

**OHIO**

**House**

**of**

**Representatives**

**JOURNAL**

**WEDNESDAY, NOVEMBER 10, 2004**

TWO HUNDRED THIRTY-FIRST DAY  
Hall of the House of Representatives, Columbus, Ohio  
**Wednesday, November 10, 2004 at 1:30 o'clock p.m.**

The House met pursuant to adjournment.

Prayer was offered by Reverend Peter Matthewson of the First Baptist Church in Zanesville, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of yesterday was read and approved.

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

Jim Rogers received H.R. No. 268, presented by Speaker Householder-91st district.

Karla Harshaw, a guest of Representative Kearns-72nd district.

Deborah Hill, cousin of Representative Key-11th district.

Doctor Joy Jordan, a guest of Representatives Key-11th district and Mason-8th district.

Sarah Guzman, a guest of Representative Flowers-19th district.

Taylor Peck, a guest of Representative Wolpert-23rd district.

Members of the Credit Union of Ohio and Ohio Edison-Penn Power Credit Union, guests of Representative S. Patton-60th district.

Angie Wilson and Debbie Bibler, guests of Representative Schmidt-66th district.

Graduate students from Ashland University, guests of Representatives Harnett-73rd district and Collier-90th district.

Rob Richards, a guest of Representative Faber-77th district.

Members of the Alpha Kappa Alpha sorority, guests of Representatives Woodard-9th district, Beatty-27th district, Brown-48th district, and D. Stewart-25th district.

### INTRODUCTION OF BILLS

The following bills were introduced:

**H. B. No. 574**-Representative Blasdel.

To amend section 5715.24 of the Revised Code to specify how new or destroyed property is to be accounted for in the equalization of real property assessments.

**H. B. No. 575**-Representative Gilb.

To amend section 2151.313, to enact new section 2151.358, and to repeal section 2151.358 of the Revised Code to revise the procedure by which a juvenile court may expunge records of alleged and adjudicated delinquent and unruly acts and to repeal the juvenile court's authority to expunge juvenile traffic offender records.

**H. B. No. 576**-Representative Gilb.

To enact section 1.491 of the Revised Code to establish standards of judicial construction, based on strict scrutiny or rational basis analysis, in the interpretation of legislation or governmental regulation.

**H. B. No. 577**-Representatives Widowfield, McGregor, Olman, C. Evans, Hughes, Hoops, Calvert, Willamowski, Miller, Chandler, Seitz, Schaffer, Hartnett, Cirelli, Schmidt, D. Evans, Combs, Setzer, Latta.

To amend section 5747.026 of the Revised Code to grant to all members of the National Guard and reserve components of the United States armed forces who have been called to active duty an extension of time in which to file income tax returns and pay income taxes.

Said bills were considered the first time.

**REPORTS OF STANDING AND SELECT COMMITTEES AND BILLS FOR SECOND CONSIDERATION**

Representative Wilson submitted the following report:

The standing committee on Rules and Reference to which was referred **H. B. No. 407**-Representative Gibbs, et al., having had the same under consideration, recommends its re-referral to the committee on Ways and Means.

RE: SALES TAX AGREEMENT - ENTRY INTO/SALE SOURCING

- |                    |                    |
|--------------------|--------------------|
| LARRY HOUSEHOLDER  | JAMES PETER TRAKAS |
| CHARLES CALVERT    | LARRY L. FLOWERS   |
| JOHN SCHLICHTER    | JIM CARMICHAEL     |
| KATHLEEN WALCHER   | ROBERT J. OTTERMAN |
| EDWARD JERSE       | KENNETH A. CARANO  |
| DIXIE J. ALLEN     | CHARLES A. WILSON  |
| PATRICIA M. CLANCY |                    |

The report was agreed to.

The bill was ordered to be engrossed and rereferred to the committee on Ways and Means.

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **H. B. No. 398**-Representative J. Stewart, et al., having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: ODMH - PATIENT DEATH RECORDS/RESTORE GRAVES

Representative White moved to amend the title as follows:

Add the names: "Martin, Harwood, Barrett, Cirelli, Hoops, Slaby, DeBose, Kearns."

JAMES M. HOOPS	SHIRLEY A. SMITH
EARL MARTIN	LYNN E. OLMAN
SANDRA STABILE HARWOOD	MICHELLE G. SCHNEIDER
CHARLES R. BLASDEL	NANCY P. HOLLISTER
MARILYN SLABY	MARY M. CIRELLI
MERLE GRACE KEARNS	CATHERINE L. BARRETT
MICHAEL DEBOSE	COURTNEY COMBS
LINDA REIDELBACH	JOHN J. WHITE

The report was agreed to.

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

Representative S. Smith submitted the following report:

The standing committee on Health to which was referred **S. C. R. No. 22**-Senator Wachtmann, having had the same under consideration, reports it back and recommends its adoption.

RE: TO APPROVE THE PUBLIC HEALTH COUNCIL'S PROPOSED REVISION OF CHAPTER 3701-36

Representative White moved to amend the title as follows:

Add the names: "Representatives Schneider, Hoops, Barrett."

JAMES M. HOOPS	JOHN J. WHITE
EARL MARTIN	SANDRA STABILE HARWOOD
LARRY PRICE	MICHELLE G. SCHNEIDER
SHIRLEY A. SMITH	CHARLES R. BLASDEL
NANCY P. HOLLISTER	MARILYN SLABY
MARY M. CIRELLI	CATHERINE L. BARRETT
MICHAEL DEBOSE	COURTNEY COMBS
LINDA REIDELBACH	LYNN E. OLMAN
MERLE GRACE KEARNS	

The report was agreed to.

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

Representative D. Stewart submitted the following report:

The standing committee on State Government to which was referred **H. B. No. 557**-Representative Carmichael, et al., having had the same under consideration, reports it back and recommends its passage.

RE: LEUKEMIA/LYMPHOMA/MYELOMA AWARENESS MONTH

Representative Carmichael moved to amend the title as follows:

Add the names: "D. Stewart, Buehrer, Brown, Mason."

JON M. PETERSON	JAMES PETER TRAKAS
STEPHEN BUEHRER	LARRY L. FLOWERS
EDNA BROWN	ANNIE L. KEY
KEVIN DEWINE	JIM CARMICHAEL
LANCE T. MASON	DAN STEWART

The report was agreed to.

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

Representative D. Stewart submitted the following report:

The standing committee on State Government to which was referred **H. B. No. 493**-Representative Hoops, et al., having had the same under consideration, reports it back and recommends its passage.

RE: PARENT'S WEEK - FOURTH WEEK IN SEPTEMBER

Representative Carmichael moved to amend the title as follows:

Add the names: "D. Stewart, Key, Mason."

JON M. PETERSON	STEPHEN BUEHRER
LARRY L. FLOWERS	ANNIE L. KEY
KEVIN DEWINE	JIM CARMICHAEL
LANCE T. MASON	DAN STEWART

The report was agreed to.

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

Representative D. Stewart submitted the following report:

The standing committee on State Government to which was referred **H. B. No. 503**-Representative Hughes, having had the same under consideration, recommends its re-referral to the committee on Rules and Reference.

RE: OHIO CYSTIC FIBROSIS AWARENESS MONTH - MAY

JON M. PETERSON	STEPHEN BUEHRER
LARRY L. FLOWERS	ANNIE L. KEY
JIM CARMICHAEL	KEVIN DEWINE
LANCE T. MASON	DAN STEWART

The report was agreed to.

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

Representative Wilson reported for the Rules and Reference Committee recommending that the following House Bills be considered for the second time and referred to the following committees for consideration:

**H.B. No. 572 - Representative Raussen, et al**

TO MODIFY PUBLICATION REQUIREMENTS FOR THE DELINQUENT LAND AND DELINQUENT PERSONAL AND CLASSIFIED PROPERTY TAX LISTS AND TO PERMIT COUNTY AUDITORS TO ALSO PUBLISH SUCH LISTS ON THE INTERNET

To the committee on Homeland Security, Engineering, and Architectural Design

**H.B. No. 573 - Representative Schmidt, et al**

TO ADD ONE JUDGE TO THE CLERMONT COUNTY COURT OF COMMON PLEAS TO BE ELECTED IN 2006

To the committee on Judiciary

LARRY HOUSEHOLDER  
JIM CARMICHAEL  
LARRY L. FLOWERS  
JAMES PETER TRAKAS  
DIXIE J. ALLEN  
EDWARD JERSE  
CHARLES A. WILSON

CHARLES CALVERT  
PATRICIA M. CLANCY  
JOHN SCHLICHTER  
KATHLEEN WALCHER  
KENNETH A. CARANO  
ROBERT J. OTTERMAN

Representative Cates moved that the House and constitutional Rules requiring bills to be considered by each house on three different days be suspended as to the second consideration of the House Bills contained in the report of the committee on Rules and Reference.

The motion was agreed to without objection.

The report was agreed to.

Said House Bills were considered a second time and referred as recommended.

### MOTIONS AND RESOLUTIONS

Representative Wilson reported for the Rules and Reference Committee recommending that the following House Resolution be read by title only and approved:

**H. R. No. 268 - Speaker Householder**

HONORING JAMES E. ROGERS FOR EXEMPLARY SERVICE TO THE STATE OF OHIO

Add the names: "Walcher, Flowers, Wilson, Carano, Schlichter, Otterman,

Clancy"

/s/ LARRY HOUSEHOLDER  
Larry Householder, Chair

Representative Cates moved that the Rules and Reference Committee Report on resolutions be agreed to and that the resolution contained therein be approved.

The motion was agreed to.

Representative Trakas moved that majority party members asking leave to be absent or absent the week of Tuesday, November 9, 2004, be excused, so long as a written request is on file in the majority leadership offices.

The motion was agreed to.

Representative Miller moved that minority party members asking leave to be absent or absent the week of Tuesday, November 9, 2004, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

Representative Wilson reported for the Rules and Reference Committee recommending that the following House Resolution be read and approved:

**H.R. No. 262 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Boccieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young**

IN MEMORY OF THE HONORABLE ROBERT EDWARD HOLMES

/s/ LARRY HOUSEHOLDER  
Larry Householder, Chair

Representative Cates moved that the Rules and Reference Committee Report on resolutions be agreed to and that the resolution contained therein be brought up for immediate adoption, read in full, and spread upon the pages of the journal.

The motion was agreed to.

The question being on the adoption of the resolution, reading as follows:

**H. R. No. 262**—Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Boccieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young.

In memory of the Honorable Robert Edward Holmes.

*WHEREAS, The members of the House of Representatives of the 125th General Assembly of Ohio were deeply saddened to learn of the death of the Honorable Robert Edward Holmes and extend our heartfelt condolences to his family and friends; and*

*WHEREAS, Robert Holmes left an indelible impression on the people whose lives he touched, and he will be remembered as a spirited individual who contributed immeasurably to the world around him. An attorney and a veteran of the U.S. Naval Reserve, he practiced law with his father and served as a member of the Ohio House of Representatives, as a judge of the 10th Ohio District Court of Appeals, and as a justice of the Ohio Supreme Court before retiring in 1992. In addition, he was a member of the Ohio State Bar Association, the Ohio Bar Foundation, the Columbus Bar Foundation, the National Judicial Society, Kiwanis International, Charity Newsies, and the Athletic Club of Columbus, and he received numerous awards and honorary degrees for his work; and*

*WHEREAS, Robert Holmes' regard for improving the quality of life in our society was clearly evident in his personal sacrifices of time and effort to his family, friends, and community. He will be remembered for his generosity, talents, and seemingly inexhaustible energy and for the exceptional concern he displayed in all of his endeavors, and his absence will be keenly felt; and*

*WHEREAS, A loving father to his two sons, Robert and Hamilton, and his five stepchildren, Barbara, Gene, Quaid, Dean, and Lana, and the proud grandfather of two grandchildren and ten stepgrandchildren, Robert Holmes readily extended warmth and understanding to others, and the legacy of care and commitment he established will stand as a monument to his personal character; therefore be it*

*RESOLVED, That we, the members of the House of Representatives of the 125th General Assembly of Ohio, in adopting this Resolution, express a profound*



*sense of loss and sincere regret at the death of the Honorable Robert Edward Holmes; and be it further*

*RESOLVED, That the Clerk of the House of Representatives transmit a duly authenticated copy of this Resolution to the family of the Honorable Robert Edward Holmes.*

The resolution was adopted.

Representative Wilson reported for the Rules and Reference Committee recommending that the following House Resolution be read and approved:

**H.R. No. 265 - Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Boccieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S. Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young**

IN MEMORY OF JOHN O. BAKER

/s/ LARRY HOUSEHOLDER  
Larry Householder, Chair

Representative Cates moved that the Rules and Reference Committee Report on resolutions be agreed to and that the resolution contained therein be brought up for immediate adoption, read in full, and spread upon the pages of the journal.

The motion was agreed to.

The question being on the adoption of the resolution, reading as follows:

**H. R. No. 265-Speaker Householder, Representatives Redfern, Allen, Aslanides, Barrett, Beatty, Blasdel, Boccieri, Book, Brinkman, Brown, Buehrer, Callender, Calvert, Carano, Carmichael, Cates, Chandler, Cirelli, Clancy, Collier, Combs, Core, Daniels, DeBose, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, D. Evans, Faber, Fessler, Flowers, Gibbs, Gilb, Grendell, Hagan, Hartnett, Harwood, Hollister, Hoops, Hughes, Husted, Jerse, Kearns, Key, Kilbane, Koziura, Latta, Martin, Mason, McGregor, Miller, Niehaus, Oelslager, Olman, Otterman, S. Patton, T. Patton, Perry, Peterson, Price, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schmidt, Schneider, Seaver, Seitz, Setzer, Sferra, Skindell, Slaby, G. Smith, S.**

Smith, D. Stewart, J. Stewart, Strahorn, Sykes, Taylor, Trakas, Ujvagi, Wagner, Walcher, Webster, White, Widener, Widowfield, Willamowski, Wilson, Wolpert, Woodard, Yates, Young.

In memory of John O. Baker

*WHEREAS, The members of the House of Representatives of the 125th General Assembly of Ohio were deeply saddened to learn of the death of John O. Baker and extend our heartfelt condolences to his family and friends; and*

*WHEREAS, John Baker left an indelible impression on the people whose lives he touched, and he will be remembered as a spirited individual who contributed immeasurably to the world around him. A U.S. Navy veteran of World War II and the former owner of Baker's Appliance and Fountain Furniture stores, he served as a Coshocton County commissioner, a member of the Ohio House of Representatives, and a Coshocton City Councilman, and his exemplary career will serve as an inspiration to all who knew him; and*

*WHEREAS, John Baker's regard for improving the quality of life in our society was clearly evident in his personal sacrifices to his family, friends, and community, and he will be remembered for his generosity, talents, and seemingly inexhaustible energy. The past president and secretary of the Coshocton Rotary Club and a member of the local Elks Lodge, the Coshocton County Fair Board and Farm Bureau, the Coshocton Chamber of Commerce, West Lafayette Masonic Lodge 602, Veterans of Foreign Wars Post 1330, Bethlehem Grange, American Legion Post 65, and Grace United Methodist Church, he displayed exceptional concern in all of his endeavors, and his absence will be keenly felt; and*

*WHEREAS, A loyal husband to his wife, the late Marjorie, a loving father to his two children, Carol and Bonnie, and the proud grandfather of four grandchildren, Perry, Susan, Kathy, and Kristin, and two great-grandchildren, Steven and Robbie, John Baker readily extended warmth and understanding to others, and the legacy of care and commitment he established will stand as a monument to his personal character; therefore be it*

*RESOLVED, That we, the members of the House of Representatives of the 125th General Assembly of Ohio, in adopting this Resolution, express a profound sense of loss and sincere regret at the passing of John O. Baker; and be it further*

*RESOLVED, That the Clerk of the House of Representatives transmit a duly authenticated copy of this Resolution to the family of John O. Baker.*

The resolution was adopted.

### **BILLS FOR THIRD CONSIDERATION**

**Am. H. B. No. 190**-Representatives Trakas, McGregor, Fessler, Hagan, Widowfield, Seaver, DePiero, Aslanides, Schaffer, Oلمان, Redfern, Schmidt, Otterman, Webster, Ujvagi, Latta, Willamowski, D. Evans, Faber.

To amend section 2971.03 of the Revised Code to increase the mandatory minimum term under the Sexually Violent Predator Sentencing Law for kidnapping with a sexual motivation specification and a sexually violent predator specification or rape with a sexually violent predator specification, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Brinkman moved to amend as follows:

After line 131, insert:

**"Section 3.** (A) The Speaker and the Minority Leader of the House of Representatives, one member of the House of Representatives who is a member of the same political party as the Speaker and is designated by the Speaker and one member of the House of Representatives who is a member of the same political party as the Minority leader and is designated by the Minority Leader, the President and Minority Leader of the Senate, one member of the Senate who is a member of the same political party as the President and is designated by the President and one member of the Senate who is a member of the same political party as the Minority Leader and is designated by the Minority leader, and the Governor shall jointly appoint an eighteen-member Capital Case Commission.

Two members of the Commission shall be members of the House of Representatives and shall not be members of the same political party. Two members of the Commission shall be members of the Senate and shall not be members of the same political party. Two members of the Commission shall be judges of a court of common pleas, two members shall be judges of a court of appeals, two members shall be prosecuting attorneys, two members shall be attorneys whose practice of law primarily involves the representation of criminal defendants and who are qualified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to be appointed as lead counsel in capital cases or as appellate counsel in cases where a death penalty has been imposed, one member shall be a representative of an organization that advocates for the rights of victims of crime, one member shall be a representative of an organization that advocates for crime victims' families for reconciliation, one member shall be a psychiatrist, one member shall be a psychologist, and two members shall be members of the general public. The members of the Commission who are members of the House of Representatives or Senate shall be different individuals than the House or Senate members who make the appointments to the Commission. Not more than nine members of the Commission shall be members of the same political party. When all members are appointed, the Commission promptly shall meet, select a chairperson and a vice-chairperson, and organize its activities.

The Attorney General, the State Public Defender, and the staff and employees of both of those public officials shall provide to the Commission, upon its request, research and technical services and support. Independent of this provision of services and support, the Commission may seek and obtain research

and technical services and support from any individual, organization, association, college, or university.

(B) The Commission shall review and study all issues that are related to the imposition and administration of capital punishment in Ohio, specifically with respect to resolving capital cases in a fair and orderly manner, to ensuring that all persons charged with a capital offense receive adequate representation, and to eliminating undue delay in capital cases. The Commission shall do all of the following:

(1) Review all aspects of Ohio's procedures in capital cases and procedures related to capital sentencing and punishment, including, but not limited to, the pre-trial, trial, sentencing, direct appeal, and post conviction relief procedures related to capital cases and to capital sentencing and punishment;

(2) For all trials that involved a charge that a person committed a capital offense on or after October 19, 1981, review and analyze all aspects of the trial, including, but not limited to, facts of each case, including any aggravating and mitigating circumstances specified in sections 2929.03 and 2929.04 of the Revised Code or otherwise present in the case, the race, gender, religious preference, and economic status of the defendant and the victims, the result of the case, and the sentence imposed upon the defendant;

(3) Review and analyze in general the procedures in capital cases, including, but not limited to, the adequacy of counsel in all stages of capital cases and the sufficiency of any existing guidelines or rules for the appointment and performance of that counsel, the adequacy of funding for the defense of indigent defendants in capital cases, the process for judicial review in state postconviction and federal habeas corpus proceedings of the merits of constitutional claims present in or resulting from the cases, whether there is any disproportional impact from any aspect of capital case procedures and proceedings, whether there is discrimination in capital sentencing, on any basis, whether a mentally retarded person should be sentenced to death, whether prosecutorial misconduct is present as a factor in the imposition of the death penalty, and the possibility that there are innocent persons who have been sentenced to death in Ohio;

(4) Obtain information regarding all aggravated murder cases in the two Category One counties selected under division (D)(1) of this section and in the two Category Two counties selected under that division that is necessary to comply with division (D)(2)(b) of this section, including, but not limited to, information, to the extent it can be obtained, regarding the reasons for the prosecutorial decision as to whether to prosecute the cases as capital cases or to prosecute them as aggravated murder cases that are not capital cases;

(5) Appoint subcommittees to assist in the discharge of its duties, including, but not limited to, the four subcommittees described in divisions (C)(1) to (4) of this section to perform the functions described in those divisions;

(6) Separate its findings regarding the information it collects under this section into the three data sets described in divisions (D)(2)(a), (b), and (c) of this

section, and utilize the information in those data sets for the purposes described in those divisions;

(7) Study other topics that the Commission determines appropriate for study because of their relationship to the commission of capital offenses, procedures in capital cases, sentencing or punishment in capital cases, or offenders and victims in capital cases;

(8) Make legislative recommendations for improving Ohio's procedures in capital cases and procedures related to capital sentencing and punishment in Ohio based on its review, studies, and analysis described in divisions (B)(1) to (7) and (D) of this section;

(9) Not later than one year after the effective date of this section, prepare and submit to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor a preliminary report that sets forth its preliminary findings regarding the imposition and administration of capital sentencing and punishment in Ohio and its preliminary recommendations for improving Ohio's procedures in capital cases and procedures related to capital sentencing and punishment in Ohio;

(10) Not later than eighteen months after the effective date of this section, prepare and submit to the persons identified in division (B)(9) of this section a final report that sets forth its final findings regarding the imposition and administration of capital sentencing and punishment in Ohio and its final recommendations for improving Ohio's procedures in capital cases and procedures related to capital sentencing and punishment in Ohio.

(C) The Commission shall appoint the following four subcommittees to perform the following functions, in the discharge of the Commission's duties under divisions (B) and (D) of this section:

(1) A subcommittee to examine pre-trial issues related to capital cases;

(2) A subcommittee to examine trial issues related to capital cases and sentencing, including, but not limited to, issues involving the guilt phase of the trial in a capital case and the sentencing phase of the trial in a capital case;

(3) A subcommittee to examine issues related to direct appeals of the judgment of the trial court in capital cases and issues related to postconviction relief petitions and proceedings under sections 2953.21 to 2953.23 of the Revised Code as they pertain to capital cases;

(4) A Data Research Subcommittee to compile data and provide statistical analyses for the Commission and the subcommittees described in divisions (C)(1) to (3) of this section.

(D)(1) The Commission, for purposes of division (D)(2) of this section, shall do all of the following:

(a) Determine the two Category One counties in which the highest and second highest number of capital offense indictments have been returned, out of

all Category One counties, on or after October 19, 1981, and not later than July 1, 2002;

(b) Determine the two Category Two counties in which the highest and second highest number of capital offense indictments have been returned, out of all Category Two counties, on or after October 19, 1981, and not later than July 1, 2002;

(c) Select the four counties determined under divisions (D)(1)(a) and (b) of this section as the counties to be covered by the data set described in division (D)(2)(b) of this section.

(2) The Commission shall separate its findings regarding the information it collects under this section into the following three data sets:

(a) A data set that contains information for all Ohio capital cases in which a defendant was sentenced on or after October 19, 1981, and not later than July 1, 2002. This data set shall profile all defendants and victims of capital offenses in those cases and shall summarize the processing of those cases, including, but not limited to, the time frames between major decision points in the cases, an analysis of the statutes and rules governing the litigation of those cases, and an in-depth study of those cases that required corrective appellate action.

(b) A data set that contains information for all cases in the four counties selected under division (D)(1) of this section in which a person was sentenced, on or after October 19, 1981, and not later than July 1, 2002, for aggravated murder. This data set shall contain profiles and summaries of the type described in division (D)(2)(a) of this section, as they relate to the cases described in this division, shall specify for each of those cases whether the case was a capital case or was not a capital case, and shall specify for each of those cases, to the extent it can be determined, the reasons for the prosecutorial decision to prosecute the case as a capital case or to prosecute it as an aggravated murder case that was not a capital case. This data set shall be further separated into a subcategory that contains the specified information for the two Category One counties selected under division (D)(1) of this section and a separate subcategory that contains the specified information for the two Category Two counties selected under that division. This data set shall contain the specified information for all aggravated murder cases in the four subject counties, including capital cases and cases that are not capital cases.

(c) A data set that consists of a comparative analysis of the information contained in the data set described in division (D)(2)(b) of this section to the information contained in the data set described in division (D)(2)(a) of this section, with the analysis focusing on the difference between a capital case and an aggravated murder case that is not a capital case. Using a representative sample of the cases to which the data set described in division (D)(2)(b) of this section pertains, the analysis shall include, but is not limited to, a determination of the incremental additional costs of prosecution, defense, and appeals of a capital case as compared to an aggravated murder case that is not a capital case. The Commission may utilize the information in the data sets described in divisions

(D)(2)(a) and (b) of this section for any other purpose in the performance of its duties under this section.

(E) The Capital Case Commission and all subcommittees of the Commission shall cease to exist on the date on which the Commission submits its final report to the General Assembly and the Governor.

(F) As used in this section:

(1) "Capital case" means a case in which a person is charged with a capital offense.

(2) "Capital offense" has the same meaning as in section 2901.02 of the Revised Code.

(3) "Category One counties" means Butler County, Cuyahoga County, Franklin County, Lorain County, Hamilton County, Lucas County, Mahoning County, Montgomery County, Stark County, and Summit County.

(4) "Category Two counties" means all counties in this state that are not Category One counties."

In line 7 of the title, after "specification" insert "and to create a Capital Case Commission to study the imposition and administration of capital punishment in Ohio and to make recommendations for improving Ohio's procedures in capital cases and its capital sentencing procedures"

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

On motion of Representative Cates, the House recessed.

The House met pursuant to recess.

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

The yeas and nays were taken and resulted - yeas 64, nays 30, as follows:

Those who voted in the affirmative were: Representatives

Allen	Barrett	Beatty	Blasdel
Boccieri	Brinkman	Brown	Callender
Calvert	Carano	Carmichael	Cates
Chandler	Cirelli	Clancy	Collier
Combs	DeGeeter	Distel	Domenick
Driehaus	Evans C.	Flowers	Hartnett
Harwood	Jerse	Kearns	Key
Koziura	Mason	Miller	Niehaus
Oلمان	Otterman	Patton S.	Patton T.
Perry	Peterson	Price	Raga
Raussen	Redfern	Schmidt	Schneider
Seaver	Seitz	Skindell	Slaby
Smith S.	Stewart D.	Stewart J.	Strahorn
Sykes	Taylor	Trakas	Ujvagi
Webster	White	Widener	Willamowski
Wilson	Wolpert	Yates	Householder-64.

Those who voted in the negative were: Representatives

Aslanides	Book	Buehrer	Core
Daniels	DeBose	DeWine	Evans D.
Faber	Gibbs	Gilb	Hagan
Hollister	Hoops	Hughes	Husted
Latta	Martin	McGregor	Oelslager
Reidelbach	Reinhard	Schaffer	Schlichter
Setzer	Smith G.	Wagner	Walcher
Widowfield			Woodard-30.

The motion was agreed to and the bill so amended.

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

The yeas and nays were taken and resulted - yeas 85, nays 8, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Beatty	Blasdel
Boccieri	Book	Brinkman	Brown
Buehrer	Callender	Calvert	Carmichael
Cates	Chandler	Cirelli	Clancy
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Domenick	Driehaus	Evans C.	Evans D.
Faber	Flowers	Gibbs	Gilb
Hartnett	Harwood	Hollister	Hoops
Hughes	Husted	Jerse	Kearns
Koziura	Latta	Martin	Mason
McGregor	Niehaus	Oelslager	Olman
Otterman	Patton S.	Patton T.	Perry
Peterson	Raga	Rausen	Redfern
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seaver	Seitz
Setzer	Slaby	Smith G.	Smith S.
Stewart D.	Stewart J.	Strahorn	Taylor
Trakas	Ujvagi	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Woodard
			Householder-85.

Representatives Carano, Hagan, Key, Miller, Price, Skindell, Sykes, and Yates voted in the negative-8.

The bill passed.

Representative Trakas moved to amend the title as follows:

Add the names: "Allen, Blasdel, Boccieri, Book, Buehrer, Calvert, Carmichael, Cirelli, Collier, Daniels, DeGeeter, Domenick, C. Evans, Flowers, Gibbs, Gilb, Hartnett, Hoops, Hughes, Koziura, Martin, Niehaus, Oelslager, T. Patton, Perry, Reidelbach, Schlichter, Schneider, Setzer, Slaby, G. Smith, J. Stewart, Taylor, Widener, Wilson."

Remove the name: "Hagan."

**H. B. No. 477**-Representatives Flowers, Collier, Schlichter, Miller, Cirelli,



Harwood, Allen, McGregor, Clancy, S. Patton, Brown.

To amend sections 3770.02, 3793.01, and 3793.02 of the Revised Code to require the Director of the State Lottery Commission to enter into an agreement with the Department of Alcohol and Drug Addiction Services for the operation of a program for gambling addiction, to require the Commission to pay for the operation of that program, and to require the Department to provide gambling addiction services, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Redfern moved to amend as follows:

In line 10, after "3770.02," insert "3770.03, 3770.05, 3770.06, 3770.07, 3770.08,"; delete "and" and insert ", and 4301.03 be amended and sections 3333.30, 3333.301, 3770.061, 3770.21, 3770.22, 3770.23, 3770.24, 3770.25, 3770.26, 3770.27, 3770.28, 3770.29, and 3770.30"

In line 11, delete "amended" and insert "enacted"

Delete lines 12 through 127 and insert:

**"Sec. 3333.30. (A) As used in this section:**

(1) "Eligible institution" means a state institution of higher education, a nonprofit college or university, a private career school holding program authorizations issued by the state board of career colleges and schools pursuant to division (C) of section 3332.05 of the Revised Code, or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

(2) "Eligible student" means a student who graduates in the top ten per cent of the twelfth grade class from either a high school operated by a city, local, exempted village, or joint vocational school district, or a nonpublic high school.

(3) "Nonprofit college or university" means a nonprofit institution of higher education in this state that has been issued a certificate of authorization by the board of regents under Chapter 1713. of the Revised Code.

(4) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) There is hereby created the Ohio scholarship program to be administered by the board of regents. Under the program, any eligible student who graduates from high school during or after the 2004-2005 academic year and enrolls in an eligible institution shall receive, pursuant to rules adopted by the board under division (D) of this section, a scholarship in the amount of five thousand nine hundred dollars. The amount of the scholarship shall be increased each academic year by five per cent, assuming the student satisfies the criteria specified in the board's rules for the renewal of a scholarship under the program. A scholarship is renewable for up to three additional academic years.

(C)(1)(a) There is hereby created in the state treasury the Ohio scholarship program fund. Up to one quarter of one per cent of the money in the fund may be used to implement and administer the Ohio scholarship program. The remaining money in the fund shall be used to fund Ohio scholarship program scholarships. Any interest earned on the money in the fund shall be credited to the fund. The sole source of the moneys in the fund, exclusive of interest, shall be the moneys the director of budget and management transfers to it under division (B)(2) of section 3770.06 of the Revised Code.

(b) In accordance with the rules adopted by the board of regents under division (D) of this section, school districts and nonpublic high schools shall notify the board concerning each eligible student in that school district or nonpublic high school who enrolls in an eligible institution. Upon receipt of this information, the board shall direct the director of budget and management to establish an individual account for each eligible student in the Ohio scholarship program fund. Upon the establishment of an eligible student's account, and annually thereafter for each academic year the student is eligible for a scholarship under the program, the board shall direct the director, subject to division (C)(2) of this section, to credit to the account an amount equal to the eligible student's scholarship under the program for that academic year.

(c) Each year a student is eligible for a scholarship under the program, the board shall cause an electronic transfer of scholarship proceeds from the student's account in the Ohio scholarship program fund to the eligible institution the student is attending.

(d)(i) Eighty-seven per cent of the money transferred to the Ohio scholarship program fund under division (B)(2) of section 3770.06 of the Revised Code, and the interest on that money, from the effective date of this section until June 30, 2005, shall be retained in the fund as a reserve for potential use for the purposes described in division (C)(1)(a) of this section. The director of budget and management shall transfer the remaining thirteen per cent of that money to the Ohio learn and earn scholarship program fund created under section 3333.301 of the Revised Code for use in accordance with that section.

(ii) On and after July 1, 2005, after the director of budget and management establishes and credits eligible students' accounts under division (C)(1)(b) of this section in any academic year, the director shall transfer ninety-five per cent of the remaining money that was available in the fund for scholarships in that academic year to the Ohio learn and earn scholarship program fund created under section 3333.301 of the Revised Code for use in accordance with that section. The remaining five per cent of that available money shall be retained in the Ohio scholarship program fund for use for the purposes described in division (C)(1)(a) of this section, added to the reserve described in division (C)(1)(d)(i) of this section, and not be transferred to the Ohio learn and earn scholarship program fund in any subsequent academic year.

(2) If, in any given year, all eligible students cannot be awarded a scholarship as described in division (B) of this section because the number of

eligible students for an Ohio scholarship program scholarship in that year exceeds the amount of available money in the Ohio scholarship program fund, the board of regents shall reduce the maximum amount of the scholarships to be awarded and credited to individual accounts in the fund as described in division (C)(1)(b) of this section in that year to an amount that the board determines will not exceed the amount of available money in the fund.

(D) The board of regents shall adopt rules to implement the Ohio scholarship program, including rules, consistent with division (E) of this section, to be used by school districts and nonpublic high schools when determining if a student graduated in the top ten per cent of the twelfth grade class from a high school under division (A)(2) of this section, and rules regarding the criteria a student shall satisfy to be eligible for an initial scholarship and for renewal of a scholarship under the program.

(E) For purposes of determining if a student graduated in the top ten per cent of the twelfth grade class from a high school under division (A)(2) of this section, the total number of students in that class shall not include any otherwise eligible student who either does not enroll in an eligible institution and, as a result, cannot receive a scholarship under division (B) of this section or who receives a scholarship or scholarships, other than a scholarship under division (B) of this section, that equal or exceed five thousand nine hundred dollars in the aggregate.

**Sec. 3333.301.** (A) There is hereby created in the state treasury the Ohio learn and earn scholarship program fund. During the first year of the implementation of the Ohio learn and earn scholarship program created by this section, up to two per cent of the money in the fund may be used to implement and administer the program; during the second year of the implementation of the program, up to one per cent of the money in the fund may be so used; and during each subsequent year of the implementation of the program, up to one-half of one per cent of the money in the fund may be so used. The remaining money in the fund shall be used to fund Ohio learn and earn scholarship program scholarships. Any interest earned on money in the fund shall be credited to the fund. The sole source of the moneys in the fund, exclusive of interest, shall be the moneys the director of budget and management transfers to it under division (C)(1)(d)(i) and (ii) of section 3333.30 of the Revised Code.

(B)(1) The board of regents shall implement and administer an Ohio learn and earn scholarship program that shall provide scholarships to students who graduate from high school during or after the 2004-2005 academic year. A scholarship shall be in an amount up to five thousand nine hundred dollars. The amount of the scholarship shall be increased each academic year by five per cent, assuming the student satisfies the criteria specified in the rules adopted by the board under division (E) of this section for the renewal of a scholarship under the program. A scholarship is renewable for up to three additional academic years.

(2) A student shall satisfy each of the following requirements to be eligible for a scholarship under the program:

(a) Graduate from either a public or nonpublic high school in this state;

(b) Enroll in a state institution of higher education, as defined in section 3345.011 of the Revised Code, a nonprofit college or university that has been issued a certificate of authorization by the board under Chapter 1713. of the Revised Code, a private career school holding program authorizations issued by the state board of career colleges and schools pursuant to division (C) of section 3332.05 of the Revised Code, or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code;

(c) Meet any other requirements, including, but not limited to, an income requirement, established by the board.

(C) The board of regents shall establish a point system that shall be used in implementing the Ohio learn and earn scholarship program. The board also shall establish the total score under the point system that a student must receive in order to be eligible for a scholarship under the program. During kindergarten through twelfth grade, students shall receive points for reaching achievements in specified categories including, but not limited to, academics, college preparedness, extracurricular activities, work experience, community service, and volunteer service. Fifty per cent of the total score a student must receive in order to be eligible for a scholarship under the program shall be for reaching achievements in the category of academics.

(D) If, in any given year, all eligible students cannot be awarded an Ohio learn and earn scholarship program scholarship because the number of eligible students for a scholarship in that year exceeds the amount of available money in the Ohio learn and earn scholarship program fund, the board of regents shall reduce the maximum amount of the scholarships to be awarded to an amount that the board determines will not exceed the amount of available money in the fund.

(E) The board of regents shall adopt rules to implement this section, including rules regarding the criteria a student shall satisfy to be eligible for an initial Ohio learn and earn scholarship program scholarship and for renewal of such a scholarship. Those rules also shall phase in the Ohio learn and earn scholarship program beginning with students who graduate from high school during the 2004-2005 academic year and shall be consistent with all of the following:

(1) In the first and second years of phasing in the program, the board shall use no more than fifteen per cent of the principal of the Ohio learn and earn scholarship program fund and any interest earned on that principal for the purposes of this section.

(2) After the second year of phasing in the program and until the principal of the fund equals one billion dollars, the board shall use no more than ten per cent of the principal of the fund and any interest earned on that principal for the purposes of this section.

(3) The board shall fully implement the program only when the principal of the fund equals one billion dollars. In any given year of its full implementation of the program, the board may use the money transferred in that year to the fund under division (C)(1)(d)(ii) of section 3333.30 of the Revised Code for purposes of this section, may use no more than ten per cent of the money remaining in the fund from the previous year for purposes of this section, and may use the interest earned on all money in the fund for purposes of this section. If the principal of the fund at any time becomes less than one billion dollars, the board shall promptly cause the principal to be restored to one billion dollars.

(F) The department of education shall work with the board of regents to implement this section.

**Sec. 3770.02.** (A) Subject to the advice and consent of the senate, the governor shall appoint a director of the state lottery commission who shall serve at the pleasure of the governor. The director shall devote full time to the duties of the office and shall hold no other office or employment. The director shall meet all requirements for appointment as a member of the commission and shall, by experience and training, possess management skills that would equip the director to administer an enterprise of the nature of a state lottery. The director shall receive an annual salary in accordance with pay range 48 of section 124.152 of the Revised Code.

(B)(1) The director shall attend all meetings of the commission and shall act as its secretary. The director shall keep a record of all commission proceedings and shall keep the commission's records, files, and documents at the commission's principal office. All records of the commission's meetings shall be available for inspection by any member of the public, upon a showing of good cause and prior notification to the director.

(2) The director shall be the commission's executive officer and shall be responsible for keeping all commission records and supervising and administering the state lottery in accordance with this chapter, and carrying out all commission rules adopted under section 3770.03 of the Revised Code.

(C)(1) The director shall appoint an assistant director ~~and~~ deputy directors of marketing, operations, sales, finance, public relations, security, and administration, and as many regional managers as are required. The director may also appoint necessary professional, technical, and clerical assistants. All such officers and employees shall be appointed and compensated pursuant to Chapter 124. of the Revised Code. Regional and assistant regional managers, sales representatives, and any lottery executive account representatives shall remain in the unclassified service.

(2) The director, in consultation with the director of administrative services, may establish standards of proficiency and productivity for commission field representatives.

(D) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal

agency to supply the director with the criminal records of any job applicant and may periodically request the criminal records of commission employees. At or prior to the time of making such a request, the director shall require a job applicant or commission employee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards and shall pay to each agency supplying criminal records for each investigation under this division a reasonable fee, as determined by the agency.

(E) The director shall license lottery sales agents pursuant to section 3770.05 of the Revised Code and electronic lottery sales agents pursuant to section 3770.24 of the Revised Code and, when it is considered necessary, may revoke or suspend the license of any ~~lottery sales~~ such agent under this chapter.

(F) The director shall confer at least once each month with the commission, at which time the director shall advise it regarding the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125. of the Revised Code. ~~The director may enter into agreements to assist organizations that deal with problem gambling.~~

(H)(1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require ~~any~~ lottery sales agents licensed under section 3770.05 of the Revised Code to either mail directly to the commission or deposit to the credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the commission as determined by the director, and to file with the director or the director's designee reports of their receipts and transactions in the sale of lottery tickets in the form required by the director.

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform functions and services in connection with the operation of the lottery as the director may consider necessary to carry out this chapter.

(J)(1) As used in this chapter, "statewide joint lottery game" means a lottery game that the commission sells solely within this state under an agreement with other lottery jurisdictions to sell the same lottery game solely within their statewide or other jurisdictional boundaries.

(2) If the governor directs the director to do so, the director shall enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games. If the governor signs the agreement personally or by means of an authenticating officer pursuant to section 107.15 of the Revised Code, the director then may conduct statewide joint lottery games under the agreement.

(3) The entire net proceeds from any statewide joint lottery games shall be used to fund elementary, secondary, vocational, and special education programs in this state.

(4) The commission shall conduct any statewide joint lottery games in accordance with rules it adopts under division (B)(5) of section 3770.03 of the Revised Code.

(K)(1) The director shall enter into an agreement with the department of alcohol and drug addiction services under which the department shall provide a program of gambling addiction services on behalf of the commission. The commission shall pay the costs of the program provided pursuant to the agreement.

(2) As used in this section, "gambling addiction services" has the same meaning as in section 3793.01 of the Revised Code.

**Sec. 3770.03.** (A) The state lottery commission shall promulgate rules under which ~~a statewide lottery may~~ lotteries, including, but not limited to, games providing immediate prize determinations for individual participants through the use of electronic gaming devices, shall 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~~ lotteries to be conducted;
- (2) The prices of ~~tickets~~ rights to participate in the ~~lottery~~ lotteries;
- (3) The ~~number,~~ nature, and value of prize awards, the manner and frequency of prize ~~drawings~~ determinations, and the manner in which prizes shall be awarded to ~~holders of winning tickets~~ participants.

(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, and ~~lotteries, including, but not limited to, games providing immediate prize determinations for individual participants through the use of electronic gaming devices shall,~~ 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 or, under section 3770.28 of the Revised Code, electronic lottery sales agents to transfer revenues to the commission in a timely manner;

(3) ~~The~~ Except as provided in section 3770.26 of the Revised Code, 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, or the licenses of electronic lottery sales agents issued under section 3770.24 of the Revised Code, consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent or electronic 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.

~~(6)~~ (6) The manner in which lotteries that use electronic gaming devices under section 3770.22 of the Revised Code must be conducted and the security, licensing, and enforcement procedures necessary to ensure the integrity of those lotteries;

(7) Licensing requirements for key gaming employees of electronic lottery sales agents, as defined in section 3770.21 of the Revised Code, or agents'



contractors that employ key gaming employees; provided that the maximum initial or yearly fee for a license issued by the commission shall not exceed the commission's costs and expenses of investigation and licensing;

(8) Any other subjects the commission determines are necessary for the conduct of lotteries under section 3770.22 of the Revised Code.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D)(1) The commission may not conduct, directly or in conjunction with any lottery sales agent or electronic lottery sales agent, keno or the following live casino table games:

(a) Card games, including poker, blackjack, twenty-one, casino war, or baccarat, played with persons dealing cards and participants wagering on outcomes determined by the dealt cards;

(b) Roulette, wheel of fortune, or any other game played with persons spinning wheels and participants wagering upon outcomes determined by a spinning wheel;

(c) Craps, mah jong, sic bo, or any other game played with persons casting or dealing dice, tiles, or similar objects, and participants wagering on outcomes determined by the location or appearance of the objects cast.

(2) The commission may conduct lotteries replicating card games, spinning-wheel games, or cast object games by electronic gaming devices pursuant to section 3770.22 of the Revised Code.

(E)(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.

**Sec. 3770.05.** (A) As used in this section, "person" means any person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other combination of individuals meeting the requirements set forth in this section or established by rule or order of the commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent for the sale of lottery tickets. No license shall be issued to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Before issuing any license to a lottery sales agent for the sale of lottery tickets, the director shall consider the following:

(1) The financial responsibility and security of the person and the person's business or activity;

(2) The accessibility of the agent's place of business or activity to the public;

(3) The sufficiency of existing licensed agents to serve the public interest;

(4) The volume of expected sales by the applicant;

(5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license issued under this section, if the applicant or licensee:

(1) Has been convicted of a felony, or has been convicted of a crime involving moral turpitude;

(2) Has been convicted of an offense that involves illegal gambling;

(3) Has been found guilty of fraud or misrepresentation in any connection;

(4) Has been found to have violated any rule or order of the commission;

or

(5) Has been convicted of illegal trafficking in food stamps.

(D) Except as otherwise provided in division (F) of this section, the director shall refuse to grant, or shall suspend or revoke, a license issued under this section, if the applicant or licensee is a corporation:

(1) Any of whose directors, officers, or controlling shareholders have been found guilty of any of the activities specified in divisions (C)(1) to (4) of this section;

(2) In which it appears to the director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;

(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency pursuant to the license applied for, or that any person, firm, association, or corporation other than the applicant shares or will share in the profits of the applicant, other than receiving dividends or distributions as a

shareholder, or will participate in the management of the affairs of the applicant.

(E)(1) The director shall refuse to grant a license to an applicant and shall revoke a license of a licensee under this section if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license under this section to an applicant that is a corporation and shall revoke the license under this section of a licensee that is a corporation, if the corporation is or has been convicted of a violation of division (A) or (C)(1) of ~~a violation of~~ section 2913.46 of the Revised Code.

(F) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request ~~such~~those records of any person to whom ~~such~~ a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards. The director shall pay to each agency supplying ~~such~~ records for each investigation a reasonable fee, as determined by the agency. The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (4) and (D)(1) to (3) of this section may be issued a license and establishing requirements for ~~such~~those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license for the sale of lottery tickets shall do both of the following:

(a) Pay to the commission a fee of twenty-five dollars upon approval of the application;

(b) Prior to approval of the application, obtain a surety or, if required, a fidelity bond in an amount to be determined by the director. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter.

(2) A lottery sales agent license for the sale of lottery tickets is effective for one year. A licensed lottery sales agent ~~shall~~, on or before the date established by the director, shall renew the agent's license and provide at that time evidence to the director that the surety bond required under division ~~(F)~~(G)(1)(b) of this section has been renewed. The director shall certify to the commission that the applicant for renewal has the required bond.

The relationship between the state lottery commission and a lottery sales

agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director may issue a temporary lottery sales agent license for the sale of lottery tickets, subject to ~~such~~ terms and conditions as the director may consider appropriate.

(I) If a lottery sales agent's rental payments for the agent's premises are determined, in whole or in part, by the amount of retail sales the agent makes, and the rental agreement does not expressly provide that the amount of ~~such~~ those retail sales includes the amounts the agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the agent receives from the retail sales the agent makes, for the purpose of computing the agent's rental payments.

**Sec. 3770.06.** (A)(1) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state, but shall not be part of the state treasury. All gross revenues received from sales of ~~lottery tickets~~ rights to participate in lotteries, fines, fees, and related proceeds in connection with the statewide lottery and all gross proceeds from statewide joint lottery games shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee.

(2) Except for gross proceeds from statewide joint lottery games, all revenues of the state lottery gross revenue fund that are not paid to ~~holders of winning lottery tickets~~ participants, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents or electronic lottery sales agents in the form of bonuses, commissions, or reimbursements, that are not necessary for procuring, installing, maintaining, servicing, operating, repairing, advertising, promoting, and replacing electronic gaming devices, associated equipment, and the central communications system under section 3770.27 of the Revised Code, that are not disbursed to the department of alcohol and drug addiction services under section 3770.061 of the Revised Code, that are not paid to financial institutions to reimburse those institutions for sales agent nonsufficient funds, and that are not collected from sales agents for remittance to insurers under contract to provide sales agent bonding services shall be transferred to the state lottery fund, which is hereby created in the state treasury. In addition, all revenues of the state lottery gross revenue fund that represent the gross proceeds from the statewide joint lottery games and that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not credited to lottery sales agents in the form of bonuses, commissions, or reimbursements, and that are not necessary to cover operating expenses associated with those games or to otherwise comply with the

agreements signed by the governor that the director enters into under division (J) of section 3770.02 of the Revised Code or the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code shall be transferred to the state lottery fund. ~~HH~~

All investment earnings of the state lottery fund shall be credited to the fund. Moneys~~Except as provided in division (B) of this section, moneys~~ shall be disbursed from the fund pursuant to vouchers approved by the director. Total disbursements for monetary prize awards to holders of winning lottery tickets in connection with the statewide lottery and purchases of goods and services awarded as prizes to holders of winning lottery tickets shall be of an amount equal to at least fifty per cent of the total revenue accruing from the sale of lottery tickets.

~~(B)(1)~~ Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of budget and management, the amount to the credit of the state lottery fund that does not represent the net proceeds of the lotteries conducted under section 3770.22 of the Revised Code and that does not represent proceeds from statewide joint lottery games is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director shall transfer the excess to the lottery profits education fund in connection with the statewide lottery. In addition, the director shall transfer specified net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that were transferred to the state lottery fund under division (A)(2) of this section to the lottery profits education fund for use in accordance with division (B)(2) of this section. In addition, whenever, in the judgment of the director ~~of budget and management~~, the amount to the credit of the state lottery fund that represents proceeds from statewide joint lottery games equals the entire net proceeds of those games as described in division (B)(5) of section 3770.03 of the Revised Code and the rules adopted under that division, the director shall transfer those proceeds to the lottery profits education fund. There also shall~~also~~ be credited to the fund any repayments of moneys loaned from the educational excellence investment fund. Investment earnings of the lottery profits education fund shall be credited to the fund.

(2) The director of budget and management shall transfer the initial five per cent of the net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that were transferred to the state lottery fund under division (A)(2) of this section or twenty-five million dollars of those net proceeds, whichever is less, to the lottery profits education fund for use in accordance with division (B)(3)(b) of this section. The director shall transfer the remaining net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that were transferred to the state lottery fund under division (A)(2) of this section to the Ohio scholarship program fund created under section 3333.30 of the Revised Code for use in accordance with that section.

~~The~~(3)(a) Except as provided in division (B)(3)(b) of this section, the

lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly, or as provided in applicable bond proceedings for the payment of debt service on obligations issued to pay costs of capital facilities, including those for a system of common schools throughout the state pursuant to ~~section~~Section 2n of Article VIII, Ohio Constitution. ~~When~~

(b) The moneys in the lottery profits education fund that represent the amount of the net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that were transferred to the fund under division (B)(2) of this section shall be used solely for school building construction for elementary, secondary, vocational, and special education programs.

(c) When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

~~From~~(4) Subject to division (B)(3)(b) of this section, from the amounts that the director of budget and management transfers in any fiscal year from the state lottery fund to the lottery profits education fund, the director shall transfer the initial ten million dollars of those amounts from the lottery profits education fund to the school building program bond service fund created in division (Q) of section 3318.26 of the Revised Code to be pledged for the purpose of paying bond service charges as defined in division (C) of section 3318.21 of the Revised Code on one or more issuances of obligations, which obligations are issued to provide moneys for the school building program assistance fund created in section 3318.25 of the Revised Code.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the trust fund. Within sixty days after the end of each fiscal year, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for continued funding of deferred prizes. Any earnings credited in excess of this certified amount shall be transferred to the lottery profits education fund.

To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission in connection with the statewide lottery, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund ~~which represents~~that represent proceeds from the statewide lottery in obligations of the type permitted for the investment of state funds but whose maturities are thirty years or less. Notwithstanding the requirements of any other section of the Revised Code, to provide all or part of the amounts necessary to fund deferred prizes awarded by the commission in connection with statewide joint lottery games, the treasurer of state, in consultation with the commission, may invest moneys in the trust fund ~~which that~~

represent proceeds derived from the statewide joint lottery games in accordance with the rules the commission adopts under division (B)(5) of section 3770.03 of the Revised Code. Investments of the trust fund are not subject to the provisions of division (A)(10) of section 135.143 of the Revised Code limiting to twenty-five per cent the amount of the state's total average portfolio that may be invested in debt interests and limiting to one-half of one per cent the amount that may be invested in debt interests of a single issuer.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and any other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and records of lottery sales agents, and of electronic lottery sales agents licensed under section 3770.24 of the Revised Code, that pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year, subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the end of that fiscal year and reporting on compliance with the annual internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

(E) Whenever, in the judgment of the director of budget and management, an amount of net state lottery proceeds is necessary to be applied to the payment of debt service on obligations, all as defined in sections 151.01 and 151.03 of the Revised Code, the director shall transfer that amount directly from the state lottery fund or from the lottery profits education fund to the bond service fund defined in those sections. The provisions of this division are subject to any prior pledges or obligation of those amounts to the payment of bond service charges as defined in division (C) of section 3318.21 of the Revised Code, as referred to in division (B) of this section.

**Sec. 3770.061.** Each month, the director of the state lottery commission shall order the treasurer of state to disburse to the department of alcohol and drug addiction services money from the state lottery gross revenue fund in an amount equal to one-half of one per cent of the gross proceeds attributed to lotteries conducted under section 3770.22 of the Revised Code during the preceding month. The department shall use this amount for the treatment and prevention of problem gambling.

**Sec. 3770.07.** (A)(1) Except as provided in division (A)(2) of this section,

lottery prize awards shall be claimed by ~~the holder of the winning lottery ticket~~ ~~participants~~, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased ~~holder of a winning lottery ticket~~ ~~participant~~, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which the prize award was announced if the 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.

(2) An eligible person serving on active military duty in any branch of the United States armed forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize award. The eligible person shall do so by notifying the commission about the claim not later than the five hundred fortieth day after the date on which the prize award was announced if the lottery game is an on-line game or the date on which the lottery game closed if the lottery game is an instant game.

(3) If no valid claim to a lottery prize award is made within the prescribed period, the prize money, the cost of goods and services awarded as prizes, or, if goods or services awarded as prizes are resold by the commission, the proceeds from their sale shall be returned to the state lottery fund and distributed in accordance with section 3770.06 of the Revised Code.

(4) As used in this division:

(a) "Eligible person" means a person who is entitled to a lottery prize award and who falls into either of the following categories:

(i) While on active military duty in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is transferred out of this state before the one hundred eightieth day after the date on which the winner of the lottery prize award is selected.

(ii) While serving in the reserve forces in this state, the person, as the result of a war or national emergency declared in accordance with federal law, is placed on active military duty and is transferred out of this state before the expiration of the one hundred eightieth day after the date on which the prize drawing occurs for an on-line game or before the expiration of the one hundred eightieth day following the close of an instant game as determined by the commission.

(b) "Active military duty" means that a person is covered by the "Servicemembers Civil Relief Act," 117 Stat. 2835 (2003), 50 U.S.C. 501 et seq., as amended, or the "Uniformed Services Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 38 U.S.C. 4301 et seq., as amended.

(B) If a 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 of the state lottery commission shall order that payment be made to the order of the legal guardian of 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 that prize winner's family legally responsible for the care of that prize winner.

(C) No right of any 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.

(D)(1) No right of any 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~~participant; when the award of a prize is disputed, any person may be awarded a prize award to which another has claimed title, pursuant to the order of a court of competent jurisdiction; when the director is to make a payment pursuant to section 3770.071 or 3770.073 of the Revised Code; or as provided in sections 3770.10 to 3770.14 of the Revised Code.

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

(E) No lottery prize award shall be awarded to or for any officer or employee of the state lottery commission, any officer or employee of the auditor of state actively auditing, coordinating and, or certifying commission drawings~~lotteries~~, or any blood relative or spouse of such an officer or employee of the commission or auditor of state living as a member of the officer's or employee's household, nor shall any such officer, employee, blood relative, or spouse attempt to claim a lottery prize award.

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

(G) Upon the payment of prize awards pursuant to this section or section 3770.28 of the Revised Code, the director ~~and~~, the commission, and electronic lottery sales agents are discharged from all further liability for their payment.

**Sec. 3770.08.** (A) No person shall sell a lottery ticket at a price greater than that ~~fixed~~established by rule of the state lottery commission.

(B) No person other than a licensed lottery sales agent or electronic lottery sales agent shall sell ~~lottery tickets~~rights to participate in lotteries, but nothing in this section shall be construed to prevent any person from giving ~~lottery tickets~~rights to participate in lotteries to another as a gift. A transfer of ~~lottery tickets~~rights to participate in lotteries by any person ~~which~~that is made in

connection with a marketing, promotional, or advertising program shall be deemed to be a gift for the purposes of this chapter.

(C) No person shall sell a lottery ticket to any person under eighteen years of age, and no person under eighteen years of age shall attempt to purchase a lottery ticket. No person shall sell rights to participate in lotteries conducted under section 3770.22 of the Revised Code to any person under twenty-one years of age, and no person under that age shall attempt to purchase rights to participate in lotteries conducted under that section.

(D) No person, directly or indirectly, on behalf of self, or another, nor any organization, shall invite, solicit, demand, offer, or accept any payment, contribution, favor, or other consideration to influence the award, renewal, or retention of a lottery sales or electronic lottery sales agent license.

(E) Except as otherwise provided in this division, no person shall sell lottery tickets on any fairgrounds during any annual exhibition conducted in accordance with Chapter 991. or 1711. of the Revised Code. "Fairgrounds" includes any land or property under the control or management of any agricultural society or of the Ohio expositions commission. This division does not apply to the sale of lottery tickets by the commission at the state fairground during the state fair.

**Sec. 3770.21.** As used in sections 3770.21 to 3770.30 of the Revised Code:

(A) "Associated equipment" means any hardware or software that is connected to an electronic gaming device or the central communications system for the purpose of performing communications to, or validation, auditing, or data and information retrieval by, the state lottery commission. "Associated equipment" does not include telecommunications facilities and equipment of a public utility, or electronic gaming devices.

(B) "Central communications system" means the computer system operated and controlled by the state lottery commission, to which electronic gaming devices and their associated equipment communicate for security, auditing, data and information retrieval, and other purposes authorized under this chapter.

(C) "EDGE business enterprises" has the same meaning as in section 123.152 of the Revised Code.

(D) "Electronic gaming device" means a device approved by the state lottery commission for the purpose of conducting at tracks lotteries that provide immediate prize determinations for individual participants.

(E) "Electronic lottery sales agent" means a person who is a permit holder and holds a current license issued under section 3770.24 of the Revised Code to assist the state lottery commission in conducting lotteries through the use of electronic gaming devices at a track.

(F) "Gross proceeds" means the amount of wagers by participants in

lotteries minus payments to winning participants.

(G) "Key gaming employee" means any individual employed by or under contract with an electronic lottery sales agent or an employee of a contractor that provides management or employee-related services to the agent, including gaming operator managers or assistant managers; facilities operator managers; electronic games managers; accounting department personnel; count room employees; cage department employees, including cashiers and main bank employees; vault department employees; surveillance and security department employees; floor managers; maintenance and security personnel, including custodians of electronic gaming devices and associated equipment and persons with access to cash and accounting records within such devices or equipment; and internal auditors of the electronic lottery sales agent.

(H) "Ohio-based business" means a business that pays the tax levied under Chapter 5733. of the Revised Code and that has a physical presence in this state.

(I) "Permit holder" means a corporation, trust, partnership, limited partnership, association, person, or group of persons issued a permit under Chapter 3769. of the Revised Code to conduct a racing meeting. "Permit holder" does not include the holder of a permit issued for a racing meeting at and during a county fair or an independent fair.

(J) "Track" means any place, track, or enclosure where a permit holder conducts live horse racing for profit at a racing meeting, which is described in Section 6 of Article XV, Ohio Constitution. "Track" includes facilities on premises contiguous or adjacent to those places, tracks, or enclosures.

Sec. 3770.22. If required by the constitution of this state, the state lottery commission shall conduct lotteries that provide immediate prize determinations for individual participants through the use of electronic gaming devices. The commission shall conduct these lotteries only through electronic lottery sales agents that have conducted live horseracing meetings during the past seven calendar years preceding their licensing as electronic lottery sales agents, and only at tracks. If, on the effective date of this section, more than one permit holder conducted horseracing meetings at a track during the previous calendar year, the permit holders shall designate, by a written agreement, one permit holder, or a person or entity owning or owned by one or more permit holders, as the electronic lottery sales agent for that track. The agreement shall be filed with the commission prior to the issuance of an electronic lottery sales agent license and shall not be modified without the consent of the commission.

Sec. 3770.23. An electronic gaming device shall be connected to the central communications system and may be linked with other electronic gaming devices for the purpose of lotteries providing prizes based in whole or part upon the play of other electronic gaming devices electronically connected and located at the same or other tracks. The state lottery commission shall evaluate and approve both the hardware of an electronic gaming device and the software that is used to operate the device. The commission shall not approve an electronic gaming device unless the software that is used to operate it will provide to

participants a projected average return of more than eighty-five per cent.

Except as provided in the agreement required by section 3770.26 of the Revised Code, the number, type, denomination, and location of electronic gaming devices at a track shall be within the judgment of the agent. During the first six months of conducting lotteries, not more than forty per cent of the electronic gaming devices operated by the commission at the track of an electronic lottery sales agent shall be manufactured by the same entity.

**Sec. 3770.24.** (A) The director of the state lottery commission shall license a permit holder as an electronic lottery sales agent. Each applicant for a license as an electronic lottery sales agent shall do all of the following:

(1) Pay to the commission a fee of one thousand dollars;

(2) Present proof, in the form required by the director, that the applicant is a permit holder;

(3) Prior to the approval of the application, obtain a letter of credit, or a surety or, if required by the director, a fidelity bond, in an amount to be determined by the director, but not to exceed one hundred thousand dollars. The bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission under section 3770.03 of the Revised Code.

The director shall certify to the commission that the applicant has the required permit and letter of credit or bond.

(B) An electronic lottery sales agent license is effective for five years. An electronic lottery sales agent, on or before the date established by the director, shall renew the agent's license and the agreement required by section 3770.26 of the Revised Code, and provide evidence that the agent is a current permit holder and has renewed the letter of credit or bond required by this section. The director shall certify to the commission that the applicant for renewal has the required permit and letter of credit or bond.

(C) Any violation of this chapter, or of any rule adopted under it, is sufficient reason for the commission to refuse to issue a license, or for the commission to suspend or revoke any license issued, under this section.

With respect to the issuance, refusal, suspension, or revocation of a license under this section, the action of the commission is subject to Chapter 119, of the Revised Code.

**Sec. 3770.25.** The relationship between the state lottery commission and an electronic lottery sales agent is one of trust. An electronic lottery sales agent collects funds on behalf of the commission through the sale of rights to participate in lotteries for which the agent receives a commission.

An electronic lottery sales agent may not accept any thing of value from, or enter into an agreement with, a manufacturer, distributor, or vendor of electronic gaming devices and associated equipment before filing with the

commission a copy of the agreement or a document memorializing the offer of the thing of value.

**Sec. 3770.26.** (A) The state lottery commission shall execute an agreement with each electronic lottery sales agent. Each agreement and renewed agreement shall provide all of the following:

(1) That thirty-seven and one-half per cent of the gross proceeds of the lotteries conducted under section 3770.22 of the Revised Code shall be paid as a commission to the agent for services and personnel provided under section 3770.28 of the Revised Code by the agent for the lotteries; for the provision, maintenance, and repair of the buildings and grounds at the track where the electronic gaming devices are located; and for injury to the existing business of the agent as the result of the conduct of lotteries by the commission at the track;

(2) That ten and one-half per cent of the gross proceeds of the lotteries conducted under section 3770.22 of the Revised Code shall be credited to the agent for reimbursement of costs and damages as a result of the operation by the commission of electronic gaming devices at the track and applied in accordance with divisions (A)(3) and (4) of this section;

(3) That, from the amount credited to the agent under division (A)(2) of this section, an amount equal to nine and three-fourths per cent of the gross proceeds of lotteries conducted at the track during the previous month shall be added by the agent to the purse money for live horse racing conducted at that track;

(4) That, from the amount credited to the agent under division (A)(2) of this section, an amount equal to one-fourth of one per cent of the gross proceeds of lotteries conducted at the track during the previous month shall be paid by the agent to the county in which the track is located, and one-half of one per cent of those gross proceeds shall be paid to the municipal corporation in which the track is located or, if it is not located in a municipal corporation, to the township in which it is located. If the track is located in more than one county, and municipal corporation or township, the amounts payable pursuant to this division shall be divided equally among the counties, and municipal corporations or townships.

(5) That the initial five per cent of the net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that are transferred to the state lottery fund created under division (A)(2) of section 3770.06 of the Revised Code or twenty-five million dollars of those net proceeds, whichever is less, shall be transferred by the director of budget and management to the lottery profits education fund to be used as specified in division (B)(3)(b) of that section;

(6) That the remaining net proceeds of the lotteries conducted under section 3770.22 of the Revised Code that are transferred to the state lottery fund created under division (A)(2) of section 3770.06 of the Revised Code shall be transferred from that fund by the director of budget and management to the Ohio scholarship program fund created by section 3333.30 of the Revised Code;

(7) That the agent shall give to the commission a written schedule that

lists the installed cost of all fixtures and equipment supplied by the agent to assist the commission in conducting lotteries under section 3770.22 of the Revised Code, and, if the commission discontinues conducting the lotteries for any reason other than breach of the agreement by the agent or suspension or revocation of the agent's license issued under section 3770.24 of the Revised Code or permit issued under Chapter 3769. of the Revised Code, that the commission shall reimburse the agent for the unamortized cost of the fixtures and equipment listed in the schedule;

(8) That the agent shall conduct live horseracing meetings and simulcast racing programs each calendar year on not less than the number of days required by Chapter 3769. of the Revised Code pursuant to the permit issued by the state racing commission for the track;

(9) That not less than one thousand eight hundred nor more than two thousand five hundred electronic gaming devices shall be placed at a track without a determination by the director of the state lottery commission that the number of devices is consistent with the purposes of this chapter and has been requested by the agent;

(10) That lotteries conducted under section 3770.22 of the Revised Code may not be conducted between the hours of five a.m. and eight a.m. on any day;

(11) That the agent shall do all of the following:

(a) Set a goal to award not less than fifty per cent of the contracts related to the provision, maintenance, and repair under division (B) of section 3770.28 of the Revised Code of necessary capital improvements for the facilities at the track at which electronic gaming devices are located to, and make a good faith effort to see that not less than fifty per cent of the subcontracts of those contracts are awarded to, Ohio-based businesses;

(b) Set a goal to award not less than twenty per cent of the contracts described in division (A)(11)(a) of this section to Ohio-based businesses that are EDGE business enterprises;

(c) Make a good faith effort to see that not less than twenty per cent of the subcontracts described in division (A)(11)(a) of this section are awarded to Ohio-based businesses that are EDGE business enterprises;

(d) Set a goal that not less than fifty per cent of the key gaming employees and other personnel employed under divisions (C) and (D) of section 3770.28 of the Revised Code to perform duties to implement sections 3770.21 to 3770.30 of the Revised Code shall be residents of the county where the track is located or of a county adjacent to that county.

(12) That, not later than one year after the initial implementation of sections 3770.21 to 3770.30 of the Revised Code and annually thereafter, the agent shall report to the commission on its efforts to comply with divisions (A)(11)(a) to (d) of this section.

(B) The term of the agreement shall not exceed five years and shall not be

terminated by the parties during its term, except for breach of a provision of the agreement, or suspension or revocation of an electronic lottery sales agent's license issued under section 3770.24 of the Revised Code or of a permit issued under Chapter 3769. of the Revised Code. If the commission intends to terminate or not renew an agreement, it shall provide the agent with an opportunity for an adjudication under Chapter 119. of the Revised Code.

**Sec. 3770.27.** In conducting lotteries under section 3770.22 of the Revised Code, the state lottery commission shall do all of the following:

(A) Approve, qualify, certify, procure, install, maintain, repair, replace, and operate all electronic gaming devices, associated equipment, and intellectual property necessary for the conduct of the lotteries;

(B) Procure, install, establish, maintain, repair, replace, and operate the central communications system that provides security, auditing, and data and information retrieval as determined necessary by the commission and that does not limit participation to only one electronic gaming device manufacturer, distributor, supplier, or provider. The central communications system shall be online and in continuous communication with computers, electronic gaming devices, and associated equipment located at the tracks of electronic lottery sales agents.

(C) Select, qualify, certify, retain, pay, and terminate all contractors, suppliers, service companies, and vendors of the commission necessary for the conduct of lotteries under section 3770.22 of the Revised Code, including those persons that provide electronic gaming devices, associated equipment, and the central communications system;

(D) Establish standards for the daily payment, by an electronic lottery sales agent through electronic transfer or other system mandated by the director, of the gross proceeds of lotteries conducted under section 3770.22 of the Revised Code, less the commission paid, and the reimbursement credited, to the agent under divisions (A)(1) and (2) of section 3770.26 of the Revised Code;

(E) Review advertising and promotion of electronic lottery gaming. The commission may approve or disapprove of any advertising and promotion, but approval shall not be unreasonably withheld. The commission shall pay fifty per cent of the cost of producing, distributing, and operating any approved advertising and promotion, and the remainder of that cost shall be paid by the electronic lottery sales agent that initiates the advertising or promotion. However, excluding the initial year of the conduct of the lotteries under section 3770.22 of the Revised Code, annual advertising and promotion expenditures made by the commission shall not exceed five per cent of the annual gross proceeds of the lotteries.

**Sec. 3770.28.** In assisting the state lottery commission with the conduct of lotteries under section 3770.22 of the Revised Code, an electronic lottery sales agent shall do all of the following:

(A) Select the number, type, denomination, and location of, and refill, the

electronic gaming devices that have been placed by the commission at the track, and promptly report to the electronic gaming device manufacturer and the commission any malfunctions of the devices, or failures of the manufacturers or service technicians to promptly service and repair the devices or associated equipment;

(B) Provide, maintain, and repair necessary capital improvements for the facilities at the track at which electronic gaming devices are located;

(C) Hire and compensate adequate personnel to ensure compliance with the provisions of this chapter relating to the operation of electronic gaming devices, including sufficient security personnel to protect and secure the devices and associated equipment, and the track at which the devices are located;

(D) Hire, compensate, and be responsible for the performance of the duties of, key gaming employees, ensuring that those employees have been and remain during the course of their employment duly licensed by the commission;

(E) By electronic transfer or other system mandated by the director, transfer or deliver daily to the commission the gross proceeds of lotteries conducted under section 3770.22 of the Revised Code, less the commission paid, and the reimbursement credited, to the agent under divisions (A)(1) and (2) of section 3770.26 of the Revised Code;

(F) Deliver payment to winning participants of prizes awarded by lotteries conducted by the commission through electronic gaming devices at the track.

**Sec. 3770.29.** (A) The conduct of lotteries and the operation of electronic gaming devices at tracks under section 3770.22 of the Revised Code shall not be deemed to change the character of the use of the tracks under any county, municipal, or township land use regulation, ordinance, or agreement.

(B) No license or excise tax or fee shall be assessed upon or collected from an electronic lottery sales agent by any county, township, municipal corporation, school district, or other political subdivision of the state that has the authority to assess or collect a tax or fee, by reason of the conduct of lotteries at tracks under section 3770.22 of the Revised Code.

**Sec. 3770.30.** Sections 3770.21 to 3770.30 of the Revised Code do not modify the authority of the state racing commission to regulate horse racing in accordance with Chapter 3769. of the Revised Code or, except as provided in sections 3770.21 to 3770.30 of the Revised Code, the rights and responsibilities of permit holders under that chapter."

Between lines 211 and 212, insert:

"**Sec. 4301.03.** The liquor control commission may adopt and promulgate, repeal, rescind, and amend, in the manner required by this section, rules, standards, requirements, and orders necessary to carry out this chapter and Chapter 4303. of the Revised Code, but all rules of the board of liquor control that were in effect immediately prior to April 17, 1963, shall remain in full force and effect as rules of the liquor control commission until and unless amended or



repealed by the liquor control commission. The rules of the commission may include the following:

(A) Rules with reference to applications for and the issuance of permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor, and the sale of alcohol; and rules governing the procedure of the division of liquor control in the suspension, revocation, and cancellation of those permits;

(B) Rules and orders providing in detail for the conduct of any retail business authorized under permits issued pursuant to this chapter and Chapter 4303. of the Revised Code, with a view to ensuring compliance with those chapters and laws relative to them, and the maintenance of public decency, sobriety, and good order in any place licensed under the permits. No rule or order shall prohibit the sale of ~~lottery tickets issued~~ rights to participate in lotteries pursuant to Chapter 3770. of the Revised Code by any retail business authorized under permits issued pursuant to that chapter.

No rule or order shall prohibit pari-mutuel wagering on simulcast horse races at a satellite facility that has been issued a D liquor permit under Chapter 4303. of the Revised Code. No rule or order shall prohibit a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used at other times for the conduct of a bingo game, as described in division (S) of section 2915.01 of the Revised Code. However, such an organization shall not sell or serve beer or intoxicating liquor or permit beer or intoxicating liquor to be consumed or seen in the same location in its premises where a bingo game, as described in division (S)(1) of section 2915.01 of the Revised Code, is being conducted while the game is being conducted. As used in this division, "charitable organization" has the same meaning as in division (H) of section 2915.01 of the Revised Code. No rule or order pertaining to visibility into the premises of a permit holder after the legal hours of sale shall be adopted or maintained by the commission.

(C) Standards, not in conflict with those prescribed by any law of this state or the United States, to secure the use of proper ingredients and methods in the manufacture of beer, mixed beverages, and wine to be sold within this state;

(D) Rules determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor, except for spirituous liquor to be kept or sold, governing the form of all seals and labels to be used on those packages and bottles, and requiring the label on every package, bottle, and container to state the ingredients in the contents and, except on beer, the terms of weight, volume, or proof spirits, and whether the same is beer, wine, alcohol, or any intoxicating liquor except for spirituous liquor;

(E) Uniform rules governing all advertising with reference to the sale of beer and intoxicating liquor throughout the state and advertising upon and in the premises licensed for the sale of beer or intoxicating liquor;

(F) Rules restricting and placing conditions upon the transfer of permits;

(G) Rules and orders limiting the number of permits of any class within the state or within any political subdivision of the state; and, for that purpose, adopting reasonable classifications of persons or establishments to which any authorized class of permits may be issued within any political subdivision;

(H) Rules and orders with reference to sales of beer and intoxicating liquor on Sundays and holidays and with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and rules with reference to the manner of sale;

(I) Rules requiring permit holders buying beer to pay and permit holders selling beer to collect minimum cash deposits for kegs, cases, bottles, or other returnable containers of the beer; requiring the repayment, or credit, of the minimum cash deposit charges upon the return of the empty containers; and requiring the posting of such form of indemnity or such other conditions with respect to the charging, collection, and repayment of minimum cash deposit charges for returnable containers of beer as are necessary to ensure the return of the empty containers or the repayment upon that return of the minimum cash deposits paid;

(J) Rules establishing the method by which alcohol products may be imported for sale by wholesale distributors and the method by which manufacturers and suppliers may sell alcohol products to wholesale distributors.

Every rule, standard, requirement, or order of the commission and every repeal, amendment, or rescission of them shall be posted for public inspection in the principal office of the commission and the principal office of the division of liquor control, and a certified copy of them shall be filed in the office of the secretary of state. An order applying only to persons named in it shall be served on the persons affected by personal delivery of a certified copy, or by mailing a certified copy to each person affected by it or, in the case of a corporation, to any officer or agent of the corporation upon whom a service of summons may be served in a civil action. The posting and filing required by this section constitutes sufficient notice to all persons affected by such rule or order which is not required to be served. General rules of the commission promulgated pursuant to this section shall be published in the manner the commission determines."

In line 212, after "3770.02," insert "3770.03, 3770.05, 3770.06, 3770.07, 3770.08,"; delete "and"

In line 213, after "3793.02" insert ", and 4301.03"

After line 248, insert:

**"Section 4.** (A) The agreement between the State Lottery Commission and each electronic lottery sales agent, as defined by section 3770.21 of the Revised Code, shall provide that a one-time licensing fee equal to eight thousand dollars for each electronic gaming device, as defined by that section, that is to be located at the premises of the electronic lottery sales agent shall be paid by the agent to the Commission before an electronic gaming device may be operated. If an

electronic gaming device is replaced by another device, no additional licensing fee is required for the replacement device.

(B) Notwithstanding any contrary provisions of section 3770.26 of the Revised Code, from the date of payment of the device licensing fees through October 31, 2005, the thirty-seven and one-half per cent referred to in division (A)(1) of that section shall be changed to forty and one-half per cent, the ten and one-half per cent referred to in division (A)(2) of that section shall be changed to nine per cent, and the nine and three-fourths per cent referred to in division (A)(3) of that section shall be changed to eight and one-fourth per cent; and from November 1, 2005, until a date determined by the rules of the Commission, the thirty-seven and one-half per cent referred to in division (A)(1) of that section shall be changed to thirty-nine per cent, the ten and one-half per cent referred to in division (A)(2) of that section shall be changed to nine per cent, and the nine and three-fourths per cent referred to in division (A)(3) of that section shall be changed to eight and one-fourth per cent.

(C) The Commission shall adopt rules that require electronic lottery sales agents to file all documents relating to their borrowing or financing of device licensing fees and determining the date at which the financing or borrowing is retired, and then that provide that the provisions of this section shall cease to be effective.

**Section 5.** Prior to December 31, 2019, an electronic lottery sales agent, as defined by section 3770.21 of the Revised Code, and the Ohio Division of the Horsemen's Benevolent and Protective Association or Ohio Harness Horsemen's Association may provide, by written agreement filed with the State Lottery Commission and the State Racing Commission, that an amount equal to one per cent of the gross proceeds of the lotteries conducted under section 3770.22 of the Revised Code shall be paid by the agent to one or more of the following funds, as designated by the appropriate horsemen's association:

(A) The Ohio Fairs Fund created by section 3769.082 of the Revised Code;

(B) The Ohio Thoroughbred Race Fund created by section 3769.083 of the Revised Code;

(C) The Ohio Standardbred Development Fund created by section 3769.085 of the Revised Code;

(D) The Ohio Quarter Horse Development Fund created by section 3769.086 of the Revised Code.

If an agreement is entered into under this section, the amount required to be added to the purse money by the electronic lottery sales agent under division (A)(3) of section 3770.26 of the Revised Code shall be reduced by one per cent.

**Section 6.** Notwithstanding any contrary provision of section 3505.062, 3505.063, or 3519.21 or any other section of the Revised Code, in connection with the proposal to amend Section 6 of Article XV of the Constitution of the

State of Ohio set forth in Substitute Senate Joint Resolution 8 of the 125th General Assembly that is to be presented to the electors of the state at a special election to be held on March 2, 2004, the following shall apply:

(A) The General Assembly, by concurrent resolution, may prescribe the title and ballot language for, and prepare an explanation of, the proposal and submit the title, ballot language, and explanation to the Ohio Ballot Board. The explanation may include statements as to the purposes and effects of the proposal. The Ohio Ballot Board shall adopt the submitted title, ballot language, and explanation for the proposal, as if it was prescribing ballot language for or preparing an explanation of another constitutional amendment proposed by the General Assembly, unless a majority of the members of the Board finds the submitted title, ballot language, or explanation would mislead, deceive, or defraud the electors of the state voting on the proposal at the election. The Ohio Ballot Board shall certify the submitted title, ballot language, and explanation to the Secretary of State not later than eighty days before the election unless it makes such a finding.

(B) The Speaker of the House of Representatives and the President of the Senate each shall appoint three individuals in favor of the proposal and three individuals against the proposal. The individuals in favor of the proposal shall draft and file arguments for the proposal, and the three individuals against the proposal shall draft and file arguments against the proposal. These arguments shall be filed with the Secretary of State not later than seventy-five days before the election and shall not exceed three hundred words. The arguments shall not be printed or included on the ballot but shall be disseminated in the same manner as arguments relating to constitutional amendments under division (C) of section 3505.063 of the Revised Code.

**Section 7.** If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if the application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncodified sections of law contained in this act are composed, and their applications, are independent and severable."

In line 1 of the title, after "3770.02," insert "3770.03, 3770.05, 3770.06, 3770.07, 3770.08,"; delete "and"; after "3793.02" insert ", and 4301.03 and to enact sections 3333.30, 3333.301, 3770.061, and 3770.21 to 3770.30"

In line 7 of the title, delete "and"

In line 9 of the title, after "services" insert "to require the Commission to establish licensing procedures for electronic lottery sales agents that are horseracing permit holders and to conduct lotteries that provide immediate prize determinations for individual participants through the use of electronic gaming devices at not more than seven licensed commercial horseracing tracks, to require the Board of Regents to implement the Ohio Scholarship Program to provide

specified scholarships to certain high school graduates who meet certain academic standards and enroll in specified Ohio institutions of higher education, to require the Board of Regents to implement the Ohio Learn and Earn Scholarship Program to provide certain scholarships to high school graduates who meet certain academic and nonacademic requirements and enroll in specified Ohio institutions of higher education, to require five per cent or \$25 million of the net proceeds from the electronic lotteries, whichever is less, to be used for school building construction for elementary, secondary, vocational, and special education programs, and to require the remaining net proceeds from the electronic lotteries to be used to support first the Ohio Scholarship Program and second the Ohio Learn and Earn Scholarship Program"

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

11/10/04

The Honorable Larry Householder, Speaker  
The Ohio House of Representatives  
Columbus, Ohio

Speaker Householder,

Pursuant to House Rule No. 56, I respectfully request that I be excused from voting on the motion to amend **H.B. No. 477-** Representative Flowers et al., because it might be construed that I have an interest in the legislation.

Sincerely yours,

/s/ JIM HUGHES  
State Representative Jim Hughes  
22nd House District

The request was granted.

The yeas and nays were taken and resulted - yeas 8, nays 85, as follows:  
Representatives Allen, Bocchieri, Distel, Miller, Redfern, Stewart D., Ujvagi, and Wilson voted in the affirmative-8.

Those who voted in the negative were: Representatives

- |           |           |           |            |
|-----------|-----------|-----------|------------|
| Aslanides | Barrett   | Beatty    | Blasdel    |
| Book      | Brinkman  | Brown     | Buehrer    |
| Callender | Calvert   | Carano    | Carmichael |
| Cates     | Chandler  | Cirelli   | Clancy     |
| Collier   | Combs     | Core      | Daniels    |
| DeBose    | DeGeeter  | DeWine    | Domenick   |
| Driehaus  | Evans C.  | Evans D.  | Faber      |
| Flowers   | Gibbs     | Gilb      | Hagan      |
| Hartnett  | Harwood   | Hollister | Hoops      |
| Husted    | Jerse     | Kearns    | Key        |
| Koziura   | Latta     | Martin    | Mason      |
| McGregor  | Niehaus   | Oelslager | Olman      |
| Otterman  | Patton S. | Patton T. | Perry      |
| Peterson  | Price     | Raga      | Raussen    |

Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seaver	Seitz
Setzer	Skindell	Slaby	Smith G.
Smith S.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wolpert	Woodard	Yates
			Householder-85.

The motion was not agreed to.

The question recurring, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 94, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Bocchieri	Book	Brinkman
Brown	Buehrer	Callender	Calvert
Carano	Carmichael	Cates	Chandler
Cirelli	Clancy	Collier	Combs
Core	Daniels	DeBose	DeGeeter
DeWine	Distel	Domenick	Driehaus
Evans C.	Evans D.	Faber	Flowers
Gibbs	Gilb	Hagan	Hartnett
Harwood	Hollister	Hoops	Hughes
Husted	Jerse	Kearns	Key
Koziura	Latta	Martin	Mason
McGregor	Miller	Niehaus	Oelslager
Olman	Otterman	Patton S.	Patton T.
Perry	Peterson	Price	Raga
Raussen	Redfern	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Schneider
Seaver	Seitz	Setzer	Skindell
Slaby	Smith G.	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Ujvagi	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Woodard
Yates			Householder-94.

The bill passed.

Representative Flowers moved to amend the title as follows:

Add the names: "Aslanides, Callender, Carano, Carmichael, Daniels, DeBose, Distel, Domenick, C. Evans, D. Evans, Hughes, Key, Latta, Martin, Mason, Olman, Otterman, T. Patton, Perry, Price, Reidelbach, Schmidt, G. Smith, J. Stewart, Strahorn, Wagner, Walcher, Wolpert."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**H. B. No. 498**-Representatives Faber, Buehrer, Young, Gibbs, Wagner,

Seitz, Brinkman, Aslanides, Setzer, Reinhard, Combs, Hagan, Niehaus, Collier, Clancy, D. Evans, Schaffer, Fessler, Webster, Cates.

To enact new section 2745.01 and to repeal sections 2305.112 and 2745.01 of the Revised Code to replace the existing statutory provisions on employment intentional torts with a requirement that the plaintiff in a civil action based on an employment intentional tort prove that the employer acted with intent to injure another or in the belief that the injury was substantially certain to occur, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Jerse moved to amend as follows:

Between lines 28 and 29, insert:

"(D) As used in this section:

(1) "Injury" includes only physical injuries compensable under Chapters 4121. and 4123. of the Revised Code.

(2) "Tort" includes only those claims arising from an injury."

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

Representative Buehrer 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 52, nays 42, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Blasdel	Buehrer	Calvert
Carmichael	Cates	Clancy	Collier
Combs	Core	Daniels	DeWine
Evans C.	Evans D.	Faber	Flowers
Gibbs	Gilb	Hagan	Hollister
Hoops	Husted	Kearns	Latta
Martin	McGregor	Niehaus	Peterson
Raga	Raussen	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Schneider
Seaver	Seitz	Setzer	Slaby
Smith G.	Stewart J.	Taylor	Trakas
Wagner	Walcher	Webster	White
Widener	Widowfield	Wolpert	Householder-52.

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brinkman	Brown	Callender
Carano	Chandler	Cirelli	DeBose
DeGeeter	Distel	Domenick	Driehaus
Hartnett	Harwood	Hughes	Jerse
Key	Koziura	Mason	Miller
Oelslager	Olman	Otterman	Patton S.
Patton T.	Perry	Price	Redfern

Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Willamowski	Wilson
Woodard			Yates-42.

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

Representative Miller moved that **H.B. No. 498**-Representative Faber et al., be rereferred to the committee on Commerce and Labor.

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

The yeas and nays were taken and resulted - yeas 37, nays 57, as follows:

Those who voted in the affirmative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Book	Brown	Carano	Chandler
Cirelli	DeBose	DeGeeter	Distel
Domenick	Driehaus	Hartnett	Harwood
Jerse	Kearns	Key	Koziura
Mason	Miller	Oelslager	Otterman
Patton S.	Perry	Price	Redfern
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Ujvagi	Wilson	Woodard
			Yates-37.

Those who voted in the negative were: Representatives

Aslanides	Blasdel	Brinkman	Buehrer
Callender	Calvert	Carmichael	Cates
Clancy	Collier	Combs	Core
Daniels	DeWine	Evans C.	Evans D.
Faber	Flowers	Gibbs	Gilb
Hagan	Hollister	Hoops	Hughes
Husted	Latta	Martin	McGregor
Niehaus	Olman	Patton T.	Peterson
Raga	Rausssen	Reidelbach	Reinhard
Schaffer	Schlichter	Schmidt	Schneider
Seaver	Seitz	Setzer	Slaby
Smith G.	Stewart J.	Taylor	Trakas
Wagner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Wolpert
			Householder-57.

The motion was not agreed to.

The question recurring, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 60, nays 34, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Blasdel	Brinkman
Buehrer	Calvert	Carmichael	Cates
Clancy	Collier	Combs	Core
Daniels	DeWine	Evans C.	Evans D.



Faber	Flowers	Gibbs	Gilb
Hagan	Hartnett	Hollister	Hoops
Husted	Jerse	Kearns	Latta
Martin	McGregor	Niehaus	Olman
Patton S.	Peterson	Raga	Rausen
Reidelbach	Reinhard	Schaffer	Schlichter
Schmidt	Schneider	Seaver	Seitz
Setzer	Slaby	Smith G.	Stewart J.
Taylor	Trakas	Wagner	Walcher
Webster	White	Widener	Widowfield
Willamowski	Wilson	Wolpert	Householder-60.

Those who voted in the negative were: Representatives

Barrett	Beatty	Bocchieri	Book
Brown	Callender	Carano	Chandler
Cirelli	DeBose	DeGeeter	Distel
Domenick	Driehaus	Harwood	Hughes
Key	Koziura	Mason	Miller
Oelslager	Otterman	Patton T.	Perry
Price	Redfern	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Ujvagi
Woodard			Yates-34.

The bill passed.

Representative Faber moved to amend the title as follows:

Add the names: "Blasdel, Calvert, Carmichael, Core, Daniels, DeWine, C. Evans, Flowers, Gilb, Hollister, Hoops, Kearns, Martin, Peterson, Reidelbach, Schlichter, Schmidt, Schneider, Taylor, Widowfield, Wolpert."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

#### Message from the Senate

Mr. Speaker:

I am directed to inform the House of Representatives that the Senate has passed the following bill in which the concurrence of the House is requested:

#### **Sub. S. B. No. 234** - Senator Mumper

To authorize the Adjutant General to transfer a specified parcel of state-owned real estate no longer needed for armory or military purposes to the grantor of the parcel pursuant to the reversionary clause in the parcel's deed; to authorize the conveyance of twelve parcels of state-owned real estate that the Adjutant General has determined are no longer required for armory or military purposes to a buyer or buyers to be determined at a later date; to authorize the conveyance of specified state-owned real estate located in Gallia County to Robert Wiley; to authorize the conveyance of specified state-owned real estate located in Gallia County to the Board of County Commissioners of

Gallia County; to authorize the Director of Administrative Services to offer for sale, to a buyer to be determined at a later date, specified real estate located in Wayne County that the Department of Mental Retardation and Developmental Disabilities has determined is no longer required for state purposes; to authorize the conveyance of specified state-owned real estate located in Union County to the Association for the Developmentally Disabled; to authorize the conveyance of a series of specified parcels of state-owned real estate located in Hamilton County to Cincinnati's Optimum Residential Environments, Incorporated; to authorize the conveyance of specified state-owned real estate located in Scioto County to the Northwest Local School District, Scioto County; to authorize the conveyance of specified state-owned real estate located in Jefferson County to the Edison Local School District, Jefferson County; to authorize the conveyance of specified state-owned real estate located in Mahoning County to the City of Youngstown; to authorize the conveyance of specified state-owned real estate located in Pickaway County to the Village of Orient; to authorize the conveyance of specified state-owned real estate located in Montgomery County to Barry K. Humphries to correct an erroneous omission in a prior conveyance authorized by Sub. S.B. 332 of the 123rd General Assembly; to authorize the conveyance of specified state-owned real estate in Portage County to the Board of County Commissioners of Portage County; to authorize the conveyance of certain state-owned real estate in Summit County to a purchaser; and to authorize the conveyance of certain state-owned land in Madison County to the Kirkwood Cemetery Association.

Attest:

Matthew T. Schuler,  
Clerk.

Said bill was considered the first time.

On motion of Representative Cates, the House adjourned until Friday, November 12, 2004 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,  
Clerk.