

# As Passed by the House

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SENATORS Blessing, Robert Gardner, Goodman, Fingerhut, DiDonato,  
Mallory, Spada, Roberts

REPRESENTATIVES Clancy, Young, Schmidt, Otterman, Latell, Willamowski,  
Allen, Coates, Britton, Hoops

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## A B I L L

To amend sections 3770.07, 3770.072, 5733.051, 1  
5733.98, 5747.062, 5747.20, and 5747.98 and to 2  
enact sections 3770.10 to 3770.14 of the Revised 3  
Code to permit the transfer of a lottery prize 4  
award upon the prior approval of a court and to 5  
establish procedures for application for such 6  
approval. 7

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

**Section 1.** That sections 3770.07, 3770.072, 5733.051, 8  
5733.98, 5747.062, 5747.20, and 5747.98 be amended and sections 9  
3770.10, 3770.11, 3770.12, 3770.13, and 3770.14 of the Revised 10  
Code be enacted to read as follows: 11

**Sec. 3770.07.** (A)(1) Lottery prize awards shall be claimed by 12  
the holder of the winning lottery ticket, or by the executor or 13  
administrator, or the trustee of a trust, of the estate of a 14  
deceased holder of a winning ticket, in a manner to be determined 15  
by the state lottery commission, within one hundred eighty days 16  
after the date on which such prize award was announced if the 17

lottery game is an on-line game, and within one hundred eighty  
days after the close of the game if the lottery game is an instant  
game. Except as otherwise provided in division (B) of this  
section, if no valid claim to the prize award is made within the  
prescribed period, the prize money or the cost of goods and  
services awarded as prizes, or if such goods or services are  
resold by the commission, the proceeds from such sale, shall be  
returned to the state lottery fund and distributed in accordance  
with section 3770.06 of the Revised Code.

(2) If a ~~person entitled to a prize award~~ prize winner, as  
defined in section 3770.10 of the Revised Code, is under eighteen  
years of age, or is under some other legal disability, and the  
prize money or the cost of goods or services awarded as a prize  
exceeds one thousand dollars, the director shall order that  
payment be made to the order of the legal guardian of ~~such winning~~  
~~ticket holder~~ that prize winner. If the amount of the prize money  
or the cost of goods or services awarded as a prize is one  
thousand dollars or less, the director may order that payment be  
made to the order of the adult member, if any, of ~~such winning~~  
~~ticket holder's~~ that prize winner's family legally responsible for  
the care of ~~such winning person~~ that prize winner.

(3) No right of any ~~person~~ prize winner, as defined in  
section 3770.10 of the Revised Code, to a prize award shall be the  
subject of a security interest or used as collateral.

(4)(a) No right of any ~~person~~ prize winner, as defined in  
section 3770.10 of the Revised Code, to a prize award shall be  
assignable, or subject to garnishment, attachment, execution,  
withholding, or deduction, except as follows: as provided in  
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the  
Revised Code; when the payment is to be made to the executor or  
administrator or the trustee of a trust of the estate of a winning  
ticket holder; when the award of a prize is disputed, any person

may be awarded a prize award to which another has claimed title, 50  
pursuant to the order of a court of competent jurisdiction; ~~or~~ 51  
when the director is to make a payment pursuant to section 52  
3770.071 of the Revised Code; or as provided in sections 3770.10 53  
to 3770.14 of the Revised Code. 54

(b) The commission shall adopt rules pursuant to section 55  
3770.03 of the Revised Code concerning the payment of prize awards 56  
upon the death of a prize winner. Upon the death of a prize 57  
winner, as defined in section 3770.10 of the Revised Code, the 58  
remainder of the prize winner's prize award, to the extent it is 59  
not subject to a transfer agreement under sections 3770.10 to 60  
3770.14 of the Revised Code, may be paid to the executor, 61  
administrator, or trustee in the form of a discounted lump sum 62  
cash settlement. 63

(5) No lottery prize award shall be awarded to or for any 64  
officer or employee of the state lottery commission, any officer 65  
or employee of the auditor of state actively coordinating and 66  
certifying commission drawings, or any blood relative or spouse of 67  
such officer or employee of the commission or auditor of state 68  
living as a member of such officer's or employee's household, nor 69  
shall any such employee, blood relative, or spouse attempt to 70  
claim a lottery prize award. 71

(6) The director may prohibit vendors to the commission and 72  
their employees from being awarded a lottery prize award. 73

(7) Upon the payment of prize awards pursuant to this 74  
section, the director and the commission are discharged from all 75  
further liability therefor. 76

(B) The commission may adopt rules governing the disbursement 77  
of unclaimed prize awards as all or part of the prize award in a 78  
lottery and may, pursuant to those rules, conduct the lottery and 79  
disburse any such unclaimed prize awards. Any lottery in which all 80  
or any part of the prize award is paid from unclaimed prize awards 81

shall be conducted in accordance with all of the other  
requirements of this chapter, including, but not limited to, the  
time and proof requirements for claiming awards and the  
disposition of unclaimed prize awards when the prescribed period  
for claiming the award has passed. A prize award or any part of a  
prize award that is paid from an unclaimed prize award shall not  
be reapplied toward the satisfaction of the requirement of  
division (A) of section 3770.06 of the Revised Code that at least  
fifty per cent of the total revenues from ticket sales be  
disbursed for monetary prize awards, if such unclaimed prize award  
was previously applied toward the satisfaction of that  
requirement. On or before the last day of January and July each  
year, the commission shall report to the general assembly the  
gross sales and net profits the commission obtained from the  
unclaimed prize awards in lotteries conducted pursuant to this  
division during the preceding two calendar quarters, including the  
amount of money produced by the games funded by the unclaimed  
prize awards and the total revenue accruing to the state from the  
prize award lotteries conducted pursuant to this division.

There is hereby established in the state treasury the  
unclaimed lottery prizes fund, to which all unclaimed prize awards  
shall be transferred. Any interest ~~which~~ that accrues on the  
amounts in the fund shall become a part of the fund and shall be  
subject to any rules adopted by the commission governing the  
disbursement of unclaimed prize awards.

**Sec. 3770.072.** (A) As used in this section, "prize winner,"  
"transferee," and "transferor" have the same meanings as in  
section 3770.10 of the Revised Code.

(B) The state lottery commission shall deduct amounts from  
lottery prize awards and file returns in accordance with section  
5747.062 of the Revised Code and any rules adopted by the tax

commissioner pursuant to that section. This division also applies 113  
to lottery prize award payments the commission remits to 114  
transferees. 115

(C)(1) Each transferee shall deduct and withhold from each 116  
gross amount payable to each prize winner three and one-half per 117  
cent of the gross amount payable prior to making any other 118  
reduction required by this chapter. 119

(2) With respect to amounts deducted and withheld pursuant to 120  
division (C)(1) of this section, each transferee shall comply with 121  
divisions (A)(2) to (4) of section 5747.062 of the Revised Code. 122

(3) An employee of a corporation, limited liability company, 123  
or business trust having control or supervision of or charged with 124  
the responsibility of filing the report and making the payment 125  
required by division (C) of this section and section 5747.062 of 126  
the Revised Code, or an officer, member, manager, or trustee of a 127  
corporation, limited liability company, or business trust who is 128  
responsible for the execution of the corporation's, limited 129  
liability company's, or business trust's fiscal responsibilities, 130  
shall be personally liable for failure to file the report or pay 131  
the amount due as required by division (C) of this section and 132  
section 5747.062 of the Revised Code. The dissolution, 133  
termination, or bankruptcy of a corporation, limited liability 134  
company, or business trust does not discharge a responsible 135  
officer's, member's, manager's, employee's, or trustee's liability 136  
for a failure of the corporation, limited liability company, or 137  
business trust to file returns or pay the amount due. 138

(4)(a) The tax commissioner may make an assessment against 139  
any person listed in division (C)(1) or (3) of this section for 140  
any deficiency for any period. Section 5747.13 of the Revised Code 141  
shall apply with respect to issuing assessments, filing petitions 142  
for reassessments, conducting hearings, issuing final 143  
determinations, making the assessment final, and filing the entry 144

that makes the assessment final. Section 5717.02 of the Revised  
Code shall apply to appeals of the commissioner's final decision  
in connection with assessments issued pursuant to division (C)(4)  
of this section.

(b) An assessment issued against any person listed in  
division (C)(1) or (3) of this section shall not be considered an  
election of remedies or a bar to an assessment against any other  
person for the failure to comply with division (C)(1) of this  
section. No assessment shall be issued against any person who is  
so listed if the amount required to be withheld has been paid by  
another.

(c) The assessment shall include interest at the rate per  
annum prescribed by section 5703.47 of the Revised Code on  
liability from the time the payment is due until the date of  
assessment. Interest shall continue to accrue from the date of  
assessment until the date the assessment is paid in full. Any  
interest accruing subsequent to the date of the issuance of the  
assessment shall be considered to be an additional deficiency for  
which the tax commissioner may issue subsequent assessments. The  
initial assessment and any subsequent assessments may include a  
penalty in an amount not to exceed twice the applicable interest  
charged under this division.

**Sec. 3770.10.** As used in sections 3770.07 and 3770.10 to  
3770.14 of the Revised Code:

(A) "Court of competent jurisdiction" means the probate court  
of the county in which the prize winner resides, or, if the prize  
winner is not a resident of this state, the probate court of  
Franklin county or a federal court having jurisdiction over the  
lottery prize award.

(B) "Discounted present value" means the present value of the  
future payments of a lottery prize award that is determined by

discounting those payments to the present, using the most recently 176  
published applicable federal rate for determining the present 177  
value of an annuity as issued by the United States internal 178  
revenue service and assuming daily compounding. 179

(C) "Independent professional advice" means the advice of an 180  
attorney, a certified public accountant, an actuary, or any other 181  
licensed professional adviser if all of the following apply: 182

(1) The prize winner has engaged the services of the licensed 183  
professional adviser to render advice concerning the legal and 184  
other implications of a transfer of the lottery prize award. 185  
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(2) The licensed professional adviser is not affiliated in 187  
any manner with or compensated in any manner by the transferee of 188  
the lottery prize award. 189

(3) The compensation of the licensed professional adviser is 190  
not affected by whether or not a transfer of a lottery prize award 191  
occurs. 192

(D) "Prize winner" means any person that holds the right to 193  
receive all or any part of a lottery prize award as a result of 194  
being any of the following: 195

(1) A person who is a claimant under division (A)(1) of 196  
section 3770.07 of the Revised Code; 197

(2) A person who is entitled to a prize award and who is 198  
under a legal disability as described in division (A)(2) of 199  
section 3770.07 of the Revised Code; 200

(3) A person who was awarded a prize award to which another 201  
has claimed title by a court order under division (A)(4)(a) of 202  
section 3770.07 of the Revised Code; 203

(4) A person who is receiving payments upon the death of a 204  
prize winner as provided in division (A)(4)(b) of section 3770.07 205

of the Revised Code.

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(E) "Transfer" means any form of sale, assignment, or  
redirection of payment of all or any part of a lottery prize award  
for consideration.

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(F) "Transfer agreement" means an agreement that is complete  
and valid, and that provides for the transfer of all or any part  
of a lottery prize award from a transferor to a transferee. A  
transfer agreement is incomplete and invalid unless the agreement  
contains both of the following:

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(1) A statement, signed by the transferor under penalties of  
perjury, that the transferor irrevocably agrees that the  
transferor is subject to the tax imposed by Chapter 5733. or 5747.  
of the Revised Code with respect to gain or income which the  
transferor will recognize in connection with the transfer. If the  
transferor is a pass-through entity, as defined in section 5733.04  
of the Revised Code, each investor in the pass-through entity  
shall also sign under penalties of perjury a statement that the  
investor irrevocably agrees that the investor is subject to the  
tax imposed by Chapter 5733. or 5747. of the Revised Code with  
respect to gain or income which the transferor and the investor  
will recognize in connection with the transfer.

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(2) A statement, signed by the transferee, that the  
transferee irrevocably agrees that the transferee is subject to  
the withholding requirements imposed by division (C) of section  
3770.072 of the Revised Code and is subject to the tax imposed by  
Chapter 5733. or 5747. of the Revised Code with respect to gain or  
income which the transferee will recognize in connection with  
lottery prize awards to be received as a result of the transfer.  
If the transferee is a pass-through entity, as defined in section  
5733.04 of the Revised Code, each investor in the pass-through  
entity shall also sign under penalties of perjury a statement  
setting forth that the investor irrevocably agrees that the

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investor is subject to the withholding requirements imposed by  
division (C) of section 3770.072 of the Revised Code and is  
subject to the tax imposed by Chapter 5733. or 5747. of the  
Revised Code with respect to gain or income which the transferee  
and the investor will recognize in connection with lottery prize  
awards to be received as a result of the transfer.

(G) "Transferee" means a party acquiring or proposing to  
acquire all or any part of a lottery prize award through a  
transfer.

(H) "Transferor" means either a prize winner or a transferee  
in an earlier transfer whose interest is acquired by or is sought  
to be acquired by a transferee or a new transferee through a  
transfer.

**Sec. 3770.11.** Prior to the date on which a prize winner  
becomes obligated under a transfer agreement, the transferee shall  
provide to the prize winner a disclosure statement, in boldface  
type of the minimum size of fourteen points, setting forth all of  
the following:

(A) The amounts and due dates of the lottery prize award  
payments that would be transferred under the transfer agreement;

(B) The aggregate amount of the lottery prize award payments  
described in division (A) of this section;

(C) The discounted present value of the lottery prize award  
payments described in division (A) of this section, calculated as  
of the date the disclosure statement is provided to the prize  
winner, and the amount of the applicable federal rate used in  
determining the discounted present value;

(D) The gross amount payable to the prize winner in exchange  
for or as consideration for the transfer of the lottery prize  
award payments described in division (A) of this section,

including the annual rate of discount to present value used to  
determine the gross amount payable to the prize winner, assuming  
daily compounding and funding on the date of the transfer  
agreement;

(E) An itemized listing of all brokers' commissions, service  
charges, application fees, processing fees, closing costs, filing  
fees, administrative fees, legal fees, notary fees, and other  
commissions, fees, costs, expenses, and charges payable by the  
prize winner or deductible from the gross amount otherwise payable  
to the prize winner as described in division (D) of this section;

(F) The net amount payable to the prize winner after  
deduction from the gross amount payable to the prize winner as  
described in division (D) of this section of all commissions,  
fees, costs, expenses, and charges described in division (E) of  
this section;

(G)(1) The quotient, expressed as a percentage, obtained by  
dividing the net amount payable to the prize winner as described  
in division (F) of this section by the discounted present value of  
the payments described in division (C) of this section.

(2) Solely for purposes of division (G)(1) of this section,  
"net amount payable" does not include taxes required to be  
withheld under division (C)(1) of section 3770.072 of the Revised  
Code.

**Sec. 3770.12.** A court of competent jurisdiction may approve a  
transfer of a lottery prize award only in a final order that is  
based on the express findings of the court, and the express  
findings shall include all of the following:

(A) If the transferor is a prize winner, the transferee has  
provided to the prize winner a disclosure statement that complies  
with section 3770.11 of the Revised Code, and the prize winner has

confirmed the prize winner's receipt of the disclosure statement,  
as evidenced by the prize winner's notarized signature on a copy  
of the disclosure statement.

(B) If the transferor is a prize winner, the prize winner has  
established that the transfer is fair and reasonable and in the  
best interests of the prize winner.

(C) If the transferor is a prize winner, the prize winner has  
received independent professional advice regarding the legal and  
other implications of the transfer.

(D) The transferee has given written notice of the  
transferee's name, address, and taxpayer identification number to  
the state lottery commission and has filed a copy of that notice  
with the court in which the application for approval of the  
transfer was filed.

(E) The transferee is a trust, limited partnership, general  
partnership, corporation, professional association, limited  
liability company, or other entity that is qualified to do  
business in this state and meets the registration requirements for  
that type of entity under Title XVII of the Revised Code.

(F) The transfer complies with all applicable requirements of  
the Revised Code and does not contravene any applicable law.

(G) The transfer does not include or cover the amounts of the  
lottery prize award that are required to be withheld or deducted  
pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06,  
3770.071, or 3770.072 of the Revised Code.

(H) Any amounts described in division (G) of this section  
that are required to be withheld or deducted, as of the date of  
the court order, will be offset by the commission first against  
remaining payments due the transferor and then against payments  
due the transferee.

(I) Except as provided in divisions (G) and (H) of this 330  
section, that the transferor's interest in each and all of the 331  
future payments from a particular lottery prize award is to be 332  
paid to a single transferee, or, if the payments from the lottery 333  
prize award are to be directed from the state lottery commission 334  
to multiple transferees, the commission has promulgated rules 335  
under section 3770.03 of the Revised Code permitting transfers to 336  
multiple transferees, and the transfer is consistent with those 337  
rules. 338

(J) If the lottery prize award has been transferred within 339  
twelve months immediately preceding the effective date of the 340  
proposed transfer, the state lottery commission has not objected 341  
to the proposed transfer. The court shall presume that the 342  
requirements of this division are met unless the commission 343  
notifies the court in writing before the hearing on the 344  
application for transfer, or through counsel at that hearing, that 345  
a transfer of the same lottery prize award has been made within 346  
that twelve-month period and that the commission objects to a 347  
subsequent transfer within that twelve-month period. The court 348  
shall find that the requirements of this division are not met if 349  
the commission provides notice of a prior transfer of the same 350  
lottery prize award within that twelve-month period and its 351  
objection to the proposed transfer, unless the transferor or 352  
transferee shows by clear and convincing evidence that no previous 353  
transfer of the same lottery prize award occurred within that 354  
twelve-month period. 355

**Sec. 3770.13.** (A) A transferee shall file an application 357  
under sections 3770.10 to 3770.14 of the Revised Code for the 358  
approval in advance of a transfer of a lottery prize award in a 359  
court of competent jurisdiction. 360

(B) The following procedures shall apply to an application 361

for the approval in advance by a court of a transfer of a lottery prize award under division (A) of this section:

(1) Upon the filing of the application, the court shall set a date, time, and place for a hearing on the application and shall notify the transferee and transferor of the date, time, and place of the hearing.

(2) Not less than thirty days prior to the date set by the court for the hearing on an application filed pursuant to this section, the transferee shall file with the court and shall serve on the state lottery commission, in the manner prescribed in the Rules of Civil Procedure for the service of process, a notice of the proposed transfer and the application for its approval in advance. The notice shall include all of the following:

(a) A copy of the application;

(b) A copy of the transfer agreement or, if the transferor is not a prize winner, a redacted copy of the transfer agreement that discloses sufficient information to allow the commission and the court to determine the validity of the transfer agreement;

(c) If the transferor is a prize winner, a copy of the disclosure statement provided by the transferee pursuant to section 3770.11 of the Revised Code and signed by the prize winner pursuant to division (A) of section 3770.12 of the Revised Code;

(d) The amounts and due dates of the lottery prize award payments that will be transferred under the transfer agreement;

(e) Notification of the date, time, and place of the hearing on the application;

(f) The complete name, address, and taxpayer identification number of the transferee.

(3) The commission shall not be required to appear in or be named as a party to a hearing on the application, but may

intervene as of right in the proceeding.

(4) At the conclusion of the hearing on an application under this section, the court may grant or deny the approval of the transfer. The court shall enter its order accordingly. If the court grants the approval of the transfer, it shall include in its order all of the express findings specified in section 3770.12 of the Revised Code. If the court denies the approval of the transfer, it shall include in its order the reasons for the denial.

(5) An order of the court made under division (B)(4) of this section is a final and appealable order.

**Sec. 3770.14.** (A) Upon receipt of a court order issued under section 3770.13 of the Revised Code, the transferee shall provide a certified copy of the court order to the director of the state lottery commission. Not later than ten days after receipt of the certified copy of the court order, the director shall acknowledge to the transferee in writing the commission's intent to comply with the court order in making future payments.

(B) The director shall make payments of the lottery prize award to the transferee designated in the certified copy of the court order and in accordance with the prize payment schedule established when the prize was claimed. The director may charge a processing fee, in an amount determined by the commission by rule pursuant to section 3770.03 of the Revised Code, to cover any direct or indirect costs associated with making the prize award payments in accordance with that prize payment schedule.

(C) Upon payment of the lottery prize award pursuant to this section, the director and the commission are discharged from all further liability therefor.

**Sec. 5733.051.** Subject to section 5733.0510 of the Revised

Code, net income of a corporation subject to the tax imposed by 423  
section 5733.06 of the Revised Code shall be allocated and 424  
apportioned to this state as follows: 425

(A) Net rents and royalties from real property located in 426  
this state are allocable to this state~~+~~. 427

(B) Net rents and royalties from tangible personal property, 428  
to the extent such property is utilized in this state, are 429  
allocable to this state if the taxpayer is otherwise subject to 430  
the tax imposed by section 5733.06 of the Revised Code~~+~~. 431

(C) Capital gains and losses from the sale or other 432  
disposition of real property located in this state are allocable 433  
to this state~~+~~. 434

(D) Capital gains and losses from the sale or other 435  
disposition of tangible personal property are allocable to this 436  
state if the property had a situs in this state at the time of 437  
sale and the taxpayer is otherwise subject to the tax imposed by 438  
section 5733.06 of the Revised Code~~+~~. 439

(E) Capital gains and losses from the sale or other 440  
disposition of intangible property which may produce income 441  
enumerated in division (F) of this section are allocable on the 442  
same basis as set forth in ~~such~~ that division. Capital gains and 443  
losses from the sale or other disposition of all other intangible 444  
property are apportionable under division ~~(H)~~ (I) of this section. 445

(F) Dividends or distributions which are not otherwise 446  
deducted or excluded from net income, other than dividends or 447  
distributions from a domestic international sales corporation, are 448  
allocable to this state in accordance with the ratio of the book 449  
value of the physical assets of the payor of the dividends or 450  
distributions located in this state divided by the book value of 451  
the total physical assets of the payor located everywhere. 452  
Dividends or distributions received from a domestic international 453

sales corporation, or from a payor the location of whose physical  
assets is unavailable to the taxpayer, are apportionable under  
division ~~(H)~~(I) of this section.

(G) Patent and copyright royalties and technical assistance  
fees, not representing the principal source of gross receipts of  
the taxpayer, are allocable to this state to the extent that the  
activity of the payor thereof giving rise to the payment takes  
place in this state. If the location of the payor's activity is  
unavailable to the taxpayer, such royalties and fees are  
apportionable under division ~~(H)~~(I) of this section.

(H) The amounts described in division (B)(5) of section  
5747.20 of the Revised Code are allocable to this state.

(I) Any other net income, from sources other than those  
enumerated in divisions (A) to ~~(G)~~(H) of this section, is  
apportionable to this state on the basis of the mechanism provided  
in division (B)(2) of section 5733.05 of the Revised Code.

**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;	484 485
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	486 487
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	488 489
(8) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;	490 491
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	492 493
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	494 495
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	496 497
(12) The credit for manufacturing investments under section 5733.061 of the Revised Code;	498 499
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	500 501 502
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	503 504
(15) The job training credit under section 5733.42 of the Revised Code;	505 506
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	507 508
(17) The enterprise zone credit under section 5709.66 of the Revised Code;	509 510
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	511 512

(19) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;	513 514
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	515 516
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	517 518
(22) The export sales credit under section 5733.069 of the Revised Code;	519 520
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	521 522
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	523 524
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	525 526
(26) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code;	527 528
<u>(27) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code.</u>	529 530
(B) For any credit except the refundable <del>jobs creation credit</del> <u>credits enumerated in this section</u> , 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.	531 532 533 534 535 536 537
<b>Sec. 5747.062.</b> <u>As used in this section, "transferee" has the same meaning as in section 3770.10 of the Revised Code, and "recipient" includes a transferee.</u>	538 539 540
(A)( <u>1</u> ) The state lottery commission shall÷	541

~~(1) Deduct~~ deduct and withhold from each lottery prize award 542  
payment that exceeds five thousand dollars an amount equal to 543  
three and one-half per cent of the payment, prior to making any 544  
other reduction required by Chapter 3770. of the Revised Code~~+~~. 545

(2) On or before the tenth banking day of each month, the 546  
state lottery commission, and each transferee required to deduct 547  
and withhold amounts pursuant to section 3770.072 of the Revised 548  
Code, shall file a return and remit to the tax commissioner all 549  
amounts deducted and withheld pursuant to this section during the 550  
preceding month. 551

(3) On or before the thirty-first day of January of each 552  
year, the state lottery commission, and each transferee required 553  
to deduct and withhold amounts pursuant to section 3770.072 of the 554  
Revised Code, shall file with the commissioner an annual return, 555  
in the form prescribed by the tax commissioner, indicating the 556  
total amount deducted and withheld pursuant to this section during 557  
the preceding calendar year. At the time of filing that return, 558  
the state lottery commission or transferee shall remit any amount 559  
deducted and withheld during the preceding calendar year that was 560  
not previously remitted. 561

(4) ~~Issue~~ The state lottery commission, and each transferee 562  
required to deduct and withhold amounts pursuant to section 563  
3770.072 of the Revised Code, shall issue to each ~~recipient of a~~ 564  
~~lottery prize award from which the commission~~ person with respect 565  
to whom tax has been deducted and withheld ~~tax by the commission~~ 566  
or transferee pursuant to this section during the preceding 567  
calendar year, an information return in the form prescribed by 568  
~~rule of~~ the commissioner. 569

(B) ~~Amounts~~ (1) Division (B)(1) of this section does not 570  
apply to persons classified for federal income tax purposes as 571  
associations taxable as corporations. 572

Amounts withheld pursuant to this section shall be treated as 573  
a credit against any the tax imposed upon the recipient of the 574  
lottery prize award pursuant to section 5747.02 of the Revised 575  
Code upon the lottery prize award recipient, upon a beneficiary of 576  
such a recipient, or upon any investor in such a recipient if the 577  
recipient is a pass-through entity or disregarded entity, and 578  
shall be treated as paid by the recipient, beneficiary, or 579  
investor on the date on which those amounts are deducted and 580  
withheld by the commission. The credit shall be is a refundable 581  
credit, applicable after subtracting all other credits to which 582  
the recipient may be entitled pursuant to this chapter and shall 583  
be claimed in the order required under section 5747.98 of the 584  
Revised Code. The credit is available to the recipient, 585  
beneficiary, or investor even if the commission or transferee does 586  
not remit to the tax commissioner the amount withheld. 587

(2) Division (B)(2) of this section applies only to persons 588  
classified for federal income tax purposes as associations taxable 589  
as corporations. 590

Amount withheld pursuant to this section shall be treated as 591  
a credit against the tax imposed pursuant to section 5733.06 of 592  
the Revised Code for the tax year immediately following the date 593  
on which those amounts are deducted and withheld, upon the lottery 594  
prize award recipient, upon a beneficiary of such a recipient, or 595  
upon an investor in such a recipient if the recipient is a 596  
pass-through entity or disregarded entity, and shall be treated as 597  
paid by the recipient, beneficiary, or investor on the date on 598  
which those amounts are deducted and withheld. The credit is a 599  
refundable credit and shall be claimed in the order required under 600  
section 5733.98 of the Revised Code. The credit is available to 601  
the recipient, beneficiary, or investor even if the commission or 602  
transferee does not remit to the tax commissioner the amount 603  
withheld. 604

(3) Nothing in division (B)(1) or (2) of this section shall 605  
be construed to allow more than one person to claim the credit for 606  
any portion of each amount deducted and withheld. 607

(C) Failure of the commission or any transferee to deduct and 608  
withhold the required amounts from lottery prize awards or to 609  
remit amounts withheld as required by this section and section 610  
3770.072 of the Revised Code shall not relieve a ~~recipient of a~~ 611  
~~lottery prize award~~ taxpayer described in division (B) of this 612  
section from liability for the tax imposed by section 5733.06 or 613  
5747.02 of the Revised Code. 614

**Sec. 5747.20.** This section applies solely for the purposes of 615  
computing the credit allowed under division (A) of section 5747.05 616  
of the Revised Code and computing income taxable in this state 617  
under division (D) of section 5747.08 of the Revised Code. 618

All items of nonbusiness income or deduction shall be 619  
allocated in this state as follows: 620

(A) All items of nonbusiness income or deduction taken into 621  
account in the computation of adjusted gross income for the 622  
taxable year by a resident shall be allocated to this state. 623

(B) All items of nonbusiness income or deduction taken into 624  
account in the computation of adjusted gross income for the 625  
taxable year by a nonresident shall be allocated to this state as 626  
follows: 627

(1) All items of compensation paid to an individual for 628  
personal services performed in this state who was a nonresident at 629  
the time of payment and all items of deduction directly allocated 630  
thereto shall be allocated to this state~~+~~. 631

(2) All gains or losses from the sale of real property, 632  
tangible personal property, or intangible property shall be 633  
allocated as follows: 634

(a) Capital gains or losses from the sale or other transfer 635  
of real property are allocable to this state if the property is 636  
located physically in this state. 637

(b) Capital gains or losses from the sale or other transfer 638  
of tangible personal property are allocable to this state if, at 639  
the time of such sale or other transfer, the property had its 640  
physical location in this state. 641

(c) Capital gains or losses from the sale or other transfer 642  
of intangible personal property are allocable to this state if the 643  
taxpayer's domicile was in this state at the time of such sale or 644  
other transfer. 645

(3) All rents and royalties of real or tangible personal 646  
property shall be allocated to this state as follows: 647

(a) Rents and royalties derived from real property are 648  
allocable to this state if the property is physically located in 649  
this state. 650

(b) Rents and royalties derived from tangible personal 651  
property are allocable to this state to the extent that such 652  
property is utilized in this state. 653

The extent of utilization of tangible personal property in a 654  
state is determined by multiplying the rents or royalties derived 655  
from such property by a fraction, the numerator of which is the 656  
number of days of physical location of the property in this state 657  
during the rental or royalty period in the taxable year and the 658  
denominator of which is the number of days of physical location of 659  
the property everywhere during all rental or royalty periods in 660  
the taxable year. If the physical location of the property during 661  
the rental or royalty period is unknown or unascertainable by the 662  
nonresident, tangible personal property is utilized in the state 663  
in which the property was located at the time the rental or 664  
royalty payor obtained possession. 665

(4) All patent and copyright royalties shall be allocated to 666  
this state to the extent the patent or copyright was utilized by 667  
the payor in this state. 668

A patent is utilized in a state to the extent that it is 669  
employed in production, fabrication, manufacturing, or other 670  
processing in the state, or to the extent that a patented product 671  
is produced in the state. If the basis of receipts from patent 672  
royalties does not permit allocation to states or if the 673  
accounting procedures do not reflect states of utilization, the 674  
patent is utilized in this state if the taxpayer's domicile was in 675  
this state at the time such royalties were paid or accrued. 676

A copyright is utilized in a state to the extent that 677  
printing or other publication originates in the state. If the 678  
basis of receipts from copyright royalties does not permit 679  
allocation to states or if the accounting procedures do not 680  
reflect states of utilization, the copyright is utilized in this 681  
state if the taxpayer's domicile was in this state at the time 682  
such royalties were paid or accrued. 683

(5)(a) All lottery prize awards paid by the state lottery 684  
commission pursuant to Chapter 3770. of the Revised Code shall be 685  
allocated to this state. 686

(b) All earnings, profit, income, and gain from the sale, 687  
exchange, or other disposition of lottery prize awards paid or to 688  
be paid to any person by the state lottery commission pursuant to 689  
Chapter 3770. of the Revised Code shall be allocated to this 690  
state. 691

(c) All earnings, profit, income, and gain from the direct or 692  
indirect ownership of lottery prize awards paid or to be paid to 693  
any person by the state lottery commission pursuant to Chapter 694  
3770. of the Revised Code shall be allocated to this state. 695

(d) All earnings, profit, income, and gain from the direct or 696

indirect interest in any right in or to any lottery prize awards 697  
paid or to be paid to any person by the state lottery commission 698  
pursuant to Chapter 3770. of the Revised Code shall be allocated 699  
to this state. 700

(6) Any item of income or deduction which has been taken into 701  
account in the computation of adjusted gross income for the 702  
taxable year by a nonresident and which is not otherwise 703  
specifically allocated or apportioned pursuant to sections 5747.20 704  
to 5747.23 of the Revised Code, including, without limitation, 705  
interest, dividends and distributions, items of income taken into 706  
account under the provisions of sections 401 to 425 of the 707  
Internal Revenue Code, and benefit payments received by a 708  
beneficiary of a supplemental unemployment trust which is referred 709  
to in section 501~~(c)~~(c)(17) of the Internal Revenue Code, shall 710  
not be allocated to this state unless the taxpayer's domicile was 711  
in this state at the time such income was paid or accrued. 712

(C) If an individual is a resident for part of the taxable 713  
year and a nonresident for the remainder of the taxable year, all 714  
items of nonbusiness income or deduction shall be allocated under 715  
division (A) of this section for the part of the taxable year that 716  
the individual is a resident and under division (B) of this 717  
section for the part of the taxable year that the individual is a 718  
nonresident. 719

**Sec. 5747.98.** (A) To provide a uniform procedure for 720  
calculating the amount of tax due under section 5747.02 of the 721  
Revised Code, a taxpayer shall claim any credits to which the 722  
taxpayer is entitled in the following order: 723

(1) The retirement income credit under division (B) of 724  
section 5747.055 of the Revised Code; 725

(2) The senior citizen credit under division (C) of section 726  
5747.05 of the Revised Code; 727



(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	728 729
(4) The dependent care credit under section 5747.054 of the Revised Code;	730 731
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	732 733
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	734 735
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	736 737
(8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	738 739
(9) The campaign contribution credit under section 5747.29 of the Revised Code;	740 741
(10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	742 743
(11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	744 745
(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	746 747
(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	748 749
(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	750 751 752
(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;	753 754
(16) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	755 756

(17) The credit for purchases of lights and reflectors under	757
section 5747.38 of the Revised Code;	758
(18) The job retention credit under division (B) of section	759
5747.058 of the Revised Code;	760
(19) The credit for manufacturing investments under section	761
5747.051 of the Revised Code;	762
(20) The credit for purchases of new manufacturing machinery	763
and equipment under section 5747.26 or section 5747.261 of the	764
Revised Code;	765
(21) The second credit for purchases of new manufacturing	766
machinery and equipment and the credit for using Ohio coal under	767
section 5747.31 of the Revised Code;	768
(22) The job training credit under section 5747.39 of the	769
Revised Code;	770
(23) The enterprise zone credit under section 5709.66 of the	771
Revised Code;	772
(24) The credit for the eligible costs associated with a	773
voluntary action under section 5747.32 of the Revised Code;	774
(25) The credit for employers that establish on-site child	775
day-care centers under section 5747.35 of the Revised Code;	776
(26) The ethanol plant investment credit under section	777
5747.75 of the Revised Code;	778
(27) The credit for purchases of qualifying grape production	779
property under section 5747.28 of the Revised Code;	780
(28) The export sales credit under section 5747.057 of the	781
Revised Code;	782
(29) The credit for research and development and technology	783
transfer investors under section 5747.33 of the Revised Code;	784
(30) The enterprise zone credits under section 5709.65 of the	785

Revised Code; 786

(31) The refundable jobs creation credit under division (A) 787  
of section 5747.058 of the Revised Code; 788

(32) The refundable credit for taxes paid by a qualifying 789  
entity granted under section 5747.059 of the Revised Code; 790

(33) The refundable credits for taxes paid by a qualifying 791  
pass-through entity granted under division (J) of section 5747.08 792  
of the Revised Code; 793

(34) The refundable credit for tax withheld under division 794  
(B)(1) of section 5747.062 of the Revised Code. 795

(B) For any credit, except the refundable credits enumerated 796  
in ~~divisions (A)(31), (32), and (33)~~ of this section and the 797  
credit granted under division (I) of section 5747.08 of the 798  
Revised Code, the amount of the credit for a taxable year shall 799  
not exceed the tax due after allowing for any other credit that 800  
precedes it in the order required under this section. Any excess 801  
amount of a particular credit may be carried forward if authorized 802  
under the section creating that credit. Nothing in this chapter 803  
shall be construed to allow a taxpayer to claim, directly or 804  
indirectly, a credit more than once for a taxable year. 805

**Section 2.** That existing sections 3770.07, 3770.072, 806  
5733.051, 5733.98, 5747.062, 5747.20, and 5747.98 of the Revised 807  
Code are hereby repealed. 808