

OHIO

House

of

Representatives

JOURNAL

WEDNESDAY, FEBRUARY 22, 2006

ONE HUNDRED FORTY-FOURTH DAY
Hall of the House of Representatives, Columbus, Ohio
Wednesday, February 22, 2006 at 1:30 o'clock p.m.

The House met pursuant to adjournment.

Prayer was offered by Daniel Pierce of the Greenville Grace Church in Greenville, 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 Husted prior to the commencement of business:

Kerry Raabe, a guest of Representative Raussen-28th district.

Linda Oda, Michael and Emily Nunez, guests of Representative Schneider-35th district.

INTRODUCTION OF BILLS

The following joint resolution was introduced:

H. J. R. No. 12-Representatives Wolpert, Hood.

Proposing to enact Section 14 of Article XII of the Ohio Constitution to establish limitations on the state regarding taxes and expenditures and to require full state funding of local government mandates.

Said joint resolution was considered the first time.

The following bill was introduced:

H. B. No. 521-Representative Coley.

To amend sections 149.43, 149.431, 164.07, 166.02, 307.022, 307.671, 307.673, 307.674, 307.696, 313.091, 351.06, 1347.08, 1710.02, 3383.07, 4113.99, 4115.03, 4115.033, 4115.034, 4115.04, 4115.05, 4115.07, 4115.071, 4115.10, 4115.16, 4116.01, 4116.02, 4116.04, and 4139.03, to enact new section 4115.032 and sections 4113.81, 4113.82, 4113.83, 4113.84, 4113.85, 4115.035, and 4115.051, and to repeal sections 122.452, 165.031, 3706.042, 4115.032, 4116.03, and 6121.061 of the Revised Code to specify that, for certain public improvements, the Prevailing Wage Law only applies if the public improvements are funded not less than fifty per cent by public money; to increase the threshold level to one million dollars in order for any project to be subject to the Prevailing Wage Law and to establish a new method of determining the threshold level; to permit all contractors and subcontractors for all public and private improvement projects to submit to the Director of Commerce specified information contained in a contract that is entered into for the purpose of repaying a contractor or subcontractor and to require the

Director to consider this information when calculating the prevailing wage; to remove from the Prevailing Wage Law the procedure for interested parties to file complaints with the Director and to take other specified actions; to permit any person to file a complaint with the Director alleging a violation of the Prevailing Wage Law and to permit, but not require, the Director to investigate the complaint; to remove from the Prevailing Wage Law the requirement that contractors and subcontractors performing work on a public improvement submit payroll reports to the contracting public authority; to make collective bargaining agreements that are voluntarily submitted to the director of commerce public records; to allow apprenticeship program sponsors who are not governed by collective bargaining agreements to select the ratio of apprentices to journeypersons established by certain state or federal agencies; and to neither require nor prohibit any person who submits a bid on a public improvement project to enter into or adhere to agreements with one or more labor organizations.

Said bill was considered the first time.

REPORTS OF STANDING AND SELECT COMMITTEES AND BILLS FOR SECOND CONSIDERATION

Representative Mason submitted the following report:

The standing committee on Civil and Commercial Law to which was referred **H. B. No. 442**-Representative Dolan, et al., having had the same under consideration, reports it back as a substitute bill and recommends its passage.

RE: REIMBURSEMENT INSURANCE POLICIES

Representative Oelslager moved to amend the title as follows:

Add the names: "Wagoner, Oelslager, Coley, Willamowski."

- | | |
|------------------------|---------------------|
| MARK D. WAGONER | ROBERT E. LATTA |
| SANDRA STABILE HARWOOD | W. SCOTT OELSLAGER |
| WILLIAM J. SEITZ | BILL COLEY |
| MICHAEL J. SKINDELL | JOHN R. WILLAMOWSKI |
| LANCE T. MASON | |

The report was agreed to.

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

MOTIONS AND RESOLUTIONS

Representative Carmichael moved that majority party members asking leave to be absent or absent the week of Wednesday, February 22, 2006, be excused, so long as a written request is on file in the majority leadership

offices.

The motion was agreed to.

Representative Driehaus moved that minority party members asking leave to be absent or absent the week of Wednesday, February 22, 2006, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 390-Representatives Taylor, Brinkman, Brown, Gibbs, Gilb, Hood, Kilbane, Trakas, Hagan, Blessing, Schaffer, Latta.

To amend sections 109.082, 131.02, 2329.07, 5735.03, 5747.08, and 5749.02, to enact sections 2305.26, 5703.58, 5733.262, 5739.134, 5747.082, 5747.134, and 5751.061, and to repeal section 5733.18 of the Revised Code to place a time limit on the collection of certain finalized but outstanding tax liabilities, to restore and lengthen a prior statute of limitation on certain statutory liens, to restore a former requirement that the state must periodically take affirmative action to keep alive judgment liens in the state's favor, to limit the total amount of penalties that may be added to late or underpaid taxes if the amount at issue is \$1,000 or less, and to provide "innocent spouse relief" from joint and several liability for income tax under prescribed circumstances, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Skindell moved to amend as follows:

In line 946, delete everything after "arising," and insert "on or after January 1, 2007."

Delete lines 947 through 951

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

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

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

02-22-06

The Honorable Jon A. Husted, Speaker
The Ohio House of Representatives
Columbus, Ohio
Speaker Husted,

Pursuant to House Rule No. 57, I respectfully request that I be excused from voting on **Sub. H. B. No. 390**-Representative Taylor, et al., because it might

be construed that I have an interest in the legislation.

Sincerely yours,

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

The request was granted.

The yeas and nays were taken and resulted - yeas 56, nays 37, as follows:

Those who voted in the affirmative were: Representatives

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

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Brinkman	Carano	Cassell	Chandler
DeBose	DeGeeter	Distel	Domenick
Driehaus	Fende	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Mason	Miller	Mitchell	Otterman
Patton S.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Williams	Woodard	Yates
			Yuko-37.

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

Representative Skindell moved to amend as follows:

In line 17, after "5735.03," insert "5741.01,"

In line 18, after "amended" insert ", section 5703.65 (5703.59) be amended for the purpose of adopting a new section number as indicated in parentheses,"; after the second "and" insert "new section 5703.65 and"; after

"5735.58," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

Between lines 278 and 279, insert:

"~~Sec. 5703.65~~**5703.59.** Registration with the central registration system provided for in section 5740.05 of the Revised Code shall not be used as a basis for establishing nexus with or in this state for any tax levied by the state or a political subdivision of the state.

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

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

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

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

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

(2) If a person required by this division to file a copy of a reportable transaction disclosure statement on which only reportable transactions are reported fails to file the statement as required, a penalty shall be imposed equal to fifteen thousand dollars. If a person required by this division to file a copy of a reportable transaction disclosure statement on which one or more listed transactions is reported fails to file the statement as required, a penalty shall be imposed equal to thirty thousand dollars. Any penalty imposed under this division is in addition to any other penalties imposed under law. The penalty shall be collected by assessment as provided under Chapter 5733. or 5747. of the Revised Code, as applicable to the person, except that there is no bar or limit on the time within which an assessment may be issued. All proceeds from the collection of penalties imposed under this division shall be considered as revenue arising from the tax imposed under section 5733.06, 5733.41, 5747.02,

or 5747.41 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

been the subject of an inquiry by the tax commissioner regarding liability for any of the taxes imposed under Chapter 5733, or 5747, of the Revised Code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) That the tax commissioner shall, with respect to a qualified entity, qualified shareholder, qualified member, or qualified beneficiary, except as

provided in division (E)(1), (2), or (3) of this section:

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

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

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

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

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

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

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

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

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

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

(D) At the tax commissioner's discretion, a voluntary disclosure agreement may provide for taxes, interest, fees, or penalties payable under the agreement to be paid in installments, with provisions for the accrual of interest on balances that remain outstanding after a specified date.

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

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

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

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

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

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

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

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

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

(4) The tax shown by the qualified entity on its report or return filed for any taxable year covered by the voluntary disclosure agreement understates by ten per cent or more the tax imposed under Chapter 5733. or 5747. of the

Revised Code and the qualified entity cannot demonstrate to the satisfaction of the tax commissioner that a good-faith effort was made to accurately compute the tax.

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

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

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

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

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

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

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

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

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

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

(B) If a taxpayer subject to Chapter 5733. or 5747. of the Revised Code has a reportable transaction understatement for any taxable year with respect to a reportable transaction having as a significant purpose the avoidance or evasion of the tax imposed under section 5733.06 or 5747.02 of the Revised Code or with respect to a listed transaction, there shall be added to the tax an amount

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

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

Between lines 447 and 448, insert:

"**Sec. 5741.01.** As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, business trusts, governments, and combinations of individuals of any form.

(B) "Storage" means and includes any keeping or retention in this state for use or other consumption in this state.

(C) "Use" means and includes the exercise of any right or power incidental to the ownership of the thing used. A thing is also "used" in this state if its consumer gives or otherwise distributes it, without charge, to recipients in this state.

(D) "Purchase" means acquired or received for a consideration, whether such acquisition or receipt was effected by a transfer of title, or of possession, or of both, or a license to use or consume; whether such transfer was absolute or conditional, and by whatever means the transfer was effected; and whether the consideration was money, credit, barter, or exchange. Purchase includes production, even though the article produced was used, stored, or consumed by the producer. The transfer of copyrighted motion picture films for exhibition purposes is not a purchase, except such films as are used solely for advertising purposes.

(E) "Seller" means the person from whom a purchase is made, and includes every person engaged in this state or elsewhere in the business of selling tangible personal property or providing a service for storage, use, or other consumption or benefit in this state; and when, in the opinion of the tax commissioner, it is necessary for the efficient administration of this chapter, to regard any ~~salesman~~ salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates, or from whom the person obtains tangible personal property, sold by the person for storage, use, or other consumption in this state, irrespective of

whether or not the person is making such sales on the person's own behalf, or on behalf of such dealer, distributor, supervisor, or employer, the commissioner may regard the person as such agent, and may regard such dealer, distributor, supervisor, or employer as the seller. "Seller" does not include any person to the extent the person provides a communications medium, such as, but not limited to, newspapers, magazines, radio, television, or cable television, by means of which sellers solicit purchases of their goods or services.

(F) "Consumer" means any person who has purchased tangible personal property or has been provided a service for storage, use, or other consumption or benefit in this state. "Consumer" does not include a person who receives, without charge, tangible personal property or a service.

A person who performs a facility management or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E) of section 5739.01 of the Revised Code.

(G)(1) "Price," except as provided in divisions (G)(2) to (6) of this section, has the same meaning as in division (H)(1) of section 5739.01 of the Revised Code.

(2) In the case of watercraft, outboard motors, or new motor vehicles, "price" has the same meaning as in divisions (H)(2) and (3) of section 5739.01 of the Revised Code.

(3) In the case of a nonresident business consumer that purchases and uses tangible personal property outside this state and subsequently temporarily stores, uses, or otherwise consumes such tangible personal property in the conduct of business in this state, the consumer or the tax commissioner may determine the price based on the value of the temporary storage, use, or other consumption, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(4) In the case of tangible personal property held in this state as inventory for sale or lease, and that is temporarily stored, used, or otherwise consumed in a taxable manner, the price is the value of the temporary use. A price determination made by the consumer is subject to review and redetermination by the commissioner.

(5) In the case of tangible personal property originally purchased and used by the consumer outside this state, and that becomes permanently stored, used, or otherwise consumed in this state more than six months after its acquisition by the consumer, the consumer or the commissioner may determine the price based on the current value of such tangible personal property, in lieu of determining the price pursuant to division (G)(1) of this section. A price determination made by the consumer is subject to review and redetermination by

the commissioner.

(6) If a consumer produces tangible personal property for sale and removes that property from inventory for the consumer's own use, the price is the produced cost of that tangible personal property.

(H) "Nexus with this state" means that the seller engages in continuous and widespread solicitation of purchases from residents of this state or otherwise purposefully directs its business activities at residents of this state.

(I) "Substantial nexus with this state" means that the seller has sufficient contact with this state, in accordance with Section 8 of Article I of the Constitution of the United States, to allow the state to require the seller to collect and remit use tax on sales of tangible personal property or services made to consumers in this state. "Substantial nexus with this state" exists when the seller does any of the following:

(1) Maintains a place of business within this state, whether operated by employees or agents of the seller, by a member of an affiliated group, as defined in division (B)(3)(e) of section 5739.01 of the Revised Code, of which the seller is a member, or by a franchisee using a trade name of the seller;

(2) Regularly has employees, agents, representatives, solicitors, installers, ~~repairmen~~ repairers, ~~salesmen~~ salespersons, or other individuals in this state for the purpose of conducting the business of the seller;

(3) Uses a person in this state for the purpose of receiving or processing orders of the seller's goods or services;

(4) Makes regular deliveries of tangible personal property into this state by means other than common carrier;

(5) Has membership in an affiliated group, as described in division (B)(3)(e) of section 5739.01 of the Revised Code, at least one other member of which has substantial nexus with this state;

(6) Owns tangible personal property that is rented or leased to a consumer in this state, or offers tangible personal property, on approval, to consumers in this state;

(7) Except as provided in section ~~5703.65~~ 5703.59 of the Revised Code, is registered with the secretary of state to do business in this state or is registered or licensed by any state agency, board, or commission to transact business in this state or to make sales to persons in this state;

(8) Has any other contact with this state that would allow this state to require the seller to collect and remit use tax under Section 8 of Article I of the Constitution of the United States.

(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed pursuant to

section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.

(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(L) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(M) "Providing a service" has the same meaning as in division (X) of section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of a service.

(O) "Lease" or "rental" has the same meaning as in division (UU) of section 5739.01 of the Revised Code.

(P) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code."

In line 940, after "2329.07," insert "5703.65,"

In line 941, after "5735.03," insert "5741.01,"

In line 952, after "4." insert "(A) As used in this section, an "abusive tax avoidance transaction" means a plan or arrangement devised for the principal purpose of avoiding either or both of the taxes imposed under sections 5733.06 and 5747.02 of the Revised Code. Abusive tax avoidance transactions include, but are not limited to, listed transactions as defined in section 5703.61 of the Revised Code.

(B) The Tax Commissioner shall establish and administer a voluntary compliance initiative for persons subject to Chapter 5733. or 5747. of the Revised Code, as provided in this section. The voluntary compliance initiative shall be conducted for the three-month period beginning on the first day of the first month beginning at least sixty days after the effective date of this section. The initiative shall apply to tax liabilities attributable to the use of abusive tax avoidance transactions for taxable years beginning before January 1, 2006.

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

awareness of and participation in the initiative.

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

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

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

(3) No penalty may be waived or abated under this section if the penalty imposed is attributable to an assessment of taxes that became final before January 1, 2006.

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

(D) This section does not apply to violations of any provision of Chapter 5733. or 5747. of the Revised Code for which, as of December 31, 2005, any of the following applies:

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

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

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

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

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

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

(b) The Tax Commissioner may enter into an installment payment

agreement in lieu of the full payment required under division (F)(2)(a) of this section. Any such installment payment agreement shall include interest on the unpaid amount at the rate prescribed by section 5703.47 of the Revised Code. Failure by the person to fully comply with the terms of the installment payment agreement shall render the waiver of penalties null and void, and the total amount of tax, interest, and all penalties shall be immediately due and payable, and may be assessed as provided under section 5733.11 or 5747.13 of the Revised Code.

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

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

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

Section 5. Section 4 of this act is hereby repealed, effective one year after the end of the three-month period during which the voluntary compliance initiative is conducted pursuant to division (B) of Section 4 of this act. The repeal of Section 4 of this act does not affect, after the effective date of the repeal, the validity, force, or effect of agreements entered into under that section or rights, remedies, or actions authorized or accruing under that section or those agreements.

Section 6."

In line 1 of the title, after "5735.03," insert "5741.01,"

In line 2 of the title, after "5749.02," insert "to amend section 5703.65 (5703.59) for the purpose of adopting a new section number as indicated in parentheses,"; after "enact" insert "new section 5703.65 and"

In line 3 of the title, after "5703.58," insert "5703.61, 5703.62, 5703.63, 5703.64, 5703.66,"

In line 14 of the title, delete "and" and insert "to require reporting of potentially abusive tax avoidance transactions, to create a permanent and a temporary voluntary disclosure program,"

In line 16 of the title, after "circumstances" insert ", and to repeal Section 4 of this act one year after the temporary disclosure program provided for in that section terminates"

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

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

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

The yeas and nays were taken and resulted - yeas 56, nays 37, as follows:

Those who voted in the affirmative were: Representatives

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

Those who voted in the negative were: Representatives

Allen	Barrett	Beatty	Bocchieri
Brinkman	Carano	Cassell	Chandler
DeBose	DeGeeter	Distel	Domenick
Driehaus	Fende	Garrison	Hartnett
Harwood	Healy	Key	Koziura
Mason	Miller	Mitchell	Otterman
Patton S.	Perry	Redfern	Sayre
Skindell	Smith S.	Stewart D.	Strahorn
Sykes	Williams	Woodard	Yates
			Yuko-37.

The motion to amend was laid on the table.

The question recurring, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 80, nays 13, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Beatty	Blasdel
Blessing	Bocchieri	Brinkman	Bubp
Buehrer	Calvert	Carano	Carmichael
Cassell	Chandler	Coley	Collier
Combs	Core	Daniels	DeBose
DeGeeter	DeWine	Distel	Dolan
Domenick	Driehaus	Evans C.	Faber
Fende	Fessler	Flowers	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hood	Hoops
Key	Kilbane	Latta	Law
Martin	Mason	McGregor J.	McGregor R.
Mitchell	Oelslager	Patton T.	Perry
Peterson	Raga	Raussen	Reidelbach
Reinhard	Sayre	Schaffer	Schlichter
Schneider	Seitz	Setzer	Smith G.
Stewart J.	Taylor	Trakas	Uecker
Wagner	Wagoner	Walcher	Webster
White	Widener	Widowfield	Willamowski
Williams	Wolpert	Yuko	Husted-80.

Those who voted in the negative were: Representatives

Barrett	Koziura	Miller	Otterman
Patton S.	Redfern	Skindell	Smith S.
Stewart D.	Strahorn	Sykes	Woodard
			Yates-13.

The bill passed.

Representative Taylor moved to amend the title as follows:

Add the names: "Aslanides, Bubp, Carano, Cassell, Collier, Core, Domenick, Evans, C., Faber, Garrison, Hartnett, Key, Raussen, Reidelbach, Reinhard, Schneider, Seitz, Uecker, Widowfield, Willamowski, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Sub. H. B. No. 416-Representatives Wagoner, Gilb, Coley, Seitz, Reidelbach, Ujvagi, Webster, Latta, Reinhard, Brown, Mason, Book, Core.

To amend sections 1111.13, 1111.15, 1151.191, 1161.24, 1319.12, 1339.01, 1339.02, 1339.03, 1339.04, 1339.08, 1339.09, 1339.10, 1339.11, 1339.12, 1339.13, 1339.15, 1339.151, 1339.16, 1339.17, 1339.31, 1339.32, 1339.33, 1339.34, 1339.35, 1339.36, 1339.37, 1339.38, 1339.39, 1339.42, 1339.44, 1339.52, 1339.53, 1339.54, 1339.55, 1339.56, 1339.57, 1339.58, 1339.59, 1339.60, 1339.61, 1339.62, 1339.64, 1339.65, 1339.71, 1339.72, 1339.73, 1339.74, 1339.76, 1339.77, 1339.78, 1340.31, 1340.32, 1340.33, 1340.34, 1340.35, 1340.36, 1340.37, 1340.40, 1340.41, 1340.42, 1340.46, 1340.47, 1340.52, 1340.57, 1340.58, 1340.63, 1340.65, 1340.66, 1340.70, 1340.71, 1340.72, 1340.73, 1340.74, 1340.75, 1340.76, 1340.77, 1340.81, 1340.82,

1340.83, 1340.84, 1340.90, 1340.91, 1775.03, 1775.14, 1775.15, 1775.17, 1775.33, 1782.24, 2101.24, 2107.33, 2109.24, 2109.37, 2109.62, 2109.68, 2111.131, 2113.861, 2305.121, 2305.22, 5111.15, 5111.151, 5119.01, 5119.17, 5121.04, 5121.10, 5121.30, 5121.52, 5123.04, 5123.28, and 5123.40; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 1339.01 (5815.02), 1339.02 (5815.03), 1339.03 (5815.04), 1339.031 (5815.01), 1339.04 (5815.05), 1339.08 (5815.06), 1339.09 (5815.07), 1339.10 (5815.08), 1339.11 (5815.09), 1339.12 (5815.10), 1339.13 (5815.11), 1339.15 (5815.12), 1339.151 (5815.13), 1339.16 (5815.14), 1339.17 (5815.15), 1339.18 (5815.16), 1339.31 (5814.01), 1339.32 (5814.02), 1339.33 (5814.03), 1339.34 (5814.04), 1339.35 (5814.05), 1339.36 (5814.06), 1339.37 (5814.07), 1339.38 (5814.08), 1339.39 (5814.09), 1339.41 (5815.21), 1339.411 (5815.22), 1339.412 (5815.23), 1339.42 (5815.24), 1339.43 (5815.25), 1339.44 (5815.26), 1339.45 (5815.27), 1339.51 (5815.28), 1339.52 (5809.01), 1339.53 (5809.02), 1339.54 (5809.03), 1339.55 (5808.03), 1339.56 (5809.04), 1339.57 (5808.05), 1339.58 (5809.05), 1339.59 (5808.07), 1339.60 (5809.07), 1339.61 (5809.08), 1339.62 (5815.31), 1339.621 (5815.32), 1339.63 (5815.33), 1339.64 (5815.34), 1339.65 (5815.35), 1339.68 (5815.36), 1339.71 (5815.41), 1339.72 (5815.42), 1339.73 (5815.43), 1339.74 (5815.44), 1339.75 (5815.45), 1339.76 (5815.46), 1339.77 (5815.47), 1339.78 (5815.48), 1340.31 (5813.01), 1340.32 (5813.02), 1340.33 (5813.03), 1340.34 (5813.04), 1340.35 (5813.05), 1340.36 (5813.06), 1340.37 (5813.07), 1340.40 (5812.01), 1340.41 (5812.02), 1340.42 (5812.03), 1340.46 (5812.07), 1340.47 (5812.08), 1340.51 (5812.12), 1340.52 (5812.13), 1340.53 (5812.14), 1340.57 (5812.18), 1340.58 (5812.19), 1340.59 (5812.20), 1340.63 (5812.24), 1340.64 (5812.25), 1340.65 (5812.26), 1340.66 (5812.27), 1340.70 (5812.31), 1340.71 (5812.32), 1340.72 (5812.33), 1340.73 (5812.34), 1340.74 (5812.35), 1340.75 (5812.36), 1340.76 (5812.37), 1340.77 (5812.38), 1340.81 (5812.42), 1340.82 (5812.43), 1340.83 (5812.44), 1340.84 (5812.45), 1340.85 (5812.46), 1340.86 (5812.47), 1340.90 (5812.51), 1340.91 (5812.52), and 2305.121 (5806.04); to enact sections 2109.69, 5801.01, 5801.011, 5801.02 to 5801.10, 5802.01 to 5802.03, 5803.01 to 5803.05, 5804.01 to 5804.18, 5805.01 to 5805.07, 5806.01 to 5806.03, 5807.01 to 5807.09, 5808.01, 5808.02, 5808.04, 5808.06, 5808.08 to 5808.17, 5809.06, 5810.01 to 5810.13, and 5811.01 to 5811.03; and to repeal sections 1335.01, 1339.14, 1339.66, 1339.67, 1339.69, 1340.21, 1340.22, and 1340.23 of the Revised Code to adopt an Ohio trust code, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Wagoner moved to amend as follows:

In line 82, after "1340.58," insert "1340.59,"

In line 4863, strike "1340.76" and insert "5812.37"

In line 14 of the title, after "1340.58," insert "1340.59,"

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

The motion was agreed to without objection.

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

The yeas and nays were taken and resulted - yeas 93, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Bocchieri	Brinkman
Bubp	Buehrer	Calvert	Carano
Carmichael	Cassell	Chandler	Coley
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Faber	Fende	Fessler	Flowers
Garrison	Gibbs	Gilb	Hagan
Hartnett	Harwood	Healy	Hood
Hoops	Hughes	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor J.	McGregor R.	Miller
Mitchell	Oelsluger	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Raussen	Redfern	Reidelbach	Reinhard
Sayre	Schaffer	Schlichter	Schneider
Seitz	Setzer	Skindell	Smith G.
Smith S.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Williams
Wolpert	Woodard	Yates	Yuko
			Husted-93.

The bill passed.

Representative Wagoner moved to amend the title as follows:

Add the names: "Barrett, Blessing, Bubp, Carano, Cassell, Combs, DeBose, DeGeeter, Dolan, Domenick, Evans, C., Flowers, Harwood, Healy, Hughes, Key, Law, Martin, McGregor, R., Oelsluger, Otterman, Patton, T., Perry, Sayre, Schaffer, Schlichter, Schneider, Willamowski, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Sub. H. B. No. 426-Representatives Dolan, Chandler, Yuko, Fessler, Wagoner, Reidelbach, McGregor, J., Willamowski, DeGeeter, Harwood.

To amend sections 1111.19, 1721.211, 2101.24, 2106.20, 2108.50, 2109.02, 2111.13, 2113.031, 2113.37, 2117.25, 4511.451, 4717.21, and 4717.22 and to enact sections 2108.70 to 2108.90, and 2117.251 of the Revised Code regarding the assignment of the right to direct the disposition of an adult's

remains after death and to make arrangements and purchase goods and services related to an adult's funeral, cremation, burial, or other manner of final disposition, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Dolan moved to amend as follows:

In line 587, delete the underlined semicolon and insert an underlined period

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

The motion was agreed to without objection.

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

The yeas and nays were taken and resulted - yeas 93, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Bocchieri	Brinkman
Bubp	Buehrer	Calvert	Carano
Carmichael	Cassell	Chandler	Coley
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Faber	Fende	Fessler	Flowers
Garrison	Gibbs	Gilb	Hagan
Hartnett	Harwood	Healy	Hood
Hoops	Hughes	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor J.	McGregor R.	Miller
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Raussen	Redfern	Reidelbach	Reinhard
Sayre	Schaffer	Schlichter	Schneider
Seitz	Setzer	Skindell	Smith G.
Smith S.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Williams
Wolpert	Woodard	Yates	Yuko
			Husted-93.

The bill passed.

Representative Dolan moved to amend the title as follows:

Add the names: "Allen, Bubp, Carano, Cassell, Collier, Combs, DeBose, Distel, Domenick, Flowers, Gibbs, Hartnett, Hughes, Key, Law, Martin, Miller, Otterman, Patton, T., Perry, Sayre, Schlichter, Schneider, Seitz, Setzer, Smith, G., Walcher, Williams, Wolpert."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

Sub. S. B. No. 189-Senators Grendell, Mumper, Dann, Harris, Miller.
-Representatives Cassell, Domenick, Sayre, McGregor, J..

To amend sections 907.01, 907.03, 907.14, and 907.28 of the Revised Code to make changes to the Agricultural Seed Law, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 93, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Allen	Aslanides	Barrett	Beatty
Blasdel	Blessing	Boccieri	Brinkman
Bubp	Buehrer	Calvert	Carano
Carmichael	Cassell	Chandler	Coley
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Faber	Fende	Fessler	Flowers
Garrison	Gibbs	Gilb	Hagan
Hartnett	Harwood	Healy	Hood
Hoops	Hughes	Key	Kilbane
Koziura	Latta	Law	Martin
Mason	McGregor J.	McGregor R.	Miller
Mitchell	Oelslager	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Raussen	Redfern	Reidelbach	Reinhard
Sayre	Schaffer	Schlichter	Schneider
Seitz	Setzer	Skindell	Smith G.
Smith S.	Stewart J.	Strahorn	Sykes
Taylor	Trakas	Uecker	Wagner
Wagoner	Walcher	Webster	White
Widener	Widowfield	Willamowski	Williams
Wolpert	Woodard	Yates	Yuko
			Husted-93.

The bill passed.

Representative Aslanides moved to amend the title as follows:

Add the names: "Blessing, Boccieri, Carano, Collier, Combs, Daniels, Dolan, Evans, C., Flowers, Garrison, Harwood, Hughes, Key, Mitchell, Schlichter, Setzer, Smith, G., Stewart, J., Willamowski, Woodard."

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 President of the Senate has appointed as managers on the part of the Senate on matters of difference between the two Houses on:

Sub. H. B. No. 79 - Representative Raga - et al.

Senators Padgett, Gardner and Fedor.

Attest:

David A. Battocletti,
Clerk.

MESSAGE FROM THE SPEAKER

February 9, 2006

The Honorable Jon Husted, Speaker
Ohio House of Representatives
77 S. High Street, 14th Floor
Columbus, OH 43215

Dear Speaker Husted,

It is with a mixture of sadness and anticipation that I resign my position as State Representative from the 14th House District to accept the appointment as State Senator from District 23. My last day as State Representative will be February 28, 2006.

I have truly been honored to serve in the House with you and all of my colleagues as we have sought to deal effectively with the problems and opportunities facing the State of Ohio. I am reminded of the words of Representative Bill Batchelder, who said in his farewell address, "There is no higher office than the Ohio House of Representatives." While things have been difficult for Ohio for a number of years, I am very hopeful that the future will be brighter, and I look forward to continuing to work with all of you.

Sincerely yours,

/s/ DALE MILLER

Dale Miller
State Representative
14th House District

DM:sr

Cc:The Honorable Joyce Beatty

Minority Leader of the House
Laura Clemens
Legislative Clerk of the House
Andy DiPalma
Minority Chief of Staff

MESSAGE FROM THE SPEAKER

February 22, 2006

The Honorable Dale Miller
Ohio House of Representatives
77 South High Street
Columbus, Ohio 43215-6111

Dear Representative Miller:

This is to acknowledge receipt and acceptance of your letter of resignation from the Ohio House of Representatives, effective February 28, 2006.

You have served your constituents and the state of Ohio well over the years and I am confident you will continue to do so in your new role as State Senator for District 23.

The Ohio House of Representatives wishes you well as you embark on this new endeavor.

Sincerely,

/s/ JON A. HUSTED

Jon A. Husted
Speaker
Ohio House of Representatives

On motion of Representative Blasdel, the House adjourned until Thursday, February 23, 2006 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,
Clerk.