(C) When a student who elected the option of division (B) of section 3365.04 of the Revised Code is expelled under division (B) of section 3313.66 of the Revised Code from a school district or community school that has adopted a policy under section 3313.613 of the Revised Code, that election is automatically revoked for all college courses in which the student is enrolled during the college term in which the expulsion is imposed. Any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the expulsion shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the term. If the revocation results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

No later than five days after receiving an expulsion notice from the superintendent of a district or the governing authority of a community school that has adopted a policy under section 3313.613 of the Revised Code, the college shall send a written notice to the expelled student that the student's election of division (B) of section 3365.04 of the Revised Code is revoked. If the college elects not to withdraw its acceptance of the student, the student shall pay all applicable tuition and fees for the college courses and shall pay for the textbooks and materials that the college provided under section 3365.08 of the Revised Code.

Sec. 3365.05. High school credit awarded for courses successfully completed under this chapter shall count toward the graduation requirements and subject area requirements of the school district, community school, or nonpublic school. If a course comparable to one a student completed at a college is offered by the district, community school, or nonpublic school, the board or school shall award comparable credit for the course completed at the college. If no comparable course is offered by the district, community school, or nonpublic school, the board or school shall grant an appropriate number of credits in a similar subject area to the student.

If there is a dispute between a school district board or a community school governing authority and a student regarding high school credits granted for a course, the student may appeal the board's or governing authority's decision to the state board of education. The state board's decision regarding any high school credits granted under this ~~division~~section is final.

Evidence of successful completion of each course and the high school credits awarded by the district, community school, or participating nonpublic school shall be included in the student's record. The record shall indicate that the credits were earned as a participant under this chapter and shall include the name of the college at which the credits were earned. The district board, community school governing authority, or nonpublic school shall determine whether and the manner in which the grade achieved in a course completed at a college under division (A)(2) or (B) of section 3365.04 of the Revised Code will be counted in any cumulative grade point average maintained for the student."

Between lines 29297 and 29298, insert:

"**Sec. 3365.08.** (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code shall furnish to a participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district under division (D) of section 3317.022 of the Revised Code. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code."

In line 68206, after "3365.04," insert "3365.041, 3365.05,; after "3365.07," insert "3365.08,"

Between lines 73518 and 73519, insert:

"(G) The opportunity to elect high school credit under Option A of the program, as specified in sections 3365.04, 3365.041, 3365.05, and 3365.08 of the Revised Code, as amended by this act, shall apply beginning in the 2005-2006 academic year."

In line 82987, after "3365.04," insert "3365.041, 3365.05,; after "3365.07," insert "3365.08,"

In line 52 of the title, after "3365.04," insert "3365.041, 3365.05,"

In line 53 of the title, after "3365.07," insert "3365.08,"

In line 249, after "3334.18," insert "3345.10,"

Between lines 28866 and 28867, insert:

"**Sec. 3345.10.** (A) As used in this section:

(A) ~~"Institution~~state institution of higher education means a state university, municipal university, state medical college, community college, technical college, or state community college~~has the same meaning as in section 3345.011 of the Revised Code.~~

(B) Each state institution of higher education shall establish competitive bidding procedures for the purchase of printed material and shall award all ~~such~~ contracts for the purchase of printed material in accordance with ~~such~~those procedures. ~~Notwithstanding any other provision of law, The~~ procedures shall require the institution to evaluate all bids received for all contracts for the purchase of printed material shall be let by an institution to vendors who have manufacturing facilities within this state, except as provided in ~~division (C) of this section.~~

(C) ~~If the required printed products are not available from a vendor who has manufacturing facilities within this state, the institution shall be permitted to purchase from an out-of-state vendor.~~

(D) ~~No vendor with manufacturing facilities within this state who would execute the printing covered by the proposal shall be prohibited from submitting a proposal for consideration and any such proposal properly submitted shall be considered~~in accordance with the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for determining whether bidders will produce the printed material at manufacturing facilities within this state or in accordance with the criteria and procedures established pursuant to division (C)(4) or (5) of that section for determining whether bidders are otherwise qualified.

An institution shall select, in accordance with the procedures it establishes under this section, a bid from among bidders that fulfill the criteria specified in the applicable divisions of section 125.09 of the Revised Code where sufficient competition can be generated within this state to ensure that compliance with this requirement will not result in paying an excessive price or acquiring a disproportionately inferior product. If there are two or more bids from among those bidders, it shall be deemed that there is sufficient competition to prevent paying an excessive price or acquiring a disproportionately inferior product."

In line 68204, after "3334.18," insert "3345.10,"

In line 51 of the title, after "3334.18," insert "3345.10,"

In line 77031, delete "Soil and Water" and insert "Watershed"; after "Conservancy" insert "District"

In line 66144, insert ";

(d) Any amount realized from the sale of an account receivable but only to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer"

In line 67842, delete "has" insert "and "discharge of fill material" have"; delete "meaning" and insert "meanings"

In line 67896, after "wetlands" insert "or streams, as applicable,"; after "wetland" insert "or stream"

In line 67985, after "to" insert "dredging or"; delete "or impacts"

In line 67986, after "applicable" insert an underlined comma

In line 68021, after "of" insert "surface water"; delete "on-site"

In line 68059, after "proposed" insert "dredging or"; delete "or impact to"

In line 317, delete "2927.30,"

In line 16285, after "No" insert "individual shall purchase, receive, or otherwise acquire more than six grams of any ephedrine product, phenylpropanolamine product, or pseudoephedrine product within a period of thirty days, unless dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health care professional authorized to prescribe drugs."

(B)(1) Except as provided in division (B)(2) of this section, no"

In line 16291, after "sold" insert "or no combination of packages so sold, whichever is applicable,"

In line 16292, delete "three" and insert "six"

Between lines 16292 and 16293, insert:

"(2) Division (B)(1) of this section does not apply to any quantity of ephedrine product, phenylpropanolamine product, or pseudoephedrine product dispensed by a pharmacist pursuant to a valid prescription issued by a licensed health professional authorized to prescribe drugs."

In line 16293, delete "(B)" and insert "(C)"

In line 16309, delete "(C)" and insert "(D)"

In line 16313, delete "(B)" and insert "(C)"

In line 16314, delete "(2) No" and insert "(E)(1) Except as provided in division (E)(2) of this section, no"

Between lines 16319 and 16320, insert:

"(2) Division (E)(1) of this section does not apply to any of the following:

(a) A licensed health professional authorized to prescribe drugs or a pharmacist who dispenses, sells, or otherwise provides an ephedrine product,

phenylpropanolamine product, or pseudoephedrine product to an individual under eighteen years of age;

(b) A parent or guardian of an individual under eighteen years of age who provides an ephedrine product, phenylpropanolamine product, or pseudoephedrine product to the individual;

(c) A person who, as authorized by the individual's parent or guardian, dispenses, sells, or otherwise provides an ephedrine product, phenylpropanolamine product, or pseudoephedrine product to an individual under eighteen years of age.

(F) No employee of a retailer or terminal distributor of dangerous drugs who is under eighteen years of age shall sell, offer to sell, hold for sale, deliver, or otherwise provide any ephedrine product, phenylpropanolamine product, or pseudoephedrine product to any individual."

In line 16320, delete "(D)" and insert "(G)"

In line 16324, delete "(A)" and insert "(B)"

In line 16328, delete "(C)(1) or (2)" and insert "(A), (D), (E), or (F)"

In line 16330, delete "(C)(1) or (2)" and insert "(A), (D), (E), or (F)"

In line 16331, delete "(C)(1), or (C)(2)" and insert "(B), (D), (E), or (F)"

In line 16334, delete "(C)(1) or (2)" and insert "(A), (D), (E), or (F)"

Delete lines 16336 through 16393

In line 31705, delete ""product" means any food or drink that is"

Delete lines 31706 through 31708 and insert ""product," "ephedrine," "ephedrine product," "phenylpropanolamine," "phenylpropanolamine product," "proof of age," "pseudoephedrine," "pseudoephedrine product," "retailer," and "single-ingredient preparation" have the same meanings as in section 2925.01 of the Revised Code."

Delete lines 31715 through 31730

In line 31733, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 31735, after "Segregate" insert "ephedrine products, phenylpropanolamine products, and"

In line 31739, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 31744, after "receives" delete the balance of the line

In line 31745, delete "six grams of pseudoephedrine products within a" and insert "within any"; after "period" insert "an amount of ephedrine product, phenylpropanolamine product, or pseudoephedrine product that exceeds two

packages of any one of those products or of any combination of those products, with neither package so sold or no combination of packages so sold, whichever is applicable, containing more than six grams of the product"

In line 31749, after "individual" insert "within any thirty-day period"; after "of" insert "ephedrine product, phenylpropanolamine product, or"

In line 31750, after "that" delete the balance of the line

In line 31751, delete "grams within a thirty day period" and insert "exceeds two packages of any one of those products or of any combination of those products, with neither package so sold or no combination of packages so sold, whichever is applicable, containing more than six grams of the product"

In line 31752, after "of" insert "ephedrine product, phenylpropanolamine product, or"

In line 31758, after "any" insert "ephedrine product, phenylpropanolamine product, or"

In line 31761, delete "This division" and insert "Division (D)(1) of this section"

In line 31764, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 31767, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 31770, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 31775, after "any" insert "ephedrine product, phenylpropanolamine product, or"

In line 31778, after "of" insert "ephedrine products, phenylpropanolamine products, or"

In line 31793, after "section" insert "ephedrine products, phenylpropanolamine products, or"

In line 31795, delete "a" and insert "an ephedrine product, phenylpropanolamine product, or"

In line 143 of the title, delete "2927.30,"

In line 74268, delete "\$410,000\$210,000" and insert "\$435,000 \$235,000"

In line 74269, delete "\$13,382,155\$13,182,155" and insert "\$13,407,155\$13,207,155"

In line 74270, delete "\$13,382,155\$13,182,155" and insert "\$13,407,155\$13,207,155"

In line 74312, delete the period and insert ", and \$25,000 in each fiscal

year shall be distributed to the Cincinnati Museum Center."

In line 227, delete "1333.11,"

In line 252, delete "3381.07, 3381.17,"

In line 296, delete "5743.025, "; delete "5743.04,"

In line 297, delete "5743.081, 5743.12, 5743.13,"

In line 298, delete "5743.34, 5743.35,"

In line 337, delete "5743.022,"

In line 338, delete "5743.321,"

Delete lines 11086 through 11182

Delete lines 29680 through 29767

Delete lines 63072 through 63175

In line 63178, delete "5743.022,"

In line 63210, delete "5743.022,"; delete the second underlined comma

In line 63222, delete "5743.022,"; delete the second underlined comma

Delete lines 63326 through 63374

In line 63382, delete "5743.022,"; delete the second underlined comma

In line 63389, delete "5743.022,"; delete "or 5743.026"

In line 63511, delete "5743.022,"

Delete lines 63528 through 63618

Delete lines 63813 through 63824

In line 63827, delete "5743.321,"

In line 63837, delete "5743.022,"

In line 63847, delete "5743.022,"

Delete lines 63848 through 63867

In line 68182, delete "1333.11,"

In line 68207, delete "3381.07, 3381.17,"

In line 68251, delete "5743.025, "; delete "5743.04,"

In line 68252, delete "5743.081, 5743.12, 5743.13,"

In line 68253, delete "5743.34, 5743.35,"

Delete lines 83368 and 83369

In line 21 of the title, delete "1333.11,"

In line 54 of the title, delete "3381.07,"

In line 55 of the title, delete "3381.17,"

In line 115 of the title, delete "5743.025,"; delete "5743.04,"

In line 116 of the title, delete "5743.081, 5743.12, 5743.13,"

In line 118 of the title, delete "5743.34, 5743.35,"

In line 169 of the title, delete "5743.022,"

In line 170 of the title, delete "5743.321,"

In line 71020, delete "Country Club" and insert "U.S. Open"

In line 73691, delete "\$6,100,000 \$12,200,000" and insert "\$8,100,000 \$15,200,000"

In line 73693, delete "\$26,352,992 \$32,999,110" and insert "\$28,352,992 \$35,999,110"

In line 73756, delete "\$190,245,028 \$196,555,644" and insert "\$192,245,028 \$199,555,644"

In line 73878, delete "\$9,042,874 \$9,042,874" and insert "\$9,047,874 \$9,047,874"

In line 73890, delete "\$72,972,016 \$72,972,016" and insert "\$72,977,016 \$72,977,016"

In line 73934, delete "\$565,556,863 \$572,677,231" and insert "\$565,561,863 \$572,682,231"

In line 55616, reinsert "2007" and delete "2005"

In line 56013, reinsert "2007" and delete "2005"

In line 56317, reinsert "2007" and delete "2005"

In line 252, delete "3379.04,"

Delete lines 29663 through 29679

In line 68207, delete "3379.04,"

In line 54 of the title, delete "3379.04,"

In line 2519, delete ". The auditor of state shall" and insert ". and"

In line 2521, delete "worldwide" and insert "world wide"; delete "before the thirty-first day of January"

In line 2522, delete "each year"

In line 9927, delete "adjusted"

In line 9928, delete "certified" and insert "adjusted"

In line 9931, delete "adjusted"; delete "certified" and insert "adjusted"

In line 9953, delete "adjusted"

In line 9954, delete "certified" and insert "adjusted"

In line 32299, delete "facility" and insert "institution"

In line 32301, delete "facility" and insert "institution"

In line 32303, delete "facility" and insert "institution"

Delete lines 33083 through 33073

In line 54267, delete "adjusted"; delete "certified" and insert "adjusted"

In line 54274, delete "adjusted"; delete "certified" and insert "adjusted"

In line 54277, delete "adjusted"; delete "certified" and insert "adjusted"

In line 54491, delete "adjusted"

In line 54492, delete "certified" and insert "adjusted"

In line 54509, delete "adjusted"

In line 54510, delete "certified" and insert "adjusted"

In line 54594, delete "adjusted"

In line 54595, delete "certified" and insert "adjusted"

In line 54602, delete "adjusted"; delete "certified" and insert "adjusted"

In line 54616, delete "adjusted"

In line 54617, delete "certified" and insert "adjusted"

In line 54628, delete "adjusted"

In line 54629, delete "certified" and insert "adjusted"

In line 54632, delete "adjusted"; delete "certified" and insert "adjusted"

Move lines 66482 through 66544 to between lines 66332 and 66333

Between lines 68944 and 68945, insert:

"GRF 745-407 National Guard Benefits \$1,000,000 \$1,000,000"

Delete lines 68948 and 68948a

In line 71407a, correct the spelling of "Disabilities"

Between lines 73919a and 73290, insert:

"5CB 440-640 Poison Control Centers \$200,000 \$200,000"

Delete line 73926

Delete line 77445

Between lines 77447a and 77448, insert:

"5CC 768-607 Public Safety Services \$100,000 \$200,000"

In line 79455, delete "\$4,443,027,009" and insert "\$4,443,026,009"

In line 80626, correct the spelling of "Ohioans"

In line 81351, delete "CAP-XXX" and insert "CAP-335"

In line 81477, after the "Resources" delete the balance of the line

In line 81478, delete "Resources"

Delete lines 81814 through 81864

In line 32524, delete "fourth" and insert "third"; delete "2006" and insert "2005"

In line 74650, after "2005" insert ", less any amount of that rate that reflects reimbursement to the nursing facility for the franchise permit fee that the nursing facility pays under section 3721.53 of the Revised Code"

In line 74658, after the period insert "However, if the effective date of the change of provider is July 1, 2005, the nursing facility's rate shall be the rate paid to the previous provider for nursing facility services that the previous provider provided on June 30, 2005, less any amount of that rate that reflects reimbursement to the previous provider for the franchise permit fee that the previous provider paid under section 3721.53 of the Revised Code."

Between lines 62871 and 62872, insert:

"(9) Cigarettes that have a wholesale value of three hundred dollars or less, if they are used, stored, or consumed within this state under section 5743.33 of the Revised Code and a return has been filed and the tax has been paid in accordance with that section."

In line 68260, after "3721.511," insert "3901.41,"

In line 183 of the title, after "3721.511," insert "3901.41,"

In line 221, after "183.28," insert "184.02,"

Between lines 8087 and 8088, insert:

"Sec. 184.02. (A) The third frontier commission may perform any act to ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, sections 184.01 and 184.02 of the Revised Code. In addition, the commission may do any of the following:

(1) Adopt, amend, and rescind rules under section 111.15 of the Revised Code for the administration of any aspect of its operations;

(2) Adopt bylaws governing its operations, including bylaws that establish procedures and set policies as may be necessary to assist with the furtherance of its purposes;

(3) Appoint and set the compensation of employees needed to carry out its duties;

(4) Contract with, retain the services of, or designate, and fix the compensation of, such financial consultants, accountants, other consultants and advisors, and other independent contractors as may be necessary or desirable to carry out its duties;

(5) Solicit input and comments from the third frontier advisory board, and specialized industry, professional, and other relevant interest groups concerning its purposes;

(6) Facilitate alignment of the state's science and technology programs and activities;

(7) Make grants and loans to individuals, public agencies, private companies or organizations, or joint ventures for any of the broad range of activities related to its purposes.

(B) The commission shall do all of the following:

(1) Establish a competitive process for the award of grants and loans that is designed to fund the most meritorious proposals and, when appropriate, provide for peer review of proposals;

(2) Within ninety days after the end of each fiscal year, submit to the governor and the general assembly a report of the activities of the commission during the preceding fiscal year;

(3) With specific application to the biomedical research and technology transfer trust fund, periodically make strategic assessments of the types of state investments in biomedical research and biotechnology in the state that would likely create jobs and business opportunities in the state and produce the most beneficial long-term improvements to the public health of ~~Ohioans~~ Ohioans, including, but not limited to, biomedical research and biotechnology initiatives that address tobacco-related illnesses as may be outlined in any master agreement. The commission shall award grants and loans from the fund pursuant to a process established under division (B)(1) of this section.

(C) Notwithstanding the authority granted to the commission under sections 184.01 to 184.04 of the Revised Code, the commission shall not make any grants or loans to individuals, public agencies, private companies or organizations, or joint ventures for any activities involving stem cell research with embryonic tissue."

In line 68176, after "183.28," insert "184.02,"

In line 12 of the title, after "183.28," insert "184.02,"

In line 265, after "4736.12," insert "4753.03, 4753.06, 4753.071, 4753.08, 4753.09,"

Between lines 40712 and 40713, insert:

"Sec. 4753.03. There is hereby created the board of speech-language pathology and audiology consisting of eight residents of this state to be appointed by the governor with the advice and consent of the senate. Three members of the board shall be licensed speech-language pathologists, and three members shall be licensed audiologists, who have been licensed and engaged in the practice, teaching, administration, or research in the area of appointment for at least five years prior to the dates of their appointment. Beginning with the first appointment of an audiologist to the board after ~~the effective date of this amendment~~ November 5, 1992, at all times one of the audiologists serving on the board must be an audiologist engaged in the practice of fitting and dispensing hearing aids. At all times, two members shall be representatives of the general public, and neither shall be a speech-language pathologist or audiologist or a person licensed under this chapter. At least one of the members representing the general public shall be at least sixty years of age. ~~Any speech language pathologists and audiologists among the initial appointees shall have at least a bachelor's degree in speech language pathology or audiology and shall meet the standards for licensure, other than examination, established by section 4753.06 or 4753.08 of the Revised Code. Any speech language pathologist or audiologist appointed to the board after the effective date of this amendment, must hold a master's or doctorate degree.~~

Terms of office shall be for three years, each term commencing on the twenty-seventh day of September and ending on the twenty-sixth day of September. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he was~~ appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person shall be appointed to serve consecutively more than two full terms. The executive council of the Ohio speech and hearing association may recommend, within forty-five days after any vacancy or expiration of a member's term occurs, no more than three persons to fill each position or vacancy on the board, and the governor may make ~~his~~ the appointment from the persons so recommended. If the council fails to make recommendations within the required time, the governor shall make the appointment without its recommendations.

The terms of all speech-language pathology members shall not end in the same year; the terms of all audiology members shall not end in the same year. Upon the first appointment following ~~the effective date of this amendment~~ November 5, 1992, the governor shall appoint speech-language pathology members and audiology members to one-, two-, or three-year terms to prevent the terms of all speech-language pathology members or all audiology members from ending in the same year. Thereafter, all terms shall be for three years.

Sec. 4753.06. No person is eligible for licensure as a speech-language

pathologist or audiologist unless:

(A) ~~He~~The person has obtained a broad general education to serve as a background for ~~his~~the person's specialized academic training and preparatory professional experience. Such background may include study from among the areas of human psychology, sociology, psychological and physical development, the physical sciences, especially those that pertain to acoustic and biological phenomena, and human anatomy and physiology, including neuroanatomy and neurophysiology.

(B) ~~He~~If the person seeks licensure as a speech-language pathologist, the person submits to the board of speech-language pathology and audiology an official transcript demonstrating that ~~he~~the person has at least a master's degree in ~~the area in which licensure is sought~~speech-language pathology or the equivalent as determined by the board. ~~His~~The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rule dealing with the normal aspects of human communication, development and disorders thereof, and clinical techniques for the evaluation and the improvement or eradication of such disorders. The course work must have been completed at colleges or universities accredited by regional or national accrediting organizations recognized by the board.

(C) ~~He~~If the person seeks licensure as an audiologist, the person submits to the board an official transcript demonstrating that the person has at least a doctor of audiology degree or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rules dealing with the normal aspects of human hearing, balance, and related development and clinical evaluation, audiologic diagnosis, and treatment of disorders of human hearing, balance, and related development. The course work must have been completed in an audiology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board.

(D) The person submits to the board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, dealing with a variety of communication disorders. The appropriateness of the experience shall be determined under rules of the board. This experience shall have been obtained in an accredited college or university, in a cooperating program of an accredited college or university, or in another program approved by the board.

~~(D)~~~~He~~(E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.

(F) If the person submits to the board an application for licensure as an

audiologist before January 1, 2006, and meets the requirements of division (B) of this section regarding a master's degree in audiology as that division existed on December 31, 2005, but not the requirements of division (C) of this section regarding a doctor of audiology degree or if the person seeks licensure as a speech-language pathologist, the person presents to the board written evidence that ~~he~~ the person has obtained professional experience. The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in the major professional area, speech-language pathology or audiology, in which licensure is being sought. ~~This~~ If the person seeks licensure as a speech-language pathologist, this experience shall not begin until the requirements of divisions (B) and (C), (D), and (E) of this section have been completed unless approved by the board. If the person seeks licensure as an audiologist, this experience shall not begin until the requirements of division (B) of this section, as that division existed on December 31, 2005, and divisions (D) and (E) of this section have been completed unless approved by the board. Before beginning the supervised professional experience pursuant to this section, ~~any~~ the applicant for licensure to practice speech-language pathology or audiology shall ~~meet the requirements for~~ obtain a conditional license pursuant to section 4753.071 of the Revised Code.

~~(E) He submits to the board evidence that he has passed the examination for licensure to practice speech language pathology or audiology pursuant to division (B) of section 4753.05 of the Revised Code.~~

Sec. 4753.071. A person who is required to meet the supervised professional experience requirement of division (F) of section 4753.06 of the Revised Code shall submit to the board of speech-language pathology and audiology an application for a conditional license. The application shall include a plan for the content of the supervised professional experience on a form the board shall prescribe. The board of speech-language pathology and audiology shall issue ~~a~~ the conditional license to ~~an~~ the applicant who, except for the supervised professional experience:

~~(A) Meets if the applicant meets the academic, practicum, and examination requirements of divisions (B), (C), and (E) of section 4753.06 of the Revised Code;~~

~~(B) Submits an application to the board, including a plan for the content of the supervised professional experience on a form prescribed by the board, other than the requirement to have obtained the supervised professional experience, and pays to the board the appropriate fee for a conditional license. An applicant may not begin employment until the conditional license has been approved issued.~~

A conditional license authorizes an individual to practice speech-language pathology or audiology while completing the supervised professional experience as required by division ~~(D)~~ (F) of section 4753.06 of the Revised Code. A person holding a conditional license may practice

speech-language pathology or audiology while working under the supervision of a person fully licensed in accordance with this chapter. A conditional license is valid for eighteen months unless suspended or revoked pursuant to section 3123.47 or 4753.10 of the Revised Code.

A person holding a conditional license may perform services for which reimbursement will be sought under the medicare program established under Title XVIII of the "Social Security Act," 4979Stat. 620286 (19351965), 42 U.S.C. 3041395, as amended, or the ~~medical assistance~~medicaid program established under Chapter 5111. of the Revised Code ~~and Title XIX of the "Social Security Act"~~ but all requests for reimbursement for such services shall be made by the person who supervises the person performing the services.

Sec. 4753.08. The board of speech-language pathology and audiology shall waive the examination, educational, and professional experience requirements for any applicant who meets any of the following requirements:

(A) On September 26, 1975, has at least a bachelor's degree with a major in speech-language pathology or audiology from an accredited college or university, or who has been employed as a speech-language pathologist or audiologist for at least nine months at any time within the three years prior to September 26, 1975, if an application providing bona fide proof of such degree or employment is filed with the board within one year after September 26, 1975, and is accompanied by the application fee as prescribed in division (A) of section 4753.11 of the Revised Code;

(B) Presents proof of current certification or licensure in good standing in the area in which licensure is sought in a state ~~which that~~ has standards at least equal to ~~those~~the standards for licensure that are in effect in this state at the time the applicant applies for the license;

(C) Presents proof of both of the following:

(1) Having current certification or licensure in good standing in audiology in a state that has standards at least equal to the standards for licensure as an audiologist that were in effect in this state on December 31, 2005;

(2) Having first obtained that certification or licensure not later than December 31, 2007.

(D) Presents proof of a current certificate of clinical competence in speech-language pathology or audiology that is in good standing and received from the American speech-language-hearing association in the area in which licensure is sought.

Sec. 4753.09. Except as provided in this section and in section 4753.10 of the Revised Code, a license issued by the board of speech-language pathology and audiology shall be renewed biennially in accordance with the standard renewal procedure contained in Chapter 4745. of the Revised Code. If the application for renewal is made ~~after~~ one year or longer after the renewal application is due, the person shall apply for licensure as provided in section

4753.06 or division (B) ~~or~~ (C), or (D) of section 4753.08 of the Revised Code. The board shall not renew a conditional license; however, the board may grant an applicant a second conditional license.

The board shall establish by rule adopted pursuant to Chapter 119. of the Revised Code the qualifications for license renewal. Applicants shall demonstrate continued competence, which may include continuing education, examination, self-evaluation, peer review, performance appraisal, or practical simulation. The board may establish other requirements as a condition for license renewal as considered appropriate by the board.

The board may renew a license which expires while the license is suspended, but the renewal shall not affect the suspension. The board shall not renew a license which has been revoked. If a revoked license is reinstated under section 4753.10 of the Revised Code after it has expired, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in the amount equal to the renewal fee in effect on the last preceding regular renewal date on which it is reinstated, plus any delinquent fees accrued from the time of the revocation, if such a fee is prescribed by the board by rule. ~~A license shall not be renewed six years after the initial date on which the license was granted for a person initially licensed by exemption until that person presents to the board proof of completion of the following requirements:~~

~~(A) Upon presentation of proof of a bachelor's degree with a major in the area of licensure or successful completion of at least eighteen semester hours of academic credit, or its equivalent as determined by the board by rule for colleges and universities not using semesters, accumulated from accredited colleges and universities. These eighteen semester hours shall be in a variety of courses that provide instruction related to the nature of communication disorders and present information pertaining to and training in the evaluation and management of speech, language, and hearing disorders and shall be in the professional area, speech language pathology or audiology, for which licensure is requested.~~

~~(B) Successful completion of at least one hundred fifty clock hours of appropriately supervised, as determined by board rule, clinical experience in the professional area, speech language pathology or audiology, for which licensure is requested, with individuals who present a variety of communication disorders, and the experience shall have been obtained under the supervision of a licensed speech language pathologist or audiologist, or within another program approved by the board."~~

In line 68220, after "4736.12," insert "4753.03, 4753.06, 4753.071, 4753.08, 4753.09,"

In line 82960, after "sections" insert "4753.03, 4753.06, 4753.071, 4753.08, 4753.09,"

In line 72 of the title, after "4736.12," insert "4753.03, 4753.06, 4753.071, 4753.08, 4753.09,"

Between lines 71875 and 71876, insert:

"Of the foregoing appropriation item 200-427, Academic Standards, up to \$200,000 in each fiscal year may be used to support the Ohio Resource Center for Math and Science."

In line 71353, delete "\$13,132,665 \$13,132,665" and insert "\$13,232,665 \$13,232,665"

In line 71385, delete "\$7,482,048,102 \$7,571,309,899" and insert "\$7,482,148,102 \$7,571,409,899"

In line 71452, delete "\$10,119,320,385 \$10,600,545,703" and insert "\$10,119,420,385 \$10,600,645,703"

Between lines 71740 and 71741, insert:

"Of the foregoing appropriation item 200-421, Alternative Education Programs, \$100,000 in each fiscal year shall be used for the Youth Opportunities United, Inc."

In line 73724, delete the first "\$741,646" and insert "\$648,939"

In line 73725, delete the first "\$1,026,369" and insert "\$898,072"

In line 73726, delete the first "\$8,797,413" and insert "\$7,685,071"

In line 73727, delete the first "\$1,093,741" and insert "\$957,022"

In line 73728, delete "\$4,343,324 \$4,343,325" and insert "\$4,234,681 \$5,199,290"

In line 73729, delete the first "\$2,550,250" and insert "\$2,231,467"

In line 73730, delete the first "\$100,847" and insert "\$88,241"

In line 73731, delete the first "\$700,302" and insert "\$612,764"

In line 73732, delete the first "\$1,216,333" and insert "\$1,064,290"

In line 73733, delete the first "\$1,179,775" and insert "\$1,032,302"

In line 73752, delete "\$123,682,101 \$125,064,992" and insert "\$121,384,950 \$125,920,957"

In line 73756, delete "\$190,245,028 \$196,555,644" and insert "\$187,947,877 \$197,411,609"

In line 55616, strike through "June 30,"; after "~~2007~~" insert "December 31,"

In line 56013, strike through "June 30,"; after "~~2007~~" insert "December 31,"

In line 56317, strike through "June 30,"; after "~~2007~~" insert "December 31,"

The question being, "Shall the motion to amend be agreed to?"

Representative Seitz moved to amend the amendment as follows:

On page 39 of the amendment, delete the second set of lines 7 through 12 beginning "Between lines 62871 and" and insert:

"In line 338, after "5743.321," insert "5743.331,"

Between lines 62871 and 62872, insert:

"(9) Cigarettes that have a wholesale value of three hundred dollars or less used, stored, or consumed, but not for resale, in any month."

In line 63825, strike through "Every" and insert "Except as provided in section 5743.331 of the Revised Code, every"

Between lines 63847 and 63848, insert:

"Sec. 5743.331. Notwithstanding any other section in this chapter to the contrary, a person may use, store, or consume cigarettes with a wholesale value of not more than three hundred dollars in any month and not for resale without incurring liability for any tax levied under this chapter, and is not required to file any return that otherwise would be required under this chapter."

In line 83100, after "5743.33," insert "5743.331,"

In line 170 of the title, after "5743.321," insert "5743.331,""

On page S-5 of the synopsis of the amendment, delete the set of lines 15 through 23 beginning with "Use tax exemption for cigarettes"

The question being, "Shall the motion to amend the amendment be agreed to?"

The motion to amend the amendment was agreed to without objection.

The question recurring, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 98, nays 1, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Bocchieri	Book
Brinkman	Brown	Bubp	Buehrer
Calvert	Carano	Carmichael	Cassell
Chandler	Coley	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Dolan	Domenick
Driehaus	Evans C.	Evans D.	Faber
Fende	Fessler	Flowers	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hood	Hoops
Hughes	Kearns	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor	Miller	Oelslager
Otterman	Patton S.	Patton T.	Perry
Peterson	Raga	Raussen	Redfern
Reidelbach	Reinhard	Sayre	Schaffer

Schlichter	Schneider	Seaver	Seitz
Setzer	Skindell	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Uecker	Ujvagi
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Williams	Wolpert	Woodard	Yates
Yuko			Husted-98.

Representative Mitchell voted in the negative-1.

The motion was agreed to and the bill so amended.

The question recurring, "Shall the bill as amended pass?"

Representative Beatty moved to amend as follows:

In line 77684, delete "\$1,718,873,185" and insert "\$1,707,573,135"

In line 77693, delete "\$10,172,626 \$0" and insert "\$11,039,203
\$11,039,203"

In line 77695, delete "\$1,817,839 \$0" and insert "\$2,082,289 \$2,082,289"

In line 77722, delete "\$2,467,953,448 \$2,516,504,717" and insert
"\$2,469,084,475 \$2,518,326,159"

In line 77750, delete "\$2,491,459,332 \$2,540,210,601" and insert
"\$2,492,590,359 \$2,542,032,043"

Between lines 80514 and 80515, insert:

"Section _____ . OBJECT CODE 13 REDUCTIONS

The Director of Budget and Management shall reduce General Revenue Fund Object Code 13 expenditures by \$1,131,027 in fiscal year 2006 and \$1,821,442 in fiscal year 2007 without disrupting essential services of the state. No Object Code 13 reductions shall be made for the Department of Education, the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, the Department of Rehabilitation and Correction, the Board of Regents, or the Department of Youth Services. This reduction shall be used to restore funding in GRF appropriation items 235-514, Central State Supplement, and 235-520, Shawnee State Supplement."

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 56, nays 43, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels

Dolan	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Hagan
Hood	Hoops	Hughes	Kearns
Kilbane	Latta	Law	Martin
McGregor	Patton T.	Peterson	Raga
Raussen	Reidelbach	Reinhard	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Smith G.	Stewart J.	Taylor
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	Widener	Widowfield
Willamowski	Wolpert	Woodard	Husted-56.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Fende	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Mason	Miller	Mitchell	Oelslager
Otterman	Patton S.	Perry	Redfern
Sayre	Skindell	Smith S.	Stewart D.
Strahorn	Sykes	Ujvagi	White
Williams	Yates		Yuko-43.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Barrett moved to amend as follows:

In line 72811, after the period insert ""Eligible child" also means a child not eligible for Title IV-A services who meets the eligibility criteria established by the Department of Job and Family Services under division (C)(6) of Section 206.67.12 of this act."

In line 72814, delete "both of the following:"

In line 72815, delete "(a) Early" and insert "early"

In line 72816, delete the semicolon

In line 72817, delete "(b) Child" and insert ", and child"; after "care" insert ", or a program for eligible children that is not funded with Title IV-A funds that meets the standards established by the Department of Job and Family Services under division (C)(6) of Section 206.67.12 of this act."

In line 72819, after "funds" insert ", or other funds pursuant to divisions (C)(6) and (F) of Section 206.67.12 of this act,"

In line 72865, delete "Title IV-A"

Between lines 74430a and 74431, insert:

"GRF 600-XXXEarly Learning Initiative\$15,000,000
\$15,000,000"

In line 74432, delete "\$874,415,388\$876,233,691" and insert
"\$889,415,388\$891,233,691"

In line 74434, delete "\$960,440,886\$961,966,182" and insert
"\$975,440,886\$976,966,182"

In line 74504, delete "\$7,406,634,383\$7,417,683,660" and insert
"\$7,421,634,383\$7,432,683,660"

In line 75494, after the period insert ""Eligible child" also means a child not eligible for Title IV-A services who meets the eligibility criteria established by the Department of Job and Family Services under division (C)(6) of this section."

In line 75497, delete "both of the following:"

In line 75498, delete "(a) Early" and insert "early"

In line 75500, delete the semicolon

In line 75501, delete "(b) Child" and insert ", and child"; after "care" insert ", or a program for eligible children that is not funded with Title IV-A funds that meets the standards established by the Department of Job and Family Services under division (C)(6) of this section."

In line 75503, after "funds" insert ", or other funds pursuant to divisions (C)(6) and (F) of this section,"

In line 75529, delete "Title IV-A"

Between lines 75550 and 75551, insert:

"(6) In consultation with the Department of Education, establish eligibility criteria for children who are not eligible for Title IV-A funds who desire to enroll in an early learning program and establish standards for early learning programs that are not funded with Title IV-A funds."

In line 75552, delete "Title IV-A"

In line 75557, after "paid" insert "from Title IV-A funds"

In line 75558, delete "eligible"

In line 75559, after "children" insert "eligible for Title IV-A services"

In line 75569, after the period insert "The Department shall create additional slots to the extent that funds from sources other than Title IV-A allow."

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelsluger
Patton T.	Peterson	Raga	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Raussen	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Ujvagi moved to amend as follows:

In line 308, delete "and"

In line 309, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 311, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 336, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

Between lines 54821 and 54822, insert:

"~~Sec. 5703.65~~**5703.58.** Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis

for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

Sec. 5703.61. (A) As used in this section:

(1) "Listed transaction" means a listed transaction as defined in 26 C.F.R. 1.6011-4, or a transaction the same as, or substantially similar to, such a listed transaction, that the tax commissioner determines to be a tax avoidance transaction for purposes of Chapter 5733. or 5747. of the Revised Code, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(2) "Reportable transaction" means a reportable transaction as defined in 26 C.F.R. 1.6011-4 that the tax commissioner determines as having a potential for tax avoidance or evasion, including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(3) "Reportable transaction disclosure statement" means the "reportable transaction disclosure statement" (Form 8886) required to be filed for federal income tax purposes under 26 C.F.R. 1.6011-4, or any successor to that form serving substantially the same purpose.

(B)(1) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file a reportable transaction disclosure statement for federal tax purposes for the same year or any of the preceding three years shall file a copy of that statement with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The statement shall be filed in the manner prescribed by the tax commissioner.

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code.

(C) Any person subject to the tax imposed under section 5733.06, 5733.41, 5747.02, or 5747.41 of the Revised Code for a tax year, taxable year, or qualifying taxable year beginning on or after January 1, 2005, and required to file an investor reporting of tax shelter registration number form for federal tax

purposes for the same year or any of the preceding three years shall file a copy of that form with the report or return required to be filed under section 5733.02, 5747.08, or 5747.42 of the Revised Code. The form shall be filed in the manner prescribed by the tax commissioner.

Sec. 5703.62. (A) As used in this section:

(1) "Listed transaction" has the same meaning as in section 5703.61 of the Revised Code.

(2) "Listed transaction organizer" means any person that discovers, creates, investigates, or initiates investment in a listed transaction, devises the business or financial plans for the investment, or carries out such plans through negotiations or transactions with others. "Listed transaction promoter" includes any other person who participates in the organization or management of the listed transaction.

(3) "Tax shelter" means a tax shelter as defined in section 6111 of the Internal Revenue Code, including a tax shelter described in section 6111(d) of the Internal Revenue Code, except that:

(a) The tax shelter ratio of a tax shelter shall be determined as provided in section 6111(c) of the Internal Revenue Code but inserting "or under Chapter 5733, or 5747, of the Revised Code" after "subtitle A" in subsection (c)(2)(A) of that section.

(b) With respect to a tax shelter described in section 6111(d) of the Internal Revenue Code, subsection (d)(1)(A) of that section shall be modified by inserting "or the taxes imposed under Chapter 5733, or 5747, of the Revised Code" after "Federal income tax."

(4) "Ohio-connected tax shelter" means a tax shelter that is organized in this state, does business in this state, or derives income from sources in this state, or that has at least one investor that is a taxpayer for the purposes of Chapter 5733, or 5747, of the Revised Code.

(5) "Potentially abusive tax shelter" has the same meaning as in section 6112 of the Internal Revenue Code.

(6) "Tax shelter organizer" means a tax shelter organizer as defined in section 6111 of the Internal Revenue Code.

(7) "Tax shelter registration application" means the "application for tax shelter registration" form (Form 8264) required to be filed for federal income tax purposes, or any successor to that form serving substantially the same purpose.

(B)(1) Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that also is an Ohio-connected tax shelter shall file a copy of the tax shelter registration application with the tax commissioner not later than the day on which the first offering for sale of interests in the tax shelter occurs. Any tax shelter organizer required by section 6111 of the Internal Revenue Code to register a tax shelter that becomes an

Ohio-connected tax shelter after the day on which the first offering for sale of interests in the tax shelter occurs shall file a copy of the tax shelter registration application with the tax commissioner not later than sixty days after the day on which the tax shelter becomes an Ohio-connected tax shelter. The copy of the tax shelter registration application shall be filed in the manner prescribed by the tax commissioner.

(2) Any tax shelter organizer of tax shelter that is an Ohio-connected tax shelter at the time the organizer files the application for tax registration number with the internal revenue service shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after receiving the number from the internal revenue service. If the tax shelter becomes an Ohio-connected tax shelter after the organizer files the application for tax registration number with the internal revenue service, the organizer shall provide to the tax commissioner the registration number of the tax shelter not later than sixty days after the tax shelter first becomes an Ohio-connected tax shelter.

(C) Any listed transaction organizer of a transaction that is organized in this state, doing business in this state, or deriving income from sources in this state or that has at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code and that becomes a listed transaction at any time after January 1, 2005, shall file a copy of the tax shelter registration application with the tax commissioner if such an application was required to be filed for federal income tax purposes, or, if such an application was not required to be so filed, shall file any other form prescribed by the tax commissioner for the purpose of registering the transaction with the tax commissioner. The filing shall be made not later than the later of sixty days after the transaction becomes a listed transaction or sixty days after the transaction becomes organized in this state, first does business in this state, first derives income from sources in this state, or first has an investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code.

(D) Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that is an Ohio-connected tax shelter or that, at the time it is first offered for sale to investors, is organized in this state, doing business in this state, deriving income from sources in this state, or has at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

Any person required by section 6112 of the Internal Revenue Code to maintain a list of investors in a potentially abusive tax shelter that, at any time after it is first offered for sale to investors, the person knows has become an Ohio-connected tax shelter or began doing business in this state, deriving income from sources in this state, or acquired at least one investor that is a taxpayer for the purposes of Chapter 5733. or 5747. of the Revised Code shall maintain a list

of investors in the same manner required under section 6112 of the Internal Revenue Code and shall provide the list to the tax commissioner upon the tax commissioner's request.

(E)(1)(a) If a person required by division (B)(1) of this section to file a copy of a tax shelter registration application fails to file the copy as required, a penalty shall be imposed equal to fifteen thousand dollars.

(b) If a person required by division (B)(2) of this section to provide the registration number of the tax shelter to the tax commissioner fails to provide that number as required by that division, a penalty shall be imposed equal to fifteen thousand dollars.

(c) If a person required by division (C) of this section to file with the tax commissioner a copy of the tax shelter registration application or other form prescribed by the commissioner as required by that division, a penalty shall be imposed equal to the greater of one hundred thousand dollars or fifty per cent of the gross income derived from the transaction.

(d) If a person required to maintain a list of investors in a potentially abusive tax shelter and to provide it to the tax commissioner upon the tax commissioner's request fails to provide the list to the commissioner as required under division (D) of this section, a penalty shall be imposed equal to ten thousand dollars for each day the person fails to provide the list.

(2) Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. of the Revised Code, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06 of the Revised Code.

Sec. 5703.63. As used in sections 5703.63 to 5703.65 of the Revised Code:

(A)(1) "Qualified entity" means a person satisfying all of the following:

(a) The person is a corporation, a limited liability company, or a qualified trust;

(b) Neither the person nor any predecessor to the person has previously filed a report or return under Chapter 5733. or 5747. of the Revised Code;

(c) Neither the person nor any predecessor to the person has previously been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733. or 5747. of the Revised Code; and

(d) The person voluntarily comes forward before any unilateral contact from the tax commissioner, the department of taxation, or any agent or employee of the department, applies for a voluntary disclosure agreement in the form and manner prescribed by the tax commissioner, and makes a full and accurate

statement of its activities in this state for the six immediately preceding taxable years.

(2) "Qualified entity" does not include any of the following:

(a) A person that is organized under the laws of this state.

(b) A person that holds a license to transact business in this state issued by the secretary of state.

(c) A person that maintains and staffs a permanent facility in this state. For the purposes of this subdivision, storing tangible personal property in a public warehouse pursuant to a public warehouse contract does not constitute maintaining a permanent facility in this state.

(B) "Qualified shareholder" means an individual satisfying all of the following:

(1) A nonresident on the signing date of the voluntary disclosure agreement; and

(2) A shareholder of an S corporation that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the shareholder's liability would be disclosed on that S corporation's voluntary disclosure agreement as required under division (C)(2) of that section.

(C) "Qualified member" means an individual, corporation, or limited liability company that satisfies all of the following:

(1)(a) In the case of an individual, is a nonresident on the signing date of the voluntary disclosure agreement; or

(b) In the case of a corporation or limited liability company, is not organized under the laws of this state or does not hold a license to transact business in this state issued by the secretary of state under section 1703.03 or 1705.54 of the Revised Code.

(2) A member of a limited liability company that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the member's liability would be disclosed on that limited liability company's voluntary disclosure agreement as required under division (C)(2) of that section.

(D) "Qualified trust" means a trust satisfying both of the following:

(1) Administration of the trust, other than administration activities that are inconsequential to the overall administration of the trust, has never been performed in this state; and

(2) For the six taxable years ending immediately before the signing date of the voluntary disclosure agreement, the trust has had no resident beneficiary other than a resident beneficiary whose interest in the trust is contingent. For the

purposes of this division, a resident beneficiary's interest is not contingent if the trust has made any distribution to the resident beneficiary at any time during the six taxable years ending immediately before the signing date of the voluntary disclosure agreement.

(E) "Qualified beneficiary" means an individual who satisfies all of the following:

(1) The individual is a nonresident on the signing date of the voluntary disclosure agreement and a nonresident during each of the six taxable years ending immediately before the signing date of the voluntary disclosure agreement; and

(2) The individual is a beneficiary of a qualified trust that has applied for a voluntary disclosure agreement under section 5703.64 of the Revised Code under which all material facts pertinent to the beneficiary's liability would be disclosed on that trust's voluntary disclosure agreement as required under division (C)(2) of that section.

(F) "Qualified person" means a qualified entity, qualified member, qualified shareholder, or qualified beneficiary.

(G) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code.

(H) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(I) "Signing date" of a voluntary disclosure agreement means the date on which a person duly authorized by the tax commissioner signs the agreement.

Sec. 5703.64. (A) The tax commissioner may enter into a voluntary disclosure agreement with any qualified entity, qualified shareholder, qualified member, or qualified beneficiary. The agreement is binding on both the tax commissioner and the qualified entity, qualified shareholder, qualified member, or qualified beneficiary.

(B) The tax commissioner shall do all of the following:

(1) Prescribe procedures for qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to apply for voluntary disclosure agreements.

(2) Accept applications on an anonymous basis from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries for voluntary disclosure agreements.

(3) Provide procedures for accepting applications for voluntary disclosure agreements through the national nexus program administered by the multistate tax commission.

(4) For the purpose of considering offers from qualified entities and their qualified shareholders, qualified members, or qualified beneficiaries to enter into voluntary disclosure agreements, take into account the following criteria:

(a) The nature and magnitude of the qualified entity's previous presence and activity in this state and the facts and circumstances by which the nexus of the qualified entity or qualified shareholder, qualified member, or qualified beneficiary's with this state was established;

(b) The extent to which the weight of the factual circumstances demonstrates that a prudent business person exercising reasonable care would conclude that the previous activities and presence in this state were or were not immune from taxation by this state by reason of Public Law 86-272, 73 Stat. 555, 15 U.S.C. 381, or otherwise;

(c) Reasonable reliance on the advice of a person in a fiduciary position or other competent advice that the activities of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary were immune from taxation by this state;

(d) Lack of evidence of willful disregard or neglect of the tax laws of this state on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary;

(e) Demonstrations of good faith on the part of the qualified entity, qualified shareholder, qualified member, or qualified beneficiary; and

(f) Benefits that will accrue to the state by entering into a voluntary disclosure agreement.

(5) Act on any application for a voluntary disclosure agreement within one hundred twenty days after receiving the application.

(6) Enter into voluntary disclosure agreements with qualified entities, qualified shareholders, qualified members, or qualified beneficiaries, as authorized in division (A) of this section and based on the criteria set forth in division (B)(4) of this section.

(C) A voluntary disclosure agreement entered into by the tax commissioner and a qualified entity, qualified shareholder, qualified member, or qualified beneficiary shall provide for both of the following:

(1) That the tax commissioner shall, with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as provided in division (E)(1), (2), or (3) of this section:

(a) Waive the tax commissioner's authority to make an assessment for taxes, additions to tax, fees, or penalties under Chapter 5733, or 5747, of the Revised Code with respect to each taxable year ending before six years from the signing date of the voluntary disclosure agreement;

(b) With respect to each of the six taxable years ending immediately

before the signing date of the voluntary disclosure agreement, agree to waive any or all of the following, as specified in the agreement:

(i) Any penalty related to a failure to make and file a report or return, as provided in division (A)(1) of section 5733.28 or division (A)(1) of section 5747.15 of the Revised Code.

(ii) Any penalty related to a failure to pay any amount due by the date prescribed for payment, as provided in division (A)(2) of section 5733.28 or division (A)(2) of section 5747.15 of the Revised Code.

(iii) Any penalty or addition to tax related to an underpayment of estimated tax, as provided in section 5733.29, division (D) of section 5747.09, or division (C) of section 5747.43 of the Revised Code.

(iv) Any penalty prescribed by 5733.21 of the Revised Code.

(2) That the qualified entity, qualified shareholder, qualified member, or qualified beneficiary, with respect to each of the six taxable years ending immediately preceding the signing date of the written agreement, shall do both of the following:

(a) Voluntarily and fully disclose all material facts pertinent to the qualified entity's, qualified shareholder's, qualified member's, or qualified beneficiary's liability for any taxes imposed under Chapter 5733. or 5747. of the Revised Code;

(b) Except as provided in division (D) of this section, within thirty days after the signing date of the voluntary disclosure agreement, file all returns required under Chapter 5733. or 5747. of the Revised Code and pay in full any tax, interest, fee, and penalties imposed under Chapter 5733. or 5747. of the Revised Code, other than penalties specifically waived under the terms of the voluntary disclosure agreement in the manner prescribed by the tax commissioner.

(c) Agree to comply with all provisions of Chapter 5733. or 5747. of the Revised Code and other laws governing the taxes imposed under those chapters in subsequent taxable years by filing all returns required and paying all amounts due under those chapters.

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the agreement to be paid in installments, with provisions for the accrual of interest on balances that remain outstanding after a specified date.

(E)(1) Division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified shareholder was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the S corporation that filed an application under this section.

(2) In the case of a qualified member who is an individual, division (C)(1) of this section does not apply to any of the six taxable years immediately preceding the signing date that the qualified member was a resident required to file a return or report under Chapter 5747. of the Revised Code or to any penalties or additions to tax attributable to income other than the Ohio-source income from the limited liability company that filed an application under this section.

(3) Division (C)(1) of this section does not apply to any penalties or additions to tax attributable to income other than income from the trust that filed an application under this section.

(F) The Tax Commissioner may extend the time for filing returns and paying amounts due to one hundred twenty days after the signing date of the voluntary disclosure agreement.

(G) Nothing in sections 5703.63 to 5703.65 of the Revised Code shall be construed to mean that by accepting and signing a voluntary disclosure agreement the tax commissioner abdicates the right and authority to examine returns and determine the correct amount of tax for any of the taxable years covered by the voluntary disclosure period agreed upon and to assess any additional tax, penalty, or interest owed as a result of that examination, as otherwise provided by law.

Sec. 5703.65. (A) A voluntary disclosure agreement shall be null and void if the tax commissioner finds that, with respect to the agreement, any of the following circumstances exist:

(1) The qualified entity has misrepresented any material fact in applying for the voluntary disclosure agreement or in entering into the agreement.

(2) The qualified entity fails to file any report or return for any taxable year covered by the agreement on or before the due date prescribed under the terms of the agreement.

(3) The qualified entity fails to pay in full any tax, fee, penalty, or interest due within the time prescribed under the agreement or to pay any installments thereof due within the time prescribed under the terms of an installment payment arrangement in accordance with division (D) of section 5703.64 of the Revised Code.

(4) The tax shown by the qualified entity on its report or return filed for any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733. or 5747. of the Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

(5) The qualified entity fails to begin to prospectively comply with Chapter 5733. or 5747. of the Revised Code or both, as applicable to the entity, and all other laws governing the taxes imposed under those chapters, according

to the terms of the voluntary disclosure agreement.

(B) If the tax commissioner finds that the qualified entity has failed to comply under any of the circumstances that render the voluntary disclosure agreement null and void as set forth in division (A) of this section, the limitation on the tax commissioner issuing an assessment for any taxable year covered by the agreement, and the waiver of any penalties under the agreement, are not binding on the tax commissioner.

Sec. 5703.66. (A) As used in this section:

(1) "Listed transaction" and "reportable transaction" have the same meanings as in section 5703.61 of the Revised Code.

(2) "Reportable transaction understatement" means the sum of divisions (A)(2)(a) and (b) of this section:

(a) The product of division (A)(2)(a)(i) and (ii) of this section:

(i) The amount of the increase, if any, in net income or Ohio taxable income resulting from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of that item as shown on the taxpayer's tax report or return; times

(ii) Eight and one-half per cent in the case of a taxpayer subject to division (A) or (B) of section 5733.06 of the Revised Code or seven and one-half per cent in the case of a taxpayer subject to section 5747.02 of the Revised Code.

For the purpose of division (A)(2) of this section, any reduction of the excess of deductions allowed for the taxable year over gross income for that year, and any reduction in the amount of capital losses that would be allowed for that year without regard to section 1211 of the Internal Revenue Code, shall be treated as an increase in net income or Ohio taxable income.

(b) The amount of the decrease, if any, in the aggregate amount of credits allowed under Chapter 5733. or 5747. of the Revised Code, as applicable, that results from a difference between the taxpayer's treatment of an item to which this section applies, as shown on the taxpayer's tax report or return, and the proper tax treatment of that item.

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a reportable transaction having as a significant purpose the avoidance or evasion of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount equal to twenty per cent of the amount of that understatement. The amount added under this section is in addition to any other penalty or other additions to tax under Chapter 5733. or 5747. of the Revised Code, shall be assessed in the same manner as such penalties or additions to tax, and shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable to the taxpayer.

(C) Any tax treatment included with an amended report or return shall not be taken into account in determining the amount of any reportable transaction understatement if the amended report or return is filed after the earlier of the date the taxpayer is first contacted by either the internal revenue service for federal income tax purposes or the tax commissioner regarding the examination of the report or return."

In line 68241, after "5703.50," insert "5703.65,"

In line 77673, delete "\$0" and insert "\$9,348,300"

In line 77675, delete "\$0" and insert "\$63,340,676"

In line 77676, delete "\$0" and insert "\$52,601,934"

In line 77678, delete "\$0" and insert "\$23,186,194"

In line 77684, delete "\$1,559,096,031 \$1,718,873,185" and insert "\$1,584,096,031 \$1,584,096,031"

In line 77693, delete "\$0" and insert "\$9,663,995"

In line 77695, delete "\$0" and insert "\$1,636,055"

In line 77715, delete "\$58,144,139" and insert "\$73,144,139"

In line 77722, delete "\$2,467,953,448 \$2,516,504,717" and insert "\$2,492,953,448 \$2,556,504,717"

In line 77750, delete "\$2,491,459,332 \$2,540,210,601" and insert "\$2,516,459,332 \$2,580,210,601"

In line 77839, before "fiscal" insert "each"; delete "2006"

In line 77846, before "fiscal" insert "each"; delete "2006"

In line 77850, before "fiscal" insert "each"; delete "2006"

In line 77872, before "fiscal" insert "each"; delete "2006"

In line 77890, delete "fiscal year 2006" and insert "both years of the biennium"

In line 77896, after the period insert "In fiscal year 2007, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2004 and 2005 all-terms subsidy-eligible General Studies FTEs."

In line 77913, before "fiscal" insert "each"; delete "2006"

In line 77917, delete "year" and insert "years"; after "2006" insert "and 2007"

In line 77928, before "fiscal" insert "each"; delete "2006"

In line 77959, before "fiscal" insert "each"; delete "2006"

In line 78007, after "2006" insert "and \$4,686,194 in fiscal year 2007"

Between lines 78023 and 78024, insert:

"Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$500,000 in fiscal year 2007 shall be distributed for the Technology Commercialization Incentive. The purpose of the Technology Commercialization Incentive is to reward public and private colleges and universities for successful technology transfer to Ohio-based business and industry resulting in the commercialization of new products, processes, and services and the establishment of new business start-ups within the state. The Third Frontier Commission, with counsel from the Third Frontier Advisory Board, shall establish the eligibility criteria for public and private colleges and universities interested in applying for Technology Commercialization Incentive funding. To qualify for the funds, public and private colleges and universities must maintain a significant investment in their own technology-transfer and commercialization operation and capabilities, and possess a significant history of successful research partnerships with Ohio-based business and industry."

Delete lines 78182 through 78196 and insert:

"MODEL	FY 2006	FY 2007
General Studies I	\$ 4,655	\$ 4,655
General Studies II	\$ 5,135	\$ 5,135
General Studies III	\$ 6,365	\$ 6,365
Technical I	\$ 5,926	\$ 5,926
Technical III	\$ 9,107	\$ 9,107
Baccalaureate I	\$ 7,160	\$ 7,160
Baccalaureate II	\$ 8,235	\$ 8,235
Baccalaureate III	\$ 11,841	\$ 11,841
Masters and Professional I	\$ 19,088	\$ 19,088
Masters and Professional II	\$ 20,984	\$ 20,984
Masters and Professional III	\$ 27,234	\$ 27,234
Medical I	\$ 29,143	\$ 29,143
Medical II	\$ 37,172	\$ 37,172
MPD I	\$ 13,645	\$ 13,645"

In line 78201, before "fiscal" insert "each"; delete "2006"

In line 78215, after "2006" insert "or fiscal year 2007"

Delete lines 78225 through 78232 and insert:

	FY 2006	FY 2007
"Classrooms	\$5.86	\$5.86
Laboratories	\$7.31	\$7.31
Offices	\$5.86	\$5.86
Audio Visual Data Processing	\$7.31	\$7.31
Storage	\$2.59	\$2.59
Circulation	\$7.39	\$7.39
Other	\$5.86	\$5.86"

In line 78249, before "fiscal" insert "each"; delete "2006"

Delete lines 78250 through 78264 and insert:

	FY 2006	FY 2007
"General Studies I	\$ 512	\$ 512
General Studies II	\$ 662	\$ 662
General Studies III	\$1,464	\$1,464
Technical I	\$ 752	\$ 752
Technical III	\$1,343	\$1,343
Baccalaureate I	\$ 639	\$ 639
Baccalaureate II	\$1,149	\$1,149
Baccalaureate III	\$1,262	\$1,262
Masters and Professional I	\$1,258	\$1,258
Masters and Professional II	\$2,446	\$2,446
Masters and Professional III	\$3,276	\$3,276
Medical I	\$1,967	\$1,967
Medical II	\$3,908	\$3,908
MPD I	\$1,081	\$1,081"

In line 78267, before "fiscal" insert "each"; delete "2006"

In line 78275, delete "in" and insert "and for each"; delete "2006"

In line 78311, before "fiscal" insert "each"; delete "2006" and insert "of the biennium"

In line 78318, before "fiscal" insert "each"; delete "2006"

In line 78337, after "2006" insert "and three per cent in fiscal year 2007"

In line 78353, before "fiscal" insert "each"; delete "2006"

In line 78357, before "fiscal" insert "any"

In line 78358, delete "2006"

In line 78373, before "fiscal" insert "each"; delete "2006"

In line 78388, before "fiscal" insert "any"; delete "2006"

In line 78392, before "fiscal" insert "any"; delete "2006"

In line 78408, after "2006" insert "and fiscal year 2007"

Delete lines 78412 through 78420

Between lines 82840 and 82841, insert:

"Section ____. (A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary

compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2005.

The Tax Commissioner shall issue forms and instructions and may take any other actions necessary to implement this section. The Tax Commissioner shall publicize the voluntary compliance initiative so as to maximize public awareness of and participation in the initiative.

(C) Any person satisfying the requirements of division (F) of this section may enter into an agreement with the Tax Commissioner providing for all of the following:

(1) The Tax Commissioner shall waive or abate all penalties imposed under Chapter 5703., 5733., or 5747., of the Revised Code as applicable, for all tax years or taxable years for which the person elects to participate in the initiative as a result of the underreporting of tax liabilities attributable to the use of abusive tax avoidance transactions.

(2) No criminal action shall be brought against the person for the taxable years with respect to issues for which the person voluntarily complies under this section.

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2005.

(4) The person may not file a claim for refund for amounts paid in connection with abusive tax avoidance transactions under this section.

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2004, any of the following applies:

(1) A criminal complaint was filed against the person in connection with an abusive tax avoidance transaction or transactions.

(2) The person is the subject of a criminal investigation in connection with an abusive tax avoidance transaction.

(E) No refund or credit shall be granted with respect to any penalty paid before a person applies for participation in the voluntary compliance initiative authorized by this section.

(F) The voluntary compliance initiative applies to any person that was not eligible to participate in the Internal Revenue Service's Offshore Voluntary Compliance Initiative described in Revenue Procedure 2003-11, and that, during the three-month period of the initiative period, does both of the following:

(1) Files an amended tax report or return under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, for each taxable year for which the person has previously filed a report or return using an abusive tax avoidance transaction to underreport the person's tax liability for that taxable year. Each amended report or return shall report all income from all sources, without regard to the abusive tax avoidance transaction.

(2)(a) Except as provided in division (F)(2)(b) of this section, pays in full all taxes and interest due.

(b) The Tax Commissioner may enter into an installment payment agreement in lieu of the full payment required under division (F)(2)(a) of this section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

(G) After the end of the three-month period during which the initiative is conducted, the Tax Commissioner may issue a deficiency assessment upon an amended report or return filed pursuant to division (F)(1) of this section, impose penalties, or initiate criminal action arising from a violation of any provision of Chapter 5733. or 5747. of the Revised Code with respect to the difference between the amount shown on that report or return and the correct amount of tax. Such an action does not invalidate any waiver granted under division (C) of this section.

(H) In addition to any other authority to examine reports or returns under the Revised Code, for the purpose of improving state tax administration, the Tax Commissioner may inquire into the facts and circumstances related to the use of abusive tax avoidance transactions to underreport the tax liabilities for which a taxpayer has participated in the voluntary compliance initiative under this section. Persons shall cooperate fully with such inquiries. Failure by a person to fully cooperate in such an inquiry shall render the waiver of penalties under this section null and void, and the person may be assessed any penalties that may apply under law without regard to this section.

(I) Notwithstanding section 5733.11 or 5747.13 of the Revised Code, with respect to proposed deficiency assessments related to an abusive tax avoidance transaction, a notice of a proposed deficiency assessment may be mailed to the taxpayer within eight years after the report or return was filed, or within the period otherwise provided in that section, whichever expires later.

Section ____. Section ____ of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section ____ of this act. The repeal of Section ____ of this act does not affect, after the effective date of the

repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those agreements."

In line 83066, after "5703.50," insert "5703.61, 5703.62, 5703.63, 5703.64, new 5703.65, 5703.65 (5703.58), 5703.66,"

In line 133 of the title, delete "and"

In line 134 of the title, after "(5121.01)" insert ", and 5703.65 (5703.58)"

In line 135 of the title, delete the first "and"; after "5111.262" insert ", and 5703.65"

In line 168 of the title, after "5703.057," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 59, nays 40, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Kilbane	Latta
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert		Husted-59.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Koziura	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard	Yates	Yuko-40.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Blessing moved to amend as follows:

In line 65987, after "realized" insert "on sales by a person"

In line 65989, delete "from activities"

In line 65990, after "income" insert "of the person"

The question being, "Shall the motion to amend be agreed to?"

The yeas and nays were taken and resulted - yeas 96, nays 3, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Bocchieri	Book
Brinkman	Brown	Bubp	Buehrer
Calvert	Carano	Carmichael	Cassell
Chandler	Coley	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Dolan	Domenick
Driehaus	Evans C.	Evans D.	Faber
Fende	Fessler	Flowers	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hood	Hoops
Hughes	Kearns	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor	Miller	Mitchell
Oelslager	Otterman	Patton S.	Patton T.
Perry	Peterson	Raga	Raussen
Redfern	Reidelbach	Reinhard	Sayre
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart D.
Stewart J.	Strahorn	Taylor	Trakas
Uecker	Ujvagi	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Williams	Wolpert
Woodard	Yates	Yuko	Husted-96.

Representatives Skindell, Smith S., and Sykes voted in the negative-3.

The motion was agreed to and the bill so amended.

The question recurring, "Shall the bill as amended pass?"

Representative Chandler moved to amend as follows:

In line 48686, delete "either of"

Delete line 48687

In line 48688, delete "(1) A" and insert "a"

In line 48689, after "Code" delete the balance of the line and insert an underlined semicolon

Delete lines 48690 through 48707

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 58, nays 41, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hoops	Hughes
Kearns	Kilbane	Latta	Law
Martin	McGregor	Oelslager	Patton T.
Peterson	Raga	Rausen	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Wolpert			Husted-58.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocieri
Book	Brinkman	Brown	Carano
Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Hood	Key	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Smith S.	Stewart D.	Strahorn	Sykes
Ujvagi	Williams	Woodard	Yates
			Yuko-41.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Ujvagi moved to amend as follows:

In line 295, after "5739.01," insert "5739.011,"

In line 60482, strike through "(43)" and insert "(42)"

Between lines 61165 and 61166, insert:

"**Sec. 5739.011.** (A) As used in this section:

(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale.

(2) "Manufacturing facility" means a single location where a

manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.

(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.

(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.

(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the manufacturer. An item is completed when all processes that change or alter its state or form or enhance its value are finished, even though the item subsequently will be tested to ensure its quality or be packaged for storage or shipment.

(6) "Continuous manufacturing operation" means the process in which raw materials or components are moved through the steps whereby manufacturing occurs. Materials handling of raw materials or parts from the point of receipt or preproduction storage or of a completed product, to or from storage, to or from packaging, or to the place from which the completed product will be shipped, is not a part of a continuous manufacturing operation.

(B) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the Revised Code, the "thing transferred" includes, but is not limited to, any of the following:

(1) Production machinery and equipment that act upon the product or machinery and equipment that treat the materials or parts in preparation for the manufacturing operation;

(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;

(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;

(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;

(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;

(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;

(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;

(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;

(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;

(11) Parts, components, and repair and installation services for items described in division (B) of this section.

(C) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:

(1) Tangible personal property used in administrative, personnel, security, inventory control, record-keeping, ordering, billing, or similar functions;

(2) Tangible personal property used in storing raw materials or parts prior to the commencement of the manufacturing operation or used to handle or store a completed product, including storage that actively maintains a completed product in a marketable state or form;

(3) Tangible personal property used to handle or store scrap or waste intended for disposal, sale, or other disposition, other than reuse in the manufacturing operation at the same manufacturing facility;

(4) Tangible personal property that is or is to be incorporated into realty;

(5) Machinery, equipment, and other tangible personal property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar

environmental control, except machinery, equipment, and other tangible personal property that totally regulates the environment in a special and limited area of the manufacturing facility where the regulation is essential for production to occur;

(6) Tangible personal property used for the protection and safety of workers, unless the property is attached to or incorporated into machinery and equipment used in a continuous manufacturing operation;

(7) Tangible personal property used to store fuel, water, solvents, acid, oil, or similar items consumed in the manufacturing operation;

(8) Machinery, equipment, and other tangible personal property used to clean, repair, or maintain real or personal property in the manufacturing facility;

(9) Motor vehicles registered for operation on public highways.

(D) For purposes of division (B)~~(43)~~(42)(g) of section 5739.02 of the Revised Code, if the "thing transferred" is a machine used by a manufacturer in both a taxable and an exempt manner, it shall be totally taxable or totally exempt from taxation based upon its quantified primary use. If the "things transferred" are fungibles, they shall be taxed based upon the proportion of the fungibles used in a taxable manner."

In lines 61373 and 61517, strike through "(43)" and insert "(42)"

Strike through lines 61522 through 61535

In lines 61536, 61546, and 61553, strike through "(36)" and insert "(35)"

In line 61561, strike through "(37)" and insert "(36)"

In line 61564, strike through "(38)" and insert "(37)"

In line 61569, strike through "(39)" and insert "(38)"

In line 61581, strike through "(40)" and insert "(39)"

In line 61584, strike through "(41)" and insert "(40)"

In line 61597, strike through "(43)" and insert "(42)"

In line 61601, strike through "(42)" and insert "(41)"

In line 61605, strike through "(43)" and insert "(42)"

In line 61664, strike through "(36)" and insert "(35)"

In line 61680, strike through "(43)" and insert "(42)"

In line 61683, strike through "(44)" and insert "(43)"

In line 61690, strike through "(45)" and insert "(44)"

In line 61696, strike through "(46)" and insert "(45)"

In line 68250, after "5739.01," insert "5739.011,"

Between lines 77689a and 77690, insert:

"GRF 235-509 Women in Transition \$187,245 \$187,245"

In line 77722, delete "\$2,467,953,448 \$2,516,504,717" and insert "\$2,468,140,693 \$2,516,691,962"

In line 77750, delete "\$2,491,459,332 \$2,540,210,601" and insert "\$2,491,646,577 \$2,540,397,846"

In line 83072, delete "5739.02,"

In line 83100, after "5733.122," insert "5739.011,"

Between lines 83101 and 83102, insert:

"**Section ____.** The amendments by this act to section 5739.02 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into effect as follows:

(A) The amendment to division (A)(1) of the section goes into immediate effect when this act becomes law.

(B) The amendment striking through division (B)(35) of the section goes into effect July 1, 2005."

In line 113 of the title, after "5739.01," insert "5739.011,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 56, nays 43, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Blessing	Bubp
Buehrer	Calvert	Carmichael	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.
Faber	Fessler	Flowers	Gibbs
Gilb	Hagan	Hood	Hoops
Hughes	Kearns	Latta	Law
Martin	McGregor	Oelslager	Peterson
Raga	Raussen	Reidelbach	Reinhard
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart J.
Trakas	Uecker	Wagner	Wagoner
Walcher	Webster	White	Widener
Widowfield	Willamowski	Wolpert	Husted-56.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Carano

Cassell	Chandler	DeBose	DeGeeter
Distel	Domenick	Driehaus	Fende
Garrison	Hartnett	Harwood	Healy
Key	Kilbane	Koziura	Mason
Miller	Mitchell	Otterman	Patton S.
Patton T.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Taylor	Ujvagi	Williams
Woodard	Yates		Yuko-43.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

Representative Harwood moved to amend as follows:

In line 270, delete "5111.019,"

In line 295, after "5739.025," insert "5739.035,"; after "5739.10," insert "5739.21,"

Delete lines 43790 through 43814

In line 60351, after the comma insert "unless that service is a service described in division (B)(3)(v) of this section."

Between lines 60370 and 60371, insert:

"(v) On and after July 1, 2005, plastic or cosmetic surgery service is or is to be provided, when the surgery is performed for aesthetic purposes, including, but not limited to, rhinoplasty, mammary augmentation or reduction, tattoo removal, excision of keloids, fascioplasty, osteoplasty, including prognathism and micrognathism, dermabrasion, skin grafts, lipectomy, and blepharoplasty. Any taxes levied under this chapter on the service described in this division shall be credited for distribution in accordance with division (A)(2) of section 5739.21 of the Revised Code."

Between lines 62720 and 62721, insert:

"Sec. 5739.035. This section only applies to sales that are required to be situated under this section pursuant to section 5739.033 of the Revised Code.

(A) Except as otherwise provided in this section, the situs of all sales is the vendor's place of business.

(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business.

(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement

was made or the purchase order was received.

(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), (d), (n), (o), (r), (s), ~~or (t), or (v)~~ of section 5739.01 or makes a sale specified in division (B)(8) of section 5739.01 of the Revised Code, the situs of the sale is the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.

(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the situs of the sale is the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property.

(C) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the situs of the sale is the location of the motor vehicle when the sale is made.

(D) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the situs of the sale is the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received.

(E) If the vendor provides a service specified in division (B)(3)(e), (g), (h), (j), (k), (l), (m), (q), or (u) of section 5739.01 of the Revised Code, the situs of the sale is the location of the consumer where the service is performed or received.

(F) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located.

(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling.

(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is

no item shipped, at the consumer's billing address."

Between lines 62762 and 62763, insert:

"**Sec. 5739.21.** (A)(1) Four and two-tenths per cent of all money deposited into the state treasury under sections 5739.01 to 5739.31 of the Revised Code and not required to be distributed as provided in division (A)(2) of this section, section 5739.102 of the Revised Code, or division (B) of this section shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(2) One hundred per cent of all money deposited into the state treasury from the taxes levied under this chapter on the service described in division (B)(3)(v) of section 5739.01 of the Revised Code shall be credited to the general revenue fund and may only be distributed for use in funding medicaid optional services. As used in this division, "medicaid optional services" means goods and services that the state is permitted, but not required, to cover under the medicaid program.

(B)(1) In any case where any county or transit authority has levied a tax or taxes pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code, the tax commissioner shall, within forty-five days after the end of each month, determine and certify to the director of budget and management the amount of the proceeds of such tax or taxes received during that month from billings and assessments, or associated with tax returns or reports filed during that month, to be returned to the county or transit authority levying the tax or taxes. The amount to be returned to each county and transit authority shall be a fraction of the aggregate amount of money collected with respect to each area in which one or more of such taxes are concurrently in effect with the tax levied by section 5739.02 of the Revised Code. The numerator of the fraction is the rate of the tax levied by the county or transit authority and the denominator of the fraction is the aggregate rate of such taxes applicable to such area. The amount to be returned to each county or transit authority shall be reduced by the amount of any refunds of county or transit authority tax paid pursuant to section 5739.07 of the Revised Code during the same month, or transfers made pursuant to division (B)(2) of section 5703.052 of the Revised Code.

(2) On a periodic basis, using the best information available, the tax commissioner shall distribute any amount of a county or transit authority tax that cannot be distributed under division (B)(1) of this section. Through audit or other means, the commissioner shall attempt to obtain the information necessary to make the distribution as provided under that division and, on receipt of that information, shall make adjustments to distributions previously made under this division.

(C) The aggregate amount to be returned to any county or transit

authority shall be reduced by one per cent, which shall be certified directly to the credit of the local sales tax administrative fund, which is hereby created in the state treasury. For the purpose of determining the amount to be returned to a county and transit authority in which the rate of tax imposed by the transit authority has been reduced under section 5739.028 of the Revised Code, the tax commissioner shall use the respective rates of tax imposed by the county or transit authority that results from the change in the rates authorized under that section.

(D) The director of budget and management shall transfer, from the same funds and in the same proportions specified in division (A) of this section, to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code and to the local sales tax administrative fund, the amounts certified by the tax commissioner. The tax commissioner shall then, on or before the twentieth day of the month in which such certification is made, provide for payment of such respective amounts to the county treasurer and to the fiscal officer of the transit authority levying the tax or taxes. The amount transferred to the local sales tax administrative fund is for use by the tax commissioner in defraying costs incurred in administering such taxes levied by a county or transit authority."

In line 64943, after "individuals" insert "having Ohio adjusted gross income less than two hundred thousand dollars."

In line 64947, after the semicolon insert "measured in the case of individuals having Ohio adjusted gross income of two hundred thousand dollars or more by Ohio adjusted gross income:"

In line 68225, delete "5111.019,"

In line 68250, after "5739.025," insert "5739.035,"; after "5739.10," insert "5739.21,"

Delete lines 74838 through 74848

In line 82994, delete "5111.019,"

In line 83072, delete "5739.01,"

In line 83100, after "5733.122," insert "5739.035, 5739.21,"

Between lines 83101 and 83102, insert:

"**Section ____.** The amendments by this act to section 5739.01 of the Revised Code provide for or are essential to implementation of a tax levy. Therefore, under Ohio Constitution, Article II, Section 1d, the amendments are not subject to the referendum and go into effect as follows:

(A) The amendment to divisions (H)(1)(a)(ii) and (b)(iii) the amendment striking through the paragraph immediately before division (G) of the section goes into immediate effect when this act becomes law.

(B) The amendment to divisions (B)(3)(r) and (B)(3)(v) of the section

goes into effect July 1, 2005."

In line 79 of the title, delete "5111.019,"

In line 114 of the title, after "5739.025," insert "5739.035,"; after "5739.10," insert "5739.21,"

The question being, "Shall the motion to amend be agreed to?"

Representative Kearns moved that the motion be laid on the table.

The question being, "Shall the motion to amend be laid on the table?"

The yeas and nays were taken and resulted - yeas 64, nays 35, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Beatty	Blasdel	Blessing
Book	Bubp	Buehrer	Calvert
Carmichael	Coley	Collier	Combs
Core	Daniels	DeWine	Dolan
Evans C.	Evans D.	Faber	Fessler
Flowers	Gibbs	Gilb	Hagan
Hood	Hoops	Hughes	Kearns
Kilbane	Latta	Law	Martin
Mason	McGregor	Oelslager	Patton T.
Peterson	Raga	Raussen	Reidelbach
Reinhard	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Smith S.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert	Yates	Husted-64.

Those who voted in the negative were: Representatives

Allen	Barrett	Bocchieri	Brinkman
Brown	Carano	Cassell	Chandler
DeBose	DeGeeter	Distel	Domenick
Driehaus	Fende	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Miller	Mitchell	Otterman	Patton S.
Perry	Redfern	Sayre	Skindell
Stewart D.	Strahorn	Sykes	Ujvagi
Williams	Woodard		Yuko-35.

The motion to amend was laid on the table.

The question recurring, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 54, nays 45, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Blessing
Calvert	Carmichael	Chandler	Coley
Collier	Combs	Core	Daniels
DeWine	Dolan	Evans C.	Evans D.

Flowers	Gibbs	Gilb	Hagan
Hoops	Hughes	Kearns	Kilbane
Law	Martin	McGregor	Oelslager
Patton T.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schneider	Seaver	Seitz	Setzer
Smith G.	Stewart J.	Taylor	Trakas
Uecker	Wagner	Wagoner	Walcher
Webster	White	Widener	Widowfield
Wolpert			Husted-54.

Those who voted in the negative were: Representatives

Barrett	Beatty	Boccieri	Book
Brinkman	Brown	Bubp	Buehrer
Carano	Cassell	DeBose	DeGeeter
Distel	Domenick	Driehaus	Faber
Fende	Fessler	Garrison	Hartnett
Harwood	Healy	Hood	Key
Koziura	Latta	Mason	Miller
Mitchell	Otterman	Patton S.	Perry
Redfern	Sayre	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Ujvagi
Willamowski	Williams	Woodard	Yates
			Yuko-45.

The bill passed.

Representative Calvert moved to amend as follows:

Add the names: Aslanides, Blasdel, Coley, Collier, Combs, DeWine, Dolan, Evans C., Evans D., Hagan, Kearns, Kilbane, Law, Patton T., Seaver, Setzer, Wagoner, White, Widowfield, Speaker Husted

The motion was agreed to and the title so amended.

The title as amended was agreed to.

CLERK'S NOTATION

TO: House Speaker Jon Husted

FROM: State Representative Kathleen Chandler

RE: Floor Vote on H.B. 66

This is my testament of my opposing vote on Sub. H.B. No. 66. My intention was to vote "no". It was inadvertently recorded as a "yes". It showed up as a "yes" on the board so I repeatedly pushed the "no" button during the allowed voting time but it remained "yes". I immediately approached the

Clerk to inform her of this recording error.

This memo is to place on record my opposition to Sub. H.B. 66 and ask that it be recorded in the Journal.

On motion of Representative Blasdel, the House adjourned until Thursday, April 14, 2005 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,
Clerk.